

PROCUREMENT REFORM IN SIERRA LEONE: A PUBLIC CHOICE MODEL OF ANALYSIS

Farrel J. Elliott*

ABSTRACT. In September 2003, the Government of Sierra Leone launched a programme of procurement reform. To date, a number of innovative approaches have been employed to guide the policy-making of the high-level Procurement Reform Steering Committee. These included, a Spend Analysis, consultative meetings and workshops, and contracting out of the development of a new procurement law. Consequently, the outcomes of the procurement reform process are expected to be, a new framework of interlinked institutions, professionalisation of the procurement function and economic efficiency. By using public choice as an analytical framework the paper argues that, a reduction in efficiency losses and real or perceived corruption by rent-seeking public officials will be the most crucial test of the success of the reform.

INTRODUCTION

In industrialised economies, societies in transition and in developing countries, the theme of procurement reform has been identified as a valuable tool of public fiscal discipline. The change models employed by governments have ranged from reorganising system-wide purchasing practises, such as the introduction of e-procurement or purchasing cards, capacity building at various strata of the public service, and the introduction of legal and regulatory instruments (Hunga). When the policy of procurement reform was initiated in Sierra Leone, public financial management was regulated by codes three decades old, and recurrent budgetary deficits a common feature of the economic landscape. As the country was being rehabilitated from a decade-long civil conflict, it was imperative that economic -----

** Farrel J. Elliott, MSc candidate, University of Maastricht, Netherlands, is the Assistant to the Executive Secretary, Procurement Reform Secretariat, Freetown, Sierra Leone. He is particularly interested in public sector reform and the policy dimensions of organizational change.*

recovery should be championed by a well-managed expenditure framework. With the process currently well under-way in Sierra Leone, it is the objective of this paper to provide an analysis of the reform experience using Public Choice as a theoretical model.

PUBLIC CHOICE AS AN ANALYTICAL FRAMEWORK

Public procurement is a function of the allocation of resources. As a natural outcome of the budgeting process, dealing especially with non-wage recurrent expenditure, public procurement serves to manage the interface between governance and public financial management. The paper argues therefore, that in order to analyse the costs and benefits of the political economy of reform, public choice theory provides a suitable heuristic model. As Public Choice deals with decisions of political economy, and procurement reform targets market and non-market spheres of activity, it should be considered that the motivational factors that guide economic and political behaviour could be also applied in this context.

The first considerations of economic behavior relates to incentive mechanisms. Indeed it would be prudent to ask, what the incentives there are for the various stakeholders public and private, in the Sierra Leonean context to either support the reform process, or alternatively attempt to stifle its progress by trying to maintain the status quo. Due to the inherent system weaknesses owing to weak regulatory oversight of economic activity in Sierra Leone, opportunities abound for moral hazing and free riding particularly in the management of procurement contracts (Thai, 2003). The perception of corruption by public officials and also the business class is very high in Sierra Leone, with an overall rank of 113 out of 133 countries surveyed, and a Corruption Perception Index of 2.2, on a scale of 10 highly clean and 0 highly corrupt (Transparency International, 2003).

The policy reform model employed in Sierra Leone attempts to provide structural reform through the means of a legal and regulatory framework, and a capacity building strategy. The legal instrument to be employed is the drafting of a comprehensive legislation based on the UNCITRAL model law on procurement of Goods, Works and Services. Such legislation has been promulgated in a number of countries working on procurement reform, especially in transition

economies (Hunga). This development must be taken in context with similar work presently being done which would impact the procurement reform process, such as the drafting of an Organic Budget law and proposals to amend sections of the Anti-Corruption Act of 2001.

A caveat must be sounded that the introduction of legislation regardless of its comprehensive features should not be viewed as a panacea for the ills of the current procurement system. Successful implementation of the reform agenda would depend greatly on the support of political change agents, as well as strong legislative instruments. Although the distribution of power hegemonies have been largely responsible for the dysfunctional nature of the African political space, it is difficult to see how any meaningful change could be wrought without the cooperation of the political and higher administrative class. The probability is therefore very strong that some of the gains the reform programme in Sierra Leone could be attributed to the high-level leadership of the Procurement Reform Steering Committee, which is chaired by the Vice-President. The challenge for the reform programme management is to build an agenda as inclusive as possible.

The shortfall of depending solely on legislation as a vehicle for reform could be seen in the example of The Anti-Corruption Commission (ACC), which was created as a result of the Anti-Corruption Act of 2001, but which has only been able to boast of a mixed account in its work against corruption. Due to a legal technicality the ACC had to previously refer all cases for prosecution to the Attorney General's Office. This was viewed in some quarters as being responsible for the slow process of prosecution of corruption cases. However, an initiative from the Department for International Development in the United Kingdom has bought about the funding of an expatriate judge solely for matters of corruption.

