

Chapter 3

PUBLIC PROCUREMENT SYSTEMS: A COMPARATIVE STUDY OF IRELAND AND SAUDI ARABIA

Dhafer Al Ahmari and Paul Davis

I. INTRODUCTION

Public procurement forms are seen as a critical component that has a direct impact on the economy of any government which, involves ‘the acquisition of goods or services by public sector organisation’ and classifies as a key economic activity for a government (Thai, 2008). Moreover, Piga and Treumer (2013) elaborated that procurement is a valuable public policy tool which could help to achieve economic outcomes.

Nijboer, Senden, and Telgen (2017) added public procurement is generally seen as an objective of achieving government policy. Knight et al (2012) discussed that the process of public procurement entails four key fundamentals which are procurement regulation, policy-making, procurement authorisation and appropriation as well as public procurement processes and function in operation.

There are numerous challenges associated with the procurement system such as manipulative setting of bid qualification, unqualified applicants and selection of inappropriate methods for evaluation of bid (Hackett, 2016, p. 155). Therefore, the tender award criterion (qualification and evaluation) influences the success of the project. However, For effective procurement system, it is vital to ensure a competitive environment with the perspective of achieving best outcomes (Hanak & Muchova, 2015).

Public Procurement can be defined as the steps by which government agencies purchase goods and services from the private sector. This procurement is conducted at national and regional levels, and there are generally a specific set of policies and laws governing

the procurement process. On average, 10-15% of a country's GDP¹ is spent on public procurement (WTO, 2018). Therefore, the government has systems in place to make sure that this process is carried out smoothly and in a cost-effective manner. However, these Procurement systems are different from one country to another as "not all countries implemented their variant at the same time. This means that there is more than sufficient opportunity for cross-country learning: a country can learn from the experiences, of other countries" (both good and bad experiences) when implementing public procurement policies" (Nijboer, Senden, & Telgen 2017).

In this light, this paper comparatively analyses the public procurement practices and awards of two countries, Ireland and the KSA, allowing for deeper insight into the benefits and shortcomings of the procurement systems in the modern world. Although other EU countries could have been chosen, Ireland was chosen as it translates the EU directives into law without any localisation or changes. It is planned that through a comprehensive breakdown of different processes and legal restrictions, a greater understanding can be gained regarding which procedure is better under certain conditions. The study will also attempt to gauge the lessons that can be learned from Irish system.

The rest of this paper is structured as follows: The first section, presents the literature involving global roles and practices of public procurement at an international and European level along with an overview of the procurement process and the value of money. The Second section briefly explains the methods followed by the third section which presents an overview of government expenditure and compares the legal framework of Ireland versus KSA. In the fourth section, a case study was presented for each country, analysing the process, evaluation methods, and award criteria. In the fifth section, the discussion follows up with an analysis of the case studies, comparing and contrasting the similarities and differences among the two systems. Finally, the last section sets out the study conclusion.

II. LITERATURE REVIEW

2.1. Global Public Procurement

Procurement denotes the process of acquiring goods, skills, and services. This process is essential in both private and government

organisations, it usually considers several aspects, including supply chain, budgeting, and payment, among other key factors (Flynn & Davis, 2014). Also, public procurement involves multiple of activities ranging from planning, choosing the proper procurement method, awarding and managing contracts (Sofia & Mats,2017). Public procurement “involves more than the procurement process alone”; being a powerful tool to increase government efficiency, decrease public expenditure and foster economies, its design must include components such as, the strategy and policy of the organization, methods” procedures” personnel, organisation and information (Thai, 2009).

According to Chen (2008), procurement as a policy tool helps the government to achieve economic outcomes. Thus, government procurement has been tipped as the key drive towards attaining sustainable development for various global nations (Romodina & Silin, 2016). One of the critical issues faced by the government is to manage and monitor the contract with the contractor and therefore, it is an ultimate government responsibility to set and enforce public standards for stakeholders, defining the roles and responsibilities (Lember, Kattel, & Kalvet, 2013).

According to OECD, global procurement practices devoted efforts to ensure that public procurement activities and practices are transparent as well promote equal and fair treatment. Moreover, global public procurement should link public resources with intended purposes. The behaviour and professions of procurement official are in line with objectives of the organisation, Thai (2016) added the systems of global public procurement should ensure public scrutiny and promote accountability.

McCue, Prier, and Swanson (2015) elaborated that public procurement framework consists of elements such as institutional and legal framework, procurement execution capacity, procurement tools and control system, anti-corruption practices, contract management and evaluation system. These principles are reflected through state’s public procurement legal framework based on the legal and administrative system. Public procurement system chosen especially for capital works plays a vital role in determining the success of various projects. Love, Davis, and Baccharini (2010) emphasises that it is only from selecting an appropriate procurement system that aspects such as value for money, cost efficiency and

quality can be achieved. Thus, it is imperative that a procurement contract strikes a proper equilibrium between various elements that are likely to affect project completion (Sofia & Mats, 2017)

2.2. Public Procurement Principles

Budak and Rajh (2016) described that a principle is known as “an attribute to determine the nature of something, character or essential characteristic” and internationally recognised principles of public procurement are transparency, economy and efficiency, accountability and competition. Bovis (2012) added that economy and efficiency elaborate how procurement function contributes through the best allocation of resources for better value of money. The budgeting, planning, accountability and implementation of public expenditure drive the economy and efficiency (Hanak & Muchova, 2015). Transparency applies to all instruments and ensures effective governance of procurement policy. The factors such as publication of procurement-related documents and regulations, advertising requirements, timeframes and bid evaluation criteria are addressed under transparency criteria (Saad, 2016).

Graells (2015) explained that competition ensures that procuring entities can purchase works, services and goods that best fit the needs of the market within the allocated budget. Competition for procurement function point of view depicts the range of functions such as procurement planning, open competitive methods, specifications to promote competition and wide dissemination of bidding opportunities. Finally, accountability enhances the procurement policy effectiveness through avoidance of conflict of interest, neutral specification, competitive procurement methods, bid protest and review mechanism. The purpose of accountability mechanism is to limit discretion in decision-making by officials, enhance bidders' participation and improve the procurement process (Davis, 2014).

