Developing a Procurement Reform Program
Supporting SME Development In Egypt

A Background Study

Ministry of Foreign Trade
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Executive Summary

Looking to the future, SMEs are going to be the driving force in the world economy and consequently should be the focus of the 21st century policy developments. One of the many important constraints facing the growth of SMEs is marketing. Many SMEs around the world survive and thrive by meeting procurement needs of large companies and government agencies. Efforts to streamline procurement processes and reform procurement policies are being undertaken by many governments to enhance the participation of SMEs in public procurement.

The key accepted principle underlying a modern public procurement system is open competition - an unrestricted and open access to procurement markets. Reform to government procurement is also a long-term fundamental change process of governance, human resources, institutions and technology. Only through sustained efforts along these four processes, will potential benefits for SMEs fully materialize.

Most procurement systems address in one way or another, the issue of how to provide support for the domestic supplier base. There is not much in the literature, however, on the public procurement policies that might assist SMEs in becoming competitive and export oriented. Governments have an immense role to fulfill in improving the efficiency of local suppliers in general and SMEs specifically as they compete for government contracts. Such improvement in efficiency can enhance trade prospects by making these suppliers more acceptable vendors in both the local and global market place.

Due to their dominant business structure, SMEs play a vital role in the growth and development of countries. They have the potential to become significant exporters, to promote economic growth and to alleviate poverty among various groups in a society.

The scope of this document is fivefold. The first part of this document provides an overview of selected data on the size of various public procurement markets around the world. It also reviews the costs and benefits of administering SME procurement programmes from the perspectives of both the government and that of the SMEs.

The second part describes the various levels of government intervention in public procurement. Procurement reforms can be implemented with the minimum type of intervention - not particularly aiming SMEs - to targeted programmes specifically designed for these enterprises. This part also reviews the main components of an electronic government procurement system explaining the benefits and measures designed to promote electronic procurement that will eventually allow better participation of SMEs to the procurement process.

Part three of this document, moves on to provide a review of the public sector procurement practice in Egypt pinpointing the limitations of the current Tenders Law. Part Four, suggests a framework for building a national procurement system designed for promoting SME
competitiveness. Part five, offers recommendations for the government of Egypt to revise existing procurement policies and consider new procurement reform legislation that directly target the SME sector. It is also an appeal for the small business community to get involved in the regulatory processes and work closely with their governments.

Brief models of public procurement practices in the European Union, the United States and India are reviewed in Annex one, two and three respectively. All the three models are working at establishing a procurement system that aims at increasing the percentage of government contracts to SMEs. The experience of the selected models in implementing procurement methods and procedures will serve as a helping tool in developing a national procurement system for SMEs.
Part One: Government & SME Procurement.

I. Introduction:

Looking to the future, Small and Medium Enterprises (SME) are going to be the driving force in the world economy and consequently should be the focus of the 21st century policy development. SMEs play a critical role in the functioning of the Egyptian Economy accounting for over 97 percent of all non-agricultural firms, and almost 75 percent of private sector employment. The Government of Egypt is counting on the SME sector to generate new employment opportunities, promote economic growth and alleviate poverty among various groups in our society. Therefore, there is a strong need to create a generation of young entrepreneurs with entrepreneurial skills and vision that can spearhead Egypt’s efforts for sustainable socio-economic development.

The huge size of the SME sector necessitates the adoption of a National Policy Agenda that addresses the multiple constraints hindering their development and growth. Being primarily concerned with the development of a favourable policy environment conducive to the promotion of this vital sector, the Ministry of Foreign Trade (MOFT)-in collaboration with other ministries, governmental agencies and various stakeholders supporting SME development- is playing a lead role in the formulation of a policy agenda that will tackle constraints facing this sector and ensure a well structured policy framework.

In light of this situation, the governments of both Canada and Egypt agreed on the establishment of the “Small, and Medium Enterprise Policy Development Project (SMEPoL). The main goal of the (SMEPoL) is to support Egypt’s transition towards a market economy, by assisting the Government of Egypt (GOE) to improve the policy environment for SME development. The policy issues addressed by the project are essential in defining what an SME is, in tackling the financial constraints hampering their access to a variety of financial instruments along market lines, in addressing the legal and regulatory infrastructure that surrounds them and in enhancing their involvement in public procurement through providing necessary SME-related input to the Ministry of Finance ¹

The main objective of this document is to provide some background information on few international experiences in procurement policy reforms needed to enhance SMEs participation in public procurement as well as assist SMEs in the development of their business skills and the quality of their production. The document also portrays the features of the Tender Law governing the procurement practices in Egypt with the objective of promoting the role of the government in enhancing both the comparative as well as the competitive advantages of SMEs.

There are few research gaps that pose as a challenge to the completion of this study. The first has to do with defining SMEs. In order to target SMEs for special assistance, a national operational definition of this vital sector is needed. Defining SMEs is crucial in identifying their activity in order to effectively target and assist promising businesses. It is also crucial for initiating a programme to upgrade the capabilities of underprivileged businesses and identify the most cost-effective intervention programmes to better involve the SME sector in the public procurement market. A second research gap is a lack of database characterising the SME sector and analysing the economic activities they are engaged in.

This document will be reviewed in the course of a consultative process initiated by focus group studies to solicit input from the various stakeholders involved in the various issues concerning SME development.

II. Public Procurement: Definition & Relevance

Public procurement is the governmental purchase of goods and services from the private sector. Given their full responsibility for issuing public procurement, governments assume the principle duty to formulate and implement procurement reforms that encourage the participation of SMEs.

Public procurement systems are the bridge between public requirements and private-sector providers. As the SME sector is the main provider of private economic activities in many developing countries, an active procurement reform that increases their access to procurement markets is highly desirable. Therefore, any improvement in the public procurement system can have a direct and beneficial effect on the overall economic condition of the country.

The general recognitions that improvements in public procurement management systems will add value to the national budgets and generate savings encouraged many governments to revise their procurement systems. Among such governments is the United Kingdom which begun a study in 1998 “Efficiency in Civil Government”. The main purpose of this study was to reform laws of their public procurement system to make it more efficient.\textsuperscript{2}

III. Estimates on the Size of Public Procurement Markets Worldwide:

Public procurement is a business process within a political system with distinct considerations of integrity, accountability, national interest and effectiveness.\textsuperscript{3} Public procurement markets are large in most countries regardless of whether the country is industrialized, developing or transitional. Since government procurement is decentralized in many countries between ministries and local governments, there are difficulties as well as a general lack of resources for compiling statistics on public procurement, let alone on the value of contracts awarded to SMEs.

Formal statistical analysis confirms that central government purchases in developing countries are on average larger as percentage of GDP than those in industrialized countries of equal

\textsuperscript{2} W.A.Wayne, “Building Value Through Public Procurement: A Focus on Africa”, ITC, UNCTAD/WTO. P3

\textsuperscript{3} H. Paul, S. Jennifer & L. Lawrence, ‘From Intervention to Empowerment’, Inter-American Development Bank.
size. This is attributed to the fact that some of these countries are federal states and thus there are significant markets at the sub central level which are not compiled in the below estimates. Many governments do not keep good statistics on overall public procurement, let alone on the value of contracts awarded to SMEs. However despite the difficulties in measurement, international comparisons covering a wide set of countries are possible if we take into considerations central government procurement only.

