Infrastructure Transparency Initiative

Uganda

FACTORS THAT INHIBIT THE PRIVATE SECTOR FROM ENGAGING IN PUBLIC INFRASTRUCTURE PROCUREMENT PROCESSES IN UGANDA

STUDY REPORT

November 2021

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ABBREVIATIONS

AFIC	Africa Freedom of Information Centre
CoST	Infrastructure Transparency Initiative
CSOs	Civil Society Organizations
DLG	District Local Government
FGD	Focus Group Discussion
GIZ	German International Cooperation
GoU	Government of Uganda
KCCA	Kampala Capital City Authority
MoFPED	Ministry of Finance, Planning, and Economic Development
MoES	Ministry of Education and Sports
MoH	Ministry of Health
MoU	Memorandum of Understanding
MoWT	Ministry of Works and Transport
MoWE	Ministry of Water and Environment
MSG	Multi-Stakeholder Group
NCEL	Novelty Consult and Engineering Ltd
NDP	National Development Plan
NPA	National Planning Authority
PDE	Procuring and Disposing Entity
PPDA	Public Procurement and Disposal of Assets Authority
PLF	Private local firms
PSFU	Private Sector Foundation Uganda

SOP	Standard Operating Procedure
ToR	Terms of Reference
TSL	Terrain Services Ltd
UACE:	Uganda Association of Consulting Engineers
UNABCEC:	Uganda National Association of Builders and Civil Engineering Contractor
USA	United States of America
UK	United Kingdom

EXECUTIVE SUMMARY

The participation of the private sector in public infrastructure procurement processes has been perceived to be very limited, unfair and unbalanced. From this background, CoST Uganda embarked on assessing the factors that inhibit the private sector from participating in public infrastructure procurement processes.

The purpose of the study was to assess the factors that inhibit the private sector from participating in public infrastructure procurement and; develop recommendations that will increase competition and the participation of the private sector (local and foreign) in public infrastructure procurement processes.

Uganda is implementing massive infrastructure and development projects through five-year National Development Plans and Vision 2040. However, the goals cannot be achieved without having a robust private sector to drive the economy by participating in infrastructure projects. Enhancing the capacity of the private sector is crucial for the successful achievement of long-term plans to deliver what the country and citizens need. The government needs to improve the operating environment to attract the private sector to participate and provide the services needed with integrity.

The study identified and assessed the factors limiting the private sector from participating in public infrastructure procurement processes in Uganda, and these included: clustering of contracts, unrealistic bid qualification requirements, dependency on development aid (grants and loans) and limited implementation of guidelines on reservation and preference schemes, unfavourable procurement laws, financing, and unfavourable competition with resident and foreign providers, and corruption among others. The study found that because of the unrealistic bid qualification requirements, about 80% of civil works contracts in Uganda were undertaken by foreign firms, and a big portion of the construction supplies and requirements were imported for mostly road and energy projects.

The study identified several bottlenecks to both local and foreign firms' participation in public infrastructure procurement processes, including the unfavourable procurement laws, which are perceived as not enabling local firms but instead favouring the "big boys" in the sector who are predominantly resident or foreign contractors and not locally originated providers/firms.

The study recommends the following in order to increase the participation of the private sector in public infrastructure procurement processes in Uganda: targeted domestic bidding for local firms, operationalization of a diagnostic classification of contractors and consultants, establishment and operationalization of an infrastructure industry development fund, capacity building of contractors

especially in preparing quality and winning bids, trust in public procurement system, and establishment of programmes that expose private sector actors, development partners should appreciate and harmonize their procurement systems, PPDA and the local content monitoring committee are encouraged to conduct quarterly monitoring of the implementation of the local content and reservation schemes and revise the guidelines on reservation and preference into regulation, need for a clear definition of a national and resident provider, expedite payments to local firms, operationalizing the national register for contractors and consulting firms, and addressing corruption and its effects.

INTRODUCTION

It is estimated that public procurement in Uganda takes 60% of the national budget due to the magnitude of the spending involved. Public procurement has been identified as an opportunity for business for the private sector and, therefore, can be used as a policy tool to make markets more competitive, thus improving the quality of government services. However, to ensure competition in the public procurement system, the PPDA regulations require that a PDE obtain at least three bidders for the restricted bidding, request quotations, and micro procurement methods. All this aims to ensure that there is a competition to facilitate value for money (VfM) for every procurement.

However, according to a study by CoST Uganda on the analysis of infrastructure data disclosed on the Government Procurement Portal for selected Procuring and Disposing Entities (PDEs) conducted in June 2020, 51% of the projects had fewer than three 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 unfair business practices and a lack of integrity in procurement, which affects their full participation. As the reasons behind these concerns were not clear, there was a need to understand further what factors inhibit the private sector from fully engaging in public infrastructure procurement.

The study's primary purpose was to assess the factors that inhibit the private sector from participating in public infrastructure procurement and develop recommendations that will increase competition and the participation of the private sector (local and foreign) in infrastructure delivery processes.

OBJECTIVES OF THE STUDY

The study's primary objective was 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. The main focus was on;

a) Studying the existing opportunities within the infrastructure sector for the private sector and highlighting the significant constraints limiting the participation of the private sector in infrastructure projects.
b) Studying and identifying the potential for the local industry in terms of the participation of local contractors and consulting engineers in infrastructure projects and the main factors that prevent or constrain them from participating. In addition, studying 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. Experiences as reported by foreign companies when contracting works or services to local sub-contractors
   iii. The nature and type of contracts given to local and foreign firms, providing strategies for improvement
   iv. Recommendations regarding specific areas that entities can allocate or sub-contract to the local contractors
c) The effectiveness of joint ventures between local and foreign firms as a strategy for knowledge building and skills transfer, providing strategies for the successful implementation of such approaches
d) The effectiveness and performance of hybrid procurement suggest strategies that can be strengthened across various sectors.
e) Recommendations regarding strategies that will increase the participation of the private sector in infrastructure projects

STUDY METHODOLOGY

The overall methodology adopted mixed methods of both qualitative and quantitative approaches, with more emphasis placed on qualitative data collection—the mixture of methods allowed for the collection of diverse data points and facilitated triangulation of results. The study gathered quantitative data through an online survey. Qualitative data was gathered using Key Informant Interviews (KIIs), ethnographic and participatory tools such as Focus Group Discussions (FGDs), and desk reviews. The qualitative approach provided more in-depth information on factors that hinder the private sector from participating in public infrastructure procurement processes.

The consultant used a cost-effective methodology for quality results and provided value for money to the study. A portfolio review methodology was used to assess "what works, what doesn't, and why"? Such an approach helps analyse the drivers of project performance throughout the portfolio and generate lessons based on the entire portfolio. The study was carried out using a mixture of techniques across the field sites, based on the suggestions in terms of Reference (ToR). The specific methodology included four stages which included inception (planning), document review, field visits and virtual consultations with key stakeholders, e.g., key informant interviews and focus groups discussions and an online survey sent through Kobo, data analysis and report writing.

The study consisted of a review and analysis of secondary data as well as the collection and analysis of primary data using the methods described above. The desk review included a study of secondary data from CoST, government agencies, development partners (including the World Bank) and other relevant materials in print and electronic forms. Primary quantitative data collected through the online survey targeted UACE and UNABCEC and was then analyzed and triangulated.

Data Collection Tools

Data-collection tools were developed by the consultant and reviewed by CoST Uganda. While preparing these tools for the study, literature was reviewed to provide input into the tools, which helped to fine-tune them. Both the qualitative and the quantitative tools were developed and approved by CoST Uganda.

1. **Qualitative Tools**

Qualitative data collection was conducted through Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs) with a smaller number of respondents in respect to the COVID19 Standard Operating Procedures (SOPs). Key informant interviews were conducted with government officials, World Bank, UNABCEC and UACE secretariats, consulting engineers, private consulting firms, KCCA staff, and district officials.

Table 1 Showing categories of the different stakeholders who participated in the qualitative data collection

Category	Respondents
Government Officials	- PPDA - UNRA - District officials - KCCA staff
UNABCEC	- The staff of UNABCEC Secretariat
UACE	- Staff UACE Secretariat
Others	- CoST Uganda Secretariat - CoST Africa Regional Manager - Terrain Services Ltd - Novelty Consult and Engineering Ltd - Kaizen Africa - Water and Pumps Consult - World Bank Group - Uganda

Source: Field data

2. Quantitative Tool

The quantitative data collection targeted members of UACE and UNABCEC. A structured online survey link was sent to UACE and UNABCEC covering demographic characteristics, factors affecting their participation in public infrastructure procurement processes, experiences of joint venturing and subcontracting, hybrid projects and strategies to increase participation of the private sector in public infrastructure procurement processes.

3. Sampling Strategy

The sampling strategy targeted government officials, UACE and UNABCEC, private engineering consulting firms who are not members of any associations, district officials and development partners like the World Bank. Purposive sampling was applied in each of the target categories. The consultants spent four weeks collecting data collection.

Study Population

A total of 56 respondents participated in the study; three FGDs and 12 interviews were conducted with key informants through face-to-face and virtual interviews. Out of 100 respondents targeted for a quantitative survey using an online tool (Kobo), only 26 respondents completed the survey. 89% of the respondents were male, and 11% were female. This reflected the limited participation of women in the sector, as noted in a paper titled "Women in Infrastructure in Uganda" developed by CoST Uganda. There were FGDs with staff and board members of UACE, staff of CoST Uganda and Novelty Consult and Engineering Ltd.

Data Processing and Analysis

Data was collected for every interview conducted, and notes were taken to help enrich the qualitative data. These were analysed further to identify emerging themes. Quantitative data was collected using Kobo and analysed using the SPSS (Statistical Package for the Social Sciences, a software package for data analysis) and further interpreted and a study report written.

Quality Control

The consultant ensured quality control right from the development of data collection tools and continued through to data collection, analysis and report writing. All data collection tools were developed in partnership with CoST Uganda. Data collection was done by the consultant, with the team leader providing supervision and oversight. Regular briefings among team members were vital in identifying areas for probing about emerging findings. The statistician managed the online survey and analyzed data collected through Kobo (online data collection system). Kobo helped to avoid compromising the accuracy and reliability of the data.

Ethical Considerations

The consultant ensured that the study met all the highest ethical standards. Informed consent was sought from the participants who participated in the study. The informed consent and rules were followed by ensuring that an explanation was provided on the purpose of the interview, its expected timeframe and how it was conducted.

Confidentiality and its limits were explained, especially regarding the handling of the collected data. Names and identity information of the respondents were withheld to protect their privacy where necessary. Participation in the study was voluntary, and nobody was paid, whether material or monetary, for their participation. The consultant followed all COVID-19 standard operating procedures while conducting this study.

Challenges experienced during the study

Below are some of the challenges encountered during the implementation of the study:

1. Slow response to the online survey from the association members for both UACE and UNABCEC despite constant reminders. Consultation fatigue in the sector was identified as a factor behind the low response, with respondents feeling that previous studies had raised related concerns that had not been addressed.
2. The study was affected by the general election and the unanticipated aftermath of the election. Some respondents postponed the scheduled interviews due to anticipated electoral violence, while others could not offer the audience.
3. Some respondents, especially government officials, were not fully open to providing vital information required for this study.
4. COVID-19 standard operating procedures limited physical interviews, especially FGDs, and travels across the countryside. Most interviews were conducted online and thus were affected by the poor internet connectivity.

