

CAUSES OF MALFUNCTIONS IN PUBLIC PROCUREMENT PROCEDURES

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Abstract

Procurement is a key stage in the process of acquiring goods and services resulting from the awarding of contracts in the public sector, governed by regulations in force and principles designed to ensure transparency, efficiency, and above all, fairness. The problem lies in the failure to comply with the procedures put in place, despite the efforts made by the various institutions concerned. The objective is therefore to analyze the perceptions of stakeholders and the determining factors in the public procurement process in Madagascar. How do stakeholders perceive the public procurement process in Madagascar, and what are the determining factors in the process? A systemic approach was used to identify stakeholders' perceptions of the public procurement process and to prioritize the determining factors. In terms of data collection, formal surveys followed by discourse analysis were conducted. The results showed a divergence in perceptions of the causes of the dysfunction of the procurement process between companies and those responsible for public procurement. Furthermore, the Procurement Management Unit, the Tender Committee, age, level and type of study, and experience are among the main factors determining the procurement process, followed by stakeholder satisfaction with the public procurement code, the practice of the code, non-compliance with procurement procedures, and respect for the needs of decentralized local authorities. The simplification of procedures while taking into account emergency planning and response, the strengthening of existing monitoring and control measures, and the rationalization of the public procurement code are the key factors to be considered in the public procurement process.

Keywords: Public procurement, Actors, Systemic Approach, Process, Code

INTRODUCTION

Public procurement, which currently constitutes a real lever for business development worldwide, represents a major public policy issue in terms of supporting the economy and controlling public finances (PF). In France, public procurement has exceeded €400 billion and represents 20% of GDP (Bourquin, 2015).

The review of public procurement procedures highlights, in particular, the technical weakness of local authorities' human and financial resources and their dependence on central government in terms of decentralization and resource transfer (GTZ, 2008). It is believed that these improvements must be made at the outset of the public procurement process in order to enable the contract to be executed under the best possible conditions. Public procurement is a hot topic in every country, and it is important to improve it (Hannine, 2008).

Commonplace and systemic, observed in the public sphere in Benin, Niger, and Senegal, members of public procurement commissions meticulously divide up bribes paid by contractors, take advantage of the interventionism of political and/or religious networks, which can influence court decisions, and award contracts outside of any competitive criteria (Sardan, 2001). In this context, no one dares to bid without knowing the technical and financial details of the project in advance. Sometimes the contractor will have a "foothold" within the administration ; sometimes the information will pass through touts, retired civil servants who gravitate around the procurement offices of the various ministries (Blundo, 2001).

In the public eye, MP projects are primarily seen as a means of financing political parties and are synonymous with corruption (Naegelen, et al., 1997). In Madagascar, most projects are managed by project managers appointed by the government. Some are chosen for their political affiliation, which suggests that they manage their projects politically rather than technically, in accordance with the art, ethics, and professional

standards of the profession. As Melchior (2011) pointed out, there are better and worse ways for project managers to do their job.

Furthermore, public procurement contracts must be concluded for valuable consideration, i.e., they must include financial compensation for the co-contractor of the public-law legal entity or private-law legal entity subject to the Public Procurement Code (CMP). Although the CMP stipulates that the maximum payment period shall not exceed 75 days from receipt of the corresponding invoice (Article 74 of the CMP and Decree No. 2006-348 of May 30, 2006), in practice the majority of payments exceed this period.

Due to their size and complexity, public procurement is one of the activities of public administrations most exposed to the ills that undermine the functioning of public administrations, including corruption. The procurement plan (PPM) is always drawn up at the central level, even for the Decentralized Local Authorities (CTD) program. The companies that will therefore participate in the competition are also limited at the central level. Madagascar's CMP thus incorporates several procedures allowing for negotiation and, more broadly, dialogue, which cannot, however, be used in over-the-counter markets, direct purchases, etc.

The contradictory realities revolve around several aspects : despite the introduction of major reforms aimed at streamlining and modernizing public procurement, the existence of already functional control bodies, reforms and improvements to the CMP law and related texts, the various phases of PMP still contain more and more dysfunctions and bad practices that negatively impact their performance and, above all, the development of the national economy. This situation challenges the actors involved in the PMP process, who are often accused of these impacts. Transparency International, the Independent Anti-Corruption Bureau (BIANCO), the Anti-Corruption Unit (PAC), and the General State Inspectorates (IGE) have consistently mentioned corruption and mismanagement of PMP procedures in their reports.

