

PUBLIC PROCUREMENT REFORM IN AFRICA

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Background

- Reforms in 1990's led to realisation on need for Procurement Reform
- Linkage to Improved Governance – enhanced transparency in public and financial management
- COMESA established a Free Trade Area in 2000 and recognised need to harmonise and modernise commercial and business laws as provided in Treaty

Main features before reforms

- Lack of appropriate legal framework (most States still relied on Ministerial Directives)
- Weak Institutional Capacities
- Lack of transparency and accountability
- Lack of information on procurement opportunities
- Absence of appropriate institutional structures (most States had large inefficient centralised Tender Bodies)
- Multiplicity of procurement rules – based on the donor conditions

Obstacles to Reform

- Lack of human resources with adequate knowledge on procurement
- Limited educational institutions offering procurement as a special course
- Limited use of IT in procurement
- Use of procurement for meeting political ends
- Tendency to copy foreign laws without proper analysis

Objectives for regional project

- Develop and improve national procurement systems and laws
- Enhance national capacities to manage modern procurement systems
- Promote regional harmonisation with long term objective of establishing a common market
- Adopt best-practice principles of economy, efficiency, non-discrimination, transparency and accountability
- Adopt systems that allow for economy and efficiency in procurement

Key Principles

- Regionally owned process taking account of other reforms
- Universal acceptance of UNCITRAL model
- Adoption by Council of broad Directives for procurement reform at national level
- Principle of value for money

Relevance

- Higher contribution of public procurement in Africa to the national economy
- Possibility to use procurement to promote socio-economic goals (eg. South Africa)
- Promote competition and encourage growth of private sector
- Greater awareness on benefits of modern legal framework
- Corruption has more negative effects in Africa

COMESA Directive

- Intended to attain harmonisation
- Require States to include in national law minimum standards set therein
- From 2002 when initiative was launched States with compliant legal framework increased from 2 to almost 11 to-date
- See key features on page 10

Key Changes

- Most legal frameworks modelled on UNCITRAL model
- New Institutional Structure with office for policy formulation and oversight
- Procurement decentralised to units of government specialising in sectors (eg. Health Procurement Unit)
- Larger procurements need closer scrutiny by oversight body
- Centralised bodies to handle bid complaints and appeals established

Regional Regulations

- COMESA adopted regional regulations in 2009 to govern procurement on a regional basis
- Allow for equal treatment to all regional bidders based on set thresholds
- Competition at regional level will develop long term capacity for entities to compete at global level

GPA and Africa

- Need for African States to develop strong legal frameworks and human resource capacities
- Development of strong national institutions providing oversight and policy formulation
- Strengthening of sectoral/local government procurement units
- Recognition of Procurement as a “profession” and building a large cadre
- Increased use of IT systems in procurement

Current EPRCP

- Sensitisation of key public/private sector executives on reforms
- Development of national legal frameworks (general law and detailed national regulations)
- Strengthen institutional and human resource capacities in procurement
- Promote Use of Information Systems (IT) in procurement (Initially wider publication of opportunities)