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POLICIES, PRINCIPLES AND PROCEDURES FOR CONSTRUCTION PROCUREMENT IN THE PUBLIC SECTOR OF MALAYSIA

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ABSTRACT
The Government is the largest single client for construction in Malaysia. Using this commanding position, the Government formulated policies, principles and procedures that aim to achieve value for money. In addition, through its procurement policies the Government aims to stimulate socio-economic growth and development. The paper begins by providing a snapshot on the construction industry of Malaysia. It then outlines the Government of Malaysia's policies, principles and procedures for procurement. In the concluding section, factors that should be considered by a project manager intent on managing construction projects in the public sector of Malaysia are outlined.

KEYWORDS
Construction, Malaysia, Policies, Procurement, Public Sector

1. INTRODUCTION

The Government of Malaysia is the largest single client for construction in Malaysia. For instance, in 1999 they spent RM22.46 billion (US$5.9billion; US$1=RM3.80) or 52% of total investment in construction in Malaysia (CIDB, 2000). Using this commanding position, the Government of Malaysia is able to develop policies, principles and procedures for construction procurement that supports Malaysia's social and economic policy.

This paper reports on a study on the policies, principles and procedures in construction procurement in the public sector of Malaysia. The key objectives of the paper are:

1. To provide a snapshot on the construction industry of Malaysia;
2. To provide a broad outline of the Government of Malaysia's policies, principles and procedures for procuring construction works pertaining to the process of tendering and appointment of contractors; and
3. To outline the key factors for consideration by project managers intend on managing construction projects in the public sector of Malaysia.

This paper is the outcome of a desk study relating to the policies, principles and procedures in construction procurement in the public sector of Malaysia.

2. THE CONSTRUCTION INDUSTRY OF MALAYSIA

The construction industry of Malaysia comprises of a myriad of activities and a variety of persons and organizations. The following is a snapshot on the construction industry of Malaysia.

2.1 Types of Construction

The Malaysian Industrial Classification (MIC, 1972; updated 1979) classifies the construction industry of Malaysia into two broad categories: (1) general contracting; and (2) special trade contracting. General contracting covers residential, non-residential, civil and engineering construction. Special trade contracting covers specialist works such as electrical and mechanical installations. The said classification forms basis in data collections on revenue, cost, employment and payment and their geographical breakdown of the construction sector in Malaysia. Table 1 indicates the size of the different types of construction.

Table 1: Types of Investment (total investment for 1983: RM25,213million)

Types	Percentage share
Residential	11
Non-residential	12
Other Construction	28
Other investments	49
Total	100
Source: United Nations, 1994	

2.2 Size of the Construction Industry

The size of the construction industry of Malaysia may be indicated by the value of construction output per year; construction's contribution to Gross Domestic Products (GDP); construction's share to Gross Fixed Capital Formation (GFCF) and construction's share of employment. Table 2 provides statistics to indicate the size of the construction industry of Malaysia and its movements over a period of time in terms of the said indicators.

Table 2 – Size of the Construction Industry

Indicators	Size	
Value of output	1971:RM658,452;	1999:RM43,209,000
Value of GDP	1971:RM430,000;	2000:RM7,137,000
Share of GDP	1971:4.1%;	2000:3.1%
Share of GFCF	1983:50.9%	
Share of employment	1975:160,000 (4.0%);	2000: 828,000 (9.27%)
Source: Ministry of Finance Malaysia (1988 – 2000)		

2.3 Activities of the Construction Industry

The principal activity of the construction industry of Malaysia is to design, construct and commission construction products in terms of the finished buildings, all civil engineering works and the repair and maintenance of existing facilities. Its core business therefore is in the process of construction procurement. The process of construction procurement encompasses the following key activities:

1. Initiation/promotion
2. Funding
3. Design
4. Statutory approval
5. Tendering
6. Construction
7. Allocation of risk

A detailed discussion on the processes of construction procurement in Malaysia is available in Abdul Rashid (1998).

2.4 Key Players of the Construction Industry

The key players of the construction industry of Malaysia and their main roles and functions are:

1. Architects: to provide services in architectural design and supervision for building works;
2. Civil and Structural Engineers: responsible for designing the structural aspects of a facility and to design and supervise the construction of building/civil engineering works;
3. Mechanical and Electrical Engineers: responsible for the design, supervision and construction of services such as air-conditioning, lift, electrical services, etc;
4. Quantity Surveyors: to act as financial controller throughout the duration of the building/civil engineering works. Other functions of the quantity surveyor include cost planning and cost control, tender documentation, to call, evaluate and to award tender to the successful contractor, valuation of interim payments, preparation of final account and in contract administration.
5. Contractors: the main contractor is responsible for the actual construction and completion of the project.

Others that may be added to the above list include land surveyor, town planner, interior designer, landscape architect and specialists in areas such as geo-technical, environmental engineering, traffic planning and acoustic engineering.

The roles and functions of the above mentioned key players of the construction industry of Malaysia relate to the traditional system of construction procurement. In the non-traditional system of construction procurement such as the design and build or turnkey, the responsibility for the design and construction of the project lies with the contractor. In this instance, the contractor may employ architects, engineers and quantity surveyors to assist him in designing and in the construction and completion of the project.