The issue of weak incentive mechanisms could also impact the capacity building strategy that forms an integral aspect of the Sierra Leone's procurement reform change model. The main objective of the capacity building strategy is to train a class of procurement specialists that would service the public sector. However, two issues are evident here; firstly such a policy would only appeal to young professionals if a distinct career path were created in the public service. The current bias for generalists in the service to have a faster promotion track might be resolved by the proposals by the Commission on the Senior Executive

Service to open up the civil service at different entry points at executive levels. Secondly the question of salary levels is also a key to strengthening the accountability framework. With a per capita income of 140 US\$, Sierra Leone ranks in the lowest 30th percentile of Low Income Countries (World Bank), yet, public procurement in 2002 accounted for US\$200 million, of which 85 % were transactions below US\$5000, conducted mainly by informal shopping methods, and were not subject to tenders (Significant, 2003). The opportunities for leakages are self-evident.

METHODOLOGY

The methodology of this paper was based on two main sources of data: the reviewing of the studies commissioned for the reform programme, such as the 2003 Spend Analysis, reports by consultants appointed by the Reform Programme management and the World Bank Country office in Sierra Leone, and focus interviews with key stakeholders

The scope of the studies done by the consultants working for the reform programme ranged from procurement policy formulation to capacity assessments at the macro and microenvironments of the procurement function in the public sector, an institutional analysis and the framework of a regulatory regime, which comprised of standard documents for public procurement, and a draft bill based on the UNCITRAL model law. The World Bank initially intended to do a Country Procurement Assessment Review (CPAR) for consultants were also contracted. However, a full CPAR has been slated for 2006 by which time it is expected that the bill would have become law and a first post-implementation phase for the new procurement law entered into. The result of the study was an Issues Paper.

The second source of data was interviews with stakeholders in public procurement both in the private and public sectors. These interviews were to determine the scale and scope of procurement, issues of specific concern on the efficiency of service delivery and to provide a representative sample of the main players in the field of public procurement in Sierra Leone.

A total of 23 institutions were visited within a period of two weeks. These public institutions accounted for approximately 85 % of the sum total of government procurement in 2003 (Significant, 2003). The

membership of the primary private sector institution contacted, namely the Chamber of Commerce, Industry and Agriculture accounts for 200 registered medium to large-scale businesses in Sierra Leone.

THE REFORM EXPERIENCE IN SIERRA LEONE

Multi-donor resources and Government counterpart contributions fund the Procurement Reform Programme in Sierra Leone. Although the reform programme is government owned, the Executive Secretariat was set up by the United Nations Development Programme, and funding for consultancies were made available from credit reallocations from the World Bank Transport Sector Project (Credit 2895-SL). Some other institutional donors have also expressed an interest in funding downstream work after the implementation of the procurement law.

The Government of Sierra Leone launched the programme of procurement reform in September 2003. However, prior to this in 2001 the World Bank Senior Procurement Specialist based in Accra, Ghana had held a couple of meetings with senior officials in the Ministry of Finance and the Central Tender Board in order to explore options for reform. Interestingly, since then the institutional framework for public procurement in Sierra Leone has gone through a number of transformations: viz, Procurement under the Old Central Tender Board (CTB). This was a highly centralized system, as shown in Tables 1, 2, 3 and 4. For all practical purposes, the CTB was not responsive to the demands of procurement in 21st century Sierra Leone. It was structurally deficient in staffing and make-up, and could only effectively process 29% of the 2002 annual procurement spend (IAPSO, 2003) the remaining 71% slipping past the system through splitting of invoices and such like.

Table 2 shows the functioning of public procurement after the suspension of the Central Tender Board, which was a knee-jerk reaction of the Government to the adverse media reports of the malfunctioning of the CTB and the allegations of complicity of certain public officials. In March 2003, a directive from the Office of the Vice-President terminated the CTB. A Procurement Reform Steering Committee incorporating the four main institutional donors (UNDP, EU, DFID and the World Bank), and the Ministers of Finance and Development and Economic Planning, and the Office of the President, was also formed in this month by a decision of the Cabinet. A task force was created as a sub-unit of the

TABLE 1
Procurement under the Old Central Tender Board

Central Tender Board	Processed procurement requests from inception to contracting. Tremendously overburdened and had minimal oversight authority. Process framework very inefficient. Membership in Board was a part-time function for senior government officials.
Line Ministries, Department and Agencies	Would submit requests to the CTB. Were very much removed from the whole process.

