Public sector procurement and the support of small and medium-sized enterprises: a comprehensive public procurement regulatory framework

Compras do setor público e o apoio a pequenas e médias empresas: uma estrutura regulatória abrangente para compras públicas

La contratación pública y el apoyo a las pequeñas y medianas empresas: un marco normativo completo para la contratación pública

DOI:10.34117/bjdv10n6-069

Submitted: May 24th, 2024
Approved: Jun 14th, 2024

Charles Tsikad
Master of Commerce Degree in Strategic Management
Institution: Middle East College
Address: Rusayl, Omã
E-mail: tsikadac@mail.com

Shahid Imran
Master’s in Business Administration
Institution: Malaysia University of Science and Technology (MUST)
Address: Petaling Jaya, Selangor, Malásia
E-mail: shahid.imran@phd.must.edu.my

Asad Ullah
PhD in Supply Chain Management
Institution: Middle East College
Address: Rusayl, Omã
E-mail: asadullah@mec.edu.om

ABSTRACT
Governments worldwide leverage their purchasing power to advance social, economic, and environmental agendas. Public procurement can be employed as a strategic instrument to support small and medium-sized enterprises. Many countries are showing a rising interest in leveraging public procurement to foster the integration of small and medium-sized enterprises into markets. However, access to public procurement contracts is a challenge for small and medium sized enterprises. There are challenges posed by government policies that is frequently overlooked. Public procurement regulations cover procedures, methods, standards, and terms for inviting bids, evaluation, selection, negotiation, awarding, and payment of suppliers of goods and services. However, many small businesses fail to meet these procedures, methods, standards, and terms because of capacities and resources constraints. There are public procurement initiatives that are currently being implemented throughout the world to help small businesses gain access to markets. Nevertheless, these initiatives are still relatively new and unstructured. There continues to be a dearth of peer reviewed research. This paper delineates small and medium-sized enterprises from various viewpoints, underlines their importance, explains
the frameworks for public procurement, and proposes government-led initiatives that could facilitate the integration of small and medium-sized enterprises into the market. It is concluded that governments should implement strategies aimed at assisting small businesses. These strategies may include non-competitive practices, subcontracting initiatives, qualification criteria, preferential schemes, and award criteria. By doing so, governments can create a fairer playing field, promote the competitiveness of small businesses, and encourage their engagement in public procurement processes. This, in turn, will foster SME growth, spur economic development, and facilitate job creation.

Keywords: small and medium-sized enterprises, public markets, public procurement law and regulatory framework.

RESUMO
Os governos em todo o mundo alavancam seu poder de compra para promover agendas sociais, econômicas e ambientais. Os contratos públicos podem ser utilizados como um instrumento estratégico para apoiar as pequenas e médias empresas. Muitos países mostram um interesse crescente em alavancar os contratos públicos para promover a integração de pequenas e médias empresas nos mercados. No entanto, o acesso aos contratos públicos constitui um desafio para as pequenas e médias empresas. Há desafios impostos por políticas governamentais que são frequentemente ignorados. Os regulamentos relativos aos contratos públicos abrangem procedimentos, métodos, normas e condições de convite à apresentação de propostas, avaliação, seleção, negociação, adjudicação e pagamento de fornecedores de bens e serviços. No entanto, muitas pequenas empresas não conseguem atender a esses procedimentos, métodos, padrões e termos devido a limitações de recursos e capacidades. Existem iniciativas de contratação pública que estão atualmente a ser implementadas em todo o mundo para ajudar as pequenas empresas a ter acesso aos mercados. No entanto, estas iniciativas ainda são relativamente novas e não estruturadas. Continua a faltar pesquisa revisada por pares. O presente documento delineia as pequenas e médias empresas de vários pontos de vista, sublinha a sua importância, explica os quadros aplicáveis aos contratos públicos e propõe iniciativas lideradas pelos governos que poderiam facilitar a integração das pequenas e médias empresas no mercado. Conclui-se que os governos devem implementar estratégias destinadas a ajudar as pequenas empresas. Essas estratégias podem incluir práticas não competitivas, iniciativas de subcontratação, critérios de qualificação, regimes preferenciais e critérios de adjudicação. Ao fazê-lo, os governos podem criar condições de concorrência mais justas, promover a competitividade das pequenas empresas e incentivar o seu envolvimento nos processos de contratação pública. Tal, por sua vez, promoverá o crescimento das PME, estimulará o desenvolvimento econômico e facilitará a criação de emprego.