Table 3 provides statistics on the key players of the construction industry of Malaysia.

Table 3 – Key Players of the Construction Industry of Malaysia, 1996 (registered by the respective Boards)

Profession	Membership	Firms
Architecture	1,987 *(1997)*	661
Engineering	12,233	250
Quantity surveying	1,263	178
Registered Contractors	-	39,340 *(1999)*

The practice of almost all consultants in Malaysia is governed by the respective professional institutions and is subjected to various statutory rules and regulations administered and enforced by the respective Boards. For example the Quantity Surveyors are governed by the provisions relating to ethics and code of professional conduct drawn by the Institution of Surveyors Malaysia and are subject to statutory rules and regulations that are administered and enforced by the Board of Quantity Surveyors Malaysia. The rules and regulations cover such areas as registration, de-registration and re-registration requirements, scale of fees, consultancy services and practices. Only individuals and firms registered with the respective Boards are permitted to provide consultancy services in Malaysia.

3. THE GOVERNMENT OF MALAYSIA'S POLICIES, PRINCIPLES AND PROCEDURES FOR CONSTRUCTION PROCUREMENT

The Government of Malaysia has developed since independence in 1959 an elaborate set of policies, principles and procedures on construction procurement that are based primarily on law. However, other factors including history, social and economy have contributed towards the current rules on construction procurement.

The focus of the paper is on the process of tendering and appointment of contractors from the perspective of the Federal Government. However, many of the policies, principles and procedures are equally applicable to the State Governments and some of the larger client organizations in Malaysia.

3.1 Procurement Policies and Principles

The Government of Malaysia's policies on construction procurement focuses on nurturing the indigenous construction industry. Key procurement policies include (Abu Bakar, 1999):

1. To stimulate the growth of local industries through maximum utilisation of locally produced materials and local resources;

2. To support and encourages the involvement of indigenous entrepreneurs;

3. To enhance the capabilities of local institutions and industries; and

4. To stimulate and promote service oriented local industries.

In addition to the above policies, the Government of Malaysia adheres to the fundamental principles of public accountability, transparency, value for money and open and fair competition in the procedures and practices regarding construction procurement in the public sector (Abu Bakar, 1999). The Ministry of Finance being the agency that controls and manages public finances sets out the policies and principles. Through the Treasury Instructions and the Treasury Circular Letter the Ministry of Finance detailed out updates respectively the policies, principles and procedures regarding construction procurement in the public sector of Malaysia.

3.2 Procedures on Construction Procurement

Category of procurement
The Government of Malaysia classifies procurement into three categories:

1. Works – works contracts for building and engineering construction;

2. Supplies – supplies of raw, intermediate and finished goods; and

3. Services – the engagement of manpower, expertise and consultants.

In a situation where procurement of works, supplies and services come in a package, the component with the largest portion in terms of value will determine the category of procurement.

Registration of firms
Firms wishing to participate in tenders and to build and construct for the public sector in Malaysia must be registered with the Contractors Services Centre (Ministry of Entrepreneur Development) and the Construction Industry Development Board or CIDB (Ministry of Works). The former is an accreditation system while the latter is a licensing system empowered by statute (CIDB Act 520 of 1994).

Critical requisites for registration include the firms' capabilities in the areas of (i) resources – financial, personnel, management and ownership or ability to hire plant and equipment; (ii) technical experience; and (iii) technical expertise. A firm that meets the minimum registration requisites are registered in a grade appropriate to the capabilities in the areas stated above. Table 4 and Figure 1 indicate the registration requisites for the CIDB scheme of registration. The Contractors Services Centre scheme of registration is broadly similar to the one operated by the CIDB.

Table 4: CIDB Registration Requisites

Grade	Capacity to tender and build (RM)	Paid Up Capital (RM)	Minimum personnel
G1	< 100,000	5,000	Course certificate/experience
G2	< 0.5 m	25,000	Course certificate/experience
G3	< 1.0 m	50,000	Course certificate/experience
G4	< 3.0 m	150,000	One Diploma holder in construction or Degree holder in other areas
G5	< 5.0 m	250,000	One Degree holder in construction or one Diploma holder in construction (or Degree holder in other areas) with 5 years experience
G6	< 10.0 m	500,000	One Degree holder in construction and one Diploma holder in construction (or Degree holder in other areas) (one of whom must have 3 years experience)
G7	No Limit	750,000	One Degree holder and one Diploma holder in construction (or Degree holder in other areas) (both with 5 years experience) or 2 Degree holder in construction (one of whom must have 5 years experience)
Source: CIDB (1999).			

Firms wishing to participate in Government procurement for the supplies of goods and services must be registered with the Ministry of Finance.

The purpose of registration of firms wishing to participate in Government procurement is to ensure only genuine and capable firms could participate in Government procurement. In addition, the requirement for registration facilitates the Government to take appropriate disciplinary action on firms that failed to perform according to the contract conditions. The disciplinary actions range from warning, suspension of registration and de-registration of the non-performing firms. The requirement for registration therefore helps to bring about professionalism and quality commitment in the construction industry of Malaysia.