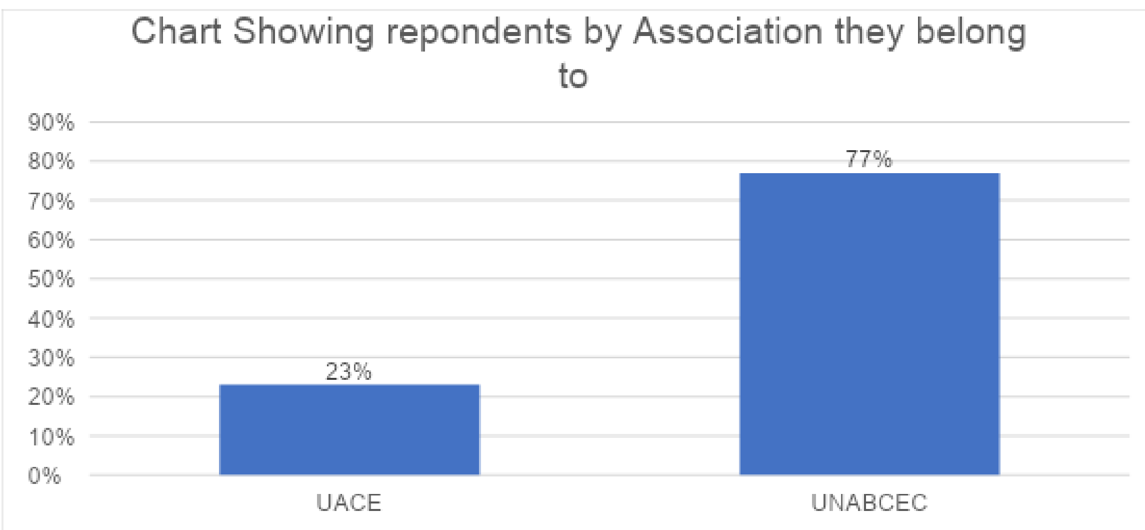
Demographics of Respondents

More KIIs were conducted compared to FGDs. The study concentrated more in Kampala because most government entities, private sector companies, and development partners consulted for this study are based in Kampala or have their offices in Kampala. The study reached 26 quantitative respondents, the majority of whom were men. This is partly because the quantitative survey targeted UACE and UNABCEC members, predominantly men with fewer women.

The study involved a reasonable number of respondents based on their relevance to the assignment. The Alignment, Interest and Influence Matrix (AIIM) was employed to determine the influence and power each stakeholder brings to the study. It involved stakeholders from both national stakeholders and those in the countryside. They included both government and non-state actors such as the private sector and civil society organisations—the majority of the stakeholders from the above clusters needed to be considered. The consultant used purposive sampling techniques for the qualitative and participatory assessment strand.

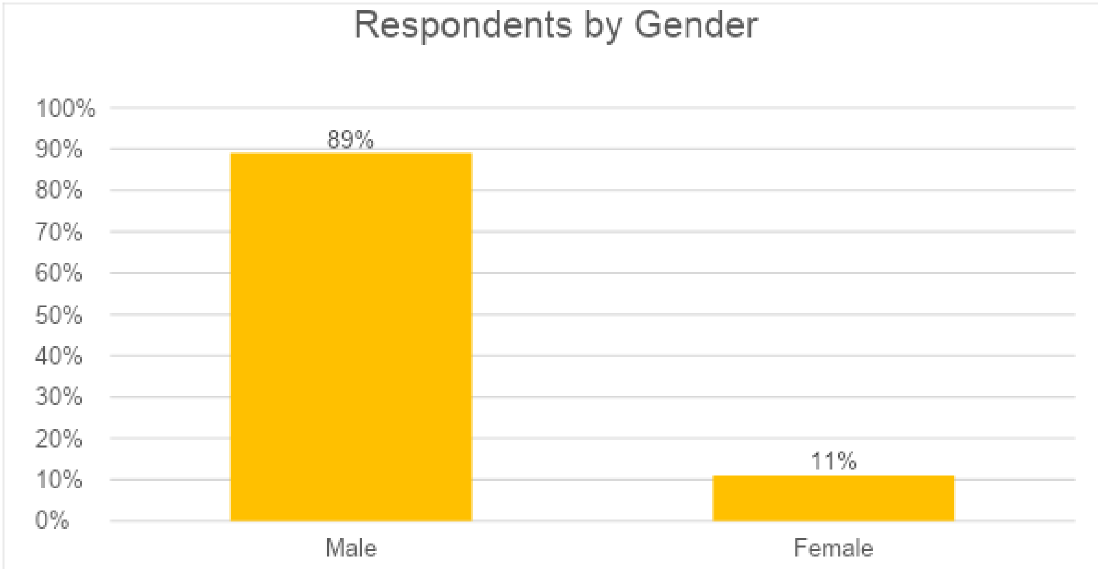
The selection of participants depended on their participation and level of influence in line with the objectives of this study and their ability to provide valuable information to the data collection process to inform the study. In addition, the consultant worked closely with CoST- Uganda to ensure that other stakeholders were considered. Therefore, the categories of respondents selected at national, city and district levels were selected using purposive random selection.

Figure 1: A graph showing response to the study by Association



As shown in the figure above, 77% were members of UNABCEC, and 23% were members of UACE. Members, especially from UACE, cited fatigue in studies and research as reasons for the low response. In addition, there was a general feeling that not enough was being done to address issues that had been identified by previous studies and research of a similar nature.

Figure 2: A graph showing respondents by Gender

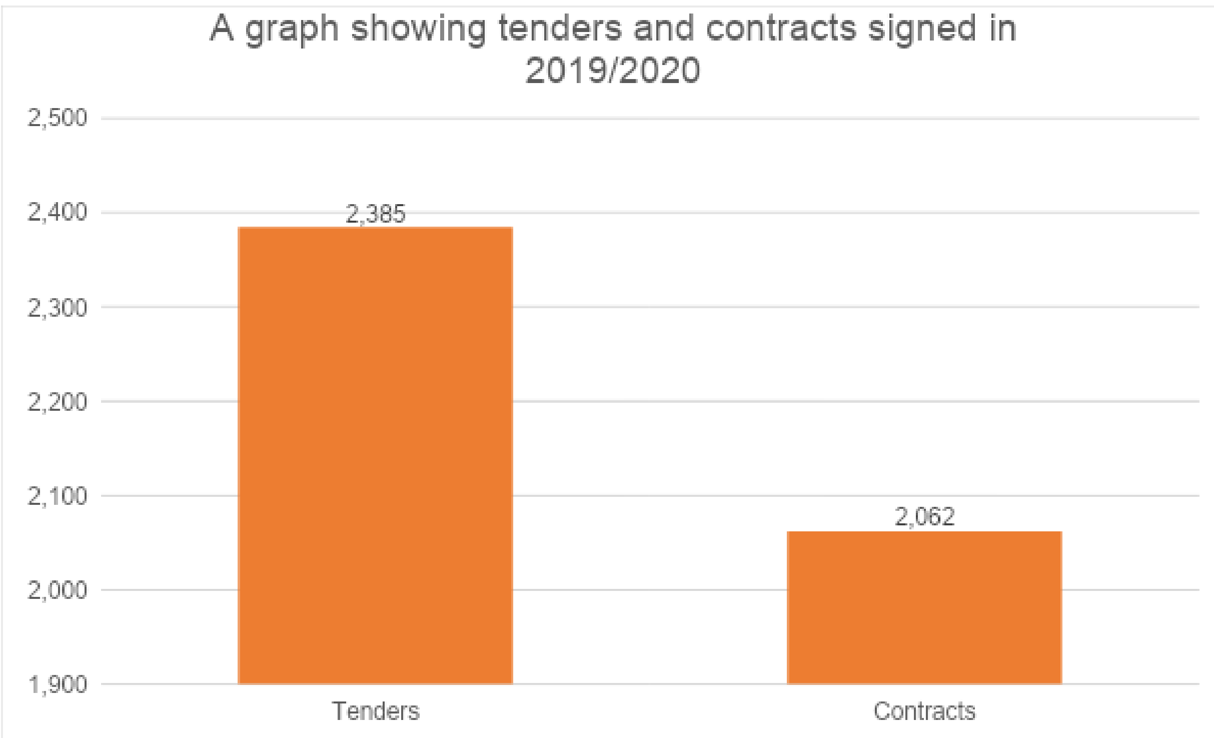


As shown in the graph above, despite the purposeful sampling of respondents in terms of gender disaggregation during the interviews, results indicated that most of the respondents were male at 89% and female at 11%. This reflects the possible limited participation of women in public infrastructure delivery processes in Uganda. According to a paper titled "Women in Infrastructure in Uganda". some of the reasons for their limited participation in the public infrastructure delivery processes include a perception that the sector is for men, a belief that women cannot physically carry out construction work, and norms and stereotypes which are deeply embedded in laws, culture, religion, politics and family affairs among others, which have a bearing on choices made by women regarding their effective participation in public infrastructure procurement processes. Also, women engineers are scarce to find, just like local firms owned and managed by women in Uganda. Therefore, there is a need for a deliberate effort to increase women's participation in the construction sector through establishing affirmative action to enhance the training of young girls in construction-related courses.

Existing opportunities within the sector for the private sector

The study explored existing opportunities within the infrastructure sector, identified potential opportunities for local firms, studied experiences reported by foreign firms when contracting works and services to local sub-contractors, the nature and types of contracts given to local and foreign firms, identified areas that entities could allocate to local contractors and the effectiveness of joint ventures between local and foreign firms. The study identified several existing opportunities within the infrastructure sector for the private sector from the different entities.

Figure 3: A graph showing tenders and contracts signed in 2019/2020



According to a data analysis dashboard by CoST Uganda Infrastructure Data with data from 187 entities, we note that in 2019/2020, out of 2,385 tenders, 2,062 contracts were signed, representing 86.4% of the tenders.

Figure 4: A graph showing number of contracts for each of the entities with the biggest spending in 2019/2020

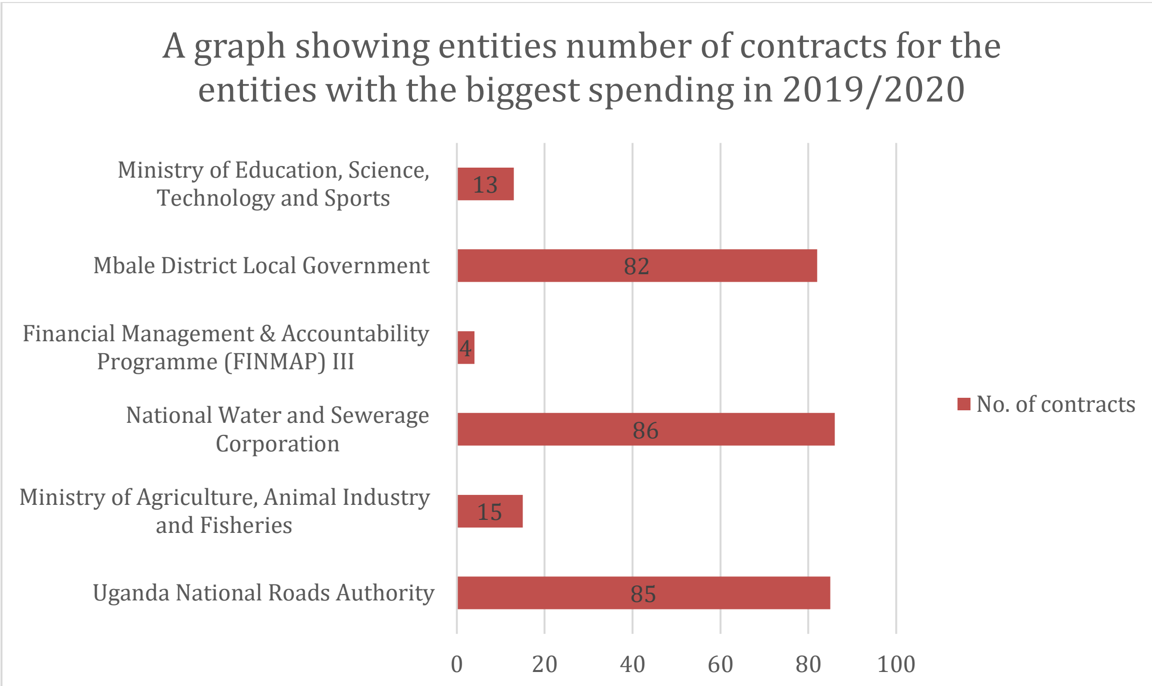


Table 2 showing value spent on infrastructure and total contract value for the entities with the biggest spending in 2019/2020