Figure 1 shows total central government purchases of goods and services other than salaries for the central governments of 27 countries grouped by regional areas. The size of central government purchases varies considerably across countries. It is between 5 and 8 percent of GDP for most industrialized countries, except for Canada. The latter and the South American group seem to have very small central government purchases ranges between 3 and 4.5 percent of GDP. (Trionfetti,1997)

For the Middle East and Africa, the magnitude of central government purchases ranges from 9 to 13% of GDP. African and Middle Eastern countries have a small GDP, yet, proportionally, they have larger government procurement than, for instance, European countries. (Trionfetti,1997).


Note: Europe: Austria, Belgium, France, Germany, Netherlands, Norway, Sweden, and the U.K.
Africa: Botswana, Morocco, South Africa and Tunisia; Asia: India, Malaysia, Republic of Korea and Singapore; Latin America: Brazil, Mexico, Uruguay and Venezuela; Middle East: Egypt, Israel, Jordan and Turkey.


IV. Costs and Benefits of Administering SME Procurement Programs:
Given the significant percentage of GDP awarded for public procurement, access to
government procurement can provide a powerful instrument for SME business policy. However,
even in industrial countries, using procurement policies to help SMEs proved to be a
complicated and costly process. These costs should not preclude the fact that public
procurement results in social gains and benefits to the government as well as to SMEs. In this
respect, the government needs to re-evaluate the costs and benefits of setting procurement
regulations and adopt procurement policies that facilitate SMEs access to markets.

A- Potential benefits of public procurement from both the government and SME perspectives.

From a governmental or social perspective, benefits from public procurement are:

- **An increase in the competitive base**
  Developing a strong SME base may increase competition in public procurement, which may
  provide government with better value for money and increased efficiency in public procurement
  and a better value for tax payers. The benefits of competition in procurement are well accepted.
  The United States policy is based partly on the concept of increasing competition in the
  domestic economy and on a policy preference, as set forth in the United States Small Business
  Act, for small businesses.\(^7\)

- **Balancing equal opportunities between SMEs and larger enterprises**
  An SME programme in public procurement may be viewed as a direct approach to address
  equity, fairness and social concerns.

- **Potential to foster job creation**
  In some countries, such as India, SME programmes are viewed as a means to increase
  employment opportunities across broad sectors of the country. Procurement programmes
  targeted at SMEs may increase employment for some regions or certain industrial sectors,
  although the effects may be ambiguous.

- **Balancing regional growth**
  Some contend that SME programmes in public procurement foster balanced regional growth
  and a decrease in disparities among regions within a country. This is a policy underlying SME
  programmes in public procurement developed by the Indian Government. Their policy findings
  are that SMEs create employment, and bring money and affluence to a larger percentage of
  the population. Large-scale units distribute their benefits among fewer people, and by contrast,
  SMEs spread benefits more widely and create conditions for balanced growth.

From an SME perspective, some of the benefits of accessing public procurement include:

- **Better sales volume & improved access to larger markets in many countries**

  As previously stated, public procurement markets are significant markets in many countries, particularly in developing and transitional economies in which SMEs remain in the emerging states of development.

- **Technology transfer**

  SMEs can acquire knowledge, information, skills, experience, technology, management skills and a host of other knowledge-related inputs from participation in public procurement.

- **Potential for linkage with large business**

  Procurement programmes that assist SMEs may facilitate the provision of information on SME capability to large businesses and may increase business opportunities for SMEs. Notably, through such programmes, governments may be able to overcome the natural tendency of procuring entities to obtain goods and services from familiar, large business sources. This is especially important in any governmental efforts to ensure equitable opportunities for SMEs.

- **SMEs are placed on the government list**

  Once applications of SMEs are accepted as qualified procurement entities, they are put on the government list and called upon to participate in any tender award.

B- Constraints hindering the competitiveness of both government and SMEs in public procurement markets.

From the government perspective, the burdens of dealing with SME suppliers include the following costs:

- **Administrative costs.** These are costs of evaluating and monitoring many small bids rather than one large bid for the same quantity of items, to these are added costs of quality control of small suppliers and the associated costs of dealing with defaults.

- **Social costs.** Assistance to the SMEs in some countries is based on social and political objectives that may not be reflected in the concept of economic efficiency and involve social costs on the whole. SME programmes in public procurement may increase the costs of public procurement for taxpayers. Examples of social costs are:

  - **Premium costs.** These are costs arising where competition for a contract is restricted to only SMEs – within set margins of price and quality measures. In the United States, premium costs are well accepted as part of the cost of having SME programmes under the small business set-aside procedures to small business firms. The costs associated with restricted choice may increase the costs of transportation, warehousing and other contract costs to be passed on to the public sector consumers; and

  - **Protectionism.** Government's intervention in favour of domestic producers constitutes a non-tariff barrier to international trade, which can be detrimental to a country’s economic well-being. Such discriminatory practices are not in accord with the WTO Agreement on

Government Procurement (AGP) which subject’s public procurement to international competition.
From the SME perspective, the significant constraints facing them are:

- **Costs of handling public procurement.** SMEs face high transaction costs in handling public procurement. These are largely fixed costs that do not change much with the value of the contracts. For example, the cost of pre-qualification, qualification and the costs associated with registering as a government supplier do pose greater burdens on SMEs than on large firms.

- **Finance restrictions,** which are the result of restricted availability of capital through formal financial channels. To these are the added extra costs of financing the goods and services supplied until the government pays its dues (governments in general are extremely slow payers).

- **Costs associated with bid preparation and proposal costs.** These costs are a result of shortage of skilled manpower that has the experience dealing with bid preparation. It is also because public procurement often involves greater bid and proposal costs than those found in commercial contracting.

- **Bonding costs.** The burden of obtaining bid and performance bond and supplying the required guarantees are crucial factors that tend to keep SMEs out of public procurement participation.

- **Costs of obtaining information.** SMEs encounter significant costs in obtaining market information. This has a negative impact on their exposure to market opportunities.

- **Regulatory costs.** Public procurement tends to be over-regulated; this entails substantial costs for SMEs to comply with paperwork and the process of inspection at various stages.

- **Legal risks.** Legal risks entail costs of failing to adhere to government regulations and the difficulty of taking legal actions against the government in case of default.
Part Two

Models of Government Involvement: A Review of Int’l Approaches

Against the constraints hindering SMEs participation in public procurement, many governments have sought to design reform procurement that would assist SMEs. There are four distinct levels of government involvement in procurement policy that affects or achieve SMEs-related policy goals. The first and least controversial level is correcting biases against or removing barriers to SME participation in public procurement. This process involves a general reform of the institutions and processes that constitute government procurement. While such reforms are good for all firms, they have a larger impact on SMEs.

At the second level, government may target procurement-related assistance to SMEs to enable their participation in the public procurement processes. At the third level, governments may provide certain forms of preferences to SMEs. These are a form of subsidy to tilt contract award decisions towards SMEs. Finally, and most controversially, agencies may mandate, target or set-aside procurement funds specifically for SMEs as in the United States.

I. General Procurement Reforms

Reforms of public procurement practices and institutions that will eventually improve SME access to procurement market can take the following forms:

- **Streamlining**
  Streamlining procurement procedures to SMEs means facilitating procurement document to increase transparency to improve SMEs access to public procurement markets. The South Africa “Green Paper on Public Sector Procurement Reform”\(^8\) called for a commitment from procurement units to use standard contract documentation with minimal deviations from the accepted standard forms of contract and specifications. The Green Paper advocates the discontinuance of the practice of writing extensive special conditions of contract to be included in procurement documentation. The Green Paper proposes that procurement documentation should be overhauled and rationalized to encourage participation by emerging businesses in public sector procurement activities. The Green Paper recommends that the public tendering process should be made more accessible by ensuring that tender documentation is:

  - Easy to comprehend and user-friendly;
  - Free of unduly onerous requirements and conditions;
  - More widely disseminated and distributed, in order to reach all potential tenderers; and
  - Standardized.