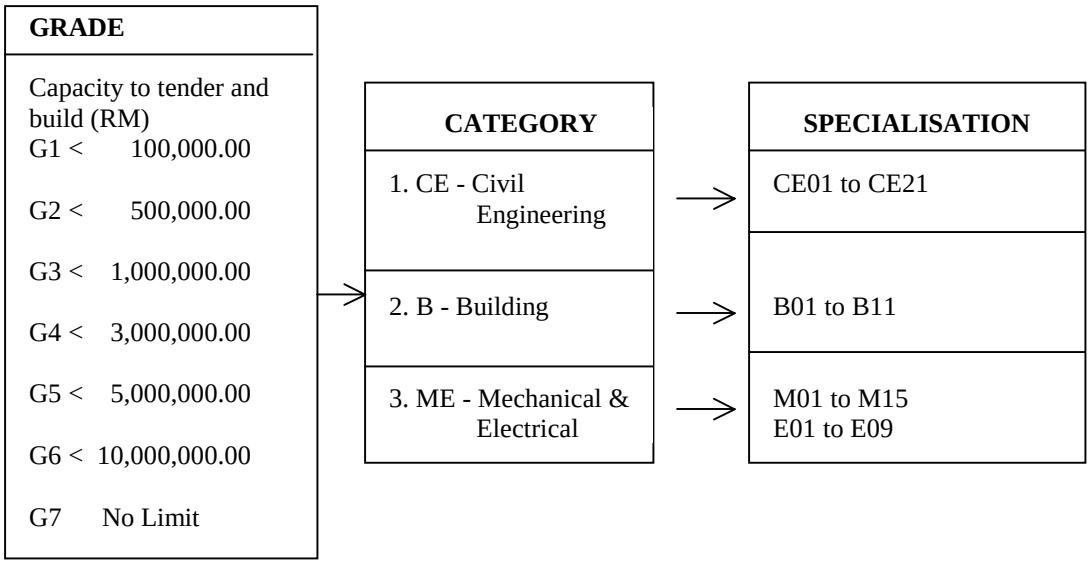

Figure 1: The CIDB Scheme of Registration: Grade/Category/Specialisation

Mode for construction procurement
There are currently three (3) methods of procurement for works:

1. Direct purchase – for works not exceeding RM50,000.00 each. Works indent may be issued to a firm registered with the Contractors Services Centre and the CIDB.

2. Quotation – for works exceeding RM50,000.00 but not exceeding RM100,000.00 each. The quotation must be invited from at least five (5) firms. The firms must be registered with the Contractors Services Centre and the CIDB.

3. Tender – tender process is carried out for procurement of works exceeding RM100,000.00 each. Only firms registered with the Contractors Services Centre and the CIDB may participate in tender exercises.

In the case of tender, all projects must be let on open tender. The exception to this rule is in circumstances such as due to the urgency of a project or a project is considered to be of a national security in nature, the Ministry of Finance may allow selective tendering or negotiated tender to be called.

The process of tender
The first stage in the process of tender is the preparation of tender documents. The tender documents shall include among others the articles of agreement and the conditions of contract, specifications, bills of quantities, drawings, forms for the firms' performance, track record and company profile. The tender documents are generally very detailed so as to provide a tenderer a very clear idea of what is required or expected. Tailored specifications to suit any brand are not allowed.

Sale of tender documents starts on the date of publication of the notice of tender invitation in the local dailies. Only firms fulfilling the Contractors Services Centre and CIDB registration requirements may purchase the tender documents. The tendering period is normally twenty-one days.

The closing time for tenders is always at 12.00 noon on the date the tender closes. Tenders submitted later than the specified time and date are not accepted.

All tenders received are opened by a special committee comprising of senior officers who will prepare a schedule showing the prices quoted (without the name of the firms). A copy of the schedule is displayed at designated places for the public to view.

Evaluation of tenders is done by a special committee that examines the tender documents submitted by the tenderers. The evaluation normally focuses on technical and financial capabilities of the tenderers and their price and non-price factors. The tender evaluation report and recommendation is then submitted to a Tender Board for decision.

4. CONCLUSIONS

The processes of construction procurement in the public sector of Malaysia is highly structured and regulated. This phenomenon is necessary in order to support the Government of Malaysia's aims of nurturing the indigenous construction industry and the local economy. The policies, principles and procedures already in place are consistent with the principles of public accountability, transparency, value for money and open and fair competition.

In order to achieve success in project implementation in terms of the key criteria of time, cost and quality, a project manager should possess the necessary skills and experience in managing construction projects. In addition, the incumbent should have a firm understanding of the project in particular in term of its size, level of complexity and the types and level of risk involved. In the context of managing construction projects in Malaysia, the author recommends two further factors that are considered unique for Malaysia:

- Understands the politics, economy, social and technology of Malaysia and in particular the area where the project is located; and

- Understands and adheres to the Government policies, principles and procedures on construction procurement.

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