Faced with these contradictory realities, the issue revolves around non-compliance with procedures involving all stakeholders in the procurement process. The overall objective of this research is to analyze the perceptions of stakeholders and the determining factors in the public procurement process in Madagascar. This objective is broken down into two specific objectives :

- Identify stakeholders' perceptions of the implementation of the public procurement procedure.
- Characterize the determining factors in the public procurement process.

Two research questions are raised :

- How do the various stakeholders perceive the public procurement process ?
- What are the determining factors in the public procurement process ?

Two research hypotheses are put forward :

- The cumbersome nature of the procedures, the high level of corruption and the difficulty of applying the CMP hamper the public procurement process.
- The complete rationality of the public procurement code hinders the public procurement procedure.

METHODS

The research informs decision-makers' thinking on measures to improve PMP procedures in order to improve the performance of public administration and procurement. It aims to measure the importance of the PMP system in the country's development. As a system, these considerations must have an impact on both direct beneficiaries and the general population. Specifically, the research consists of identifying malfunctions in the PMP process and highlighting the factors that have a major impact on its performance, with a view to contributing to the improvement of the process and strengthening the performance of those involved in public procurement.

In Madagascar, the scope of application of the CPM covers the State and its public institutions, public authorities and their public institutions, any public or private entity benefiting from or managing a budget from the State or a public authority or any other public funding, and companies in which the State has a majority stake.

As part of the organization of work within these departments, several directorates and services are appointed, such as the Cabinet, the General Secretariat, the Directorates-General, the Directorates, and several services, notably the PRMP. This research focuses on the bodies responsible for public procurement that are already in place, namely the PRMP, which is responsible for conducting the procurement process, the UGPM, which supports the PRMP throughout the process, the CAO, which is responsible on behalf of the PRMP for performing the evaluation functions provided for in the code, from the opening of bids to the formulation of a reasoned opinion to the PRMP, and the Receiving Committees for public works, supplies, and intellectual services contracts.

The process of verifying the first hypothesis "Cumbersome procedures, a highly corrupt environment, and difficulties in applying the CMP hamper the public procurement process highlighted stakeholders' perceptions of the causes of PPM dysfunction.

A discourse analysis was conducted based on the arguments put forward by stakeholders on a specific topic. In this research, interviews were conducted with resource persons, particularly companies and PRMPs. These interviews made it possible to identify the perceptions of PRMPs and companies regarding the procurement

process. The responses were recorded, entered into Microsoft Word, and processed using a pivot table in Excel. The objective was to list repetitive words deemed important.

A Correspondence Analysis (CA) was then developed to determine the divergence and convergence of the arguments put forward by the resource persons. The qualitative variables studied were the words used by the interviewees.

The process of verifying the second hypothesis : "The complete rationality of the public procurement code hinders the public procurement process" highlighted the determining factors in the PMP process. Multiple Correspondence Analysis (MCA) produced provisional classes of variables confirmed by Discriminant Analysis (DA).

The correlation matrix derived from the DA was then used to rank the variables (Table 1) in several steps :

- Elimination of insignificant variables : variables with a p-value greater than 0.05 (α error risk) ; then removal of the lower diagonal part of the correlation matrix.
- Analysis of variables with an absolute value greater than the significance threshold for inter-variable correlations obtained according to the formula :

$$|p| > \frac{t_{\alpha=0.05}}{\sqrt{n - 2 + t_{\alpha=0.05}^2}}$$

with :

$|p|$ = significance threshold
 t = Student-Fisher's T = 1.96
 n = number of observations=296

- Replacement of variables $|X_i|$ greater than $|p|$ "X"
- Counting of "X" for each line
- Elimination of variables with a minimum number of "X" per line until the end of the ranking of variables in the schedule
- Ranking of hierarchical variables in reverse order of first appearance.