There are some well-accepted arguments that standardization of procurement documentation may give procuring entities a significant advantage over SMEs based on arguments that governments have significantly more bargaining power than SMEs.

On the other hand, there are compelling arguments for standardization. Standardization has the potential to lower the transaction costs of contracting. Standardized terms also tend to produce a positive network externality. As the frequency of their use increases, courts and parties become more familiar with the standardized terms and conditions. (Katz, 1998)³

- **Eliminating unduly restrictive requirements**
  Some assert that one potentially effective way to assist SMEs in the procurement process is to simplify onerous requirements in public procurement. These requirements tend to be focused on bid invitations, copies of drawing specifications, requirements for lists and registrations, and a range of other requirements that could prevent entry into procurement markets for SMEs. India has succeeded in waiving some of these requirements with no effects on the integrity of the procurement process. Bid invitations, for instance, are provided free of cost to the small scale industry sector (SSI). The rationale for this assistance is to support SSIs in marketing and to decrease their costs of contracting. (Annex 3)

- **Pre-qualification and post-qualification**
  Many procuring entities require that potential bidders on contracts be pre-qualified. With prequalification, procuring entities assess the ability of firms to perform the contract, and only those firms pre-qualified can submit tenders. In procurements in which pre-qualification is used, firms must first submit an expression of interest providing the details of its technical, financial and management capabilities. Only those firms that meet pre-qualification standards may submit a tender in the procurement for which the pre-qualification is being performed.

  Pre-qualification is often so onerous and time consuming that most SMEs are discouraged from participating in the procurement. In order to discourage SMEs less, it might be useful to eliminate pre-qualification procedures where they are unnecessary, and use different prequalification processes at different levels of government or for different values of contracts.

  The US government has designed a small business Certificate of Competency (COC) Program to ensure that small businesses are given a fair opportunity to compete for and receive a government contract. The COC programme reviews the applications of small businesses who were found to be unqualified by a procuring entity. The SBA specialized staff assess the applications on behalf of the small business and the procuring entities. Accordingly, if found eligible, the SBA issues a COC to the small business. This certificate is a formal obligation on the procuring entity to award a contract to the small business.

### II. Introducing Electronic Procurement Systems.

1- Definition of e-procurement systems:

The worldwide trend following the explosive growth of electronic commerce technologies, makes the adoption of electronic government procurement (EGP) systems, appear as inevitable. Electronic commerce (EC) as defined by the European Community is as follows:

*“Electronic Commerce is about doing business electronically. It is based on the electronic processing and transmission of data, including text, sound and video. It encompasses many diverse activities including electronic trading of goods and services, on-line delivery of digital*
content, electronic fund transfers, electronic bills of lading commercial auctions, collaborative design and engineering, on line sourcing, public procurement, direct consumer marketing and after-sales service.

E-procurement is part of the wider e-commerce revolution. It is simply the electronic management of all the procurement activities. In considering the large purchasing power of governments, digital networking technology applied to public procurement presents opportunities for welfare gains that neither the private nor the public sector can afford to ignore.

While the adoption of EGP systems seems to be more suitable for advanced countries that enjoy a deep level of technological penetration, automated procurement systems are beginning to appear in some developing countries such as Brazil and Mexico. A good example of how electronic commerce could work in developing countries is provided in Mexico, where the government recently initiated an Internet-based procurement system, named Compranet. This system also includes limited access to state procurement.

A significant effect of such a move is that a segment of SMEs will increase its use of technology, which in the long run will contribute to enhancing the competitiveness of this segment both locally and internationally.

2- Economic benefits of an electronic procurement system:

The potential economic benefits of electronic government procurement (EGP) go well beyond fiscal savings and public sector productivity gains. Electronic public procurement systems have succeeded in benefiting the government as well as the private sector and specifically SMEs in various ways:

- Moving to greater use of digital and electronic dissemination of information is an essential reform in the way government does business. It allows the government to reach more businesses with more information at less cost to both business and government. It also makes the government more open and accessible to all businesses, not just those with staff dedicated to government relations.

- EGP lower fiscal expenditures by driving down both the prices and the costs of public procurement transactions. Overall procurement cost reductions of 10% or higher are being achieved by business through EC. Similar cost reductions in government procurement could prove a major boost to macroeconomic adjustment programs, and blunt some of their painful edge on the poorest of society.

- Taking advantage of increasing public access to Internet, EGP can raise the standards of transparency in government, reduce the opportunities and incentives for fraud, extend geographic outreach, and improve equity and distributional efficiency in public procurement.

- The move towards electronic and digital dissemination, bidding, and registration also has a secondary benefit for the SME sector in that it increases the use of technology. In the longer term this has the potential to make SMEs more competitive locally and internationally.
3- Components of an Electronic Government Procurement (EGP) System:

- **Electronic Tendering Systems:**

E-Tendering systems support carefully regulated competitive bidding processes based on detailed request for proposal (RFP) or terms of reference (TOR) documents. E-Tendering systems are particularly suitable for procurement of large public works, of production capabilities such as power plants, of performance capabilities such as large information systems, or of sophisticated services such as design and management of virtual private communication networks.

All these are documentation-heavy procurement transactions that require careful evaluation of quality aspects, customized contracts, and extensive services. They encompass diverse packages of goods and services (for delivery, installation, testing, integration or maintenance of goods and services supplied).

- **Electronic Purchasing Systems:**

E-Purchasing systems are primarily oriented towards discrete item or lot purchasing of off-the-shelf products and/or precisely defined services. Their distinguishing characteristics are:

  - They involve an electronic, legal equivalent of a physical marketplace where goods are figuratively displayed (electronic catalogue) and buyer and seller meet;
  
  - They provide comparison facilities and electronic pricing mechanisms, but not contract formation facilities as terms and conditions of contracts are pre-established; and
  
  - They involve full, legally binding electronic contracts subject at most to off-line confirmation, but not to off-line decision processes.

- **Electronic Procurement Information and Oversight System:**

An effective oversight system is indispensable from the start if EGP is to truly shift the focus of public procurement from process to results, and to accrue expected benefits. Such system must make available data bases, analysis tools and reporting mechanisms to government supervisors, auditors, and the public.

4- Potential costs involved in applying Electronic Procurement:

The costs of increasing or introducing digital and electronic dissemination for the government is not high. They are usually more a diversion or reapportionment of current expenditure for dissemination while investment in technology and hardware are ancillary to general modernization and capital investment.

Another example is ELPRO, the European Electronic Public Procurement System that will build and demonstrate on a number of sites (including a “virtual procurement region”) regional procurement information partnership and business information networks, which are targeted at SMEs. They include a range of free and paid-for telematics services, from fax-on-demand services, electronic data interchange and Internet services to demonstrate ways of establishing SME support networks on any telematics environment in Europe. This will enable procuring entities to generate telematics and support services for local SMEs and at the same time capture the efficiency benefits of electronic procurement for themselves. (Annex 1)
The US Government has implemented a project designed specifically to assist SMEs. PRO-Net provides profiles to federal and state agencies, federal prime contractors, and others who may be seeking small business sources as prime contractors and subcontractors. (Annex 2)

The ELPRO's example from the EU, and the Pro-Net example from the United States, while perhaps ambitious attempts to lower information costs, are not unique. Every industrialized nation has a programme similar in design if not in scope. Moving to greater use of digital and electronic dissemination of information is an essential reform in the way government does business. It allows the government to reach more businesses with more information at less cost to both businesses and the government. It also makes the government more open and accessible to all businesses, not just those with staff dedicated to government relations.