Governments all over the world have their own procurement practices and national laws. An Important Government procurement regulator at international level for example the WTO and European level are briefly represented in the next subsections

2.3. World Trade Organization

In 1981, number World Trade Organisation's (WTO) members into a multilateral agreement known as the Agreement on Government Procurement (GPA). The GPA was designed to ensure open, fair and transparent conditions of competition in the government market markets and at present has 19 parties of 47 WTO members. Ireland became one of GPA members 1st of January 1996 while Saudi Arabia still not yet ready to join the agreement. The agreement does not automatically apply to all public procurement activities of each party. Only the procurement of goods and services that have a value that has crossed the threshold value are covered by the agreement.

2.4. European Union

The European Union has for many years focused on a number of public procurement reforms trying to lead less bureaucracy and higher efficiency. The basis for this reform has been a comprehensive system of legal directives.

2.4.1. Legal Framework

The European Communities Regulations SI No. 329 of 2006, the European Communities Regulations SI No.50 of 2007, and the European Union Regulations SI No 62 of 2012 has enabled the Irish legal system to derive its national laws from the EU procurement Directives 2004/18/EC, 2004/17/EC and 2009/81/EC (Bianchi & Guidi, 2010). The key principles (Table 1) of the EU frameworks underpin all procurement process and are the fundamental principles under which procurement law is based.

On the 18th of April 2016, the European Union introduced three new directives that the EU countries had to transpose into their national laws. These new directives were aimed at simplifying the public procurement procedure and make them more flexible for public buyers and suppliers, especially SMEs. The Directives to be introduced were, Directive 2014/24/EU, Directive 2014/25/EU (on procurement by organisations in the utilities, transport, and postal service sectors), and Directive 2014/23/EU on the awarding of concession contracts (European Commission, 2018a).

TABLE 1
Key Principles of EU Framework to Attain Value for Money

Principle	implication
Transparency	Advanced communication of procedures, requirements, evaluations and awarding of contracts
Equality	Information is provided to the market at the same time
Non discrimination	Buying organisations cannot discriminate against any supplier based on any factor
Proportionality	The imposition of requirements and conditions on bidders have to be reasonable
mutual-recognition	Consider certificate from other countries

2.5. Value for Money and Public Procurement

Value for money is the main principle governing any system of public procurement and supported through the underpinning fundamentals: of, efficiency, effectiveness, Transparency accountability and open competition (Commonwealth Procurement Guidelines, 2005). Moreover, According to Kurakaew, Kokkaew, and Sukswan (2016), the fundamental goal of public policy is that 'Public Private Partnership (PPP)' should be based on providing value for money (VFM) rather than conventional public procurement. VFM in procurement involves 'best price for given quantity and standard of output assessed in terms of relative financial benefits'.

The procurement cycle starts with assessing potential sources of supply against budget (economy), controlling and monitoring of supplier performance (efficiency) and evaluation of outcomes against the goals (effectiveness). Procuring authority can select buyer based on price only or combination of price and quality (Most Economically Advantageous Tender (MEAT) (Hlavacova, Heralova, & Matejka, 2014).

Furthermore, Hossain (2015) discussed that MEAT helps buyers to evaluate observable terms such as cost, value, quality and saving using both quantitative and qualitative criteria. The effectiveness influences the outcomes of the project in terms of quality and on-time delivery. Moreover, the lowest price is a common understanding of

VFM and total cost of ownership. Total cost depicts the cumulative costs incurred over the lifecycle of the product/service in use. The procurement principles contribute towards the effectiveness of procurement system and deliver best outcomes and better value for money (Dimitri, 2013; Yaya, 2017)

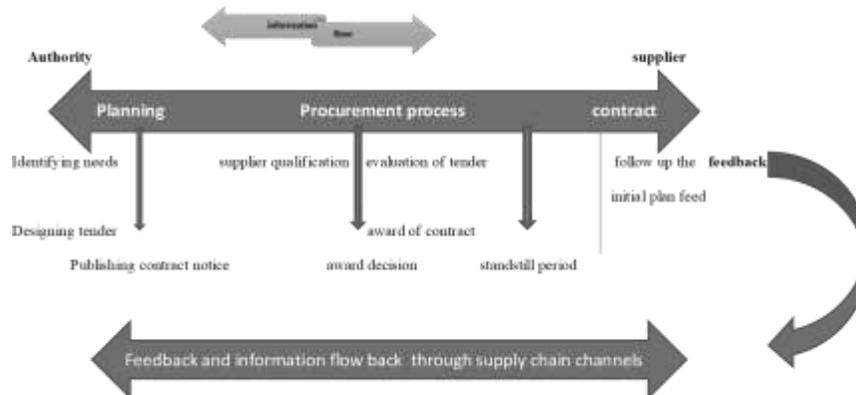
2.6. Public Procurement Process

The process of public procurement began as a response to the requirement for a more robust relationship between buyers and sellers. This relationship was characterised by the demand for better performance from suppliers, (such as, a reduction in lead time, a reduction in stock levels, increasing flexibility, product standardisation, product quality, feedback and so on) and the desire to develop suppliers by fostering purchasing synergy to improve product design, lead innovation, and engage early supplier involvement. According to Khan (2018), public procurement process starts with the identification of requirements and analysing how these requirements can be met. After the procurement planning, the contracting authority calculates the total value of the contract and determine 'threshold' to ascertain procurement rules and regulations are applied.

Figure 1 below depicts the procurement process and highlights stages of the procurement system as well as the flow of information through multiple stages of the procurement chain. In the final stage, feedback is provided regarding improvements to product design, innovation, and ensuring supplier involvement as we as enhance buyers' experiences.

Carbonara, Costantino, and Pellegrino (2015) explained that the first step involves in procurement is project planning and preparation of procurement documents. The next stage includes publishing the tender- this generally involves some sort of call for tender and an outline of the procurement process is published. The third stage comprises announcement of the qualified supplier by buyer and information request from suppliers. The next stage encompasses bid delivery from the supplier, tender evaluation and award of the contract. Stilger, Siderius, and Raaij (2017) added that the preparation of contract documents is a useful source of information that contract authorities provide to the supplier. The formulation of

FIGURE 1
Stages of the Public Procurement System



tender invitation describes what is to be procured, requirements, types of tender and procedures for evaluation. The publication of tender notice ensures suppliers are invited or given information on the tender. The contracting authority reviews the proposals to ensure supplier meet the requirements. In the context of the award of contract decision, authority decides to award the contract to the suitable supplier (Korytarova, Hanak, Kozik, & Radziszewska-Zielina, 2015).

