



High – Level Meeting on Fair Business Practices, and the 4th Assurance Report

Outcome Document Findings and Recommendations

February 10th 2021

Protea Hotel, Kampala, Uganda

87 participants representing Government, Private Sector, Civil Society and the Media gathered in Kampala and online to discuss Fair Business Practices, and the 4th Assurance Report findings and recommendations, under the auspices of CoST Uganda Chapter, in collaboration with the Champion Ministry of Works and Transport, CoST International, FCDO's Business Integrity Initiative (BII), Uganda Association of Building and Civil Engineering Contractors (UNABCEC), Uganda Association of Consulting Engineers (UACE) and Public Procurement and Disposal of Public Assets Authority (PPDA). The high level meeting was held on 10th February 2021 to discuss Fair Business Practices and results of the 4th Assurance Report on public infrastructure projects in Uganda.

Preamble

Noting that the Africa Union's 2063 vision seeks to achieve an integrated, prosperous and peaceful Africa, driven by its own citizens, representing a dynamic force in the international arena, with infrastructure development identified as critical for the continent's development and transformation and;

Recognizing goal nine of the Sustainable Development Goals that aims at building resilient infrastructure, promoting inclusive and sustainable industrialization and fostering innovation;

Contributing towards Uganda's 2040 vision which recognizes that there is a weak private sector, inadequate infrastructure and an underdeveloped service sector, and prioritizes infrastructure for (energy, transport, water, oil and gas among others);

Recognizing that Uganda in 2014 joined CoST International with an aim of institutionalising transparency in the delivery of public infrastructure projects, through the application of CoST core features of Disclosure, Assurance, Multi-Stakeholder working and Social Accountability;

Appreciating that Uganda has put in place legal and policy mechanisms for transparency, including the Access to Information Act (2005), established the Public Procurement and Disposal of Public Assets Authority (PPDA), as a dedicated entity for ensuring compliance and improved performance in public contracts, and established various anticorruption institutions and that; Government spending on procurement in Uganda is estimated to be approximately 55% of the national budget annually;

Underscoring that Government of Uganda has recorded a slow but progressive disclosure and use of infrastructure data as revealed by CoST Uganda's 4th Assurance Report in 2021;

Stakeholders at the high level meeting on Fair Business Practices and results of the 4th Assurance process agreed that public procurement is a strategic infrastructure governance tool that helps to shape effective delivery of public services and that, full disclosure, and participation of all stakeholders in the sector in times of crises is needed now than more ever;

Stakeholders also agreed that, increased access to information on available business opportunities promotes competition thereby creating a level playing field for the private sector to engage, and enables them prepare bankable bids. Genuine competition leads to low prices and better products which results in resources either being saved or freed up for use on other goods and services and thus made the following findings, commitments and recommendations;

Findings

1. Stakeholders acknowledged that despite the slight increase in disclosure, there is no standard disclosure template. Across entity websites data is insufficient, outdated, inconsistent and inaccurate. Physical disclosure along project sites is still insufficient with most of the projects having broken, fallen over while others lacking sufficient information walls.
2. Ministries, Agencies and Departments appreciate the Infrastructure Data Standard as a simple template for disclosing public infrastructure projects, although, there is no legal or policy requirement guaranteeing or requiring the application of the standard deliberately, and there are no incentives or sanctions for disclosure. Although the number of data points required for publication by Government has improved from 12 to 20 information areas, this is way below the required standard of 67 data points in the CoST Infrastructure Data Standard to which Uganda adopted to increase infrastructure transparency.
3. Limited application and knowledge of the legal and policy framework on procurement, such as local content, inclusion, Environmental, Health and Safety Safeguards, joint ventures and reservation and preference schemes partly because they are not known, and do not have sanctions for noncompliance. In addition, the proportion of projects won and implemented by local firms is low compared to those won by foreign firms with over 50% of the data on these aspects not disclosed.

4. Limited consultations and involvement of lower level stakeholders such as Local Governments in centrally procured projects resulting into insufficient designs, lack of knowledge of the revised bidding documents for such projects. There is a concern on the effectiveness of hybrid procurements/projects which lack guidelines, and are not monitored and evaluated sufficiently thus suffocating the local governments. The revised bidding documents requiring this provision are not popularized and are not clear on sanctions for noncompliance.
5. Substantial time and cost overruns and delays in procurement. *Time overruns are mainly attributed to delays in procurement, COVID-19, contract cancellations due to poor quality of works.* Whereas, cost overruns are mainly attributed to scope changes and changes in designs, an indication of insufficient planning.
6. Lack of sufficient capacity amongst public officials and the private sector on procurement regulations and the bidding documents, information disclosure, infrastructure monitoring and stakeholder engagement. In addition, accounting officers have no legal provisions requiring them to comply with disclosure requirements.
7. There is no public national register or classification of providers in the public infrastructure sector. In addition, local firms' full participation in infrastructure delivery processes is affected by the high interest rates.

