

THE EFFECTIVENESS OF THE PREFERENCE POLICIES IN THE GHANAIAN PROCUREMENT LAW IN PROMOTING THE LOCAL CONSTRUCTION INDUSTRY

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ABSTRACT

The government of Ghana, in trying to promote local businesses, instituted preferential policies in favour of the locally-owned business in section 60 of the current public procurement law. This study therefore investigates the effectiveness of these preference policies in promoting the local construction industry. The research instrument used for this study is the interview guide made up of tick box and open-ended questions to interview 37 construction firms operating from Accra, Ghana. The Head of Public Affairs Officer of the Ghana Public Procurement Authority was also interviewed. Other sources of data included archival records such as contracts previously awarded and the current public procurement regulations. The findings show that the Preference policies in the public procurement law have not been able to have a significant effect on the award of government contracts to local construction firms. The implication is that the purpose of instituting the preference policies in favour of the local contractors and consultants in the construction industry by the government of Ghana has not materialised as major government projects are still awarded to foreign firms, whilst the local construction firms are engaged as subcontractors on these projects, thereby minimising their opportunities to grow. The research has produced a tender evaluation criterion with improved local content mechanisms that will help promote the growth of the local construction industry. The study provides recommendations to policy makers in the Ghanaian construction industry and proposes that the tender evaluation criteria produced by this study be used in the public procurement system to have the desired effect in promoting the indigenous construction sector.

Key Words: Public procurement reforms, Ghana, local content, Act 663, local construction industry

1. INTRODUCTION

The growth of the local construction industry is a priority of many governments, including that of Ghana. The use of public procurement policies to achieve social outcomes is widespread and many governments over the years have attempted to use their

procurement systems to produce desired social policy outcomes (McCrudden, 2004). Since government procurement in developing countries accounts for over 50 per cent of the national budget, public procurement has a major impact on the local construction industry. A study of the available literature has revealed that no effort has been made in the area of research that seeks to identify the effectiveness of the preference policies in public procurement law on the local construction industry in Ghana, hence the need for this research.

As noted by Taylor and Bogdan (1999: 173), "...in the developing world, any procurement process which fosters or reinforces dependencies must be regarded as inconsistent with the principle of sustainability". Wells and Hawkins (2008) supported the views of Taylor and Bogdan (1999) that procuring services and goods from local contractors and suppliers would bring immediate benefits to low-income economies and further increase employment opportunities not only for local people on the construction sites but throughout the supply chains of construction materials as well and eventually this will impact positively on poverty alleviation in that country.

The target of nations instituting preference policies in their public procurement systems has been to reap the associated reward of improved competition with the attendant efficiency and lowered contract costs (Bovis, 2010; Elliott, 2004). Wells and Hawkins (2008) also suggest that procuring locally would create opportunities for local businesses as consultants, contractors, subcontractors, producers and suppliers of material and equipment for the local construction industry. The development of the local industry is essential for the maintenance of infrastructure assets. Estache (2006) estimated that the investment needed to maintain existing assets in sub-Saharan Africa (at 4% of GDP) is almost as high as the investment needed for new infrastructure projects to meet the Millennium Development Goals. Therefore reliance on foreign enterprises to design and construct facilities often means they are not sustainable as the expertise may no longer be available once the construction project has been completed.

This review shows that local contents policies in the public procurement systems of every country are essential: however, the implications of these policies in the Ghanaian procurement law in promoting on the indigenous construction industry have not been effectively dealt with in the literature. Many of the indigenous construction firms are collapsing in Ghana despite many procurement reforms and policies such as the current Public Procurement Act 663. To prevent or minimise this problem, South Africa reformed its procurement laws by introducing the Broad-Based Black Economic Empowerment (BB-BEE) concept to create a positive impact by way of growth generation in the businesses owned by previously disadvantaged indigenes. But this has also seen its fair share of challenges. Can Ghana adopt the same procurement reform policy to help promote the indigenous construction companies? South Africa has a different historical setting than that of Ghana and this necessitated the introduction of BB-BEE. This research is therefore aimed at identifying the effectiveness of preferential policies in the Ghanaian public procurement law on the promotion of the indigenous construction sector.