2.7. Public Procurement and the Use of Stakeholder theory

Studies have shown that public procurement field is theoretically diverse, which implies that it is reflective of input from a wide range of fields and disciplines. Therefore, public procurement is likely to be characterised with different theoretical perspectives from diverse academic backgrounds (Edquist & Zabala-Iturriagoitia, 2012). Research has also indicated that theories related to the economics discipline have dominated most research articles in the public procurement. Microeconomic theories are always predominant in the field of public procurement (Alhazmi & McCaffer, 2000). For instance, theories such as principal-agent theory, competitive auctions, and bidding, as well as transaction cost economic theory are common in

almost half of the journal articles in public procurement (Edquist & Zabala-Iturriagoitia, 2012).

Freeman (1984) integrates stakeholder concepts into a coherent construct that the role of stakeholders (i.e. consumers, producers, suppliers) moves closer to the forefront of academic attention, Consideration of stakeholders therefore forms an integral part of the industrial planning process and the 'sociology of technology' where achieving change in the supply chain is "...not simply a technical-rational process of 'solving problems', it also involves economic and political processes in articulating interests, building alliances and struggling over outcomes" (Webster, 1995: p. 31). Stakeholder theory has been depicted in 1984. Ever since then a continual development has taken place through numerous academics adding to the knowledge base, enhancing and testing the initial "theory". Today stakeholder theory holds a central place in management theory. (Harrison & Hoek, 1999, p. 483) The main variables of stakeholder theory comprise the organization or corporation, and its stakeholders, which usually include but are not limited to employees, suppliers, shareholder, customers, government, and competitors (Freeman, Harrison, Wicks, Palmer and De Colle, 2010, pp. 16-17).

In this section stakeholder theory in public procurement is discussed. Generally, stakeholder's groups can be categorised as regulatory, internal primary, external primary, and external secondary (Wu, Chen, & Olson, 2014). Stakeholder theory within public procurement suggests that there is great pressure from buyer to get the best value for money and suppliers private company to win the public award. According to Sarkis, Zhu, and Lai (2011) Stakeholders exert pressure on companies to diminish negative effects. Moreover, firms respond by developing and reconfiguring capabilities to gain social legitimacy and performance improvement (Parmigiani, Klassen, & Russo, 2011; Zorzini, HendryHuq, & Stevenson, 2015). In the opposite of this, the social value creates opposition pressure on the authority for value to be perceived. For example, public procurers are always pushing for the lowest price, but the end users who are the taxpayers are looking for highest quality they always have nothing to do with cost. Also, procurement performance management seeks to achieve the overall objective to satisfy internal and external stakeholders (Pinto & Slevin, 1988). Additional evidence by Chan, Scott, and Lam (2002) suggest that stakeholders' involvement,

operational measures and the like, are other criteria to be considered towards the success of construction projects. Performance for example can be defined as specific and clear goals reflecting values for all stakeholders. Stakeholders are determinants of success beyond system and process adoption (Orlikowski, 1992). From these sense, stakeholders have seen as a lens to support this study.

III. METHODOLOGY

Neuman and Robson (2014) stated that comparative research is useful to identify and explain the similarities and differences between two or more events or scenarios at a broader level. Comparative research plays an important role in the development of scenario or events through analysis of cases. On the other hand, qualitative research focuses on analysing the problem through developing social meaning and emphasis on relationship important between the researcher and case. Qualitative research is valuable for investigation and observation into metaphor, descriptions and distinctiveness of observed phenomena (Silverman, 2016).

According to Rihoux and Ragin (2009), qualitative comparative analysis (QCA) is a case-based approach that enables the researcher to identify direct contributions made by different factors that are critical to access the outcome for given case. QCA starts with documentation of various sources, conditions and events associated with each observed case. It offers a nuanced understanding of issues through presenting different combinations of factors that lead to success and influence context. The analysis for this study is based on interpretivism metatheory using the qualitative methodology and case-oriented strategy (Woodside, 2010).

Qualitative comparative analysis (QCA) is case orientated because it deals with the selected number of complex issues in a configuration way. This depicts that each case is considered as a complex combination of events and scenarios and a specific 'whole' and thus, presenting a holistic perspective. The choice of outcomes and conditions (variables) for the analysis that needs theoretically informed. QCA can be used inductively to gain insight from case knowledge to determine the key variables to be considered (Ragin, 2014).

For this study, secondary data is used to analyse and interpret the procurement systems in Ireland and Saudi Arabia. Secondary data analysis involves generating information through existing interpretative information. The sources of secondary data include reports, journal articles and official publications (Johnston, 2017).

IV. GOVERNMENT PROCUREMENT FRAMEWORKS – ANALYSIS IRELAND AND SAUDI ARABIA

4.1. Countries Overview

Ireland's procurement system has been assessed at the European level with best practices in public procurement, which accounted for 16% of the total GDP in 2017. On the other hand, Saudi Arabia's economy is one of the largest in the world; it has moved from being 27th in 2003 to being the 19th largest economy, totalling almost SR890 billion in spending in 2016. However, the kingdom released a new program called the Saudi National Transformation Plan (NTP) and the 20-30 vision, which is an ambitious plan that aims to increase economic growth based on diversity. Among these major goals is the need to double foreign direct investment from RS 30 billion in 10 years and to adapt public-private partnerships (PPPs), focusing on the public sector's expenditure and on transferring the responsibility to the private sector.

Taking into consideration that these different countries have different Gross Domestic Product (GDP) per capita which measures a country's economic growth; Saudi Arabia has a seemingly lower GDP as compared to Ireland but prefers to use the traditional procurement system of awarding tenders under the pretext of lowest price criteria. In contrast, the Irish system focuses on the most economically advantageous tender (MEAT) projected under EU regulation as its executive procurement system despite it having a relatively low GDP. Thus, the hypothesis established is that both the systems will result to attainment of different outcomes but still provide value for money. The legal framework for IRO and KSA is examines as follow

4.2. Legal and Procurement Framework – Ireland

The public-sector organisations are obliged to comply with principles of competitive tendering in relation to expenditures for

supplies, works and service contracts. In 2006, the law and regulations were set for public procurement under regulations S.I 329 (2006) and implemented under the European Directive (2004/18/EC). In 2013, Office of Government Procurement (OGP) was established to reduce costs and deliver better value or money through the reform of public procurement process.