III. Targeted Procurement Related Assistance to SMEs:

Targeted intervention can take the following dimensions10:

1- Technical assistance:

A number of countries maintain programmes that are designed to provide advice, and counseling, marketing guidance and other help - generically, “technical assistance” – to SMEs. Many countries provide targeted assistance to SMEs. This includes assistance in completing bid documents, obtaining financing, and technical assistance in complex technological bids. Technical assistance can be classified into:

a) Goal setting and advocacy:
The United States government has directed that 23% of all government contract awards be made to small businesses. This goal presents a variety of policy and procedural challenges to all federal agencies due to some of the challenges to small business resulting from procurement reform. SBA works with procuring entities to devise new approaches that will facilitate achievement of this goal. In addition, the Federal Acquisition Streamlining Act of 1994 establishes a goal to award 5% of all government contracts to women owned businesses. (Annex 2)

b) Advice, training and marketing assistance:
Governments have implemented a number of initiatives to provide advice on procurement Issues, training and marketing assistance to SMEs. Training is an important method of assisting SMEs, as well as government officials in understanding how to implement SME programmes.

The Government of India has created institutional support to guide and help SMEs. The National Small Industries Corporation (NSIC) provides assistance to SMEs. NSIC is a national organization with infrastructure and expertise to render assistance to SMEs in their various operations. It also provides training to entrepreneurs and workers, testing and quality control facilities for SME products and marketing assistance for SMEs.(Annex3).

The South African government has established tender advice centers, in various regions, on procurement issues and marketing assistance to SMEs. It is also implementing a “Missing Link” programme to assist SMEs in solving problems with specifications and standards. The programme also offers training in various technical fields to enable SMEs to manufacture quality products using acceptable manufacturing practices.

2- Financial assistance and subsidies:

SMEs suffer from a number of relative financial hardships in comparison to large businesses. Their access to capital and financing is severely strained. One of the major challenges facing many SMEs is their ability to attract sufficient debt and equity capital. Many of these firms have not reached the creditworthy stage usually required by traditional financing sources. Others, having utilized their existing credit lines, find that their bank is unwilling to extend them further, even for performance on a contract.

Efforts to raise equity capital from existing shareholders are often unsuccessful. Some countries have attempted to provide financial assistance to SMEs through a) financial assistance schemes; b) bonding and guarantee reform and assistance; and c) prompt payment reforms.

a) Financial assistance schemes

In the United States, the Small Business Administration administers a number of financial assistance programmes designed to assist SMEs. The US micro-loan programme provides financing for small business for up to 3 years for the purchase of equipment and current assets at favorable interest rates. In addition, SBA’s loan guarantee programmes provide term financing for working capital and asset acquisition. 11

In India there are a number of financial concessions provided to the Small Sector Industries (SSIs). These include providing land at concessional rates or free of cost for establishing new SMEs, and relaxed credit terms at lower than prevailing commercial rates for the acquisition of plant and machinery. Exemptions from certain statutory duties and levies like excise duty and sales tax are generally granted to SMEs. (Annex 3)

b) Bonding and guarantee reform and assistance

SMEs sometimes encounter problems with guarantee requirements. No matter the type of contract, whether it is for goods or services, governments almost always insure themselves against nonperformance of the contractor. Before bidding on a project, contractors often must obtain a guarantee from a bank, insurance firm or other financial institution that provides insurance against the value of the contract.

In the United States, performance guarantees are based wholly on the contractor’s perceived competence and not on collateral. This type of reduction in collateral requirements would benefit greatly qualified SMEs. It also would assist the Government since assessment of qualifications is performed by the guarantor, thereby reducing transaction costs.

In India, SMEs are exempted from payment of bid guarantees while submitting their offers, nor are they required to submit a performance guarantee when the contract is awarded to them. Besides simplifying the bid submission and contract procedures for these units, these measures help the units to reduce their working capital requirements.

3) Prompt payment reforms

In a number of countries, there have been persistent complaints that payments to SMEs are not made promptly by public purchasers. Delay in payment reduces the available working capital of an SME and affects its production capacity and profitability. In India, the Parliament has recently approved an Act that seeks to compensate SMEs against delay in payment. Under the Act, the purchaser is liable to pay interest to the SME at a rate of 5% higher than the prevailing bank rate, if payment is delayed beyond 90 days.\(^{12}\)

4) Subcontracting programmes

Some countries have established programmes to encourage the use of SMEs in subcontracting with large business. In such programmes, the government awards a contract to a large firm with the requirement or goal that the large firm purchase a percentage of the value of its intermediate inputs from SMEs.

5) Price preferences

Most countries grant a passive preference for national suppliers. If all other things are equal between two bids, the contract is given to the national supplier or the supplier that incorporates the greatest portion of national supplies or manpower. Governments have traditionally used margins of preference to assist SMEs. For purposes of transparency, this margin of preference will be clearly identified in the invitation for tenders and the criteria for its application, as set forth in the invitation, will be followed by the procuring entity.

In India, cottage and small-scale units are entitled to a price preference of up to 15% on merit when competing with a large-scale unit. Preferences may, however, be somewhat different in India from other countries in that procurement officials have a significant degree of discretion as to when to use them. They are provided on a tender-by-tender basis. The discretion of the procurement official is based on a qualitative analysis of whether SME bidders actually require assistance. It is not the intention of the policy that SMEs should have a claim to higher rates in public purchasing or that the purchaser should pay premiums regardless of the needs of the SMEs participating in the procurement in question.\(^{13}\)

In Egypt, national bidders are given a 15% price advantage on government tenders. Price preference is given to Egyptian bidders supplying locally manufactured goods, services and public works.

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\(^{12}\) www.ssi.nsic.in

\(^{13}\) P.K. Varma, “Public Procurement Systems and SMEs in India”. ITC, Geneva.
I. Overview:

The issue of SME development ranks high among the government’s priorities for socio-economic development in Egypt. The growth of SMEs is, however, only the beginning of a process. In order that SMEs sustain their positive role in the transition process, the creation of a coherent National Policy that addresses their needs is imperative. This policy should be provided within an environment that promotes the institutional and regulatory framework in which they can thrive.

The GOE treats the issue of SME development as a National Priority that requires the coordination of efforts among all pertinent ministries, as well as the various governmental, non-governmental entities and private actors involved in the development of this vital sector. The development of a Coherent National Policy for SMEs, must well respond to key issues of our such as employment creation and issues pertinent to trading and export promotion. Given their flexible structure, SMEs have the great advantage to generate employment and make significant contribution to trade and exports.

The public sector remains the largest trading sector in Egypt, but their share of the market is decreasing as the private sector grows. A well managed public procurement system that involves the participation of SMEs in its commercial operations will lay the stepping stone in supporting this productive economic entity of our Egyptian society.

II. Current procurement regulations:

Public Procurement Law is one of the most important fields of law for investors in Egypt. The current Tenders Law issued under a Presidential decree No. 89 for the year 1998 now governs the Egyptian public procurement system by all civilian and military agencies ministries, Departments, local government units, and public and general organizations. Egypt's tender regulations are written by the government and for the government benefit. Public entities must in principle, procure goods, works and services through public tenders or public negotiations.