2. LITERATURE REVIEW

2.1 Public procurement as a policy tool

The use of procurement as an instrument of policy, according to EL-Gayed (2013), is not without controversy as questions have been raised regarding its legitimacy and effectiveness, as well as its negative impacts on primary procurement objectives. He also suggests that the beneficial effects of policies that are promoted through procurement are doubtful or minimal and even where benefits can be achieved, these must be weighed against the cost of doing so through procurement, either in terms of a price premium, or a compromise on other matters, such as time or quality, and that enforcement costs and the erosion of core procurement values must also be considered. Kamoche (1997) seems to support the views of EL-Gayed (2013) in that the management of public bodies is a complex activity that entails the balancing of different and sometimes contradictory objectives. Effective procurement, according to Callender (2004), on the other hand, should be able to provide governments with a means of bringing about social, environmental and economic reform and abolishing/minimising malpractice within public procurement and the absence of these policies demonstrates a failure of governance.

Although some countries still develop their procurement policies to address only the relatively narrow agenda of value or process efficiency, a broader and a more strategic policy has been adopted by states that have recognised that the procurement function can be developed to harmonise more effectively the elements of procurement within wider government policies (Thai, 2009). It is therefore not new that policymakers have increasingly used public procurement as a political tool to achieve socioeconomic goals. Thai (2001) suggests procurement as a support for broader government policy, including job creation and employment, thereby strengthening a particular industry, regional involvement, diversity, development aid and sustainability. There are numerous examples of how socioeconomic policies have been supported by procurement. Waterman (2008) highlights that the United States (US) used reservation and supply side schemes to ensure a guaranteed market share for small and minority businesses.

EL-Gayed (2013) posits that public procurement as a social policy has been seen to be effective? where governments seek to meet certain needs of interest groups, such as ethnic minorities, small-scale industry and local industry. This was the case in the USA where federal purchases were the most important national economic factors used to provide incentives to suppliers who bought American or produced their goods or services in the state for the government. This measure allows for a boost to the local economy by keeping as much of the supply chain in the country as possible.

In South Africa, for instance, prior to 1994, the South African procurement system favoured large and established businesses and it was very difficult for newly established businesses to compete in public sector procurement. In 1994, this changed when public procurement was granted constitutional status and was used as a policy tool to address past discriminatory practices (Bolton, 2006). Today, businesses have to submit BEE certificates to earn points in government tendering processes.

Whilst global efforts towards opening up public procurement markets are not a new phenomenon, the Model Law has the dual purpose of assisting countries in need of

improved public procurement policies and assists them in removing obstacles to international trade (Ssenoga, 2006). Although free trade may sometimes restrain governmental freedom to use procurement as a policy tool, there are numerous arguments that can be raised in favour of procurement as a policy tool that have proved to be useful, effective and valuable for the implementation of social policies as such procurement as a policy should not be denied to any government without convincing justification.

2.2 Public procurement as a policy tool and the promotion of the local construction industry

While there may be widespread agreement with a policy of supporting the participation of local producers in the supply of infrastructure assets, questions are raised about the role of procurement in the process. The view is often expressed that assistance to local industries should be on the supply side, and that procurement policies should be neutral in terms of promoting development. However, current demand-side policies are not neutral and therefore the playing field is not level in many cases. It is therefore important to explore how a level field can be created between the local construction sector and their foreign counterparts through procurement practices that enhance the performance of the construction industry in the procuring country. To create a level playing field where the local construction industry can compete on equal terms with foreign competitors, Wells and Hawkins (2008) suggest that the following policy issues must be resolved:

Firstly, the continued tying of bilateral assistance to developing countries to the purchase of goods and services from the donor country. For instance, a survey by the OECD (2005) found that 25 per cent of aid to 34 participating countries was tied. One of the worst offenders was the USA with only 7 per cent of their aid untied. It has been suggested by UNCTAD (2000a) that using procurement to promote local content and technology transfer to developing countries could be one way of offsetting the adverse effects of tied aid.