Palavras-chave: pequenas e médias empresas, mercados públicos, legislação e marco regulatório de contratos públicos.

RESUMEN
Los gobiernos de todo el mundo aprovechan su poder adquisitivo para promover agendas sociales, económicas y ambientales. La contratación pública puede emplearse como instrumento estratégico para apoyar a las pequeñas y medianas empresas. Muchos países están mostrando un creciente interés en aprovechar la contratación pública para fomentar la integración de las pequeñas y medianas empresas en los mercados. Sin embargo, el acceso a los contratos públicos es un reto para las pequeñas y medianas empresas. Las
políticas gubernamentales plantean desafíos que con frecuencia se pasan por alto. Las regulaciones de contratación pública cubren procedimientos, métodos, estándares y términos para invitar ofertas, evaluación, selección, negociación, adjudicación y pago de proveedores de bienes y servicios. Sin embargo, muchas pequeñas empresas no cumplen con estos procedimientos, métodos, estándares y términos debido a las limitaciones de capacidades y recursos. Hay iniciativas de contratación pública que se están aplicando actualmente en todo el mundo para ayudar a las pequeñas empresas a acceder a los mercados. No obstante, estas iniciativas son todavía relativamente nuevas y no están estructuradas. Sigue habiendo escasez de investigaciones revisadas por homólogos. Este documento describe a las pequeñas y medianas empresas desde diversos puntos de vista, subraya su importancia, explica los marcos para la contratación pública y propone iniciativas dirigidas por el gobierno que podrían facilitar la integración de las pequeñas y medianas empresas en el mercado. Se concluye que los gobiernos deben implementar estrategias destinadas a ayudar a las pequeñas empresas. Estas estrategias pueden incluir prácticas no competitivas, iniciativas de subcontratación, criterios de calificación, esquemas preferenciales y criterios de adjudicación. Al hacerlo, los gobiernos pueden crear un campo de juego más justo, promover la competitividad de las pequeñas empresas y alentar su participación en los procesos de contratación pública. Esto, a su vez, fomentará el crecimiento de las PYME, estimulará el desarrollo económico y facilitará la creación de empleo.

**Palabras clave:** pequeñas y medianas empresas, mercados públicos, legislación y marco regulatorio de contratación pública.

1 DEFINITION OF SMALL AND MEDIUM Sized ENTERPRISES

The definition of small and medium enterprise is based upon different criteria, such as number of employees, value of assets, sales, and volume of output (Cunningham & Rowley, 2008; Dar, Ahmed & Raziq, 2017). However, the existence of a universally agreed-upon definition for a SME is impeded by political strategies and economic conditions which lead to divergence across nations and even within them (OECD, 2004; Lampadarios, Kyriakidou & Smith, 2017). For example, while France defines SMEs as businesses with fewer than 500 employees, Germany sets the threshold at fewer than 100 employees. In the United States, an SME is characterized as a company with up to 500 employees and annual earnings not exceeding US$25 million (OECD, 2014). Similarly, the Indian government identifies SMEs as firms employing up to 499 individuals and generating less than Rs100 million in revenue (Pachouri & Sharma, 2016). In Canada, SMEs are defined as independent firms with less than 200 employees. In Malaysia, SMEs have less than 75 full time workers or with a shareholder fund of less than US$1 million. In Zimbabwe, SMEs are described as independent legal entities employing up to 100
permanent staff members and achieving a maximum revenue of US$1,000,000 (Mabenge et al., 2020). In addition, definitions within countries may further differ based on sector or business type. For instance, in Japan, SMEs in manufacturing, mining, transportation, and construction are those with fewer than 300 employees or capitalization below 100 million yen. Conversely, in wholesale, SMEs employ fewer than 100 individuals or have capitalization under 30 million yen, and in retail, they have fewer than 50 employees or capitalization below 10 million yen (Cunningham et al., 2008; Adlung & Soprana, 2017).