The current tender law No. 89/1998 was promulgated on May 8, 1998 and on September 6, 1998 its executive Regulations were published. The Tender law consist of 42 Articles and is structured in four parts. The first part deals with the purchases of movables, the procurement of goods, construction works, transportation and consulting services. The second part deals with the purchase and renting of real estates by government entities. Part three cover the sale and lease of real estate, movables and the specific projects and concessions to use or exploit real estate and part four covers the General Principles.

In August 2000, the Prime Minister issued a decree (1664/2000) which stated that Ministries, government departments, agencies with special budget, local government units, service and economic general authorities, general organizations, public sector authorities companies and authorities shall not purchase a set of items listed in the decree, except from local production, whether produced by the public sector, the public enterprise sector, or the Egyptian private sector companies.
III. General principles:

According to the report of the joint committee on constitutional, legislative and economical affairs of the Egyptian Parliament on April 14, 1998 the following are the basic principles behind the new Tender Law are:

- **Transparency and Publicity**
  Public tenders must be transparent. Article 2 of the law provides for the obligation of the procuring body to announce the reasons of its decisions to award a contract to a specific bidder or to cancel a tender.

- **Quality**
  Article 10 of the new Tender Law puts great emphasis on quality standards by differentiating between the technical and the financial side of a bid. Envelopes containing financial offers may only be opened if the technical offer of the respective bidder was accepted; at this stage preference is given to the lowest bid.  

- **Determination & Competition**
  Goods, services of works to be procured have to clearly determined by the procuring body and tenders have to be published on the basis of sufficient specifications and fair competition. Under Article 16 of the Tender Law, national bidders are given a 15 % price advantage on government tenders. Closed bidding is rare, as the law requires tendering for all significant projects.

Though the procurement practices should be subjected to the above stated principles, the current tender processes are subject to frequent complaints of lack of transparency and poor enforcement of the laws. Since Egypt is not a signatory of the WTO Government Procurement Agreement, such complaints are difficult to assess. Egypt, however, is now playing a positive role in international discussions of procurement practices, included in the WTO.

IV. Procuring Entities:

The Ministry of Finance (MOF) is the responsible body for executing and implementing all regulations pertaining to the tender law. It formulates the Government’s policy on procurement and may issue directives and procedure orders on various aspects of government procurement. All ministries, government departments and local government units as well as public authorities are required to follow these directives and procedure orders while making their own purchases.

Article 2 of the enacting law, states that there are three entities involved in the procurement procedures. “The Administrative body” is the procuring entity; the “Purchasing Department” is the concerned with procurement matters within the Administrative body and the “Competent Authority” is the minister or any person vested with the minister’s powers to delegate its power

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to any body under the Tender Law. This Authority is held accountable for all queries and complaints that have to do with the breaching or the poor enforcement of the law.

V. Methods of government tendering:

In the field of procurement of goods, services, and works, the existing Law grants the procurement entity to use any of these two tendering methods: public tendering or public negotiations to select the party to an administrative contract. The most significant difference between public tenders and public negotiations relates to bid. Contrary to public tenders, bids may be amended in public negotiations with regards to price or any financial conditions, similarly with any technical specifications, they must be within the scope of the technical specifications of the tender. Hence, public negotiations are more flexible and the general trend seems to be that more and more Administrative Agencies revert to public negotiations.\textsuperscript{16}

However, in limited circumstance and under exceptional authorization, contracting can be concluded through one of the following four methods: limited tendering, local tendering, limited negotiations or direct agreement.\textsuperscript{17}

\begin{itemize}
  \item Contracting through limited tendering is limited to contractors, suppliers, technicians, or experts (inside or outside Egypt) on condition that they should be mastering the state of the art.
  
  \item Contracting through local tendering is restricted to local contractors concluding their works within the geographical boundaries under which the contract has to be executed. For the purposes of purchase of movables, rendering services and concluding works and transport contracts
  
  \item Contracting through limited negotiation is employed in the following cases:
    1. Products and services subject to monopoly;
    2. Purchases that should be confined to secrecy for national security measures.
    3. Items that could only be purchased from the origin of its manufacturing base.
    4. Consultative or technical works, which can only be carried out by means of technicians, specialists or specific experts.

  \item In case of direct pressure, the administrative body may conclude its contracts through direct agreement.
\end{itemize}

VI. Features of the Tenders Law 89/1998:

The tender law 89 of 1998 tends to overcome some of the inefficiencies of the former tenders Law 9/1983. This improvement is evident mainly in these areas:

1) Bids cannot be negotiated after bid opening;
2) Changing a tender to a negotiation is prohibited;
3) Rejected bids and awarded bids will contain reasons on which such a decision was based;
4) The bid bond will be refunded immediately upon expiry of validity of tender; and
5) Amendments to Dispute Settlement Law 27/1994 regarding contracts between public enterprises and private (domestic and international) sector suppliers will allow both parties to

\textsuperscript{17} Ibid, p 3-5.
agree to appoint any accepted legal body. In the past, the only body overseeing disputes with public enterprises was the State Council, which was taking years, in some cases, to settle disputes.

*However the new law has not changed the following features:*

1) open competition with publication for at least 30 days;  
2) 15% price preference for national bidders supplying locally manufactured items;  
3) a two-phase decision-making process: a bid opening committee that convenes a public session to which all bidders are invited and bid prices are read aloud; and a decision-making (settlement) committee that reviews the technical bids and either makes a decision or (if the value is over $62,000) recommends a decision to the minister concerned; and  
4) bid bonds of one or two%, and a performance bond by the winning firm of five%.

**VII. Practical limitations of the current tenders law:**

- There is no time limit for the decision-making committees to meet, make, or announce their decision. If a bidder withdraws its bid prior to bid opening, it forfeits the bid bond. Bidders often are "held hostage" to a government agency that delays the bid opening. Costs of extending bid bonds are borne by the bidders. If a winning firm withdraws from a project before beginning or completing a project, its performance bond similarly will be confiscated.

- Government agencies often delay giving the "final acceptance" of goods or works projects. This holds up final payment and final retirement of the performance bond. There are no time limits for making payment from the date of acceptance of a bid, nor any provision for implied or automatic acceptance of a supplied good or service. The client must explicitly acknowledge "final acceptance" before the contractor can receive final payment, retire the performance bond, and close its books.

- The Tenders Law makes no reference to dispute resolution, however, it gives the parties the right to resolve any dispute by arbitration after the permission of the responsible minister.

- There is no provision allowing the supplier to delay work if payments are delayed. There is no provision to reduce the performance bond progressively according to the rate of completion of the work.

- Article 16 of the law provides for limited preferential treatment of the bidders who offer local goods, services or works. Such bids enjoy a 15% price preference over other bids. However, neither the law nor its Executive Regulations specify criteria according to which goods, services or works may be qualified as local and there is also no specific local content requirement.18

- The procurement process is not made accessible to SMEs and accordingly, is not structured in a simplified and user-friendly manner.

While the above problems pose as constraints to general suppliers, they are even more burdensome on SMEs who lack the skills and ability to deal with them.

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Countries seeking to establish and maintain a National Procurement System should meet standards of transparency, and of open, and fair competition. Such standards are designed to create an economically efficient procurement system, promote both national and international trade, and enhance SMEs involvement in procurement in an economically sound manner, thereby creating conditions that support economic development.

In order to target SMEs for special assistance, a national operational definition of this vital sector should be undertaken. Defining SMEs is crucial in identifying their activity in order to effectively target and assist promising businesses. It is also crucial for initiating a programme to upgrade the capabilities of underprivileged businesses and identify the most cost-effective intervention programmes to access the public procurement market. There should be established criteria in the selection of suppliers. Careful scrutiny of any new supplier should be carried out before it is added to the approved list.