Secondly, the difficulties encountered by local enterprises, many of which are small, in accessing the public procurement market, such as the high costs of accessing finance, the high costs of tender information and the 'bundling' of contracts policy, which favours large firms and financial constraints. One of the key advantages of Chinese contractors in construction markets in Africa in recent years is their ready access to cheap finance from state-owned banks (CCS, 2006).

Finally, the fiscal policies that disadvantage local suppliers. Wells and Hawkins, (2008) state that foreign companies often benefit from tax concessions on imported materials and equipment, which are normally denied to domestic contractors, particularly in construction. In a recent study in Ghana, contractors complained of having to pay import duties and VAT on metal formwork imported from Spain, while foreign contractors were able to import such items duty free (McDonald, 2008). These factors combine to ensure that providers of construction services from the least developed countries are often unable to compete for projects in their own home markets (UNCTAD, 2000). In addition, there are significant barriers to trade in construction services that prevent firms from developing countries gaining access to more developed country markets (UNCTAD, 2007).

Even though the supply-side assistance is important, the fact also remains that lack of access to markets is the most critical factor inhibiting the development and growth of many small producers in many developing countries. Until the above issues are satisfactorily addressed, enterprises from developing countries are at a disadvantage compared with international competitors. It has been suggested by Chen and Orr (2009) that when one side is seriously weaker than the other, the playing field needs to be tilted to favour the weaker. It is this reason that many international agencies support the idea of using procurement as a tool to develop local industries through the offer of special incentives to local enterprises in order to tilt the playing field (Wells and Hawkins, 2008). As noted by Van de Grondon et al. (2007:170), "By sourcing locally or regionally the procurement function itself is able to become a mechanism of development assistance, in that it provides institutional investment in local or regional businesses by contracting with them."

The Model Law of the UN Commission on International Trade Law (UNCITRAL, 2011) allows the use of procurement as an industrial policy instrument and states that preferences at the evaluation stage for industrial development purposes are within the rules. Therefore the Guidance states that "...the enacting states may wish in some cases to restrict foreign participation with a view in particular to protecting certain vital economic sectors of their national industrial capacity against deleterious effects of foreign competition."

2.3 Criticism of the Public Procurement Law (PPL) of Ghana (Act 663)

Ameyaw et al. (2012) enumerated various criticisms against the PPL. Some of these criticisms are that the PPL gives too much emphasis to events leading to the award of contract and neglects the pre- and post-contract award events. It also does not provide for the identification, detection and treatment of abnormally low tenders. Again, under section 60 the PPL, domestic suppliers and contractors may be given some preferential treatment upon approval by the PPA. But it is feared that giving advantage to local firms could perpetuate inefficiency and increased cost by compromising the principles of open competition and value-for-money. These criticisms enumerated by Ameyaw et al. (2012) are justifiable: however, the inclusion of a margin of preference does not necessarily prevent competition. The margin of preference seeks to protect the local industry from unfair competition from the foreign firms and, if implemented fairly by the procurement officials, it would promote the local industries.

2.4 Problems of the construction industry in Ghana

Studies show that the construction industries of developing countries, including that in Ghana, face many problems (Ofori, 2012). According to Ofori (2012), there are three main reasons for these problems. First, the economic weaknesses which these countries face mean that there are inadequate resources to devote to efforts to improve the industry. Moreover, the industry fails to receive the incentives which support innovation by way of job opportunities and assistance. Secondly, many of the governments of these countries do not see the importance of the construction industry, and hence do not formulate or implement policies for upgrading the industries. Finally, the inherent underdevelopment of

the construction industries in these countries means that they are unable to present a strong case for help or contribute to the efforts which the government makes to develop the industries.

Owing to these problems enumerated by Ofori (2012), the performance of the construction industries in projects in developing countries, including Ghana, is poor in terms of cost, quality and productivity. A study conducted by Laryea (2010) revealed many challenges faced by the contractors in Ghana. Among these challenges are the presence of foreign contractors and the lack of contractors' capacity. Laryea (2010) also found out that most major projects in Ghana are awarded to foreign contractors and this necessitated a suggestion from the Association of Road Contractors Ghana to government that when a job is awarded to a foreign contractor, the firm should be encouraged to subcontract about 25 per cent of the work to local contractors with known capability. The Association of Road Contractors argued that many of the jobs done by staff of the foreign contractors can be done by local experts and professionals. However, as Laryea (2010) reports, the call has not been heeded by government.