No.	Entity	Value spent on infrastructure FY 2019/20 (UGX)	Total Contract Value FY 2019/20 (UGX)
1	Ministry of Education & Sports	10,359,062,602	112,824,069,681
2	National Water & Sewerage Corporation	19,157,259,270	447,248,383,506
3	Ministry of Agriculture, Animal Industry	42,418,825,089	56,591,122,189
4	Uganda National Roads Authority	257,865,625,832	773,135,201,546
5	Mbale DLG	11,849,620,848	17,711,544,864

Results from the dashboard and information gathered from PPDA further reveal that the entities which had the biggest spending in 2019/2020 included;

(i) Uganda National Roads Authority (UNRA) had 85 contracts signed with a contract value of UGX. 773,135,201,546;

(ii) The Ministry of Agriculture, Animal Industry and Fisheries had 15 contracts with a contract value of UGX. 56,591,122,189;

(iii) National Water and Sewerage Corporation had 86 contracts with a contract value of UGX. 447,248,383,506;

(iv) Mbale District Local Government had 82 contracts with a contract value of UGX. 17,711,544,864, and

(v) The Ministry of Education, Science, Technology and Sports had 13 contracts with a contract value of UGX. 112,824,069,681among others.

From the dashboard, the study further identified countries from which the infrastructure projects' providers originate, including Uganda, China, India, Tanzania, and Serbia. The study found that firms from countries like America and the UK do not participate in public infrastructure procurements in Uganda. According to a Consulting Engineer from Scotland, companies from the USA did not participate because they were risk-averse, while those from the UK did not participate due to failure to prevent corruption in the procurement processes in Uganda. And for some countries, it was simply a matter of choice to enter a market known to carry risks when there were more attractive alternatives. The study recommends that a detailed study is conducted to understand factors behind the limited participation of foreign firms from Europe and the United States of America.

Some of the biggest players in delivering public infrastructure projects in Uganda include; Chongging International Construction, headquartered in China, Wanyoto International Limited, Terrain Services Ltd, Byiringiro Building Services, Ambitious Construction Company Ltd and Kangaroo (U) Ltd, among others, as revealed by CoST Uganda dashboard. Although it is imperative to note that many of these firms are foreign and have been incorporated in Uganda, they are considered resident providers, and thus, by law, they can compete for local jobs.

The study further accessed data on selected entities, as illustrated in the tables below.

Table 2 shows an example of the different opportunities available from two selected PDEs (Uganda Roads Authority and Kampala Capital City Authority). Some of the opportunities include: mechanized maintenance of unpaved and paved roads, periodic maintenance of paved and unpaved national roads, low volume sealed roads (LVSR), selected swamp improvements, bridge works, Labour-based maintenance of national roads, selected feasibility studies and detailed engineering consultancy services for road upgrading projects, reasonable thresholds set up for purposes of attracting local firms, renovation of schools and health centres, road maintenance and expansion, gravel road upgrade (upgrading to tarmac), garbage collection in the city, designing and constructing drainage channels, reconstructing and widening roads among others.

Table 3: shows examples of the different contracts awarded to different companies at KCCA, e.g., supply of road making hot mixed asphalt, stone quarry products and provision of asphalt paving plant awarded to Multiplex Limited; Supply of road making hot mixed asphalt, stone quarry products and provision of asphalt paving plant awarded to Stirling Civil Engineering Limited; Routine road elements repairs using Portland cement-based products and methods awarded to Muga Services Limited among others as illustrated in Table 2 below.

Table 4: shows examples of contracts awarded to different companies and their respective value at KCCA, e.g., Routine Road element repair awarded to Texa Solutions Limited at UGX 85,278,000.00; Routine Road element repair awarded to Stirling Civil Engineering at UGX 872, 606,381.00; Construction of a drainage improvement works for Lubigi Primary Channel (LOT 1) in Kampala awarded to China Railway No.10 Engineering Group., Ltd at UGX 62,564,423,919.48 among others as detailed in the table.

The study identified the following as key observations on the existing opportunities in the infrastructure sector: -

1. Locally owned firms are awarded smaller contracts far below the 45 billion thresholds stated in PPDA's local content guidelines, while the big value contracts are awarded to foreign or resident firms, especially Chinese ones. Stakeholders noted that in most instances, the Chinese companies had dominated the budget because they have low-interest loans in their country of origin, and they have free equipment and sometimes have provided equipment, donations/grants for the sector.
2. There are limited joint ventures between local and local firms and likewise between foreign and local firms.
3. Some foreign firms in Uganda take the majority share of the existing opportunities, including some low-value opportunities.

From the above, the study ***recommends*** that;

1. There is a need for deliberate efforts to target local firms in the industry by the different PDEs.
2. The Ministry of Finance, Planning and Economic Development (MoFPED) and PPDA should strengthen policy guidelines through regulations to guide the implementation of joint ventures in the country.

3. Enforcement of the reservation schemes to promote local content in public infrastructure procurement, highlighting reservation by threshold.

Table 3 shows existing opportunities at UNRA and KCCA

No.	***UNRA***	***KCCA***
1	*Mechanized Maintenance of Unpaved and Paved Roads*	*Renovation of schools*
2	*Periodic Maintenance of Paved and Unpaved National Roads*	*Road maintenance and expansion*
3	*Low Volume Sealed Roads (LVSR)*	*Gravel road upgrade (upgrading to tarmac)*
4	*Selected Swamp Improvements*	*Garbage collection in the city*
5	*Bridge Works*	*Designing and constructing drainage channels*
6	*Labour Based Maintenance of National Roads*	*Reconstructing and widening roads*
7	*Selected Feasibility Studies and Detailed Engineering Consultancy Services for Road Upgrading Projects*	
8	*Reasonable Thresholds Set Up for Purposes of Attracting Local Firms*	

Source: UNRA and KCCA documents

Table 4 shows projects awarded to National and Resident Providers

REF NO	SUBJECT OF PROCUREMENT	CONTRACTOR
KCCA/SUPLS/18-19/00063	Procurement of Framework Contracts for the supply of Road Making Hot Mixed Asphalt, Stone Quarry Products and provision of Asphalt Paving Plant	Multiplex Limited
KCCA/SUPLS/18-19/00063	Procurement of Framework Contracts for the supply of Road Making Hot Mixed Asphalt, Stone Quarry Products and provision of Asphalt Paving Plant	Stirling Civil Engineering Limited

KCCA/SUPLS/18-19/00063	Procurement of Framework Contracts for the supply of Road Making Hot Mixed Asphalt, Stone Quarry Products and provision of Asphalt Paving Plant	Muga Services Limited
KCCA/SUPLS/18-19/00063	Procurement of Framework Contracts for the supply of Road Making Hot Mixed Asphalt, Stone Quarry Products and provision of Asphalt Paving Plant	Abubaker Technical Services and General Supplies Limited
KCCA/WORKS/18-19/00059	Procurement of Framework Contracts for Routine Road Elements repairs using Portland cement-based products and methods	Muga Services Limited
KCCA/WORKS/18-19/00059	Procurement of Framework Contracts for Routine Road Elements repairs using Portland cement-based products and methods	Abubaker Technical Services and General Supplies Limited
KCCA/WORKS/18-19/00059	Procurement of Framework Contracts for Routine Road Elements repairs using Portland cement-based products and methods	Lina Construction Limited
KCCA/WORKS/18-19/00059	Procurement of Framework Contracts for Routine Road Elements repairs using Portland cement-based products and methods	MML Road Construction Co. Limited,
KCCA/WORKS/18-19/00059	Procurement of Framework Contracts for Routine Road Elements repairs using Portland cement-based products and methods	Stirling Civil Engineering Limited
KCCA/WORKS/18-19/00059	Procurement of Framework Contracts for Routine Road Elements repairs using Portland cement-based products and methods	Texa Solutions Limited
KCCA/WORKS/18-19/00059	Procurement of Framework Contracts for Routine Road Elements repairs using Portland cement-based products and methods	Kiru General Services Limited

Source: KCCA Procurement database

The above table shows contracts awarded to different companies, including national and resident providers. From the table, low value (small) contracts are awarded to local contractors, whereas big value contracts are awarded to resident and foreign contractors. The low value depends on the nature of the contracts. The study found that local contractors win low-value contracts because they do not bid for high-value contracts and concentrate on small or low-value contracts. In addition, they have limited capacity and lack security to bid for high-value contracts.

Table 5 showing the value of contracts awarded to local and foreign firms by KCCA in 2019/2020

SUBJECT OF PROCUREMENT	*A COST (UGX)*	*CONTRACTOR*
Routine road element repair	*85,278,000.00*	*Texa solutions limited*
Routine road element repair	*872,606,381.00*	*Stirling Civil Engineering*
UMEME lines transfer at old Kampala road and fort road	*85,426,980.00*	*Malcon Engineers Limited*
Capacity junction improvement at old Kampala portal road	*569,771,614.00*	*Stirling Civil Engineering*
Construction of a generator house at KCCA central	*9,891,798.00*	*Geses Uganda Limited*
Painting mortuary offices and minor roof repair	*24,876,170.00*	*Adapt Technologies Ltd*
Amendment of the Contract for design update and construction of selected city roads Lot 1: reconstruction and/or upgrading of NMT pilot corridor, Namirembe-Luwuum-1.5km, Archer 0.75km, Mengo hill-0.75km, Nakivubo channel-0.5km, Mpabaana 0.75km, Luzige 0.3km, Mutebi 0.45km and Semugooma 0.4km in Central Division	*7,258,475.00*	*Stirling Civil Engineering Ltd*
Amendment of the Contract for design update and construction of selected city roads Lot 1: reconstruction and/or upgrading of NMT pilot corridor, Namirembe-Luwuum-1.5km, Archer	*2,569,000.00*	*Stirling Civil Engineering Ltd*

0.75km, Mengo hill-0.75km, Nakivubo channel-0.5km, Mpabaana 0.75km, Luzige 0.3km, Mutebi 0.45km and Semugooma 0.4km in Central Division ii) Change of unit measurement		
Amendment of the Contract for the construction of Kasubi Market	*249,100,500.00*	*CK Associates Limited*
Construction of Drainage Improvement works for Lubigi primary channel (LOT 1) in Kampala	*62,564,423,919.48*	*China Railway No.10 Engineering Group., Ltd*
Construction of Drainage Improvement works Nakamiro Secondary drainage channels (LOT 2) in Kampala	*20,212,785,645.27*	*Jiangxi Water and Hydropower Construction Co., Ltd*
Procurement of plumbing materials for extra plumbing works at Central Division offices	*11,516,000.00*	*Inter-Tech Entrepreneurs (U) Limited*
Routine road element repair	*344,554,100.00*	*Abubaker TSL*

Source: KCCA Procurement database

The study found that all contracts were awarded to both local and foreign providers in the above illustration. However, ***most low-value contracts were awarded to local providers while the big contracts went to foreign providers***. This further points to the issue of capacity in terms of finances, expertise, plant and equipment between local and foreign providers in the sector. Examples of the biggest contracts include; the construction of drainage improvement works for Lubigi primary channel (LOT1) in Kampala and construction of drainage works Nakamiro Secondary drainage channels (LOT 2) in Kampala valued at UGX 55,469,252,255.00 and UGX 26,295,291,360.00, respectively which were awarded to China Railway No.1 Engineering Group., Ltd and Jiangxi Water and Hydropower Construction Co., Ltd respectively.

