



CoST UGANDA CHAPTER

Consultancy: TERMS OF REFERENCE FOR A CONSULTANT TO IDENTIFY FACTORS THAT INHIBIT THE PRIVATE SECTOR FROM ENGAGING IN PUBLIC INFRASTRUCTURE PROCUREMENT PROCESSES

1. Introduction

Public procurement is estimated at 60% of the total national budget. Because of the magnitude of the spending involved, public procurement is a source of business opportunities for the private sector and therefore can be used as a policy tool to make markets more competitive and thus improve the quality of government services. 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.

To ensure there is competition in the public procurement system in the country, the Procurement law in Uganda stipulates that all procurement and disposal shall be conducted in a manner that maximizes competition and achieves value for money. In addition to the open bidding methods, the PPDA (rules and methods for procurement of supplies, works and non-consultancy services) regulations provides that a Procuring and Disposing Entity shall obtain at least three bidders for the restricted bidding, request for quotations and micro procurement methods.(PPDA Act,2003)

However, according to a study by CoST Uganda on the analysis of infrastructure data disclosed on the Government Procurement Portal for selected PDEs conducted in June 2020, 51% of the projects had lower than 3 bids while 48.7% of the projects had three or higher bids. This number of bids received is an indicator of competition in procurement that would lead to fair pricing by bidders and value for money for clients, if more firms engaged in the public infrastructure procurement processes. The study further revealed that, the private sector (contractors and Consulting engineers) expressed concern regarding the unfair business practices, as well as lack of integrity in procurement which affects their full participation. To this end, the reasons behind these concerns are not clear, hence the need to further understand what factors inhibit the private sector from fully engaging in infrastructure procurement.

Following this, Africa Freedom of Information Centre on behalf of CoST Uganda intends to recruit a consultant to identify the factors that inhibit the private sector from participating in public infrastructure procurement processes. The findings of this study will be submitted to PPDA and other stakeholders for action and consideration in policy development, to enhance private sector participation at all levels.

2. Objective

The major objective of the study is to assess the factors that inhibit the private sector from participating in public infrastructure procurement and make recommendations that will increase competition and the participation of the private sector (local and foreign) in infrastructure delivery processes.

3. Specific Terms of Reference

- a) Study the existing opportunities within the infrastructure sector for the private sector and highlight the major constraints limiting the participation of the private sector in infrastructure projects.
- b) Study and identify the potential for the local industry in terms of the participation of local contractors and consulting engineers in participation of infrastructure projects and the main factors that prevents or constrains them from participating. In addition, study the implementation of the guidelines on reservation schemes to promote local content in infrastructure projects in terms of the following:
 - i. Provision of sub-contracting of high value works to local contractors and the factors affecting the effective implementation of this provision.
 - ii. Study the experiences as reported by foreign companies when contracting works or services to local sub-contractors.
 - iii. Study the nature and type of contracts given to local and foreign firms, providing strategies for improvement.
 - iv. Recommend the specific areas that Entities can allocate or sub-contract to the local contractors
- c) Study the effectiveness of joint ventures between local and foreign firms as a strategy for knowledge building and skills transfer. Provide strategies for successful implementation of such approaches.
- d) Investigate effectiveness and performance of high breed contracts. Suggest strategies in which these can be strengthened across various sectors.
- e) Recommend strategies that will increase the participation of the private sector in infrastructure projects.

In carrying out the above assignment, the Consultant is expected to:

- a) Review any relevant documents including CoST Uganda reports, PPDA audit, investigations and compliance monitoring reports for infrastructure projects implemented by the high spend agencies.
- b) Conduct consultations with key stakeholder organizations including UNABCEC, UACE, and PSFU among others.
- c) Interview key stakeholders in the policy and regulatory function of public procurement.

4. Qualification, Skills and Professional Experience Required

The successful consultant (s) shall fulfil the following requirements:

- a) The consultant should have at least (5) years' experience in providing similar services with evidence of having undertaken at least three (3) assignments of research of similar nature. (Recommendations from clients shall be required as evidence).
- b) The consultant (s) should have an Honours degree in Procurement, Economics, Engineering, Law, Education, Business Administration, Project Management, Social sciences;
- c) A Master Degree in any of the above relevant disciplines;
- d) A minimum of eight (8) years' experience in public procurement including conducting public and private sector evaluation, assessment and research.

Additionally, the following experience is desirable:

- a) Understanding of government business and processes, especially contract awards and project implementation.
- b) Work experience in promoting and facilitating public accountability and transparency in the public sector.
- c) Previous working experience within the sub-region and knowledge of the Public Procurement and Disposal framework.
- d) Possession of professional procurement qualification
- e) Possession of professional experience in infrastructure planning and implementation.
- f) Knowledge of and proven experience with Ugandan and foreign enterprises/private sector.

5. Duration of the Assignment and Deliverables

Proposals will be assessed and a decision to appoint made on the basis of **quality (80%)** and **price (20%)**.

The deadline for the expression of interest is 4th December 2020. Please email proposals to, The Programme Coordinator, CoST Uganda Email: info@cost.or.ug Inquiries can be made via the same email.

The duration of the assignment will be 60 working days spread over 3 months as indicated below:

No	Deliverable	Timeframe
1.	Inception report after contract signing	6 days
2.	Submission of draft report after approval of inception report	38 days
3.	Presentation of draft report	1 day
4.	Consultative Workshop(s)	3 days
7.	Facilitating Reviews based on stakeholder comments	2 days
8.	A summary paper with key issues, findings and recommendations	2 days
8.	Final comprehensive assessment report with recommendations.	8 days
Total No. of days		60 days