According to Laryea (2010), some contractors complained that there are cases where some expatriates brought in to work for foreign construction firms do not even possess any relevant qualifications in construction. Another major problem identified by Laryea (2010) includes the low capacity of indigenous Ghanaian contractors: the World Bank was trying to help in addressing this through a series of training programmes and workshops for contractors. According to Laryea (2010), local contractors do not oppose competition: however, the low capacity of these local contractors makes it difficult for them to compete. Ofori (2012) therefore suggests that a systematic and coordinated approach to the management and development of the industry in Ghana is a key issue for the nation and that the existing organisational network for this purpose should be strengthened and provided with the necessary resources on a sustainable basis.

3. RESEARCH METHOD/APPROACH

In order to investigate the research questions and to achieve the objectives and aims, the research was conducted using a two-tier system. This involved secondary data being collated through the survey approach as well the archival studies. The purpose of the literature review was to maintain on-going knowledge of current theory and practice within public procurement systems. It was also an objective of the literature review to provide the background, perspective and technical knowledge which would be useful in conducting the rest of the research. It encompassed textbooks, current and past research, journals, present public procurement manuals, and legislations. The survey focused on contractors and consultants in the Ghanaian construction industries whose activities are affected by the public procurement practices. The rationale for using the survey study approach was the nature of the research questions and objectives.

As stated by Yin (2003:4), there are three conditions that determine the research strategy a researcher must adopt: (1) the type of research questions posed; (2) the extent of the control an investigator has over actual behavioural events; and (3) the degree of focus on contemporary as opposed to historical events. If the research question is a "what" type of question, then identifying the outcome of such questions is more likely to favour survey

or archival studies than others (Yin, 2003:5). Since the researcher aimed to gain maximum information from the participants, personal interviews (face-to-face interviews) were used (Blumberg et al., 2008) with the aid of an interview guide. Purposive sampling was adopted since the subject under investigation is of a specialised nature. From the population of 69 targeted for interview, 37 of them responded. The characteristics of the respondents interviewed are as follows:

3.1 Profile of the interviewees

The people contacted for the interviews are conversant with the past and current public procurement practices in the Ghanaian construction industry. They were authorised by their organisations to grant the interviews as they are involved in both public and private tender processes for their respective organisations. Their views on the research topic are therefore reliable and valuable. Table 1 shows the profile of the respondents.

Table 1: Profile of interviewees

Positions	Frequency	Percentage
Managing Director	11	29%
Project Manager	9	24%
Project Architect	1	3%
Quantity Surveyor	8	21%
Project Engineer	6	16%
Operation Manager	2	5%
Head of Public Affairs (Ghana Public Procurement Authority)	1	3%
Total	38	100%

3.2 Interviewees' construction industry profile

The analysis of the interviewees' industry profile is indicated in Table 2. The figure shows that 69 per cent of them are in the building construction industry, 19 per cent are consultants in the construction industry and 12 per cent are in the road construction sector.

Table 2: Interviewees' construction industry profile

Respondents' construction industry	Frequency	Percentage
Buildings construction	29	69%
Road construction	5	12%
Consulting in the construction industry	8	19%
Total	42	100%

3.3 Interviewees' work experience

From Table 3, 21 interviewees (representing 57%) have worked between 6 to 10 years, eight (8) of them (representing 22%) have worked for 11 to 15 years, five (5) interviewees (representing 14%) have worked in the construction industry for one (1) to five (5) years, two (2) of them (representing 5%) have worked for 16 to 20 years and one (1) interviewee (representing 3%) has worked for 21 to 25 years. Thus, a substantial number of the interviewees have experience of working in the construction industry before and after the introduction of the current public procurement systems and hence are well placed to know the effect of the new public procurement systems.

Table 3: Profile of interviewees' work experience

Years	Frequency	Percentage
1 to 5	5	14%
6 to 10	21	57%
11 to 15	8	22%
16 to 20	2	5%
21 to 25	1	3%
Total	37	100%

3.4 Interviewees' educational background

An analysis of the interviewees' educational achievement indicates bachelor degrees as a common qualification. Fifty-one percent (51%) of the interviewees have bachelor's degrees. This is followed by master's degrees and higher national diplomas with 22 per cent of the interviewees respectively and 5 per cent of the interviewees have diploma certificates. This analysis is shown on Table 4.