The observations from the procurement database at KCCA revealed that several firms (local and foreign) had won multiple contracts or projects (small, medium and big), including Stirling Civil Engineering Ltd, Abubaker Technical Services and General Supplies Limited, Muga Services Limited and Multiplex Limited among other firms. This points to the need for companies to maintain a pipeline of work across PDEs and sectors in order to recoup the cost of establishing an understanding of and reputation in the sector. This also means that a large company will be willing to take on small contracts to retain staff and a presence in the market while waiting for the next major opportunities, thus the increased competition for small contracts between foreign and local firms.

Specific projects that entities can allocate to local firms

The local private sector has a vital role to play if it is empowered to facilitate its growth. An empowered local provider or contractor can develop and maintain infrastructure like roads, rails, bridges, and buildings, address inefficiencies in the sector and economy, and promote human capital development. It should also be noted that the construction sector is central in achieving economic growth, prosperity and improving the quality of life of the people of Uganda. Local providers can foster Local Economic Development (LED) if given all the necessary support to facilitate its growth.

Fostering participation of local contractors in the construction sector calls for political commitment, an equitable income distribution, stable domestic funding provided at very low-interest rates of about 3-5%, enforcement of guidelines and regulations and binding concessions. There is a need to identify specific projects or areas where the local contractors can effectively compete as affirmative action. In addition, developing a favourable legal framework would be critical for increasing the participation of the local contractors in public infrastructure procurement processes.

Uganda has several public entities that contract both local and foreign providers on a range of projects in the sector. As a result, many high-value contracts have been won and contracted to foreign and resident companies, with minimal local firms or providers winning a few of the high value and a higher number of low-value contracts. Some of these PDEs include Uganda National Roads Authority (UNRA), Kampala Capital City Authority (KCCA), National Information and Technology Authority (NITA), Local Governments and other Government Ministries and Agencies (MDAs).

Specific areas that entities can allocate to local contractors.

Several stakeholders, including PDEs, recommended the following areas to be allocated to locally owned firms and providers as a way of affirmative action to grow the local private sector, including building their capacities to compete with their foreign counterparts in the infrastructure sector fully.

1. Selected swamp improvements and bridge works
2. Construction of schools, hospitals and other government buildings
3. Maintenance of roads
4. Road repairs
5. Labour based maintenance of national roads
6. Construction of stadiums, museums and leisure parks
7. Construction of markets
8. Feasibility studies and detailed engineering consultancy services for road upgrading projects
9. Low Volume Sealed Roads (LVSR)
10. Construction of taxi/bus parks
11. Mechanized maintenance of unpaved and paved roads
12. Construction of drainage systems
13. Stone pitching
14. Routine road element repair
15. Construction of schools
16. Construction of health facilities (III, IV and ordinary hospitals)
17. Transfer of UMEME lines
18. Design and construction of selected roads
19. Construction of culverts.

In conclusion, initiatives to increase local content are more likely to be successful if, from the outset, there is good communication not only with the local companies but also by the big players, which are happy to achieve the required level of local content provided. a) The same rules apply to everyone, and b) there is sufficient discussion about it to ensure a fair distribution of risks as well as rewards. A capacity assessment should be done on local firms to ascertain their capability to manage and implement the areas mentioned above, and they should be competed for. The study reveals that 30% of contract value should be allocated to the national contractors who can handle it. The above-proposed areas should be gazzeted for the local contractors or national providers to promote fair business practices as an affirmative action to build their capacity.

WHAT LIMITS PRIVATE SECTOR PARTICIPATION

For a strengthened infrastructure sector, it is important to identify and understand factors limiting the private sector's full participation in the public infrastructure procurement processes in Uganda. From the study, 49% of the respondents reported participating in the bidding processes for public infrastructure projects. In comparison, 51% had never participated, pointing to a lack of an equal opportunity in the procurement processes, the high cost of bidding, and competition with international firms are among the reasons cited for considering bidding for public infrastructure procurement projects to be a waste of time and resources. It should also be noted that the average cost of bidding limits the number of bidders to ensure a reasonably efficient approach. The study revealed an increasing decline in the number of providers participating in infrastructure projects from 553 providers in 2016-2017 to 371 providers in 2018-2019, which meant that the remaining providers were more competent and professional. Many of those who dropped off or were eliminated were small or "*briefcase*" contractors, with little if any capacity.

As discussed below, the study identified varying factors affecting local and foreign firms from engaging in public infrastructure procurement processes.

1. **Limited implementation of guidelines on reservation scheme to promote local content in public procurement**

The guidelines on reservation scheme to promote local content in public procurement are clear on issues like reservation of public contracts by the threshold to national and resident providers, joint venturing, associations, consortiums or partnership, reservation of at least 30% value of works and supply of materials, equipment and services to national and resident providers, but its implementation was still a challenge. 88% of the private sector respondents knew about the existence of reservation and preference guidelines, while 12% did not know about their existence. The guidelines should clearly define national providers and resident providers.

Many of the PDEs indicated a presidential directive to treat all registered companies in Uganda as local companies, including resident firms. Thus, this suffocates the growth of national or local firms since they have to compete with resident firms whose capacity is already built by their mother companies. The study further found that the majority of the local providers wanted to be contracted for at least 30% directly by the PDE. However, there is a limitation in terms of whether the local provider can be able to meet the risk attached to the 30% value of the contract. Many of the local firms could not meet the risk of 30% of the contract, and this explains why the majority of the donor funds did not allow the application of the guidelines on reservation and preference schemes to bigger infrastructure projects.

"All firms from different countries or nationals are welcome to participate in the World Bank projects under the universal eligibility. The reservation and preference guidelines limit the universal eligibility, and that is why they can never be applied on any World Bank-funded project. The World Bank policy doesn't require any contractor to subcontract to any local or resident provider or forced partnerships. However, a successful joint venture in the Information Technology (IT) sector has been under the NITA-Uganda project," ***Respondent from the World Bank Uganda Country Office.***

Additionally, the reservation schemes for promoting local content in public procurement highlights reservation by the threshold, but their implementation was still lacking in several PDEs. Therefore, the following thresholds applied to procurements by value and were reserved for local providers.

Table 6 showing the category of threshold and amount

No.	***Category***	***Amount in UGX***
1	*Road Works*	*45Bn/=*
2	*Other works e.g. Buildings works*	*10Bn/=*
3	*Consulting Services*	*1Bn/=*
4	*Supplies*	*1Bn/=*
5	*Non - Consulting Services*	*200M/=*

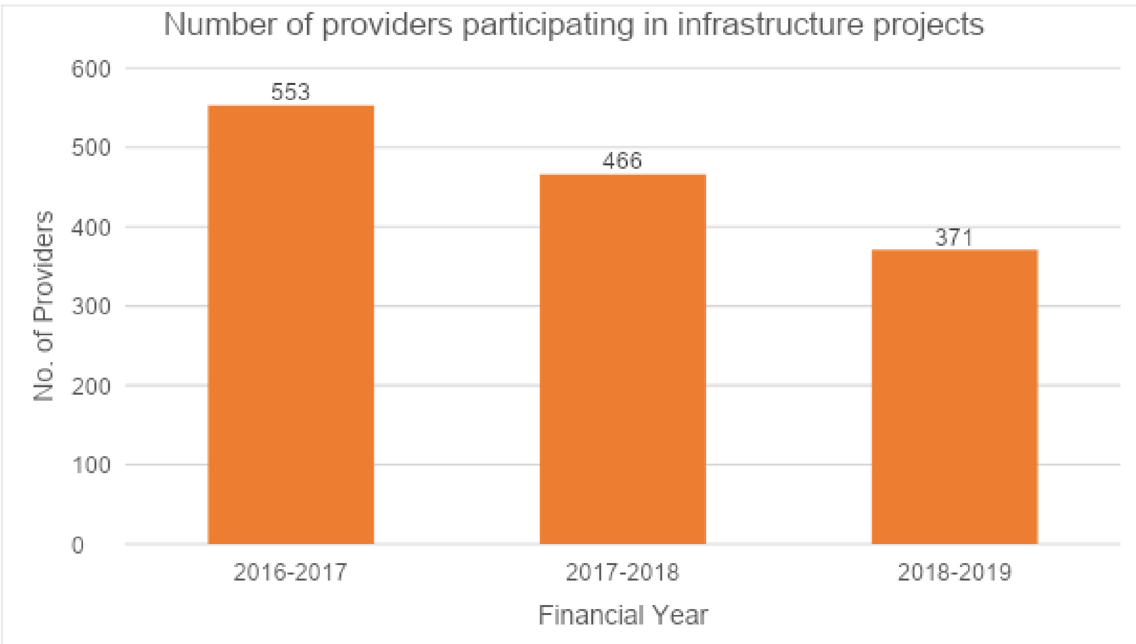
"By the end of Jan 2021 [FY 20/21], UNRA signed Contracts worth UGX 1,303,781,088,225. Of these, Contracts worth UGX 839,769,612,720 [approx. 40%] were awarded to local firms, Ms. Allen Kagina, Executive Director of UNRA (Source: Online).

2. **Unrealistic bid qualification requirements**

National providers in the infrastructure sector continue to face a dilemma in fulfilling the bid requirements that require a higher annual turnover and experience of works of similar nature. The unrealistic eligibility bidding requirements include; high capital requirements, equipment, unbearable bid securities and human resource. This limits the participation of national firms in infrastructure projects. The study has revealed that bidders are asked to have experience which is twice or thrice the works being procured. ***The study found that because of the unrealistic bid qualification***

requirements (local firms cannot afford), about 80% of civil works contracts in Uganda are undertaken by foreign firms, and a big portion of the construction supplies and requirements are imported for both road and energy projects. UNABCEC proposes a minimum of 0.5 (half) and not more than the expected value of works being procured as bid security for local firms.

Figure 4: A graph showing number of providers participating in infrastructure projects (2016-2019)



The study found that the number of providers participating in infrastructure projects is decreasing each financial year. In 2016/2017, there were 553 registered providers, and this declined to 466 registered producers in 2017/2018 and further declined to 371 registered providers in 2018/19. In addition, 49% of the respondents who no longer participate in public infrastructure procurements attributed it to the unrealistic bidding requirements, especially on projects funded by development partners.

"The minimum requirements are very tight for any procurement funded by the World Bank because they are the first level of sieving bidders for any procurement. It helps to eliminate unqualified bidders," ***Respondent from the World Bank Uganda Country Office.***

"The preparedness of the national providers still lacks as many of them are eliminated at the administrative stage. Moreover, their documentation is too lacking with the absence of even the minimum requirements. This makes development partners lose trust in the local private sector," ***Development Partner representative.***

Additionally, the local construction industry is weak in terms of equipment, technical and financial capacity. In the Financial Year 2019/20, only 25% of all road contracts were allocated to national and resident firms (local contractors). This is lesser compared to the 28% which was signed in 2018/2019. Though 2020/2021 was promising by the time this study was conducted, it may not go without underscoring the effects of the COVID19 outbreak that restricted several foreign firms from participating in some procurements.