TABLE 2
Procurement after the Suspension of the Central Tender Board

Task Force at Office of the Vice President	Processed procurement requests from inception to contracting.
Central Tender Board staff	Provided secretarial support to the Task Force.
Line ministries, Department and Agencies	Submitted requests to the Task Force.

Procurement Reform Steering Committee to process procurement requests. However, this due to weak procurement capacity, this resulted in even more leakages and very unfavourable publicity. The donor community also, was not very comfortable with these arrangements.

Tables 3 and 4 show the frameworks for public procurement under the Interim arrangement of the Procurement Reform Executive Secretariat and probable framework for public procurement after the passing of the procurement law. The Interim framework provides for the creation of a dedicated unit for the purposes of assisting procuring entities with their

TABLE 3
Procurement under the Interim Arrangements of the Reform Secretariat

Procurement Reform Executive Secretariat	Executive Secretariat provides an oversight function, and acts an information resource on Procurement reform and procurement capacity building and policy making
Public Procurement Board	Reviews submissions from the Interim Central Procurement Unit and recommends or disallows award.
Interim Central Procurement Unit (ICPU)	Processes procurement requests from uncertified MDAs
Line Ministries, Department and Agencies	Are responsible for all procurement plans and in the cases of certified entities, would be required to process all procurement. A policy objective of empowering decentralised procurement is pursued.

TABLE 4
Probable Framework for Public Procurement after the Passing of The Law

Public Procurement Authority	Would function as an autonomous policy making, and oversight authority on issues of public procurement
Complaints and Arbitration Body	Current suggestions are either to beef-up the quasi-judicial role of the Office of the Ombudsman, or alternative create a separate office for such cases
Public Procurement Board	This body would only meet to deliberate on mega contracts. This would enhance transparency and ensure buy-in form all stakeholders.
Line ministries, Departments, Agencies, Districts and Local Councils	Would be expected to operate in a fully decentralised scenario and to handle all procurement in-house.

procurement and building capacity so that a fully decentralised procurement system could be instituted at the levels of the line ministries, departments, subvented agencies, districts and local councils.

RESULTS AND CONCLUSIONS

There were some issues that had a significant influence on the manner in which the procurement reform programme in Sierra Leone evolved. These are discussed briefly in this section. The first was the IAPSO management contract. In December 2002, an exploratory mission from IAPSO visited Sierra Leone to initiate the agenda for reform. The team leader was the former director of the organisation who had succeeded in transforming IAPSO into a profit oriented, self-financing body within the United Nations system. However, the early departure of this individual was perceived as a set-back to IAPSO change management strategy. Within the analytical model of public Choice, the process framework of institutional change is best served by consensus. The IAPSO change model, was a recommendation to outsource a portion of the procurement volume, concurrently build capacity in the procuring entities and work on the legal and regulatory framework.

However, it was the issue of “Outsourcing” that became very political and sensitive that after two consultative policy analysis workshops, and recommendations from independent consultants, had to be put on hold. The lack of consensus on Outsourcing (which could be partially blamed on a lack of a thorough understanding of the applicability of the concept), therefore meant that the IAPSO strategy had to be redone. The result of this was the creation of document by IAPSO, the Procurement Reform Secretariat and representation from the policy analysis workshops to regularise the procurement environment until a comprehensive law was enacted.

Some of the issues identified in this paper go beyond the scope of the procurement reform being pursued by the Government of Sierra Leone. Thus, there is need for harmonisation of the work being done in other sectors such as in legal reform, the reform of the civil service and the financial management reforms that will impact the future of development aid to Sierra Leone. The Sierra Leone experience has shown that reform policy should be dynamic, responding to the needs of a larger society and also the demands for system efficiency. At the end of the exercise, the value added to public procurement as a process of resource allocation,

would be judged by these same indicators, economic efficiency, economy or value for money, and equity.

REFERENCES

- Hunga, R. *Obstacles to Procurement Reform in Developing Countries*.
- Inter-Agency of Procurement Services Office (2003). *Capacity Assessment Report 2003*. Copenhagen, Denmark: Author.
- Significant (2003). *Spend Analysis*. Twente, Netherlands: Author.
- Thai, K. (2003). *Report on Mission to Sierra Leone*. Copenhagen, Denmark: InterAgency of Procurement Services Office.
- The Government of Sierra Leone (2001). *Anti-Corruption Act of 2001*
- The Government of Sierra Leone (1963). *The Financial Orders*
- Transparency International. (2003). *Corruption Perceptions Index*. [Online]. Available at [www](http://www.transparency.org).
- World Bank, Africa Region. *Draft Issues Paper on Public Procurement in Sierra Leone*.