The goal of OGP is to consolidate existing fragmented procurement model with new centre-led structure by deploying common processes, governance policies and system (Bovis, 2016). The EU directive imposes a legal obligation on public bodies and use of the objective tendering procedure for the contract values threshold. The important aspects of tendering such as maintenance of tender lists, advertising of contracts, receipt and opening of tenders, tender timescales, confidentiality of information, evaluation of tenders and debriefing of unsuccessful tenderers are managed under EU directives. All tenders with a value of over 25,000 Euro should be advertised on e-tenders (www.e-Tenders.gov.ie) and request for tender is available at OGP website. The tender with a value above EU threshold of 135,000 Euro sent to e-Tenders site of European Journal (OJEU) and published on site for 3-5 days (Graellis, 2015).

At the national level, the Department of Finance has a 'Green Book' that regulates public procurement that falls below the EU threshold. This 'Green Book' sets out a number of sub thresholds that regulates different levels of contract valuations. In Ireland, the procurement system falls under the control of the Office of Government Procurement (OGP), which is, in turn, looked after by the Ministry for Public Expenditure and Reform (MPER). The main goal of the OGP is to standardise the procurement process and maximise savings by conducting public procurement in a systematic manner. In addition to the above, the OGP also manages the central e-procurement system, 'eTenders' (European Commission, 2018b). The Irish national rules lay down a level playing ground for all suppliers to pitch their contracts, to encourage true, competitive tendering.

4.3. Legal and Procurement Framework – Saudi Arabia (KSA)

Alhudaithy (2011) stated that the Ministry of Finance in Saudi Arabia (KSA) has first published 'Government procurement system' under MAR/1977 and issued by Royal Decree No M/14. Firstly, the

law defines the execution of state purchases and contract performance of project (Procurement of government purchases and project execution, Royal Decree no. M/14 dated 7/4/1397 H). Secondly, the Tender and Auction regulations, Royal Decree no M/6 dated 24/2/1386 H. However, combined Government Tenders and Procurement has replaced these laws. This includes Royal decree no M/58 dated 4/9/1427 (27/9/2006) and regulations implementation, Ministry of Finance No 362 dated 20/2/1428 (11.03.2007).

According to Ibn-Homaid (2005), in KSA, statutory law makes it compulsory that government contracts should be fixed prices and awarded through competitive bidding (Ibn-Homaid, 2005). The aim of Saudi procurement system is to apply procurement principles such as economy and efficiency, transparency, equality, accountability. The separation of government and personal interest enhance transparency among the vendors and thus, maximise value of money through competition (BOECM, 2009).²

V. ACROSS CASE ANALYSIS

5.1. Case of Ireland

5.1.1. *Tendering Process*

Cunningham (2015) stated that Irish government requires competitive tendering throughout the public sector and it is known as 'an offer in writing to supply goods and services at a fixed price'. In Ireland, the term two-stage tendering is used because, initially contractors need to prequalify for the bid and then submit a bid for the project (Hanak & Muchova, 2015). Under EU procurement rules and directives, procurement procedures must come under one of the criteria that are 'open tendering', 'restricted tendering', negotiated procedure and competitive dialogue'. Open tendering enables the interested company to bid for work and it generates the greatest degree of competition (Stilger, Siderius, & Raaij, 2017). The tendering arrangement involves advertising in trade journals or newspapers and inviting the contractor to submit the bid. The open procedure, commonly used and enable all parties to submit tenders. However, this does not mean that all tenders will be evaluated because there are minimum standards to meet in terms of business and financial standing as well as technical capability. In open procedure, a single

stage procedure is adopted and 'Request for Tender (RFT)' is advertised on e-tenders (Bochenek, 2014).

On the other hand, selective or restrictive tendering involves compiling the small list of suitable contractors favoured by the design team or employer and suppliers invited to bid the project. The contractor selection is based on rules and criteria for selection that are made available to interested parties. The restricted approach involves two-stage procedures. At first stage, the supplier is required to provide details of technical and financial capacity. At the second stage, the evaluation of response, the suppliers are issued with the tender documents. Besides, competitive dialogue is used in exceptional circumstances such as complex project, which requires variability and flexibility from open or restricted projects (Reeves, Palcic, & Flannery, 2015). Finally, in negotiated procedure under this type of procedure, the buying organisation consults with its choice of suppliers and negotiates the contract with them (Office of Government Procurement, 2010).

5.1.2. Criteria for Contract Award

In 2014, the public procurement directive has replaced the dichotomy lowest price v MEAT by the MEAT as the sole mandatory rationale behind any award decision. The EU MEAT criteria in the award procedure ensure public procuring authority can put more emphasis on environmental consideration, quality, innovation or social aspects while taking into consideration the account of life-cycle costs and price of what good or service procured. The aim of MEAT is to put an end to the dictatorship of lowest price and make a quality central theme. Under MEAT, the awarding authority must specify the particular factors chosen for the contract in question and descending order of priorities. These factors must relate to specific contracts and used for evaluation of tender. The list factors for economically most advantageous criteria includes methodology proposed, quality and level of resources, project plan, aesthetic and functional characteristics, after sales services, technical merit and reliability of supply (Lundberg & Bergman, 2017).

The pre-defined qualification criteria are used to select candidates who are invited to submit a bid. The selection criteria are based on financial, technical and economic standing as well as professional ability. All requests for tender irrespective of contract

value should outline set of qualification that is used to evaluate tender received. For contract value below 25,000 Euro, it would be sufficient to include the request for quote that the tender will be evaluated based on price and following criteria (Bovis, 2016). The two procurement evaluation conditions are

- Lowest tender price for contract with value below 5,000 Euros, and
- Most Economically Advantages Tender (MEAT) based on specified criteria including cost and qualitative criteria factors.

5.1.3. Evaluation Methodologies

The identification of qualified supplier through whittled down a long list of suppliers for the contract is important. There are various approaches for supplier selection. However, buyer has to make number of decisions such as what quality criteria to include, how to weigh each quality dimension, how to score each dimension, overall quality score and how much weigh quality vs. price and lastly, formula to combine quality score and price into one overall score, so that bid can be ranked. The bid evaluation plays the critical role in procurement because allows to determine what is the Most Economically Advantageous Tender (MEAT) and address one aspect of bid evaluation formula known as the issue of ranking paradox (Hlavacova, Heralova, & Matejka, 2014).