Table 1: Variables studied for the analysis of factors determining the PMP process

Code	Variables	Code	Variables
Ge	Gender	NPA	Number of participants in an open tender
Prof	Occupation	CM	Corruption in prison
Ag	Age	GaG	Over-the-counter trading encourages corruption
NE	Level of education	CC	Causes of corruption
TE	Type of study	Cav	Seal the Notice
Exp	Expérience	RSs	Rejection of submissions
F°	Training	Dex	Difficulties during execution
SC	CMP satisfaction	RMP	Regularization in MP
PCMP	CMP practice	ADU	Direct purchase for emergencies
CT	Concerns texts	RP	Compliance with the PPM
AmC	Amélioration CMP	SA	Archiving service
Du	PPM duration	POF	Percentage of NC and NQ offers
NrP	Non-compliance with PPM	NAI	Number of unsuccessful AO
BC	CTD needs	SIC	A specialist, CAD engineer
IPC	Impact of CTD projects	PF	Fundamental principles
RmC	CTD comments	CTR	Knowledge of regulatory texts
Dar	Difficulties in responding DAO	CNP	Knowledge of PCOP nomenclatures
NGE	Negotiations with a company		

RESULTS

Actors' perceptions of the causes of dysfunction in the procurement process

The CA results identified three classes, all of which are divergent, forming angles greater than 90° between each other (Figure 1).

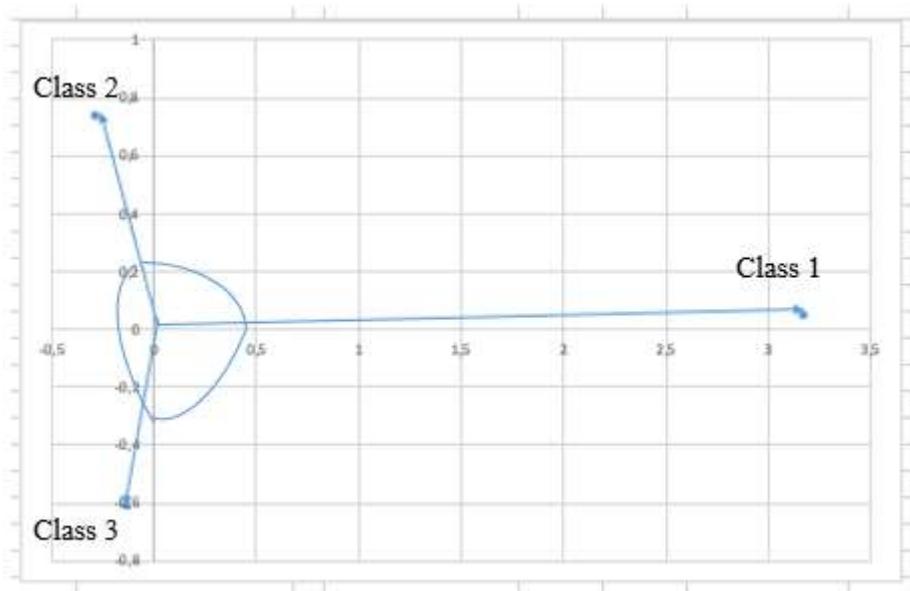


Figure 1: Variable class

The three classes focus on :

- Class 1: Slow procedures,
- Class 2: Handling emergencies, and
- Class 3: Procedures and enforcement of laws.

- Class 1: Slow procedures

Class 1 highlights the slowness of procedures (10%) from the submission of the bid to the signing of the contract, which varies from 30 to 45 days. (Fotoana, mitarazona, volana, etc. It also highlights the delay in receiving the purchase order.

- Class 2 : Handling emergencies

Class 2 includes half of the interviewees (50%). Their problems lie in the process and enforcement of laws, given that their implementation is not adapted to the actual situation in Madagascar. Indeed, the socio-economic situation is not conducive to the procedure defined by law. Specifically, for the handling of emergencies (hampandeha, ranovaky, tampoka, cyclones, tapaka, tranomay, maika, alefa, ...), which are not uncommon, the cumbersome and slow nature of the procedure makes it difficult to resolve problems easily. This forces those involved to find solutions that are inadequate in terms of principles, not to mention the political pressures in urgent cases such as rapid response to cyclones, unforeseen missions, etc.

PMP officials also mention their difficulty in adapting to the procedure that has been put in place. They argue that for developed countries, it is quite possible that following the procedures is easier as a result of planning, whereas for underdeveloped countries, the regularization of services provided does not comply with standards, and the consistency of the texts with reality remains a challenge. This requires a lot of improvement. Adjustments and additions are also needed to the MP code. The divergence of opinions among stakeholders, particularly lawyers, the ARMP, the CNM, and executors, is also one of the constraints raised.