In summary, the term small to medium enterprise differs in context, by country, value of assets, annual sales revenue, volume of output, political strategies and economic conditions, thus different authors do not agree on one universal definition. Similarly, there is no uniform definition of SMEs (Dasanayaka, 2008; Mustafa & Khan, 2005; Rana, Khan & Asad, 2007; El Madani, 2018). Whereas in some countries a company is of a medium sized, in others, the same company is considerate to be large, thus it would not be included in the category of SMEs. However, number of employees cannot be used as the only criterion as it can lead to misconceptions as to whether some SMEs can be regarded as SMEs or not. Various role players have established definitions either for purely analytical purposes or for the implementation of government programs. Notwithstanding the wide variations of the definition there are some commonalities. In this chapter, a small to medium enterprise (SME) is an independent legal business entity that operates within a certain threshold of size, which may vary depending on the country, sector, or type of business. This threshold often encompasses factors, such as the number of employees, value of assets, annual sales revenue, and volume of output. While specific criteria may differ across regions and industries, SMEs generally exhibit traits such as relatively limited scale compared to large corporations, a focus on innovation and flexibility, and a significant contribution to employment and economic growth.

2 SIGNIFICANCE OF SMALL AND MEDIUM SIZED ENTERPRISES

Small and medium-sized enterprises hold significant importance in the economic, industrial, and social advancement of nations. Rohra and Panhwar (2009) and Abbasi, Wang, and Abbasi (2017) highlight the consensus among many countries regarding the pivotal role of the SME sector in supporting their economies. Numerous studies affirm the contribution of SMEs to economic growth. In Ghana, for instance, the government has implemented measures, such as financing support to foster entrepreneurship (Addae-
Korankye & Aryee, 2021). Similarly, in Pakistan, SMEs play a critical role in economic growth, technological innovation, and supply to both large and cottage industries, thereby promoting economic revitalization. In South Africa, SMEs are recognized as vital drivers of economic growth and development, thus contributing significantly to job creation, innovation, and overall prosperity (Ayandibu et al., 2017). The SMEs in Zimbabwe are instrumental in economic expansion, employment generation, and rural and urban development, with their contribution amounting to US$8.58 billion to GDP in 2016, employing 5.9 million people and constituting over 70% of the Zimbabwe Revenue Authority's taxpayer database (Sibanda et al., 2018). The Zimbabwean government has established the Ministry of SMEs and Cooperative Development to focus on SME support (Makanyeza & Dzvuke, 2015; Dlamini & Schutte, 2020). In summary, SMEs play a crucial role in driving economic growth, fostering innovation, promoting social development, and facilitating job creation. Thus, collaborative efforts involving governments, stakeholders, and supportive policies are essential to harness the immense potential of SMEs for sustainable and inclusive economic prosperity.