Tentative steps to be considered in establishing an SME procurement system in Egypt:19

1- Commitment and coordination

Based on the mandate of both the MOFT to formulate SMEs development policies in the functioning of the Egyptian economy and that of the MOF to formulate the Government’s policy on public procurement, a joint “SME procurement task force” representing specialists from both ministries to develop a tentative policy proposal that can be implemented along side the baseline of the existing institutional capacity and within the boundaries of existing legislations, is recommended.

2- Design a legal and administrative framework

Design a legal and administrative framework that can measure direct costs and other effects of government regulations on SMEs and make proposal for eliminating excessive regulations. In addition recommend a policy that facilitates the integration of myriad procurement entities throughout the public sector into a functional and coherent network with high professional standards, and that is consistent with international obligations. Such a framework should define the administrative, financial and legal responsibilities of all participants in the procurement process, including suppliers and procurement entities in central and local government.

3- Identify the organizational structure

Identify the organizational structure for the public management of SME procurement programmes. This will include identifying the responsible government entity to handle and enforce SME procurement regulations and the delivery mechanisms. This government entity

will, in addition have to ensure that the following procurement guidelines are being incorporated in the policy framework:

- Ensure that government purchasing entities employ trained personnel who understand the need for efficient procurement systems.
- Invest heavily in systems which provide adequate access to data and information, and which facilitate professional networking within the public sector.
- Give SME suppliers access to training and information on tendering procedures that promote their competitiveness, and enhance their business capacity and skills which in return will positively affect both the quality and quantity of services delivered.
- Design and implement effective mechanisms to curb fraud, waste, abuse and corruption, which threaten public procurement systems and impede competition.

4- **Disseminate information**

Release and circulate information to all potential actors involved in the SME development process. Such process will include an inter-ministerial committee, governmental as well as non-governmental organizations, private sector consultants, the Social Fund for Development and an SME representative body. Disseminating information will be through a chain of public meetings, presentations and seminars.

5- **Consultation process**

A well-managed consultative process will take into account the input of all those affected by policy. A significant component of the consultative procedure is the analysis of strength and weaknesses; deciding policy objectives; formulating strategy within the framework of the institutional settings and formulating a strategy for implementation.

6- **Test programme design**

This can be through designing a pilot programme to assess and experiment policy implementation and measure results.

7- **Hold a National Conference**

The purpose of the conference is to provide for recommendations, legislation and approval of the programme.

8- **Evaluate and review SME programmes on periodical basis.**
Part Five: Recommendations.

The key accepted principle underlying a modern public procurement system is open competition—an unrestricted and open access to procurement markets. Government procurement is also a long-term fundamental change process of governance, human resources, institutions and technology. Only through sustained efforts along these four processes, will potential benefits fully materialize.

Various measures can be adopted by the government with the aim of dealing with the root of the problem in order to enhance the participation of SMEs in public procurement. While an in-depth assessment of government procurement regulations in Egypt is justified, some tentative recommendations on its role in supporting SME procurement procedures as well as the role of SMEs in collaborating with their government are:

I. The Role of the Government:
The government has to carry out its role to support, provide targeted assistance, and protect SMEs in the following ways:

1. Revise and streamline government laws and regulations:
   - Measure the direct costs and other effects of government regulation on SMEs
   - Provide legislative and non-legislative proposals for eliminating excessive regulations and recommend specific measures for creating an environment in which all SMEs will have the opportunity to compete effectively
   - Consider developing different pre-qualification requirements and processes for different contract value clauses
   - Improving access to tendering information, tender submission requirements through the formation of one-stop tender advice centers
   - The promotion of early payment cycles by the government
   - The development of a special tailored preference system targeting SMEs
   - Develop a system for collecting, developing and disseminating procurement data
   - Ensure strict long-run maintenance and system supervision that adapts to changes in a country's public administration and territorial system; is effective in providing, and being perceived as providing, an impartial complaints review process; and takes account of information on international best practices, such as “benchmarking” techniques which compare the performance of different procurement entities
2. Encourage large firms to subcontract to smaller firms.

Public procurement actions can be structured in such a way so as to encourage bidders to subcontract part of the operations to SMEs. For example, in scoring the bids presented, bidders can get higher points for proposing an adequate and realistic subcontracting plan involving smaller firms. In addition, higher points can be provided to bidders forming consortia that include smaller firms. This approach will have the following benefits:

i. Larger firms will still be responsible for the product quality and timeliness of delivery.

ii. This will facilitate the development of linkages between larger firms and smaller firms that can last beyond the duration of the procurement process.

iii. Larger firms will coach their smaller subcontractors in order to ensure good quality and timeliness.

iv. By focusing on the same limited number of contracts, the fixed costs of bid review and contract monitoring borne by the government will remain manageable. The only additional burden the government has to carry will be that of ensuring that the proposed subcontracting plan is actually implemented.

v. A segment of SMEs will develop a track record of participating in public procurements.

With regards to (iii) above, the government may consider sharing part of the costs of coaching and training small firms through a governmental or quasi-governmental organization, such as the SFD. In addition, through its infrastructure of local offices, this organization can play a role in identifying potential subcontractors for larger firms, as well as monitoring the proposed subcontracting plan to ensure compliance.

3. Introduce electronic procurement information dissemination, registration, and bidding:

Several countries are moving towards the electronic dissemination of procurement information by e-mail, through the Internet, or by fax. In addition, a significant effect of such a move is that a segment of SMEs will increase its use of technology, which, in the long-term will contribute to enhancing the competitiveness of this segment both locally and internationally.

4. Potential for expanded intra-regional trade:

An effective public procurement system can facilitate an intra-regional trade as a means of enhancing trade and promoting exports. The regional development of the Common Market for Eastern and Southern Africa (COMESA) is just one of the several trade agreements in which Egypt is a signatory. COMESA agreed to fully integrate the countries of eastern and southern Africa into an economic union through a Free Trade Area by October 2000 and a Customs Union in the year 2004. COMESA members have also determined that in order to enhance competition in both private and public procurement arrangements, it is essential that regulations and procurement procedures be harmonized across the Free Trade Area20.

II. The Role of SMEs:
Although unique in many respects, selling to the government is similar to marketing to the commercial sector. The rules are different but the basic marketing tenets are the same. Understanding the requirements and needs of the governments are critical in understanding their marketing strategy. Small businesses should be exposed to various information sources and get motivated to move towards electronic commerce. Collaborating efforts with the government can be done through:

- Exploiting government resources
- Attending procurement seminars, workshops…
- Investing in communication and information technology
- Exploring subcontracting opportunities.

III. Conclusion:
The public sector procurement system in Egypt is developed to meet our country’s needs. Such a system can be used as a tool to achieve economic savings, as well as socio-economic objectives. This view forms the foundation of a procurement reform process and the development of policies and procedures that would encourage the involvement of SMEs.

The purpose of this reform is to make the tendering system more easily accessible to the small, medium and micro enterprises and by doing this, to ensure the inclusion of this vital sector into the main stream economy of our country. The purpose is, however, not to prohibit large established companies from tendering, but to ensure a fair division of available finances and the creation of job opportunities by the public as well as the private sector.

Public sector procurement should be structured in a simplified context in such a manner that promotes SME participation without compromising time, cost and quality. Such a system should also include new standard contract documents, professional training, electronic procurement, improved management information systems and a more responsive means to hear complaints from suppliers. People are needed to translate management goals and policies into reality.