Table 8 Shows value of contracts signed by local firms

Financial Year	Total Contracts signed (UGX Bn/=)	Contracts with local content signed UGX Bn/=	Local Content %
2017/18	2,176	270	12%
2018/19	2,632	737	28%
2019/20	1,226	304	25%
2020/21 (Half year to Dec 2020)	2,127	840	39%
Total	**8,153**	**2,150**	**26%**

Source: UNRA

3. Lengthy Procurement Cycle for Infrastructure Projects

The infrastructure project cycle is too lengthy. Projects with a big-budget call for lengthy procurement processes compared to projects with smaller budgets. In many instances, this makes the private sector lose trust in government systems and or abandon the procurements. The PPDA also acknowledges the delays in evaluating bids, especially for high-value contracts, due to bureaucratic tendencies by some government officials. The study noted that there still exist challenges in the evaluation of procurements that stem from unethical conduct of the bid evaluators who disclose information unofficially. This results in lengthy appeals that sometimes end up in courts of law. This unnecessarily causes long procurement systems and procedures, which leads to long decision-making processes and consumes a lot of time, as shown in the table below.

Table 9 Procurement period for each stage of the infrastructure project

Activity	***Time period***	***Accumulated time***
Initiation of projects (TOR)	*2 months*	*2 months*
Procurement of consultant for pre-feasibility/ feasibility	*1 year*	*1 year 2 months*
Carrying out feasibility	*1 year*	*2 years and 2 months*
Procurement of design consultant	*1 year*	*3 years and 2 months*
Carrying out of design consultant	*1 year*	*4 years and 2 months*
Procurement of contractor and supervising consultant	*1year*	*5years and 2 months*
Commencement on construction	*3-5 years*	*8-10 years*

Source: 2012 Policy Paper Accelerating implementation of infrastructure projects by National Planning Authority

The lengthy procurement processes are coupled with bureaucracy at every stage of the procurement cycle. As shown in the table above, the minimum period for any procurement in the infrastructure is about 1.5 years and completion takes 8-10 years. Sometimes the procurement may take longer if a complaint is registered since sections 90 and 91 of the PPDA Act, 2003 require that once any complaint is received, the procurement process should be suspended until that complaint is settled.

Among the things that were noted during this study as a challenge to the lengthy procurement processes were the administrative reviews and use of government staff in the evaluation of public infrastructure tenders which affects the integrity of the procurement processes hence dealing with project implementation.

"The procurement cycle is too long. We often have to travel from Lira to Gulu to submit our bids, attend bid opening meetings, and follow up on the processes before we finally get the contract. This means you have to put in a lot of resources in terms of transport to secure a contract. I request that the procurement cycle be revised to take a few days and contract signing should at least take one day," ***Local contractor from Lira District.***

4. Dependency on Development Aid for Infrastructure Development

The study found that the majority of the development partners' financing agreements do not allow for local content, for example, International Competitive Bidding (ICB) is a requirement for some loans, or provisions for tied aid where contractors from World Bank member countries are eligible to bid, and in many cases, those from developed economies emerge victorious in a number of these procurements. It should be noted that the Government of Uganda spends about USD 1 billion per year on infrastructure projects through domestic funding, and this is less than the estimated over USD 4 billion per year hence relying heavily on development aid[1].

"The World Bank sponsored the development of the PPDA law sponsored the development of the PPDA law sponsored the development of the PPDA law, and so the PPDA law cannot supersede the World Bank procurement laws. It should be noted that when a donor uses their procurement systems or laws, it simply means your procurement law is immature. In East Africa, Kenya is the only country whose procurement law has reached over 70% maturity, and oftentimes, the development partners respect it. As a country, we need to do a lot if our procurement law is to be respected by the development partners," ***Representative from PPDA Uganda.***

"58% of the big infrastructure projects in Uganda are loan funded. This means that only 48% are funded by the government of Uganda or external financing through grants that are not for paying back. The government has to pay back the loan," ***Development Partner Representative.***

5. Unfair Competition with International Companies

67% of the respondents alluded to the unfair competition with international companies and resident providers that have been incorporated in Uganda. The unfairness is in terms of access to finance. Whereas the resident and international firms can access finances at a low interest rate in their home countries, it is difficult for local firms in Uganda to access finances at a low-interest rate and have their capacity built. When local firms borrow from commercial banks, their interest rates vary from 20-25%, and these are high to enable them to sustain the competition for the available market opportunities. According to a progress report by Cross Roads, bidding for work and capturing contracts requires financial backing.[2] Resident providers should not be given any affirmative action, but instead, they should be given to local contractors. The report further recommends that local providers should have a fair playing field if the local construction sector is to grow. Almost 850 national contractors and more than 20 national consultants stated they had been recently active on road contracts. While the numerical majority of the contractors were small enterprises that had worked mainly at the local

[1]2012 Policy Paper, Accelerating implementation of infrastructure projects by National Planning Authority, NPA

[2]According to CrossRoads, Five years of progress: In the road sector, bidding for work and capturing contracts require financial backing – because bids and contracts for high value work all contain financial penalty clauses to guarantee delivery. When tendering for road rehabilitation, upgrading, maintenance, design and supervision work from UNRA and other government authorities, companies usually need to provide a performance guarantee – usually 10% of the contract sum – which can be claimed by the client if the contractor performs poorly or breaks his contract.

government level, the evidence demonstrated that there was indeed a sufficient number of contractors to satisfy the demands for road works[3].

"Resident firms should compete without affirmative action," ***Mr. Gilbert Sendugwa, Senior Regional Manager for Africa, CoST International***

*"*It is tough for PDEs to verify information about any Chinese company while conducting due diligence after the company has won a contract. Firms from China give what they want but not what the PDE requires, and so, the PDE may end up clearing the company without verifying all the necessary requirements,*" a* ***Representative from PPDA Uganda.***

6. Delays in payments, especially on projects funded by the Government of Uganda

The delays in payments on projects funded by the government caused by late quarterly releases and sometimes the releases that are less than what was budgeted for by the MoFPED to the PDEs constrains the cash flow of the local providers. Stakeholders noted that the delays in payments are caused by inefficient systems and procedures coupled with the lengthy decision-making processes and time, especially regarding the payment system and poor contract management. Many contractors and consulting engineers confirmed these encumbrances, which make the facilitation of payments hard and thus discouraging many from participating in public infrastructure procurement processes.

7. Clustering of Projects

Clustering of projects limits the participation of the local private sector because of the high requirements that are needed, e.g., bid security and multiple types of equipment needed for the clustered projects, for example, clustering of roads in the Uganda Support to Municipal Infrastructure Development (USMID) project in the different municipalities and clustering of bridges in different districts among others.

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[3] CrossRoads, Assisting the development of the road sector in Uganda, Five years of progress

8. Limited capacity by national providers or local firms

The study found limited capacity by national providers or local firms in equipment, finances, and capacity to prepare quality bids, limited documentation such as audited books of accounts, business reports, and tax clearance certificates, among others. Many of the national firms confirmed their lack of sufficient documentation due to limited work done and experience, and yet these are part of the requirements while bidding for any procurement works, whether in public or non-public sectors. In addition, 38% of the respondents in the study reported having had quality concerns with their progress reports, and this was attributed to low cash flows and lack of clear specifications and scope of work. Whereas in line with capacity building, only 15% of the respondents reported to have participated in capacity building activities by PPDA or Private Sector Foundation Uganda (PSFU), and 85% reported to have never participated in any of the capacity building activities by any PPDA or PSFU. The study further found that local firms were managed by their sometimes unskilled owners, are family businesses with no structures and systems and rarely conduct internal audits on their work.

*"*The local bidders in our district prepare poor quality proposals, and is a major constraint. I am working on a concept note to train our local bidders on preparing quality and winning proposals though no funding has been allocated to this yet,*"* ***Respondent from Gulu District Local Government.***

*"*Many of the National firms are being managed by unskilled personnel with very little or no required managerial expertise about the sector. This is because the majority of them are family ventures," ***Representative from PPDA Uganda.***

*"*The World Bank through PPDA and PSFU have oriented the private sector (bidders) on the World Bank bid documents and requirements. This was supplemented by the market sound conferences where projects funded by the World Bank are introduced to the citizens including the private sector and feedback is sought,*"* ***Respondent from the World Bank Uganda Country Office.***

9. Limited access to procurement information by national providers

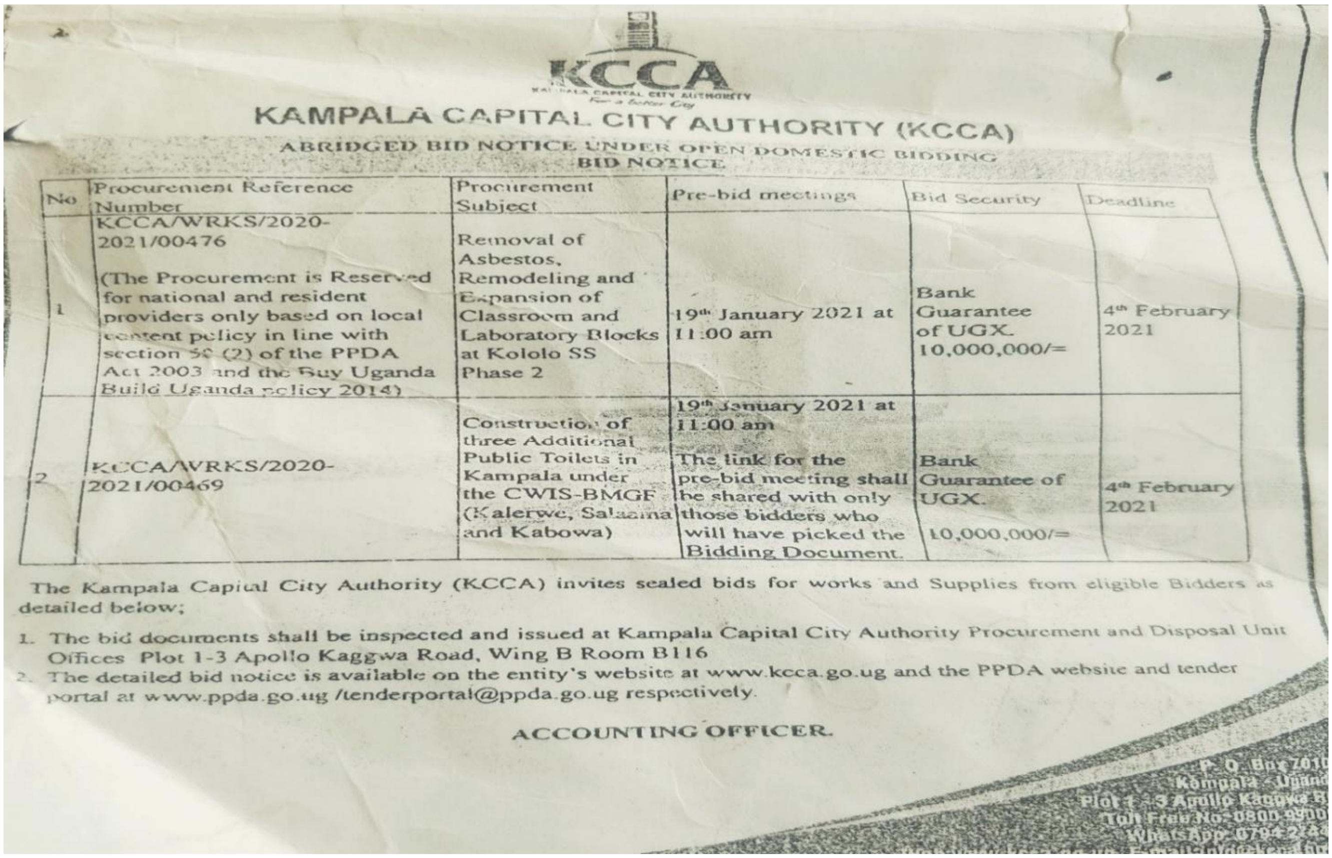
Whereas part of the private sector, primarily resident providers and foreign or international companies, were aware of where procurement opportunities were advertised, such as on the websites, noticeboards of the PDEs or newspapers as provided by law, and social media as part of the avenues to advertise available procurement opportunities. Some national providers thought they had to walk into the PDE offices to inquire about available business opportunities, or the PDE planned to advertise for any procurement, while others prefer checking on the PDE's website regularly. This laborious exercise affects their accessibility to some vital procurement information since much procurement information is expected to be uploaded on the PDE's website or existing Government procurement portals. During a stakeholder forum in February 2021 by CoST Uganda, out of the 76 business representatives present, only three confirmed that they knew that the Government Procurement Portal (GPP) existed in the country and that they could access all PDEs procurement plans through this portal.