Table 4: Profile of interviewees' educational qualification

Degree	Frequency	Percentage
Master's degree	8	22%
Bachelor's degree	19	51%
Higher National Diploma	8	22%
Diploma	2	5%
Total	37	100%

4. FINDINGS AND DISCUSSION

4.1 Tender evaluation and selection criteria for contractors and consultants

In order to verify whether the people for whom these criteria were meant consider them as necessary or otherwise and how these criteria affect them in the bidding processes for government projects, the interviewees were asked to rate how important the criteria set for tender evaluation, selection of contractors and consultants in the public procurement regulations are.

The results reveal that most of the contractors and consultants generally regard these criteria as very important, but there are other important factors that were mentioned: For instance, skills' development as a selection criterion was on the top of the list from the respondents' ratings. In all 70 per cent of the respondents view it as very important, whilst 19 per cent of the respondents rated it as fairly important. Only 11 per cent of the respondents rated it as not important. One respondent suggested that this criterion should be paramount, especially for the foreign firms who tender for government projects. He suggested that government should ensure that foreign contractors train the local contractors and that the nature of the skills' development plans provided for by these foreign contractors must be properly examined before awarding the contracts to them. He added that the government must ensure they follow this plan to the letter. In the view of another respondent, the government does not consider skills development as an important criterion, hence, these foreign contractors do whatever they like when awarded the contracts.

On technology transfer as an evaluation criterion, 59 per cent of the respondents rated it as very important, 35 per cent rated it as fairly important and only 6 per cent of the respondents rated it as not important. This was not surprising as most of the local contractors need to improve their technological skills in order for them to compete with the foreign contractors. They would therefore be happy if the foreign contractors transferred modern technology to them as this would also help them carry out maintenance works on the completed projects, especially the projects executed by foreign contractors. On the issue of lowest price, for instance, 46 per cent of the respondents viewed it as very important. Thirty-five per cent (35%) of the respondents rated this criterion as fairly important with 19 per cent of them considering it as not important.

Table 5: Frequency distributions: Factors considered in contractor/consultant evaluation and selection

Evaluation factors considered	Total Number	Mean	S.D.	Not/Slightly important	Fairly important	Very/Extremely important	Rank
Skills' development	37	3.84	1.01	11%	19%	70%	1
The transfer of technology	37	3.70	0.91	6%	35%	59%	2
Encouragement of employment or reservation for domestic suppliers	37	3.38	0.92	19%	27%	54%	3
Lowest price	37	3.32	1.03	19%	35%	46%	4
The extent of local content offered by the contractor	37	3.27	1.10	33%	16%	51%	5

On the issue of extent of local content offered by the contractor, 51 per cent of the respondents consider it as very important. Surprisingly, a significant number of respondents (33%) consider it as not important. Also surprisingly, on the encouragement of employment or reservation for domestic suppliers as evaluation criterion, 54 per cent of the respondents rated it as very important. Twenty-seven per cent (27%) of the respondents see this criterion as fairly important whilst 19 per cent of them rated it as not important. Most respondents are of the view that this criterion should not be considered when evaluating local contractors but must be considered only for the foreign companies. The analysis of the interviewees' responses regarding their view on the tender evaluation criteria for public procurement is shown on Table 5.

4.2 Improvement of the various procurement regulations on the selection of local contractors and consultants in the construction industry

Even though the majority of the respondents (54%) agreed that the current procurement regulation is better in assisting them to grow, when asked whether public procurement reforms over the years have improved the selection of the local contractors and consultants for public works, 57 per cent of them answered in the negative whilst 43

per cent answered in the affirmative. This result was not surprising as the majority of the respondents accused public procurement agencies of not implementing the local content policies in the law. However, the public procurement authority stated that the various reforms have assisted in awarding contracts to the local construction industry. They also agreed that there is room for improvement. The responses are shown on Table 6.