As the economy of Egypt grows, its procurement requirements are expected to become more complex. If procurement is to support this growth in an adequate manner, an affirmative SME participation programme should be integrated with development initiatives aimed at enhancing the business capacity and skills and competitiveness of established small and medium enterprises in Egypt.
Annex (1)
The EU Model: A Review of Procurement Policies

I. Objectives of Procurement Policies in the EU:

Procurement policies in The EU countries provide targeted assistance to SMEs. This includes assistance in completing bid documents, obtaining financing, and technical assistance in complex technological bids.

Priorities for public procurement policy have been outlined in a Communication adopted in 1998. The initiatives of these Communications are:

♦ Improve enforcement of the rules on open and competitive procurement.
♦ Facilitate access to procurement markets for SMEs.
♦ Encourage the use of information technologies to promote electronic procurement.
♦ Identify synergies with other policy objectives of the EU such as social protection, defense, the environment, and liberalization of world trade.
♦ Introduce greater flexibility as regards dialogue between purchaser and suppliers and the use of framework contracts.

II. The Adaptation of an Electronic Procurement System:

In response to the 1996 publication of the Green Paper entitled “Public Procurement in the European Union: Exploring the Way Forward”, EU member countries agreed to simplify the legal framework of the procurement process and adapt it to the electronic age in order to reduce transaction costs on SMEs.

The push towards electronic procurement is the initiation of the Electronic Public Procurement System for Europe “ELPRO”. This system is targeted at SMEs and includes a range of free and paid-for Telematic services, from fax-on-demand services, electronic data interchange and Internet services to demonstrate ways of establishing SME support networks on any Telematics environment in Europe. This will enable procuring entities to generate Telematics, support services for local SMEs at the same time as capturing the efficiency benefits of electronic procurement for themselves.

The ELPRO system also contains proposals aimed at stepping up compliance with the existing rules, encouraging more suppliers to respond to invitations to tender and strengthening synergy with other Community policies.
III. Simplification of the Legal Framework:

Simplifying the legal framework means both clarifying provisions which are obscure or complex and adjusting the rules in force where the problems to be addressed cannot be solved through interpretation of the provisions. The aim is to make contract award rules and procedures clearer and more flexible.

The proposed legislative package comprises the following measures:

♦ Introduction of more flexible award procedures, namely the competitive dialogue, which will replace the existing negotiated procedure with prior publication of a notice, and flexible long-term contracts (framework contracts);

♦ Establishment of a legal framework covering the involvement of private capital in the financing and operation of infrastructures and public services (public-private partnership);

♦ Designating independent authorities responsible for handling disputes in the public procurement field at national level;

♦ Improving information on the way in which public procurement operates in practice.

♦ Enhancing the attestation system for suppliers by conferring certain benefits on entities that have agreed to undergo attestation;

♦ Fighting corruption through measures such as a blacklisting system and excluding from public tender procedures applicants who have links with organised crime;

♦ Ensuring that the public procurement rules are observed in the case of contracts concluded by the commission itself and contracts financed by the community in the context of external aid and the structural funds.

IV. Measures to Promote SME Participation:

A set of measures designed to boost the rate of supplier participation, especially among small and medium-sized enterprises (SMEs) were undertaken.

♦ Making markets more transparent through better information;

♦ Boosting the reliability of contract award procedures through training focused on professionalism and best practice;

♦ Providing for mutual recognition of national supplier qualification systems, so that a supplier who has obtained qualification in one member state can use that qualification in other member states without having to demonstrate his suitability over again; and

♦ Increased use of the new information and communication technologies in public procurement to allow the current procedures to run more smoothly, efficiently, systematically, and rapidly on the Internet.
Annex 2
The US Model: Procurement Opportunities for Small Businesses.

I. An Overview of U.S. Public Procurement Methods:

The U.S. government employs three basic procurement methods in buying goods and services: simplified acquisition purchases, sealed bid purchases and negotiated procurements.

1- Simplified Acquisition Purchases:

♦ Simplified acquisition purchases under $100,000 are generally considered small purchases and follow special simplified procedures which include limited competition, streamlined processing and limited notice requirement for the government.

♦ For purchases between $2,500 and $100,000 these are usually handled in one of two ways:
  1.1 *Oral quotations*: The contracting officer may solicit oral quotations from potential suppliers—at least three suppliers are consulted.

  1.2 *Written or Electronic quotations*: The contracting officer solicits written or electronic quotations from potential suppliers through a Request for Quotation (RFQ). This procedure is used if unusual specifications or a large number of different items are involved.

♦ For purchases under $2,500, a contracting officer does not have to obtain competitive quotations. Many small purchases are made through purchase orders and government-wide credit cards.

2- Sealed Bid Purchases:

The government uses “fixed-price sealed bid contracts” to buy standard, easily defined products or services generally worth more than $100,000. A sealed bid purchase involves competitive bids and public opening of bids. This type of purchase is used when:

♦ The award will be made on the basis of lowest price;
♦ There is no need to clarify the requirements of the procurement with bidders; and
♦ The government expects to receive more than one bid.

3- Negotiated Procurements:

The most flexible, but sometimes most complicated method for procuring goods and services is negotiation. This approach is used when contracting officers cannot define all of the requirements of procurement or when factors other than price are important enough to require evaluation. Negotiation can take many forms. They may call for competitive proposals, which enable agencies to explore alternative delivery options, may involve restricted competition, or be sole sourced.
II. The U.S. SBA Procurement Goaling Programme:

1- Description of the Procurement Preference Goaling Programme:

The policy of the United States, as stated in the Small Business Act 15(g)(1), is that each federal agency shall have an annual goal that represents the maximum opportunity for small businesses to participate in providing goods and services to the government. The U.S. federal government which purchases billions of dollars in goods and services each year, mandates the allocation of a portion of the government’s procurement to small businesses. To foster an equitable federal procurement policy, government-wide business goals are established for federal agencies as percentages of annual expenditures. Each agency then submits its proposed goals to the SBA which ensures that the aggregate statutory goals are met and ensure that small businesses get their fair share in the procurement process.

2- Methodology Used for Establishing Goals:

a- Setting Statutory Requirements:

The SBA is responsible for ensuring that the statutory government-wide goals are met in the aggregate. The statutory goals are as follows:

- 23 percent of prime contracts for small businesses;
- 5 percent of prime and subcontracts for small disadvantaged businesses;
- 5 percent of prime and subcontracts for women-owned small businesses;
- 1.0 percent of prime contracts for Historically Underutilized Business Zones (HUB Zones) for FY1999 and not less than 1.5 percent for FY2000, 2 percent for FY2001, and 2.5 percent for FY2002 and 3 percent for FY2003 and each year thereafter;
- 3 percent of prime and subcontracts for service-disabled veteran-owned small businesses.

b- Goaling Processes

When an agency’s proposed goals are received they are typed into a spreadsheet that includes all the Federal agencies that negotiate goals with SBA. This helps SBA to determine if, in the aggregate, the government-wide statutorily mandated goals could be established. SBA then reviews each agency’s individual goals proposed in each category and compares the proposed goals to both the agency’s historical achievements and to the agency’s historical proposed goals for the individual categories.

c- Individual Goaling Categories/Contract Awards:

Each year, Federal agencies provide SBA with estimates of the total dollar amount of all prime contracts to be awarded during the year and subcontracts to be awarded by all of the agency’s "reporting prime contractors." Each agency must report its goals, expressed both in numbers, dollars, and as a percentage of the total amount to be awarded.

d- Negotiating & Establishing Goals.