Recognizing the value of transparency in the delivery of public infrastructure projects in Uganda, for the private sector, Government, and the Civil Society, and in the interest of building an inclusive sector that appreciates and promotes the right of access to information, stakeholder engagement and effective use of public infrastructure investments, to inform realization of *quality infrastructure, stronger economic and better lives for all Ugandans*, relevant stakeholders are called upon to undertake the following actions:

Recommendations

Public Procurement and Disposal of Public Assets Authority (PPDA)

1. PPDA is encouraged to issue a standard disclosure template of key activities undertaken in infrastructure projects and it should be implemented by all PDEs. This should be accompanied with associated guidelines on how infrastructure data should be disclosed. The CoST Infrastructure Data Standard (IDS) and the Open Contracting for Infrastructure Data Standard (OC4IDS) provides for such a standard.
2. PPDA should amend the Standard Notice of Best Evaluated Bidder to provide for the estimated value of the works made by the Accounting Officer at the initiation of the procurement. This is important for confirmation that the contract price of the Best

Evaluated Bidder is below the Accounting Officer's estimate in accordance with the PPDA Act, 2003.

3. PPDA and the Local Content Monitoring Committee are encouraged to conduct quarterly monitoring of the implementation of the local content and reservation schemes in accordance with the Local Content Guidelines. In addition, these guidelines should be turned into regulations and provide sanctions on noncompliance. PPDA and MoFPED should assess the efficacy of the guidelines annually.
4. PPDA should require PDEs to publish the contract management plans on the PDEs websites and in related media so that the public and civil society can effectively follow up on the progress of projects. In addition, PDUs should ensure that they monitor the progress of contracts in accordance with the PPDA (Contracts) Regulations, 2014.
5. PPDA is encouraged to review the procurement guidelines to provide for considerations of PWDs in infrastructure planning and implementation, participation of women, youth and PWDs and should require PDEs to report on such considerations.
6. PPDA should conduct awareness raising workshops for PDEs and the private sector on the application of the ESHS requirements in the revised Standard Bidding Document for works, taxation, local content and ensure that all projects have established provision of GRC (Grievance Redress Committees)

Ministry of Finance, Planning and Economic Development (MoFPED)

1. Ministry of Finance, Planning and Economic Development (MoFPED) and PPDA are encouraged to fast track alignment of the Electronic Procurement Portal (E-GP) and the Government Procurement Portal (GPP) to the OC4IDS to enable full disclosure and categorization of procurement data.
2. MoFPED should reinforce joint stakeholder Monitoring and Evaluation efforts for infrastructure projects with other stakeholders such as CoST Uganda to ensure compliance with national legislation and best practices in a bid to promote value for money.
3. MoFPED should make key critical sector issues such as disclosure of infrastructure data, local content, and inclusion as part of the performance indicators for the accounting officers in MDAs and Local Governments.
4. Fast tracking the completion/update and classification of the National Register for providers and establishment of a credit facility for local providers/guarantee fund, and turning local content, joint ventures and reservation and preference schemes guidelines into Regulations.

5. MoFPED is encouraged to establish alliances and business hubs at regional level with line sector Associations, lobby for members on issues such as taxation, global application of tax requirements.

Procurement Entities

1. The accounting officers in PDEs should ensure, regular updates of the public disclosure platforms and establish internal data management and retrieval systems for infrastructure data. NITA – U should assist PDEs to put up robust systems to address this.
2. The Accounting Officers should ensure that the monthly and quarterly contract reports to be submitted by the Contract / Project Manager and the Procurement and Disposal Unit respectively as provided for under the PPDA (Contracts) Regulations, 2014, are appropriately furnished and assessed.
3. The accounting officers in PDEs should recommend to PPDA for suspension the contractors that substantially breach their contractual obligations in accordance with the PPDA Act, 2003. This will curtail cases of contractors successfully participating in tenders in different PDEs while having a poor performance track record.

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