Table 6: The various procurement reforms have improved the selection of local construction firms for public works

Responses	Frequency	Percentage
Yes	16	43%
No	21	57%
Total	37	100%

4.3 Winning government contract: Local versus foreign contractors

A question was put to the Ghana procurement authority regarding the chances of local contractors/consultants and those of foreign contractors/consultants being awarded government projects if both of them tender for the first time.

The interviewees revealed that both local and foreign contractors/consultants have an equal chance of winning a government contract if both of them are tendering for the first time. This signifies that even though there are preferences for local contractors in the public procurement regulations, the procurement agencies do not abide by this strictly during the tender adjudication process. This also confirms the complaint of the respondents regarding foreign competition for government contracts and the lack of enforcement of the local content policies by the procurement officials.

Surprisingly, when the Public Affairs Officer of Ghana public procurement authority was asked about whether preferences exist in law or whether there were regulations which benefit particular categories of contractors and consultants, they referred the interviewer to section 60 of the current procurement law, where margins of preference have been categorically stated in favour of domestic contractors and suppliers for public works. This means that procurement entities do not implement this regulation in the award of contracts for public works even though they are aware of the existence of this section in the public procurement regulations.

4.4 Proposed public procurement model with improved local content mechanism for the construction industry

A careful examination of the current procurement practices as stated in Act 663 revealed that there are inadequate protective mechanisms in favour of the local construction industry. The margin of preferences stated in section 60 of the current procurement regulations, even when implemented, would not be adequate in protecting the local construction industry as it only considers prices submitted by tenderers by applying a certain percentage of the tendered price in addition to companies owned or part-owned by Ghanaians.

In an attempt to address the deficiencies in the current procurement system, a new comprehensive public procurement model that takes into account the prices submitted by

tenderers as well as other preferential policies in favour of the local construction industry is proposed for implementation by the public procurement authorities. The researcher believes that implementation of this procurement model would help improve local content policies for the procurement in the construction industry of any country, including Ghana. The model assumes the following:

1. Tendering would follow the open tendering procedure.
2. All bidders are qualified to tender based on the criteria stated in the tender advertisement.
3. Bidders have passed through the functionality and responsiveness stage (such as experience on past projects, financial resources, qualified staff, plant and equipment) of the tender adjudication process.
4. Bidders are at the last stage where the contract would be awarded to the best bidder.

The researcher believes procurement should be divided into two stages, namely pre-contract stage and post-contract stage.

4.5 Pre-contract stage

At pre-contract stage, procurement can be categorised into three types, namely international competitive tendering, national competitive tendering and local competitive tendering. At pre-contract stage, preference points to be allocated for each evaluation criterion should be considered in conjunction with price points. These preference points are mainly a policy tool for ensuring local contractors are benefiting from the public procurement processes and for achieving growth in the local construction industry. Each tendering procedure should have a threshold for the contract amount. The international competitive tendering should have bigger contract amounts than the national competitive tendering and the national competitive tendering should have bigger contract amounts than the local competitive tendering.

4.6 International competitive tendering - Threshold for contract value of over Ghc1.0 billion

In international competitive tendering, both foreign and local contractors should be allowed to tender. Since the contract amount involved is huge, most of the local contractors may not have capacity or resources to tender, hence a preferential policy in the form of a mentorship strategy should be required from each tenderer. A point for the mentorship strategy should be awarded to each bidder based on the mentorship strategy submitted in the tender document as shown in Table 7. The mentorship strategy plan should detail how the bidder intends to train and transfer skills to the local contractors who would be engaged on the project.

Two points systems should be constituted, namely a 60/40-point system where price points are 60 and preferential policy points are 40 or a 70/30-point system where price points are 70 and preferential policy points are 30.

The 70/30 or 60/40-point systems can be adopted depending on the weight the procurement authority wants to place on the local content aspect of the contract. For example, where post-construction maintenance is a major issue, 60/40 preferential points should be adopted when it comes to a mentorship strategy to ensure contractors/consultants

submit detailed mentorship proposals as to how skills' transfer would be executed for post-construction maintenance by local contractors/consultants. In the case of local tendering where more opportunities are needed to be given to the contractors/consultants operating in the area where project is located, then the 60/40-point system needs to be adopted.