The use of scoring rules to weight quality and price is common in the EU and there are three ways to use MEAT. Evaluation of bid through highest quality at a pre-defined rate, assigning a score to both quality and price or evaluating quality in monetary terms and then summing into these single score. Evaluating quality could open the process up to corruption because procuring authority exercise discretion in the selection process. In the procurement directives, article 53 and 55 restrict the basis of discretion because evaluation criteria need to explain beforehand (Faustino, 2017).

The evaluation is based on the weight of quality versus price has to be considered an ultimate decision has to make the formula to combine price and quality score into one overall score, so the bids can be ranked. Quality criteria are prioritized and listed through assigning weights to each criterion and then shown to the suppliers. The quality scores are calculated as the weighted sum of the score for each quality criteria. Only qualified suppliers can proceed from

selection to qualification to selection stage and high score in one criterion can compensate for a lower score in another criterion.

In the context of weightings and scoring system, the objective evaluation of tender depicts that award criteria should be measurable and thus, capable of quantifiable according to rules of the scoring system. There are two approaches for bid evaluation known as absolute and relative. The score calculation using absolute formula depends upon quality and price of given bid. On the other hand, the absolute formula for evaluation ignores information from submitted bid as a reference point. The three quality criteria besides price that can differentiate bid include Service level agreement (SLA), Technical capacity and corporate social responsibility (CSR) (Siderius & Raaij, 2015)

5.2. Case of Saudi Arabia

5.2.1. Tendering System

Alofi, Kashiwagi, Kashiwagi, and Sullivan (2016) described that for contracting practices in KSA, National Economy and Ministry of Finance has established a uniform Public Works contract Government regulation, bidding procedure, general terms and conditions, dispute and arbitration cost, financing and administrative policies and other items are explained in the Public Works contract. The government encourages the competitive bidding in order to give equal chance of bidding for all contractors to bid and ensure to achieve the least bid price.

Davis (2014) added that that under the Government Procurement Systems, there are three different types of purchasing methods in the government procurement system known as 'direct purchases', 'public procurement competitions' and 'specific purchases'. The bid is submitted using two-envelopes that involve submission of price and contractor justification. The range of factors that should be addressed under procurement law includes

- The description of the procurement including outcomes and specifications,
- The conditions for participation, direct contracting and listing of participants,
- The evaluation criteria that will be used in the procurement
- The risk assessment and indicative time-lines

- Special considerations and conditions which belong to specific procurement
- Financial arrangement for procurement process including value of bid guarantee and price of request documents.

5.2.2. Criteria for Contract Award

In Saudi Arabia, the tender system is based on three stages that are proposals submission, selection and proposal formulation. The quality is assured through pre-qualification system and conservative licensing. The pre-qualification system ensures a list of supplier or companies with reputation is maintained. The tenders awarded based on expert knowledge rather tender specifications. After the tender opening, the factors such as specification, price and technical capabilities are evaluated. Awards are made on lowest price along with comments from committee opening the tender (Giunipero & Flint, 2001). At the first stage, bidders submit a proposal on same place and time. Second, documents are submitted along with the financial security of 1-2% and thirdly, total price submitted in one paper. However, primary security is not required in case of direct purchases. The approval committee is made of manager and three people as well as a member of a reserve. The committee is re-formed every three years. In case of supplier failure to fulfil the contract with specified date, the financial guarantee is not traced to the vendor (Al-Hammadi, 2015).

Alhudaithy (2006) explained that the contracting public authority performs pre-qualification process because there is no central registration authority in KSA. The classification of the department of Ministry of Municipal and Rural Affairs propose these classifications. This includes classification related to entertainment, construction work and catering and maintenance of public authorities. However, this does not replace the pre-qualification process of tendering public authorities. For the implementation of contracts, the Ministry of Finance only accepts documents in Arabic. There are certain issues with nature of contracts in Saudi Arabia that contradicts with procurement principle of transparency and accountability (Saad, 2016). The government has expanded the use of unusual conditions and purchasing law and provision, which empower the Saudi government with privileges over the party. For example, the government unilaterally rescind or modify the contract. The power to extend or terminate the contract before the due date, perform the

contract at the contractor expenses, penalise the contractors and materials that are on the site to use to complete the work (Alhudaithy, 2011).

5.2.3. Evaluation Methodologies

The Ministry of public works classify the contractors based on qualification and experience along with their financial position into five grades license so that project is awarded to right contractor. Apart from 5-grade contractor classification, there is no requirement or procedure for bidding on public works except that bid must be awarded to lowest bidder. The committee members review the vendors' proposal. If all provided proposals are expensive than market prices, there are two ways to handle the situation. First, the committee members negotiate with vendors and supplier with lowest price proposal requested to reduce the price close to market price. Secondly, if committee members fail to find the proposal close to market price, then one of the project specifications are removed if the removal does not affect the project (Yaya, 2017). After drawing up of tender prices ranking, the opening committee sends the proposal to evaluation committee that examines each tender to analyse and evaluate that conditions and specification detailed in contract documents are met. In case of differences with the market price, procuring authority negotiates with tenderers to reduce the price or change their reservations. The evaluation committee not allowed negotiating any tender that does not conform to specifications and conditions in contract document (Alofi, Kashiwagi, Kashiwagi, & Sullivan, 2016).

VI. CROSS-CASE COMPARISON AND DISCUSSION

The procurement system in both countries is governed by effective legal and regulatory framework as mention Table 2. In Saudi Arabia, the public contracts are managed under Royal decree no M/58 and regulations are implemented under Ministry of Finance No 362 directives. On the other hand, in Ireland, the public system is managed and governed under national and EU procurement directives. In Ireland, public procurement regulations S.I 329 managed the contracts and implementation of procurement are managed under regulations implementation under European Directive (2004/18/EC). There is no centralised authority or body to

managed and monitor the public contracts in the KSA. On the other hand, Office of Government Procurement (OGP) in Ireland offers centralised support to manage the public contracts. In Ireland, the tender procedure includes open tendering, restricted tendering, negotiated and competitive dialogue under the EU directives. Conversely, the purchase types influence the tendering procedure. In KSA Saudi Arabia has 3 main types of procurement systems, with each system for special and unique items. Those systems are mainly public procurement competitions, direct purchases, and specific purchases

There are major differences exist in both systems in terms of the procurement process. In Ireland, the tendering involves two-stage process and their minimum standards to meet in terms of business and financial standing and technical capability. On the other hand, in the KSA, the contracting public authority performs pre-qualification process because there is no central registration authority in KSA. All qualified companies can bid however, bidding must be same place and time along with document in Arabic as well as the financial guarantee of 1-2% of total project value.