PPDA should create awareness on how national providers could access procurement information. The study found that several local providers apply for procurement projects for which they do not qualify for or have limited capacity, which is a waste of time and resources to apply. Procurement plans for the respective PDEs are not shared on their websites, notices and other gazzeted means by law. This limits private sector participation, for they will have no or limited information on the procurements in the respective PDEs. There is also a lack of a national registrar or standard disclosure template to facilitate the dissemination of procurement information among contractors and consultants. In addition, disclosed data is incomplete, insufficient and outdated. Infrastructure data is not categorized and disclosed according to international standards such as the Infrastructure Data Standard (IDS) and the Open Contracting for Infrastructure Data Standard (OC4IDS).

"We advertise for bids through community dialogues, radios, online platforms like websites and social media pages, noticeboards and newspapers. It has come to our notice that some bidders want the district to disclose the budget for every procurement in the advert, yet we are not allowed to do so. It promotes fair competition when you don't disclose the budget. When you disclose the budget and the contract has low value, credible firms do not bid,*"* ***Respondent from Jinja District Local Government.***

"In our district, there was an advert for constructing two latrines, firms applied, and the selection was made. The evaluation committee selected the best bidder, and one evaluation committee member altered the scores in favour of another bidder and the best bidder had been notified of the evaluation results. The best bidder logged a complaint and an administrative review was conducted using the PPDA guidelines, and a report was written. However the best bidder whose results were previously altered was awarded the contract," ***Anonymous respondent from Gulu district.***

Figure 5 showing a sample of a procurement advert by KCCA



KCCA

KAMPALA CAPITAL CITY AUTHORITY

For a better City

KAMPALA CAPITAL CITY AUTHORITY (KCCA)

ABRIDGED BID NOTICE UNDER OPEN DOMESTIC BIDDING

BID NOTICE

No	Procurement Reference Number	Procurement Subject	Pre-bid meetings	Bid Security	Deadline
1	KCCA/WRKS/2020-2021/00476 (The Procurement is Reserved for national and resident providers only based on local content policy in line with section 50 (2) of the PPDA Act 2003 and the Buy Uganda Build Uganda policy 2014)	Removal of Asbestos, Remodeling and Expansion of Classroom and Laboratory Blocks at Kololo SS Phase 2	19th January 2021 at 11:00 am	Bank Guarantee of UGX. 10,000,000/=	4th February 2021
2	KCCA/WRKS/2020-2021/00469	Construction of three Additional Public Toilets in Kampala under the CWIS-BMGF (Kalerwe, Salaama and Kabowa)	19th January 2021 at 11:00 am The link for the pre-bid meeting shall be shared with only those bidders who will have picked the Bidding Document.	Bank Guarantee of UGX. 10,000,000/=	4th February 2021

The Kampala Capital City Authority (KCCA) invites sealed bids for works and Supplies from eligible Bidders as detailed below;

1. The bid documents shall be inspected and issued at Kampala Capital City Authority Procurement and Disposal Unit Offices Plot 1-3 Apollo Kaggwa Road, Wing B Room B116
2. The detailed bid notice is available on the entity's website at www.kcca.go.ug and the PPDA website and tender portal at www.ppda.go.ug /tenderportal@ppda.go.ug respectively.

ACCOUNTING OFFICER.

“The World Bank procurement experience has revealed that when you advertise during Christmas holiday in Uganda or Chinese Holiday in China, you will get very low or no response at all. For example, the National Water and Sewerage Corporation (NWSC) got a low response for the Hadero Metric Facilities and the Private Sector Foundation Uganda got no response for the video facilities because it was during Christmas and the time wasn’t enough,” ***Respondent from the World Bank Uganda Country Office.***

Factors that affect foreign firms from engaging in infrastructure procurement

The study identified the following as factors affecting foreign firms from engaging in public infrastructure procurement processes in Uganda.

1. **High risk of corruption in the Infrastructure Sector**

Corruption was cited in various PDEs. While there have been numerous efforts to promote transparency with zero tolerance to corruption in the procurement of public infrastructure projects in Uganda, 43% of the respondents noted that procurement is done in favour of foreign firms in some PDEs. The study could not independently verify this allegation. Additionally, PPDA's Integrity survey for 2020 revealed that at least 20% of the respondents indicated having paid a bribe in procurement.

2. **Interference by Political Leaders**

At national and district administrative levels, interference with the procurement processes to favour certain local or foreign firms were noted. The study revealed that political leaders have a lot of power and influence on who should be awarded which contract. They often give directives to influence the award of specific contracts to certain firms, and if the PDE does not adhere to their directives, then that particular contract will be delayed or even not signed. The study further found that some f, especially foreign firms, do not participate in the procurement of particular PDEs or local government if they anticipate that a certain politician will use their influence in favour of any firm[4].

[4] Some politicians are always calling us to tell us that you should award this contract to this company and if you refuse then, he or she does not sign the contract.

Experiences of foreign firms engaging with local firms

Subcontracting is a widespread practice in the construction industry in Uganda between foreign firms and local contractors. The development of infrastructure projects such as roads, bridges and electricity are at the centre of the economic transformation of Uganda. This facilitated the sector's liberalization, leading to contracting foreign companies to provide works and services in Uganda. President Yoweri Museveni and government officials have vocally welcomed foreign investment in Uganda[5]. Uganda has a huge potential for an investment destination for foreign firms in the infrastructure sector.

It should be noted that when part (or all) of the works is sub-contracted, the lead company still retains full responsibility for all aspects of the works, including quality management, safety management, and business conduct compliance. In some cases, a client might seek to increase local content by entering into separate contracts such as with a local contractor for drainage works, quarries and landscaping, and an international company for overall coordination and everything else. This is risky and can go very wrong, with each company blames the other for delays, accidents, and other issues.

There is a need to develop capabilities and expertise in a wide range of areas to benefit subcontracting. In one sense, it is necessary to create competitive and efficient companies that can effectively be applied in the infrastructure sector. The foreign companies take over 80% of the contract value in public infrastructure procurement. This necessitates some foreign firms to subcontract local providers. Several projects have been successful through subcontracting while others have failed. Both the contractor and the subcontractor play a huge role in the success or failure of the joint venture. The study identified issues of accountability and disclosure of the contract terms, including contract value to the subcontractors by the lead foreign contractors, as key building blocks of the relationships, for fairness and transparency.

Experiences reported by foreign companies when subcontracting works and services to local subcontractors are more technical and bureaucratic, as explained below:

1. The guidelines on reservation schemes to promote local content in public procurement provide for at least 30% of the value through subcontracting of works and supply of materials, equipment and services to national and resident providers are not clear. They should specify

[5] 2020 Investment Climate Statements: Uganda

whether at least 30% or more should be for the supply of materials, equipment or services and whether this should constitute at least 30% of the total contract value.

2. Whereas the bidding documents necessitates subcontracting, the final contract rarely has a clause on subcontracting. This gives room to foreign companies to ignore national firms once the PDE signs the contract.

3. Foreign companies are not mandated by law to disclose their contracts to a national firm being subcontracted or in a joint venture.

4. Failure by some national firms to respect contractual obligations including adherence to specific timelines provided in the contract

5. The majority of the national firms lack the equipment, experience, and capacity to implement complex projects, especially in the oil and energy sector.

6. National firms want to be paid highly, yet in some instances, the projects are of low value compared to what they ask for. This is majorly attributed to the lack of disclosure by the foreign firms on their contractual agreements with PDEs.
7. Too much time taken for the government to pay invoices for works and services provided. This was attributed to the lengthy approval system coupled with the bureaucratic tendencies of government officials. Likewise, some national firms (subcontractors) reported failure by foreign firms to pay on time even when the development partner or PDE has paid them.

According to the World Bank, if a subcontractor is not paid on time by a foreign contractor under unclear circumstances and the subcontractor reports to World Bank, the subcontractor is then referred to the PDE, and an MoU is signed between the PDE and the subcontractor, and payment is made directly to the subcontractor.

Factors that affect relationships between foreign and local firms

Whereas the guidelines on reservation schemes to promote local content in public procurement in Uganda provide for at least 30% of the value through subcontracting of sub works and supply of materials, equipment and services to national and resident providers, its implementation has led to broken relationships between foreign companies and national providers or companies in Uganda due to absence of a regulation to enforce their implementation. National contractors do not trust each other for various reasons that they did not disclose to the study team. The common joint ventures between resident and national firms that the study identified were between Indians, especially in the provision of Information Technology (IT) services.

Several factors affect joint ventures between a foreign company and national or resident provider in Uganda. The study identified the following: limited trust between foreign and national providers, lack of enforcement of the guidelines on reservation schemes to promote local content and limited negotiation skills by national providers as discussed below:

1. **Limited Trust between Foreign Companies and National Providers**

The study revealed that stakeholders from the private sector expressed concerns about a lack of trust between foreign companies and national providers on finances and quality of work. The foreign companies want to pay national providers low value compared to what was quoted in the main contract to cover risks. It was noted that local firms do not deliver quality jobs because of the low prices. From this background, some foreign firms do not trust the quality of work to be done by some national providers.

2. **Poor Enforcement of the Guidelines on Reservation Schemes to Promote Local Content**

The study found that the guidelines on reservation schemes to promote local content did not apply in the energy sector. The study further found out that some Chinese firms quote low prices, and when they are awarded the contracts and want to subcontract national or resident providers, they refuse because of the low prices. It was also found that the Chinese quote low prices because they want to get the work.

3. **Limited Negotiation Skills by National Providers**

The study identified limited negotiation skills, especially among national providers. Many of them cannot negotiate better deals in joint ventures, so they are affected. The study found that national providers get low-value work from the main contractors as a platform for them to gain the required experience and expertise. On the contrary, resident providers have a higher negotiation power because of their financial muscle, equipment/plant and expertise, e.g., the discrepancy in payment where a foreign engineer can earn over USD 20,000 a month while a local engineer is earning USD 2,000 yet they both do the same work. The study further found instances where a local engineer who is more experienced than the foreign engineer earns less than what the foreign engineer earned more.

JOINT VENTURES

Effectiveness of joint ventures in the delivery of infrastructure projects in Uganda

Joint ventures, also known as JVs, are arrangements between two or more firms who commit to work together for a common goal on a specified project or project. In many instances, they commit resources, expertise, equipment and services and decision-making for a common goal. A good joint venture is where each firm stands to gain from the good performance of the other.