3 PUBLIC PROCUREMENT FRAMEWORKS

Governments, being the primary purchasers of goods and services, offer enticing prospects for small and medium enterprises. Studies demonstrate that adhering to internationally accepted best practices in public procurement, such as transparency and streamlined award processes, can lower project costs, and improve quality by stimulating competition for contracts. Using public procurement laws, governments often incentivize, support, and sustain local SMEs (Di Mauro, Ancarani & Hartley, 2020). Securing a significant government contract can strongly motivate SMEs to register and formalize their operations, thus bringing these companies into the mainstream economy. In United States, federal Government reserves 23 per cent of its total contracts for American SMEs, with additional set-asides for SMEs owned by women, veterans, and Native Americans (Townsend, 2022). These preferential access policies bolster an American SME sector and align with important social objectives. In Canada, procurements over CAD 5,000 are allocated to Aboriginal populations. Australian procurement regulations mandate that a minimum of 10 per cent of all purchases come from SMEs (Allen, 2021). Canada and Mexico incentivize subcontracting by awarding additional points to bids where lead contractors engage SMEs (Deneckere & Quint, 2022). Procurement laws in Argentina
grant SMEs a price preference margin of 7 per cent. In Brazil, government purchases below a certain threshold must be assigned to small firms (Mutunga, 2021). In south Africa, Preferential Procurement Regulations of 2011 require entities to subcontract 30 per cent of contract value to SMEs (Mdadane, 2022). In Ecuador, public works below a specified value must be allocated to SMEs through a random online lottery from a pool of registered and pre-qualified SMEs. Zimbabwe mandates that the government acquire at least 25 per cent of goods and services from SMEs, with a 10 per cent preference for locally based contractors and suppliers in tender schedules (Musabayana, 2021). The sections below describe specific provisions in public procurement and how they have been applied to public food procurement initiatives.

3.1 NON-COMPETITIVE PRACTICES

It is not necessary for qualified suppliers to compete based on lowest price and best quality in their bids. Governments around the world have the option to employ non-competitive practices to facilitate SMEs in accessing markets. Instead, procuring entities can publish a call for bids for the purchase, outlining the commodities, quantity, standards for quality, and delivery schedule. SMEs can submit their proposals outlining the commodities and quantities they want to sell. They are expected to obtain an eligibility declaration which certifies their status. The government can implement mandatory set-asides in procurement processes for SMEs, provide price preferences or margins to SMEs in bidding competitions, favour SME participation through subcontracting requirements, and establish quotas or thresholds for SME involvement in government contracts (Hoekman & Taş, 2022). In addition, some governments may utilize randomized selection processes, like lotteries, to allocate contracts to SMEs or provide preferential treatment to locally based SMEs in procurement decisions (Fadic, 2020). As evidenced, governments around the world can use non-competitive practices to assist SMEs to access market. These non-competitive practices aim to level the playing field for SMEs, enhance their competitiveness, and promote their participation in public procurement processes.

3.2 SUBCONTRACTING

Subcontracting in public procurement can indeed be a strategy to assist small and medium-sized enterprises by providing them with opportunities to participate in larger
projects that they might not be able to undertake on their own. For instance, this approach has been commonly used to encourage large government suppliers to subcontract SMEs. The USA has a well-established subcontracting programme for SMEs which applies to all contracts above USD650,000 (International Trade Centre, 2014). Contracts above this threshold require suppliers to submit subcontracting plans for small businesses, including minority- and women-owned businesses. In the United Kingdom, the government has put in place several initiatives to support SMEs involvement in public procurement (Selviaridis, 2021). For instance, in the construction sector, larger contractors subcontract certain aspects of projects to smaller firms. One example is the Crossrail project in London. In this case, several SMEs were able to participate in this infrastructure project by subcontracting with larger construction companies (Pryke, 2020). This allowed them to gain valuable experience and exposure to larger projects, which they might not have been able to secure independently. The EU has directives in place to promote SME participation in public procurement across its member states (McEvoy, 2020). This is quite evident in the provision of IT services to government agencies. Large IT firms often secure contracts to provide IT solutions to government departments. However, they subcontract portions of the work to smaller IT companies specializing in niche areas, including cybersecurity and software development. This allows SMEs to contribute to larger projects and benefit from the stability and scale provided by the prime contractor. Requiring prime contractors to subcontract a certain percentage of the contract value to SMEs, encouraging larger companies to engage SMEs as subcontractors.