The criterion for contract award varies significantly in both systems. In Ireland, most Economically Advantages Tender (MEAT) based on specified criteria including cost and qualitative criteria factors includes methodology proposed, quality and level of resources, project plan, aesthetic and functional characteristics, after sales services, technical merit and reliability of supply. Oppositely, in KSA, approval committee makes the selection based on lowest price and minimum two contractors are the must. In the final step the contracts are awarded to lowest bid based on approval of authority responsible for the tender process. Negotiations are made to get better price bid.

The supplier evaluation and methodologies processes have major differences. In Ireland, buyer has to make number of decisions such as what quality criteria to include, how to weigh each quality dimension, how to score each dimension, overall quality score and how much weigh quality vs. price and lastly, formula to combine quality score and price into one overall score, so that bid can be ranked. The two approaches for bid evaluation known as an absolute and relative method. In contrast, in KSA, the contracts authority still relies on cost criteria without a significant prequalification process.

Term and purchase labour contract and unit price and 5-grade contractor classification for supplier evaluation.

Finally, under the Lowest Price system quality of the product or service is given minimal considerations and the focus is on the price. On the contrary, under the MEAT system, the selection committee takes the price and quality into consideration when selecting the awarding bid. However, the best value for money may not be achieved simply by accepting the least expensive offer. Although the initial purchase cost might be lower, the subsequent costs, mainly operational and maintenance costs may be significant. In Ireland, the Life Cycle Costing is used to some extent where each stage of the process is evaluated to gauge a better understanding of the overall costing of the project. On the other hand, in Saudi Arabia, the Life Cycle Costing principle is given little consideration, due to the fact that the tender is awarded to the lowest price bid. The subsequent costs may be higher leading to budgetary overruns. Table 2 below summarizes the comparative analysis of legal, processes, evaluation and award criteria in both countries, Ireland and KSA.

TABLE 2
Comparative Analysis

Description	Ireland	Saudi Arabia
Legal Framework	Member of (GPA) WTO EU Directives 2004/18/EC 2004/17/EC 2009/81/EC 2014/24/EU 2014/25/EU 2014/23/EU National Laws (OGP)	Not a member of (GPA) WTO Royal Decree No.M/53 4 Ramadan 142/H/27 September 2006, Government Tenders and Procurement Law Implementation Regulations , Minister of Finance Decision No. 362, dated 20/2/1428H/10 March 2007
Procedures	Opening tendering Restricted Competitive Dialogue Negotiated	Single, Open, Limited Negotiated Direct purchase, public procurement competitions and specific purchases
Request for Tender	E-Tender Electronic daily and Official Journal of European Union	Special invitations and newspapers GAZET E Tender 2016

TABLE 2 (Continued)

Description	Ireland	Saudi Arabia
Proces	<p>Pre-Tendering phase Involves the preparation of the project and preliminary market consultation by the contracting authority</p> <p>Tendering Procedure Determine whether the EU Threshold is crossed. Prepare Tender documentation Publish Tender advertisement Evaluate expression of interest Notify Bidders of outcome Award Contract Contract Management: execute, monitor and manage contract</p>	<p>Proposal Submission Phase: Announce pre-bid meeting date, deadline and location Receive the sealed envelopes containing the bids</p> <p>Selection Phase Evaluation committee reviews offers The lowest prices is compared to the market price If the market price is still lower than the tender bid , the lowest bidder is negotiated with</p>
Criteria for Contract Award	<p>Most Economically Advantageous Tender (MEAT) based on special criteria including cost, and qualitative criteria including methodology proposed, quality and level of resources proposed, project plan, aesthetic and functional characteristics, after sales service , technical and reliability of supply</p>	<p>Selection based on lowest price and a minimum of two contractors Contracts are awarded to lowest bid based on approval of authority responsible for the tender process. Negotiations are made to get a better price</p>
Performance	<p>In 3 years OGP has successfully saved in excess of €160 million OGP reported that 66 % of the public procure-ment was with SME's OGP also pushed for the progress of environ-menttal , innovative and social goals through procurement</p>	<p>Difficulty maintaining the competitiveness during the tendering process The length of the tendering process is too long to stay effective Local firms are given preference even if their bids are up to 10% higher</p>

VII. CONCLUSION

The comparison and evaluation of Ireland and Saudi Arabia procurement systems have highlighted interesting similarities and differences. In case of Ireland, there is public procurement regulation 329 (2006) but the implementation and operations of public procurement function are managed under EU directives. The tender procedures include open, restricted and competitive as described in the EU public procurement directives. The tender system is based on competitive procurement and prequalification of the supplier is important to meet minimum standards to meet in terms of business and financial standing and technical capability.

The award criteria are based on the Most advantageous tender (MEAT) and bids are evaluated based on qualitative criteria factors. The scoring system is managed through either absolute or relative approach that allows calculating the score for the supplier. On the other hand, Saudi Arabia public procurement systems are governed by Royal Decree no M/58. The approval committee makes the selection decision based on lowest price and minimum two contractors are must. The supplier evaluation is based on 5-grade contractor classification and government use four types of contracts to manage the project. In Ireland, the supplier evaluation is based on MEAT, which presents quality and price evaluation paradox for award committee.

Finally, clear that the quality and price awarding system has the upper hand in public procurement as compared to the price only awarding system. Considering the primary purpose of public procurement is to enable a procurer to attain value for money, the quality and price criterion thus stands to offer better performance for a country which will consequently result not only in an increase in the economic growth but also ensure value for money. The tendering procedures are similar in both countries but supplier evaluation, supplier evaluation and award criteria varies significantly. Finally, the procurement system in Saudi Arabia will have to be changed to incorporate additional elements, such as quality consideration and easing regulations—especially for international companies who wish to gain access to the Saudi market.