Other studies have defined joint ventures in the construction industry as “a business alliance of limited duration formed by two or more unrelated business or professional entities for furnishing engineering, consulting, procurement, construction and construction management services by consolidating the skills and resources of the participants.” The National Joint Consultative Committee (1985) in the United Kingdom (UK) distinguished joint ventures from other initiatives as: “a partnership between two or more companies covering building, mechanical and electrical engineering, or other specialist services to tender for, and executing a building or civil engineering contract, each of the participating companies having joint and several liabilities for their contractual obligations to the employer.”

Joint ventures are of two types: (1) Foreign and local joint ventures and (2) Local and local joint ventures. Joint ventures have two approaches e.g., integrated and non-integrated ventures. The integrated joint venture is where partners agree to work together as one, whereas a non-integrated joint venture is where each partner works on a specified area of scope for the same project. The study findings on joint ventures in Uganda are discussed below:

1. The majority of the respondents reported joint ventures to be a relatively new concept changing the paradigm of doing business in the construction sector in Uganda.

2. The study found joint ventures to be a widely embraced approach among foreign and foreign firms, foreign and local firms, and local and local firms when bidding for infrastructure procurement projects in Uganda.
3. Joint ventures have extensively been used in the construction sector. The study found the following areas to be important for a successful joint venture: purpose for the joint venture, model of development, benefits, management of the joint venture, performance measurement, and risk management, among others.
4. Many of the local private sector respondents noted that foreign firms are using joint ventures to gain acceptance and recognition in the sector.
5. This study found that joint ventures bring a combination of resources, expertise and knowledge, equipment required to deliver a particular project.

For all the World Bank-funded projects, it is not a requirement for any contractor to be in a joint venture or encourage forced partnerships on any World Bank-funded project. All international or national firms are welcome to participate in bidding for World Bank work across World Bank member countries. According to the World Bank, the national guidelines on preference and reservation schemes limit universal eligibility and this is why they can never be applied for World Bank-funded projects.

The study recommends a systematic, extensive study focusing on joint venture and subcontracting performance in the construction industry to provide better and more insights to inform decision making, programming, and future joint ventures and subcontracting in Uganda.

Strategies for effective implementation of joint ventures.

The study identified strategies that can be employed to strengthen the effectiveness of joint ventures between foreign and national companies, and are discussed below:

1. PDEs should supervise, monitor and follow up on the implementation of joint ventures between foreign and national companies or national and national companies. This should be aimed at building a cordial working relationship among members of the joint venture.
2. Institute mandatory requirement for PDEs to monitor the implementation of joint ventures. 37% of the stakeholders interviewed revealed that where the PDE does not monitor the

implementation of joint ventures, contracts for local providers with foreign firms are often terminated for unclear reasons.

3. Need for capacity building of national firms to fully understand the benefits associated with joint ventures. Joint ventures between foreign and national firms should be aimed at mutual benefits between the two firms, including building the capacity of national firms, among others.

4. Foreign firms should ensure that payments to local firms are made on time. The study further found that some foreign firms take longer to pay local firms even after they have completed their work or provided the services or materials as per the contract. The study recommends a clause within the main contract under joint ventures compelling the main contractor to pay on time or face the consequences.

5. PPDA should stipulate in the law or regulations how it intends to facilitate the growth of the private sector by regulating and monitoring joint ventures, especially between foreign and local firms in the sector.
6. Firms in joint ventures should agree on who does what, and this should be based on their capacities, e.g., resources, expertise and equipment. No partner in the joint venture should impose complicated work on the other to fail them in order to terminate their contract.

7. Firms in the joint ventures should ensure that they build trust among themselves through working fairly and professionally with other partners, having a clear joint understanding of the roles and aims of the project, specific member roles, sharing and solving problems faced during project implementation through clear communication that can be relied on.

“There is a need to have a particular focal person from the respective PDE to monitor joint ventures because of the power dynamics involved, if we are to have results,” **Mr. Gilbert Sendugwa, *Senior Regional Manager for Africa, CoST International*.**

HYBRID PROCUREMENTS

The word “hybrid” has interchangeably been used to mean different things by various actors in the construction sector. For purposes of this study, hybrid refers to procurement conducted jointly by both the local government and central government.

The study found it unclear whether hybrid procurements would deliver in practice what they promise in theory as they are based on absent guidelines and no law, often characterized by delayed review system because of the various stakeholders involved and oftentimes, local governments have no full control over the procurement processes as they have to consult from the centre on the different stages of procurement.

Normally if the World Bank is part of the donors, then its procurement systems take precedence. However, it was discovered that in many PDEs, the practice is that both World Bank and Ugandan procurement systems were used interchangeably.

Effectiveness of hybrid procurement

In general, the study found that as part of the effectiveness, hybrid procurement brought in better “value for money (VfM)” for the government, development partners and beneficiaries as discussed below;

1. This study found that hybrid procurement by way of design resulted in efficiency, better project implementation, and better asset management because of the multiple procurement laws used. However, there was insufficient data to assess this assumed value proposition and take an objective view on the paradigm of effectiveness. Whereas the study attempted to investigate VfM for hybrid procurement after gaining wide acceptance in Uganda, it did not yield many results due to the available scanty data.

2. “Hybrid theory” seems to suggest that hybrid procurement benefits outweigh their shortcomings. Not only can hybrid procurement achieve more value for money because of their alleged efficiency and optimization of involving local government and central government in procurement. It also takes over an important part of the risk, guaranteeing that projects and services are more quickly delivered because central and local governments take on different roles in overseeing the implementation of a specific contract.

3. Several stakeholders highlighted key issues, for example, delays in disbursement of funds, insufficient monitoring, time and cost overruns. These need to be addressed if hybrid procurement is to be more effective.

4. The study found it unclear whether hybrid procurement can deliver in practice what they promise in theory in Uganda. In addition, there are several substantial shortcomings like they are based on absent guidelines and no law, often characterized by a delayed review system because of the multiple partners involved, high tender costs, complicated contracts, and local governments have no full control over the projects from the initiation to implementation up to evaluation among others.

5. To be administered successfully, hybrid procurement requires skilled capacities among partners, including local government and central government. In the absence of these capacities, hybrid procurement often includes rigid and inflexible contracts that often delay and hold up the project implementation.

Potential benefits of hybrid procurements

Hybrid procurement has immense potential benefits on a case-by-case basis. However, just like any other initiative, it also has its limitations for example, are based on absent guidelines and no law, its procurement takes quite some time because of the lengthy consultation processes, qualification criteria, approval and management systems and, the back-and-forth communication involved, although, this does not outweigh its benefits. It is imperative to note that hybrid procurement is a recent phenomenon. Hybrid projects have scanty information, making it difficult to assess its challenges visa avis the potential benefits it brings to the sector.

The study found insufficient evidence showing how hybrid procurement has led to greater efficiency in delivering public infrastructure procurement in Uganda. Notwithstanding the potential benefits hybrid procurement has, it is important to note that there are maximum control measures to which projects should be financed through hybrid procurement. The benefits of hybrid procurement are detailed below:

1. Promotes value for money (VfM) e.g., because of the multiple partners like central and local governments, expertise and technology used in procurement results into efficient and quality deliverables

2. It creates a favourable environment that attracts international bidders to participate in bidding hence promoting competitive bidding. A notable key benefit of a hybrid procurement is the review system which facilitates quality assurance.
3. The use of multiple procurement systems, for example, for central and local governments and development partners, helps attract the best firms with the required capacity.
4. It creates equal opportunities for all bidders as it minimizes influence peddling.

"Hybrid procurement is being applied for The Intergovernmental Fiscal Transfers Programme for Uganda *(*UgIFT) project implemented by various ministries and districts. All the procurement are done at the centre, and the implementing district just signs the contract with very limited participation in the procurement processes, for example, my district budgeted for the construction of a seed school in one of the sub-counties for the financial year 2020/2021, but it is now three months to the end of the financial year, but no advert has come out, yet the project is worth UGX 1Bn. The district is still waiting to hear from MoES," **Respondent from a Local Government**.

Strategies to strengthen implementation of hybrid procurements

The study recommends the following strategies to strengthen hybrid procurement:

1. Identify a central place where the hybrid units can be established to ensure a one-stop centre where all information on a particular project can be accessed. This can be at both local government and the co-implementing PDE.
2. Establish policy and legislative framework to support hybrid procurement and develop structures to support the implementation.
3. Develop and issue standard hybrid guidelines to guide hybrid procurement.

In conclusion, it is self-evident to assume that hybrid procurement brings in better Value for Money (VfM) for the development partners, government and beneficiaries by way of design efficiency, better implementation and asset management. There is ownership by the local government. Unfortunately, hybrid procurements have scanty data available as each implementing partner (local government and central government) only keep information relevant to them. However, hybrid procurement has brought quite significant changes in the infrastructure sector in Uganda e.g., UgIFT financed by Government of Uganda and The World Bank.

Hybrid Financing Contracts: A Case for UgIFT

The Intergovernmental Fiscal Transfers Programme for Uganda (UgIFT) is a World Bank result-based project. The project's main objective is to improve the adequacy, equity and effectiveness of financing and the oversight, management and delivery of local government services in education, health, water and environment, and micro irrigation, including refugees and their host communities. The project is a loan of US$ 787.59 million implemented by the Ministry of Finance, Planning and Economic Development in partnership with the Ministry of Health, Ministry of Education and Sports, and Ministry of Agriculture, Animal Industry and Fisheries and the respective local governments. UgIFT is a program for the result (P4R) and financed by the Government of Uganda, and the World Bank and resources are disbursed by the World Bank to the Government of Uganda based on indicators provided within the agreed guidelines.

The programme focuses on the construction of seed schools, new school libraries and new school laboratories under the Ministry of Education and Sports, upgrading Health Centre II to Health Centres III under Ministry of Health, and water points and support purchase of instalment for micro-scale irrigation (farmer-led irrigation). The UgIFT has strategic relevance because it will address the binding constraint of low and inequitable funding levels for health and education at the local level. Moreover, UgIFT pays many adherences to the building principles e.g., adherence to the social and environmental safeguards, and this is raising the profile on how social and environmental safeguards are implemented.

The procurement procedures to be followed during the programme's implementation were agreed on at the programme's initiation and are conducted jointly by the local government and central government. It involved all stakeholders including the Ministry of Education and Sports, Ministry of Health, Ministry of Agriculture, Animal Industry and Fisheries, Ministry of Local Government and the respective Local Governments (districts) where the programme was to be implemented. The UgIFT programme is clustered (different project works put together) to have a value to attract large or sizeable firms to bid for the different cluster works.

Factors affecting the implementation of the project include: Logistical issues do not allow firms to work effectively since the work is in different geographical sites (districts). Limited capacity by PDEs to supervise, monitor and follow up on the implementation of the different projects, e.g., human resources and finances to support the supervision, monitoring and follow up. The work is too much *on their side, especially the Ministry of Education and Sports and Ministry of Health; During bidding, companies indicate that they have social and environmental safeguard specialists, but during implementation, they are nowhere to be seen; A reasonable number of firms with the technical capacity required to decide not to bid because the contracts are too small on their side; Delays in project implementation.*

Proposed strategies to improve UgIFT programme: Government, through the respective PDE, should enforce the recruitment of Social and Environment safeguard experts; effective coordination and more supervision from the oversight bodies, including PPDA.