3.3 QUALIFICATION CRITERIA

Clear definitions of what constitutes an SME should be provided to ensure that only eligible businesses benefit from the assistance measures. This definition includes criteria such as revenue, number of employees, or asset value (Kersten, Harms, Liket & Maas, 2017). Certain contracts may be reserved exclusively for SMEs which ensures that a portion of government procurement opportunities are specifically allocated to smaller businesses (Loader, 2015). Larger contracts may include provisions requiring prime contractors to subcontract a portion of the work to SMEs, thus providing opportunities for smaller businesses to participate in larger projects (Fee, Erridge & Hennigan, 2002; Akenroye, Owens, Oyegoke, Elbaz, Belal & Jebli, 2022). While it is key for SMEs to have the financial capacity to fulfil contracts, overly stringent financial requirements can
be prohibitive. Therefore, qualification criteria may include tailored financial thresholds that consider the size and nature of SMEs.

3.4 PREFERENTIAL SCHEMES

Preferential scheme refers to a situation where competitive advantages are given to bidders that meet specific social, economic, and environmental criteria (Tsikada, Chiwanza, Mgoni, Nyanhete & Pashapa, 2023). There are two sub-categories of preferential criteria: price preference and procurement award criteria. Bid price preference is the practice of raising the costs of non-preferred suppliers by a predetermined percentage point to evaluate their bids (Premik, 2023). In an open bidding procedure, for instance, a procuring entity might give a target group of suppliers a price preference by raising the bid prices of non-preferred suppliers by 10 per cent, making their bid more expensive (Miranda, 2018). The bid from a targeted supplier, on the other hand, may be discounted by 5 per cent, giving it an edge over other bids. To increase competition, a bid from SME that is an approved supplier could receive a certain percentage discount. This approach recognizes that some types of providers will not always be able to compete on price with other suppliers. Consequently, it provides target groups with a price advantage. Procuring entities can select the amount of a discount they want to offer to regional vendors based on the circumstances. Preferential treatment has often been used to promote SME access to public procurement markets. In the United States, the Buy American Act gives preference to domestic suppliers in federal procurement contracts, providing a price advantage to American businesses over foreign competitors (Szurgot, 1993; Yukins, 2021). In the European Union, public procurement directives encourage the consideration of environmental and social criteria in tender evaluations, giving preference to suppliers with environmentally friendly practices or those that promote social inclusion (Amann, Roehrich, Ebig & Harland, 2014; Montalbán-Domingo, Aguilar-Morocho, García-Segura & Pellicer, 2020). In South Korea, the Public Procurement Service runs an Innovation-driven Procurement Program to support the development and adoption of innovative technologies and solutions in public procurement (Wang, Liu & Ju, 2018).
3.5 AWARD CRITERIA

Contract award criteria in procurement refer to the set of standards or factors used by procuring entities to evaluate and select the winning bid or proposal for a contract (Bolton, 2014). These criteria are established to ensure fairness, transparency, and value for money in the procurement process. The selection of the winning bid is based on how well it meets the specified requirements and delivers the best value to the procuring entity (Bergman & Lundberg, 2013). Bids that satisfy social, economic, and environmental criteria may be given extra points under this system. Procuring entities grant additional points to bids that exceed the minimal specification when employing award criteria (Lewis, 2015; Abdullahi & Muguna, 2021). Public procurement award criteria that support SMEs aim to level the playing field, promote participation, and enhance the competitiveness of SMEs (Hoekman & Taş, 2022). Granting price preferences or margins to SMEs in bid evaluation processes can allow them to compete more effectively based on their pricing compared to larger competitors (Nakabayashi, 2013; Hong, Kwak & Kettunen, 2023). Reducing administrative burdens and simplifying documentation requirements for SMEs can make it easier for them to participate in procurement processes (Gimeno-Feliú, 2012; Mahuwi, & Israel, 2023). Breaking down large contracts into smaller lots or dividing projects into phases to accommodate the capacity and capabilities of SMEs (Fayos, Calderón, García-García & Derqui, 2022). Providing technical assistance, capacity-building programs, and mentoring services to help SMEs improve their bidding capabilities and compete more effectively (Offei, Kissi, & Badu, 2016). Giving preference to bids from SMEs based in the local area or region where the procurement is taking place supports local economic development and job creation (Peprah, Mensah & Akosah, 2016; Guliwe, n.d). Facilitating opportunities for SMEs to form consortia or joint ventures to collectively bid on larger contracts that may be beyond their individual capacity (Brink, 2017; Fayos, Calderón, García-García & Derqui, 2022). These award criteria are designed to create a more inclusive and supportive procurement environment for SMEs. This will enable them to compete, grow their businesses, and contribute to economic development and job creation.
4 BUILDING A COMPREHENSIVE PUBLIC PROCUREMENT FRAMEWORK FOR SME GROWTH