NOTES

1. According to the OECD (2009), approximately 8 to 25% of the GDP of its members and 16% of EU countries are attributed to public procurement.
2. Official Translation Department, Bureau of Experts at the Council of Ministers, Riyadh.

REFERENCES

- Al-Hammadi, S. (2015). "An Investigation into Current Tendering Process in Saudi Construction Projects." Paper Presented at the International Construction Specialty Conference of the Canadian Society for Civil Engineering (ICSE), 5th International / 11th Construction Speciality Conference, Vancouver , British Columbia, June 8 to June 10.
- Alhazmi, T., & McCaffer, R. (2000). "Project Procurement System Selection Model." *Journal of Construction Engineering and management*, 126(3): 176-184.
- Alhudaithy, I. (2011). "Legal Analysis of the New Saudi Procurement Regulations." *Arab Law Quarterly*, 25: 103-114.
- Alhudaithy, I. M. (2006). *Rights of Tenderers and Contractors under Saudi Public Procurement Contract Regulations: A Comparative Study with England and Wales*. (These). Durham, UK: Durham University.
- Alofi, A., Kashiwagi, J., Kashiwagi, D., & Sullivan, K. (2016). "An Analysis of the Current Procurement System in Saudi Arabia." Paper Presented at the 52nd ASC Annual International Conference, January 2016, Provo, Utah, USA
- Bianchi, T., & Guidi, V. (2010). *The Comparative Survey on the National Public Procurement Systems across the PPN*. Rome, Italy: Department for the Coordination of European Union Policies. [Online]. Available at http://www.forum-vergabe.de/fileadmin/user_upload/Weiterfuehrende_Informationen/Comparative_survey_on_PP_systems_across_PPN.pdf. (Accessed on 30th June 2018).

- Bochenek, J. (2014). "The Contractor Selection Criteria in Open and Restricted Procedures In Public Sector in Selected EU Countries." *Procedia Engineering*, 85: 69-74.
- Bovis, C. (2012). *Public Procurement Law*. London, UK, Edward Elgar Publishing.
- Bovis, C. (2016). *Research Handbook on EU Public Procurement Law*. London, UK, Edward Elgar Publishing.
- Budak, J., & Rajh, E. (2014). "The Public Procurement System: A Business Sector Perspective. In J. Budak & E. Rajh (Eds.), *Economic Development and Entrepreneurship in Transition Economies* (pp. 73-90). Cham, Switzerland: Springer. [Online] Available at https://www.eizg.hr/UserDocsImages/publikacije/serijske-publikacije/radni-materijali/The_Public_Procurement_System-A_Business_Sector_Perspective.pdf (Accessed on 30th June 2018).
- Bureau of Experts at the Council of Ministers (2009). *Translation of Saudi Laws: Government Tenders And Procurement Law*. [Online]. Available at <https://www.boe.gov.sa/?lang=en>. (Accessed 30th June 2018).
- Carbonara, N., Costantino, N., & Pellegrino, R. (2015). "A Model for Designing the Tendering Process in Public-Private Partnerships." *Procurement and Law*, 168(3): 146-156.
- Chan, A.P.C., Scott, D., & Lam, E.W.M. (2002). "Framework of Success Criteria for Design/Build Projects." *Journal of Management in Engineering*, 18(3): 120-128.
- Chen, T. H. (2008). "An Economic Approach to Public Procurement." *Journal of Public Procurement*, 8(3): 407-430.
- Cunningham, T, (2015) *Tender Documentation for Construction projects and Overview*. Dublin, Ireland: DIT.
- Davis, P. (2014). "Procurement and Foreign Direct investment (FDI)." (White Paper). SAGIA.
- Department of Finance (2005). *Commonwealth Procurement Guidelines*. [Online]. <https://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules>. (Accessed on 11 January, 2018).

- Dimitri, N. (2013). "Best Value for Money In Procurement." *Journal of Public Procurement*, 13(2): 149-175.
- Edquist, C., & Zabala-Iturriagagoitia, J. M. (2012). "Public Procurement for Innovation as Mission-Oriented Innovation Policy." *Research Policy*, 41(10): 1757-1769.
- European Commission (2018a). *Legal Rules and Implementation*. [Online]. Available at http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation_en.
- European Commission (2018b). *Public procurement – Study on Administrative Capacity in the EU*. [Online]. Available at http://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/ie.pdf
- Faustino, P. B. (2017). *Public Procurement Award Criteria in the EU Member States: A Comparative Study of the Discretionary Powers of Contracting Authorities*. (Dissertation), Nottingham, UK: University of Nottingham.
- Flynn, A. & Davis, P. (2014). "Theory in Public Procurement Research." *Journal of Public Procurement*, 14(2): 139-180.
- Freeman E. R. [1984]. *Strategic Management: A Stakeholder Approach*. Boston, MA: Pitman.
- Freeman, R. E., Harrison, J. S., Wicks, A. C., Parmar, B. L., & De Colle, S. (2010). *Stakeholder Theory: The State of the Art*. Cambridge, UK: Cambridge University Press.
- Giunipero, L., & Flint, D. J. (2001). "Purchasing practices in Saudi Arabia – An Exploratory Analysis." *International Journal of Physical Distribution & Logistics Management*, 31(9): 686-704.
- Graells, A. S. (2015). *Public Procurement and the EU Competition Rules*. London, UK, Bloomsbury Publishing.
- Hackett, M. (2016). *The Aqua Group Guide to Procurement, Tendering and Contract Administration*. NY: John Wiley & Sons.
- Hanak, T., & Muchova, P. (2015). "Impact of Competition on Prices in Public Sector Procurement." *Procedia Computer Science*, 64: 729 – 735.