When the proposed goals are received from the Federal departments and agencies, the Office of Government Contracting is responsible for reviewing the proposed goals to determine if the agency has submitted a reasonable goal. If it is determined that a goal should be increased, the agency is contacted to negotiate a new goal. The negotiations are not complete with any Federal department or agency until it is determined that the statutorily mandated goals are established.
Calculation of Achievements
At the end of each fiscal year, SBA requests a report from the Federal Procurement Data Center calculating the prime and subcontract statistical achievements for each agency and the Government-wide accomplishments. SBA forwards a copy of the report to each agency that negotiates goals with SBA. Each agency that fails to achieve any proposed prime or subcontract goal is required to submit a justification to SBA on why they failed to achieve a proposed or negotiated goal with a proposed plan of corrective action.

III. Link Avenues to Procurement Opportunities:

The Office of Advocacy successfully launched an Internet-based data base of small businesses called PRO-Net that is available to federal and state government agencies as well as prime and other contractors seeking small business contractors, subcontractors and partnership opportunities. PRO-Net, announced by Vice President Gore in June 1997, was created in response to Advocacy's concern that small businesses were not receiving a fair share of government contract dollars. Information on approximately 200,000 small disadvantaged, women-owned and other small businesses seeking federal, state and private contracts exist. PRO-Net arranges up-to-date information on small business and makes it readily and cheaply available to federal, state and prime-contracting officers and private companies. PRO-Net expedites and facilitates procurements for small businesses by customers including federal and state governments, prime contractors and even overseas buyers.

The Office of Advocacy has created the first ever nationwide, centralized listing service to help make investments in small business less costly and more efficient. The Access to Capital Electronic Network (ACE-Net) is an exciting nationwide Internet-based listing service that provides information to potential investors on small, dynamic, growing businesses seeking $250,000 to $3 million in equity financing. ACE-Net, sponsored by the Office of Advocacy, was announced by President Clinton in October 1996. It is a major effort to expand and systematize, on a nationwide basis, information available to investors on firms, making an initial public offering of stocks. ACE-Net is a mechanism for addressing the critical gap in venture capital financing, identified by Advocacy's research, that America's growth companies face when seeking relatively modest early-stage financing. Once fully operational, ACE-Net will be run as a private, independent, not-for-profit organization.

c- The U.S. Business Advisor: One Stop Information Center.
Another way the Office of Advocacy promotes small business is through its partnering with other agencies to create valuable resources. Advocacy teamed with the Department of Commerce, working in conjunction with the Vice President's Office of National Performance Review, to develop the U.S. Business Advisor. This on-line Internet program is small business' one-stop computerized shop for laws, regulations, and compliance aids issued throughout the federal government. The system also is hyper-linked to other federal home pages that can instantly provide resource material, even cyber-comments and feedback, to small business owners.
ANNEX C
The Indian Model: The Public Procurement System
and Small and Medium Enterprises in India

I. Overview

The constitution of India contains specific references to drawing up contracts by the Government and provides that the executive powers of the central or the State governments shall extend to the performance of any trade and business and the drawing up contracts for any purpose. The operation of this article is further subject to other relevant articles of the constitution, the most notable being those relating to equality of opportunity to all citizens which in turn implies equality in government procurement and equality before the law.

The Indian constitution does not make any special provisions for small and medium sized enterprises (SMEs). The Government however has granted special status to these units and has provided for preferential treatment to be given to them in public buying.

II. Public buying policy

The policy on public buying is contained in the General Financial Rules, 1963 published by the Ministry of Finance. These general rules are applicable to all ministries and departments of the Government and form the core of instructions governing their public buying programme. To give effect to the above-mentioned policy, preference in making purchases will be given in the following order:

- to articles which are produced in India in the form of raw materials or are manufactured in India from raw materials produced in India, provided that the quality and delivery are suitable.
- to articles which are wholly or partially manufactured in India from imported materials provided that the quality and delivery are suitable.
- to articles of foreign manufacture held in stock in India, provided that they are of suitable type and requisite quality.
- to articles manufactured abroad which need to be specially imported. (Preference to be given to offers received for supply through Indian Agents or India-based Establishments.)

II. Definition of Small-scale industries (SSI).

SSIs are units where the total investment on plant and machinery does not exceed Rs. 3 crores (US$ 750,000). The definition of investment does not cover money spent on buying land and erecting buildings and workshops nor does it include working capital. The investment limit has been revised from time to time and always upwards, the only exception being the current revision downwards from US$ 750,000 to US$ 150,000.

Tiny Sector Units, as the name suggests, have an investment limit of Rs. 25 lakhs (US$ 62,500), which is also likely to be revised downwards. In general, it is considered part of the SSI sector. In addition, there is the cottage industry sector, which does not fall into any of the above categories. Cottage industry refers to production of traditional goods in the villages by very small units. It is also done by illiterate persons with no formal training who work in their own homes and not in factories.
III. Public buying and SMEs

Encouragement to SSIs and the cottage industry sector in the public buying programme is one of the earliest policy decisions taken by the Government.

- **Reservation Policy:**
The Government of India provided for purchase and price preferences to be given to goods produced by the cottage and the SSIs. As a result certain items were reserved for procurement from Khadi and Village Industries Commission and certain other items were reserved for procurement from the small-scale sector. The items selected were such that the needs of the public buying programme for these items were met from these two sectors. In case of other items, the public buying policy recommended a price preference for the cottage and the SSIs.

- **Price Preference:**
The cottage and small-scale units are entitled to a price preference of up to 15% on merit when competing with large-scale units. This price preference is permitted even when they compete with a state-owned enterprise.

The preference is necessary because there are cases where the SSI units cannot compete with large-scale sectors and need protection. The price preference is a logical safeguard in such cases and for such cases only. Therefore it is to be accorded on a tender-to-tender basis, keeping in mind the basic considerations of the purchaser with regard to specifications, quality, deliveries, etc. The purchase officer must exercise his discretion while granting price preferences. It is not the policy's intention that SSIs should have a claim to higher rates in public buying and the purchaser should pay up to 15% higher rates irrespective of the merit of the case.

IV. Other incentives for SSIs

*There are several other incentives which have been given to the cottage and the SSIs to improve their competitiveness in the public buying programmes.*

- The bid invitation is supplied free of cost to these units. A copy of the bid invitation is also sent directly to NSIC for circulation amongst its members. This considerably reduces the lobbying cost of these units because they are assured of getting the bid invitation on time and also of receiving the bid invitation forms without any marketing efforts on their part. Copies of drawings and specifications, even if they are priced documents, are supplied free of cost to NSIC for distribution amongst its members.

- Under the single-point registration scheme, the SSI units registered with NSIC are treated as having been registered with the Government’s purchasing agencies and are entitled to the benefits available to the registered firms. No fresh capacity verification is required when such firms participate in a bid.

- The SSI units are exempted from payment of bid guarantees while submitting their offers. They are not required to submit performance guarantees also when the contract is awarded to them. The Parliament has recently approved an act which seeks to compensate SSI units against delay in payment. The purchaser, under the act, shall be liable to pay interest to the
SSI unit at a rate of 5% higher than the prevailing bank rate, if payment is delayed beyond 90 days.

- Incentives to SMEs include subsidies also. Free allotment of land for establishing a SSI unit is a direct subsidy given to this sector. Exemption from excuse duty and sales tax are examples of indirect subsidy. Other indirect subsidiaries include exemption from payment of bid guarantee and performance guarantee, providing credit at rates lower than commercial borrowing rates and payment of interest by the purchaser on delay of payment of bills.
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