Table 7: Price and preferential points for mentorship strategy

Preferential points for mentorship policy of bidder company	Points for 60/40	Points for 70/30
Extremely good	40	30
Very good	32	24
Fairly good	24	18
Average	16	12
Not bad	8	6
Bad	0	0
Maximum points to be awarded	40	30

A set-aside policy should also be instituted in the international competitive tendering. This policy should be part of the tendering document and also included in the contract document after the award. The set-aside policy should state the percentage of work that must be done by the local contractors. For instance, local contractors could be awarded 40 per cent of the total contract value. This must be enforced by the procurement authority during the contract execution and the main contractor must be made to submit and attach to the payment certificate a comprehensive report on progress made on mentorship on a monthly basis.

The procurement authority must follow up on the projects on a regular basis with the local subcontractors to assess how they are benefiting from the programme and the lessons learned. This policy would ensure skills' transfer and development of the local subcontractors.

4.7 National competitive tendering - Threshold for contract value from Ghc 400 million to Ghc1.0 billion

In the national competitive tendering, only construction companies who are registered and operating in Ghana should be allowed to tender. The value of these contracts should be lower than that of the international competitive tendering. The procurement authority should institute preference points for the ownership of the companies tendering for the project. The proposed preference points for the company ownership are shown in Table 8. The higher an indigene stake in the company, the higher the points awarded. This preference-points strategy would also encourage partnerships and joint ventures among foreign and local construction companies.

Table 8: Price and preferential points for Ghanaian ownership strategy

Preferential points for Ghanaian ownership of the bidder company	Points for 60/40	Points for 70/30
81 to 100%	40	30
61 to 80%	24	24
41 to 60%	18	18
21 to 40%	12	12
1 to 20%	6	6
Below 1%	0	0
Maximum points to be awarded	40	30

In the national competitive tendering, set-aside policies should be introduced whereby the companies who have been awarded the contract are made to engage upcoming local contractors to execute a certain percentage of the works. Upcoming contractors should be able to do 30 per cent of the contract value.

4.8 Local tendering - Threshold for contract value is Ghc 400 million and below

In the local tendering procedure, only the local contractors registered and operating within a certain radius of where the project is located should be allowed to tender. Preferential points should be awarded based on how close the bidder company is to the project location. This policy would allow the procurement authority to eliminate unfair competition from bidders outside the project area and to give opportunities to contractors in that particular area as well as improving employment opportunities for the local communities. This policy would also help grow upcoming local contractors and hence the construction industry in general. The location of the bidder company preferential points system is shown on Table 9.

Table 9: Price and preferential points for company proximity strategy

Preferential points for the proximity registration and operation of bidder company	Points for 60/40	Points for 70/30
Within the district where project is located	40	30
Within the region where the project is located	32	24
In another region but with an operational office within the region where the project is located	24	18
In another region but within 50km from where the project is located	16	12
In another region but within 100km from where the project is located	8	6
In another region but more than 100km from where the project is located	0	0
Maximum points to be awarded	40	30

In local tendering procedure, the procurement authorities need not incorporate the set-aside policy since the contract values are relatively small.

4.9 Post-contract support

At post-contract stage, the government should institute support measures for the local contractors in the form of soft loans and renting of construction equipment. The loans should then be deducted from the contractors' payments at an agreed interest rate and deductible amount. These measures would go a long way in assisting the local contractors as most of their challenges are funding issues and lack of capacity in terms of construction equipment.

4.10 Calculating the grand total point for tenderers

Step 1- Calculate the average tender price for all the responsive tenderers

$$\text{Average tender price (AP)} = \frac{\sum TA}{N} \quad (1)$$

Where:

N

$\sum TA$ = the total of all the responsive tender prices

N = the number of responsive tenderers

Step 2 – Calculate the variance between tender price (TA) and average tender price (AP)

$$\text{Variance} = AP - TA \quad (2)$$

Step 3 – Eliminate tenderers with tender price (TA) greater than the average tender (AP) price

$$\text{Eliminate tenderers if} = TA > AP \quad (3)$$

Step 4 – Calculate price point for each tenderer

$$\text{Price point} = 1 + \left[\frac{(TA-AP)}{AP} \right] \quad (4)$$

Step 5 – Calculate total price point for (60/40) or (70/30)

$$\text{Total price point} = 1 + \left[\frac{(TA-AP)}{AP} \right] \times 60 \quad (5)$$