CONCLUSIONS AND SUMMARY OF KEY FINDINGS FROM THE STUDY

In conclusion, there is an urgent need to address the bottlenecks to local and foreign firms' participation in Uganda's public infrastructure procurement processes. These bottlenecks include; finances, equipment, capacity, corruption, expensive bid documents, unrealistic bid requirements like bid security, and conflicts on site. Amplifying the promotion of Buy Uganda and Build Uganda (BUBU), the preference and reservation schemes will go a long way in building the capacity of local providers in the infrastructure sector. The procurement law does not enable the private local firms, but instead favours the *"big boys and a few girls"* in the sector, who are majorly resident or foreign providers. Domestic bidding should essentially target local firms irrespective of anything if the sector is to grow organically.

Summary of the key findings from the study:

1. 100% of the firms engaging in procurement for infrastructure projects are from Uganda, China, India, Tanzania, and Serbia. According to a Consulting Engineering based in Scotland, the USA and UK firms do not participate because they are -averse and fail to prevent corruption, respectively.
2. Major players in the infrastructure projects in the year 2019/2020 included: Terrain Services Ltd (2.95%), Chongging International Construction (2.20%), Wanyoto International Limited (1.98%), Byiringiro Building Services (1.98%), Ambitious Construction Company Ltd (1.96%) and Kangaroo (U) Ltd (1.50%).
3. 51% of the local firms had never participated in public procurement processes, pointing to the high cost of bidding and unfair competition with foreign firms while others considered public procurement a waste of time and resources inspite of the existence of preference and reservation schemes in favour of local firms. 88% of the respondents knew about the existence of reservation and preference guidelines but doubted their implementation. 12% did not know about their existence when they were developed, their intended purpose and responsible entity.
4. 67% of the respondents noted that there was unfair competition with foreign companies. Foreign firms can easily access finances at very low-interest rates (2-3%) in their home countries, while local firms borrow from commercial banks at an interest rate of 20-25%.
5. The study identified a lacuna in implementing guidelines on reservation schemes to promote local content in public procurement such as reservation of public contracts by threshold to

national and resident providers and reservation of at least 30% value of works and supply of materials, equipment and services. Currently, this is not being respected in its totality, which frustrates the national and resident providers.

6. Hybrid procurement was found to be increasing in the sector. In Uganda's context, hybrid procurement is where local and central governments conduct joint procurement. They promote Value for Money (VfM) through their efficiency. However, they are characterized with delayed implementation, delayed procurement, lack of clarity on who owns and is accountable for the overall project performance, often have coordination challenges, delayed reporting, scanty information or no data centralization since each entity archives what matters, these procurements are not backed by any law.
7. Joint ventures were getting appreciated and more common between foreign and local firms. Foreign firms majorly used these to gain acceptance and recognition in the sector.
8. Limited capacity by national providers for example, equipment, finances, and capacity to prepare quality bids, documentation such as audited books of accounts, business reports, tax clearance certificates among others.
9. Over 38% of the respondents reported to have had quality concerns with their progress reports which points to the issue of limited capacity. Only 15% of the respondents reported to have participated in capacity building activities by PPDA or PSFU.
10. Clustering of projects limits the participation of the local private sector due to high requirements, e.g., bid security and multiple types of equipment, for example, clustering of roads in different parts of Kampala and the USMID road construction in the different projects municipalities.
11. Limited access to procurement information by national providers. During a stakeholder forum in February 2021 by CoST Uganda, out of the 76 business representatives, only three confirmed that they knew that the Government Procurement Portal (GPP) existed. During interviews, stakeholders revealed that they knew of existing business opportunities by visiting public offices or checking through PDE websites once in a while. The scoping study by CoST Uganda revealed that the private sector didn't know about the existence of GPP and usually got business by walking into the PDEs to make inquiries on any procurement.
12. 43% of the respondents reported corruption as a major challenge in public infrastructure procurement, for example, procurement is done in favour of foreign firms in some PDEs. Also, the perception that there is corruption in public procurement makes the private sector fear participating in bidding. PPDA's Integrity Survey for 2020 revealed that at least 20% of the respondents indicated having paid a bribe.

13. The study found that because of the perceived unrealistic bid qualification requirements (local firms cannot afford), about 80% of civil works contracts in Uganda are undertaken by foreign firms, and a big portion of the construction supplies and requirements are imported for both road and energy projects. Therefore, UNABCEC proposes a minimum of 0.5 (half) and not more than the expected value of works being procured as bid security for local firms.
14. Administrative reviews and use of government staff in the evaluation of public infrastructure tenders affects the integrity of the procurement processes hence delaying project implementation causing lengthy procurement processes.
15. The study found it unclear whether hybrid projects can deliver in practice what they promise in theory as they are based on absent guidelines and no law, often characterized by delayed review system because of the multiple partners involved, high tender costs, complicated contracts, and local governments have no full control over the projects from the initiation to implementation up to evaluation among others.
16. Subcontracting is a very common practice in the construction industry between foreign firms and local contractors in Uganda. The lead company is responsible for all aspects of the work, including quality management, safety management, and business conduct compliance. The study discovered that whereas the bidding documents necessitates subcontracting, the final contract rarely has a clause on subcontracting. Limited trust between foreign and local firms, poor enforcement of the guidelines on reservation schemes and limited negotiation skills by national providers were among the factors affecting relationships between foreign and local firms during subcontracting.
17. Joint ventures, also known as JVs are arrangements between two or more firms who commit to work together for a common goal on a specified project or project. The joint venture is relatively a new concept and a growing phenomenon gaining acceptance in the sector. JVs can be either between foreign and national firms or national and national firms. The study discovered that joint ventures are majorly used by foreign firms to gain recognition and acceptance and others use them for purposes of winning tenders and a few local firms have started embracing them.

RECOMMENDATIONS FOR INCREASING PRIVATE SECTOR PARTICIPATION

The study identified the following as key factors limiting the private sector participation in the public infrastructure procurement processes, and these include clustering, unrealistic bid qualification requirements, dependency on development aid, limited implementation of guidelines on reservation scheme, unfavourable procurement laws, financing, unfavourable competition with resident and foreign providers, and corruption. The recommendations below are forward-looking based on the study findings. The recommendations are generally relevant to government (PDEs and PPDA), development partners and civil society and private sector actors, and these include:

Recommendations to Government

1. **Establishment of the infrastructure industry development fund**

The MoFPED should establish the infrastructure industry development fund or credit facility in Uganda Development Bank (UDB), where the contractors and consulting engineers can borrow funds at low-interest rates of 3-5% per year.

2. **Create a favourable policy and legal environment that supports joint ventures;** The PPDA should develop guidelines and regulations to guide joint ventures between foreign and local firms and local and local firms. All PDEs should enforce the guidelines.
3. **Establish programmes to uplift the local private sector;** The PPDA should build the capacity of contractors in preparing quality and winning bids. Create a special infrastructure unit to support this, improve the systems and integrate clear business-like minded terms in the bidding documents and contracts.
4. **Rebuild Public trust in public procurement systems;** The PPDA should rebuild trust in all government infrastructure procurement systems, including the implementation stage, through strengthening transparency, considering independent actors to undertake the evaluation of tenders to address conflict of interest, strengthen and accountability by leveraging on technology, e.g., e-procurement system. Furthermore, the PDEs should ensure that contractors are paid promptly for work done as specified. The use of Independent Parallel Bid

Evaluation (IPBE) should be extended to other ministries and departments.[6] Additionally, PPDA should standardize a disclosure portal designed using global standards for disclosure to increase confidence in the procurement processes and promote transparency, including infrastructure data standards and Open Contracting for Data Infrastructure Standard (OC4IDS) for infrastructure projects.

5. **Revise the guidelines on reservation and preference into regulations;** The PPDA should establish clear guidelines on the reservation and preference schemes. A resident provider should at least have 10 years of operating before it is incorporated, with demonstrated evidence of doing business and complying with standards and owned by foreigners who have residence status and permission to work in Uganda[7]. Regulations should accompany the guidelines. There should be strict adherence and separation of the threshold for national and resident providers.
6. **Strengthen local content monitoring;** The PPDA should strengthen local content monitoring, evaluating and reporting, and timely feedback on the reservation and preference schemes, joint ventures and subcontracting. Publish regular reports on how local content monitoring is implemented in the country, including naming and shaming PDEs not adhering to local content guidelines.
7. **Operationalized the national register for consultants and contractors;** The MoWT should expedite the process of operationalizing the national register of consultants and contractors. In addition, the national register should be networked with NITA-Uganda for proper record keeping. MoWT should also support the development and review of the construction sector classifications, handbooks and Policies, e.g., the National Construction Industry policy should be prioritized.

8. **Establish deliberate efforts to address corruption by anti-corruption agencies;** Anti-corruption agencies should work towards addressing perceived corruption in the sector. Emphasis should be put on implementing the business code of ethics and operationalizing the district integrity forum to promote ethics and accountability. In addition, the PPDA and PDEs should design a system that minimizes directives from politicians.

[6] According to CrossRoad, Progress Report Booklet: Contractors interviewed during an impact assessment in April 2015 said their confidence in the transparency and fairness of procurement processes has increased significantly since the start of the IPBE.

[7] UNABCEC, Ugandan Contractors' participation in Public Procurement

9. **Strengthen subcontracting between foreign and local firms;** Through undertaking a revision of and enforcing the reservation schemes to promote local content in public procurement to ensure that at least 30% of the value of works through subcontracting of works and supply materials, equipment and services, and reservation by threshold apply to only national providers with the needed capacity to implement a particular project. Foreign bidders should demonstrate the capacity to subcontract local firms before they are considered for any project. Additionally, PPDA should enforce and monitor subcontracting requirements where the bidder is a foreign bidder as provided for in the guidelines.

Recommendations to Development Partners

1. **Development partners should appreciate country procurement systems;** Development Partners should allow procurement systems to be governed by country systems or use flexible hybrid procurement systems to favour local and foreign providers in the construction sector e.g., if a project is funded by the World Bank, then its procurement systems and policies take precedent.

2. **Support capacity building for the private sector;** Development Partners should work with PPDA, respective PDEs and the civil society such as CoST, UNABCEC, and UACE to build the capacity of the local private sector, especially in the areas of preparing quality and winning proposals, advocacy and strategic engagement.

3. **Support the development of policy and legislative framework for hybrid financing;** Development Partners should support the development of a favourable policy and legal environment for the implementation of hybrid financing and procurement and initiation of standard hybrid guidelines to guide implementation for hybrid projects. In addition, support to MoWT in the development and review of the construction sector classifications, handbooks, guiding policy frameworks and policies such as the National Construction Industry Policy for the sector should be prioritized.

Recommendations to Civil Society and Private Sector Associations

1. **UNABCEC and UACE should advocate being established by law;** UNABCEC and UACE should advocate to be established by an Act of Parliament, to have a stronger voice that can be heard and allocated resource to benefit the private sector. The law should also make it mandatory for contractors and consultants to belong to UNABCEC and UACE. The UNABCEC and UACE should work with development partners, PPDA and PDEs to build the capacity of their members to address the prevailing gaps that limit their participation in public infrastructure procurement processes.

2. **CoST Uganda should enhance its advocacy work on fair business practices for a long term;** CoST Uganda should enhance its work across all entities and sectors especially advocacy for fair business practices should be a long-term conversation, given the findings from the recent assurance reports and this study, the assurance process being an independent report adds a lot of value to the sector and should be sustained and conducted annually. CoST Uganda should be positioned as a trusted platform for all actors and should influence legal and policy frameworks within the sector.

Annexes

Table 10: List of Respondents to the study

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