A comprehensive public procurement framework designed to foster SME growth entails implementing a range of measures, including non-competitive practices, subcontracting initiatives, qualification criteria, preferential schemes, and award criteria. By facilitating SME access to markets through non-competitive practices, such as mandatory set-asides, price preferences, and randomized selection processes, governments around can level the playing field and enhance SME competitiveness. Subcontracting programs enable SME participation in larger projects, while clear qualification criteria ensure targeted support for eligible businesses. Preferential schemes, including price preferences and procurement award criteria, provide competitive advantages to SMEs based on social, economic, and environmental criteria. Award criteria that consider SME capabilities and provide support, such as simplifying documentation requirements and breaking down contracts into smaller lots, further promote SME participation. Together, these measures create a supportive environment for SMEs to compete effectively, grow their businesses, and contribute to economic development and job creation within a comprehensive public procurement framework.

5 CONCLUSION

In conclusion, the definition of small to medium enterprise varies across countries and industries, influenced by factors such as political strategies, economic conditions, and specific sectoral considerations. While there is no universally agreed-upon definition, SMEs generally operate within certain thresholds of size which encompass factors like the number of employees, value of assets, annual sales revenue, and volume of output. SMEs play a vital role in driving economic growth, fostering innovation, and facilitating job creation. Establishing a connection between public procurement and SMEs via public policy represents a crucial initial step, particularly in regions where certain developing countries lack policies that offer preferential access for SMEs to government contracts. Governments may employ strategies to support SMEs, including non-competitive practices, subcontracting initiatives, qualification criteria, preferential schemes, and award criteria. These measures aim to level the playing field, enhance SME competitiveness, and promote their participation in public procurement processes, thus
contributing to SME growth, economic development, and job creation. A comprehensive public procurement framework designed to foster SME growth incorporates a range of these measures, creating a supportive environment for SMEs to compete, expand their businesses, and contribute to overall economic prosperity. By implementing these strategies, governments around can maximize the potential of SMEs as drivers of economic growth and development.

6 IMPLICATION OF THE STUDY

This study examined the diverse definitions and significance of small and medium sized enterprises across different countries and industries which can help inform policymakers in developing tailored policies to support SME growth. This study contributes to the academic literature by synthesizing existing research and providing a comprehensive overview of the significance of SMEs in economic development and public procurement. The study explains the role of public procurement frameworks in supporting SMEs. This includes non-competitive practices, subcontracting initiatives, preferential schemes, and qualification criteria. Understanding how governments can leverage procurement policies to promote SME participation can enhance efficiency, transparency, and inclusivity in public procurement processes. However, this study relies on information from various countries and industries, each with its own unique characteristics. Thus, findings and conclusions drawn from this study may not be generalizable to all regions.
REFERENCES


GULIWE, T. J. Leveraging the strategic preferential procurement policy for localisation and inclusive growth for MSME in Gauteng Townships (Doctoral dissertation, University of Johannesburg).


THE AUSTRALIAN INDUSTRY PARTICIPATION (AIP) National Framework