- Harrison, A., & Hoek, R. I. v. (2011). *Logistics Management and Strategy: Competing through the Supply Chain* (4th ed.). Englewood Cliff, NJ: Financial Times Prentice Hall.
- Hlavacova, A., Heralova, R. S., & Matejka, P. (2014). "The Evaluation Criteria in Public Procurement." Paper Presented at the Construction Maeconomics Conference. 9th October , 2014, Prague, Czech Republic.
- Hossain, M. (2015). "Getting Value for Money from Public Procurement. (Dissertation) Mohakhali, Dhaka, Bangladesh, Brac University.
- Ibn-Homaid, N. T. (2005). "An Evaluation of the Saudi Contract for Public Works." *J. King Saud University*, 18(2): 181-196.
- Johnston, M. P. (2017). "Secondary Data Analysis: A Method of Which the Time Has Come." *Qualitative and Quantitative Methods in Libraries*, 3(3): 619-626.
- Khan, N. (2018). *Public Procurement Fundamentals: Lessons from and for the Field*. London, UK: Emerald Group Publishing, <https://www.emeraldinsight.com/doi/full/10.1108/978-1-7875-4-605-920181007>. (Accessed on June 30, 2018).
- Knight, L., Harland, C., Telgen, J., Thai, K. V., Callender, G., & McKen, K. (2012). *Public Procurement: International Cases and Commentary*. London, UK: Routledge.
- Korytarova, J., Hanak, T., Kozik, R., & Radziszewska-Zielina, E. (2015). "Exploring the Contractors' Qualification Process in Public Works Contracts." *Procedia Engineering*, 123: 276-283.
- Kurakaew, N., Kokkaew, N., & Sukswan, N. (2016). "The Analysis of Value-for-Money (VfM) for Public Private Partnership Infrastructure: A Public Sector Comparator Approach." *WMS Journal of Management*, 5(1): 26-39.
- Lember, V., Kattel, R., & Kalvet, T. (2013). *Public Procurement, Innovation and Policy: International Perspectives*. Champ, Switzerland: Springer Science & Business Media
- Love, P. E. D., Davis, P. R., & Baccarini, D. (2010). "Dismantling the Public Sector Bastion: Evaluating Capital Works." *The International Journal of Public Sector Management*, 23(3): 188-202.

- Lundberg, S., & Bergman, M. A. (2017). "Tendering Design When Price And Quality Is Uncertain." *International Journal of Public Sector Management*, 30(4): 310-327.
- McCue, C. P., Prier, E., & Swanson, D. (2015). "Five Dilemmas in Public Procurement." *Journal of Public Procurement*, 15(2): 177-207.
- Neuman, W. L., & Robson, K. (2014). *Basics of Social Research*. Toronto, Canada: Pearson.
- Nijboer, K., Senden, S., & Telgen, J. (2017). "Cross-Country Learning in Public Procurement: An Exploratory Study." *Journal of public procurement*, 17(4): 449-482.
- Office of Government Procurement (2010). *Public Procurement Guidelines - Competitive Process*. Dublin, Ireland: Author. [Online]. Available at http://etenders.gov.ie/Media/Default/Page/Public_Procurement_Guidelines_-_Competitive_Process_2010.pdf. (Accessed on June 30, 2018)
- Orlikowski, W.J. (1992). "The Duality of Technology: Rethinking the Concept of Technology in Organizations." *Organization Science*, 3(3): 398-427.
- Parmigiani, A., Klassen, R.D., & Russo, M.V.(2011). "Efficiency Meets Accountability: Performance Implications of Supply Chain Configuration, Control, and Capabilities." *Journal of Operations Management*, 29(3): 212-223.
- Piga, G., & Treumer, S. (2013). *The Applied Law and Economics of Public Procurement*. London, UK: Routledge.
- Pinto, J.K., & Slevin, D.P. (1988). "Critical Success Factors across the Project Life Cycle." *Project Management Journal* 19 (3): 67-75.
- Ragin, C. C. (2014). *The Comparative Method: Moving beyond Qualitative and Quantitative Strategies*. Berkeley, CA: University of California Press.
- Reeves, E., Palcic, D., & Flannery, D. (2015). "PPP Procurement in Ireland: An Analysis of Tendering Periods." *Local Government Studies*, 41(3): 379-400.

- Rihoux, B., & Ragin, C. C. (2009). *Configurational Comparative Methods: Qualitative Comparative Analysis (QCA) and Related Techniques*. Thousand Oaks, CA: Sage Publications.
- Romodina, I., & Silin, M. (2016). "Perspectives of Introduction of Sustainable Procurement in Public Procurement in Russia." *Oeconomia Copernicana*, 7(1): 35-48
- Saad, Y. G. (2016). "Antifragilizing Public Procurement Systems: A Paradigm Shift." *Journal of Public Procurement*, 16(4): 419-453.
- Sarkis, J., Zhu, Q., & Lai, K.H. (2011). "An Organizational Theoretic Review of Green Supply Chain Management Literature." *International Journal of Production Economics*, 130(1): 1-15.
- Siderius, J., & Raaij, E. M. (2015). "A Comparative Study of Formulas for Choosing the Economically Most Advantageous Tender." Erasmus, The Netherlands: Rotterdam School of Management, Erasmus University.
- Silverman, D. (2016). *Qualitative Research*. Thousand Oaks, CA: Sage Publications.
- Stilger, P. S., Siderius, J., & Raaij, E. M. (2017). "A Comparative Study of Formulas for Choosing the Economically Most Advantageous Tender." *Journal of Public Procurement*, 17(1): 89-125.
- Thai, K. V. (2009) (Ed.). "International Handbook on Public Procurement. Boca Raton, FL: CRC Press.
- Thai, K. V. (2016). *International Public Procurement: Innovation and Knowledge Sharing*. Cham, Switzerland: Springer.
- Webster, J. (1995). "Networks of Collaboration or Conflict? Electronic Data Interchange and Power in the Supply Chain." *The Journal of Strategic Information Systems*, 4(1): 31-42.
- Woodside, A. G. (2010). *Case Study Research: Theory, Methods, Practice*. London, UK: Emerald Publishing Group.
- WTO (n.d.). *Government Procurement Gateway*. [Online]. Available at https://www.wto.org/english/tratop_e/gproc_e/gproc_e.htm. (Accessed March 22, 2018).
- Wu, D.D., Chen, S.H. & Olson, D.L. (2014). "Business Intelligence in Risk Management: Some Recent Progress." *Information Sciences*, 256: 1-7.

- Yaya, R. (2017). "Twelve Years of Scottish School Public Private Partnerships: Are They Better Value for Money?" *Journal of Public Procurement*, 17(2): 187-228.
- Zorzini, M., Hendry, L.C., Huq, F.A., & Stevenson, M. (2015). "Socially Respon-Sible Sourcing: Reviewing the Literature and its Use of Theory." *International Journal of Operations & Production Management*, 35(1): 60-109.