(60/40)

OR

$$\text{Total price point} = 1 + \left[\frac{(TA-AP)}{AP} \right] \times 70 \quad (6)$$

(70/30)

Step 6 - Determine the preferential point

$$\begin{array}{l} \text{Preferential} \\ \text{point (PFP)} \\ (60/40) \end{array} \leq 40 \quad \text{or} \quad \begin{array}{l} \text{Preferential} \\ \text{point (PFP)} \\ (70/30) \end{array} \leq 30 \quad (7)$$

Step 7 – Calculate the grand total point for each tenderer

$$\begin{array}{l} \text{Grand total for} \\ \text{(60/40) point} \\ \text{system} \end{array} = \text{PFP} + \left[(1 + (TA-AP)/AP) \times 60 \right] \quad (8)$$

OR

$$\begin{array}{l} \text{Grand total for} \\ \text{(70/30) point} \\ \text{system} \end{array} = \text{PFP} + \left[(1 + (TA-AP)/AP) \times 70 \right] \quad (9)$$

Step 8 – Award contract to tenderer with highest point.

Table 10: Proposed tender score card template combining preferential policy points and tendered price in tender adjudication process (60/40-points method)

TENDER NUMBER: GN1234

TENDER NAME: CONSTRUCTION OF X ROAD

60/40 SCORECARD

NO	Name of tenderer	PRICE POINTS (60%)					Preferential points (40%)	GRAND TOTAL	Comments
		Tendered price	Average tender price p (AP)	Variance in tender price	Price point	Total price points (60%)	Preferential points (PFP)		
		TA (Ghc billions)	$AP = \frac{\sum TA}{N}$ Ghc billion	$\frac{(AP - TA)}{Ghc}$ billion	$1 + \frac{(TA - AP)}{AP}$	$(1 + \frac{(TA - AP)}{AP}) * 60$	Maximum Point = 40		
1	Contractor A	3.21	3.26	0.05	0.98	59.08	16	75.08	5
2	Contractor B	3.20	3.26	0.06	0.98	58.90	32	90.90	2
3	Contractor C	4.00	3.26	-0.74					TA > AP
4	Contractor D	3.00	3.26	0.26	0.92	55.21	24	79.21	4
5	Contractor E	3.15	3.26	0.11	0.97	57.98	16	73.98	6
6	Contractor F	3.25	3.26	0.01	1.00	59.82	32	91.82	1
7	Contractor G	3.36	3.26	-0.10					TA > AP
8	Contractor H	3.12	3.26	0.14	0.96	57.42	8	65.42	8
9	Contractor I	3.19	3.26	0.07	0.98	58.71	8	66.71	7
10	Contractor J	3.10	3.26	0.16	0.95	57.06	24	81.06	3

Remarks: Award contract to tenderer F even though tenderer D submitted the lower tender price

5. CONCLUSIONS AND RECOMMENDATIONS

It is concluded from the study that local contractors are still experiencing the same problems enumerated in the years before the introduction of preference policies in the procurement law. Contractors are still not provided with any support to make them competitive in the tendering processes. Even after several complaints by the players in the industry to the government, their plea has gone unheeded. Lack of finance and equipment as well as unfair competition from the foreign firms seem to be the major problems for the local construction sector. To date, government has not instituted any major policy shift in the procurement process to tilt the playing field in favour of the local construction industry. The margin of preference stated in section 60 of the current procurement regulations has not been able to adequately fulfil its purpose of making the procurement process more

favourable to the local industry. To resolve this problem, this research recommends that government should adopt the proposed point systems in the tender adjudication process to promote the local contractors and consultants in gaining more access to government projects and to make the procurement systems more favourable to the local construction industry. The post-contract support systems also proposed by this research should be implemented by the government to assist the local construction industry to grow and have capacity to executive bigger government projects in any procuring country. The research proposes that future research should investigate the performance of local contractors on government projects.

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