- Class 3 : Procedures and enforcement of laws.

According to 40% of respondents in category 3, the texts, the MP code, and the various bodies are already in place ; however, the national context is not conducive to dealing with the cases that arise. The procedure is not adapted to needs (regulation, code, procedure, text, firafitra, mampihatra, fanantanterahana, fanoziana, fitantanana). The rate of regulation and the implementation schedule have negative impacts on the continuation of the procedure.

PRMP4	E2	miankina	45jours
ara-tsosialy	hatsaraina	traboina	Bon de commande
ARMP	tomombana	15/20	commande
CNM	lalàna	tanarahan-dalàna	contrat
fahabangana	cyclone	fara	fotoana
hahitsy	Madagascar	haingana	mahazo
Malagasy	mialoha	location	mamaly
manana	tapaka	mateti-pitranga	mitarazoka
mpikirakira	vola	maivesatra	nandeha
E3	vonona	note	offre
hampandeha	entana	politique	Ordre de service
lehibe	asa	tsena	ouverture
paikady	fanampiana	orinasa	plis
manahirana	sahirana	pratique	sonia
mazava	sarotra	pression	volana
PIP	mandroso	cas	1volana
ranovaky	trano	PRMP3	juillet
voaroaka	tranomay	fanatsarana	E1
tampoka	maika	ara-dàlana	manantaneraka
ehere	E4	firenena	marché public
hiandry	zava-misy	hampifanarakaka	CLASS 1
alefa	milamina	miaina	
CLASS 2		voaloa	
E5	procédure	contrôle	
ela	filàna	fanoohizana	
ajanona	mifanaraka	manakana	
anelanelany	tsara	rapport	
dingana	toekarena	taraiky	
LFR	olana	trésor	
maharaka	code	texte	
mijanona	fanatanterahana	fandoavam-bola	
mipetraka	PRMP1	fitantanana	
zatra	ara-toekarena	mahatonga	
fe-potoana	E6	kolikoly	
lava	arahana	tsyfeno	
régulation	tsisy	tsy voahaja	
sampan-draharah	calendrier	PRMP2	
taux	betsaka	firafitra	
CLASS 3		mampihatra	
		marefo	
		voajery	

Figure 2: Stakeholders' statements regarding the PMP process

Key factors in the PMP process

Typology of determining factors

The DA result yielded two classes of variables deemed relevant to the procurement process (Figure 3). These classes form an angle greater than 90°, indicating that they diverge

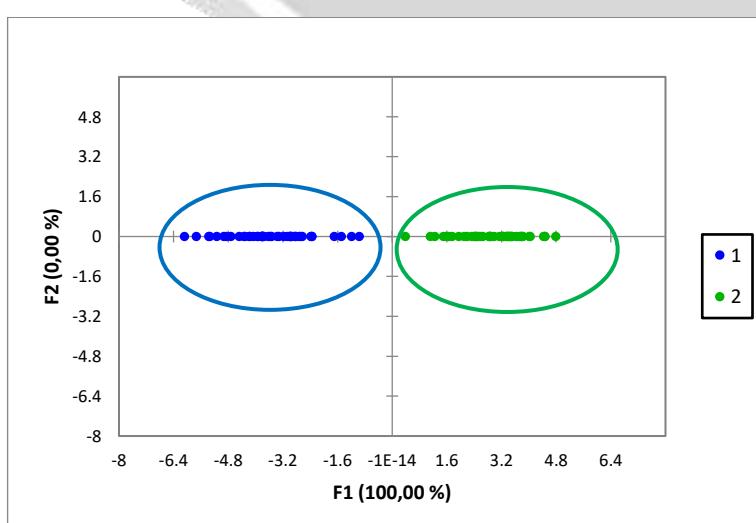


Figure 3 : Classification of determining factors in the procurement process

These two classes represent, respectively, class 1: valuing training and following procedures (46%) and class 2: mastery of regulatory texts and implementation of PPM (54%).

- **Class 1 : Valuing training and following procedures**

Class 1 highlights the importance of training (F°-O) in mastering the procurement process; it views the practice of the CMP (PCMP-B) positively. With regard to texts (CT-B), it highlights the impact of the project on CTDs (IPC-O), as well as the consideration of CTD comments (RCTD-O), the absence of stamps on notices (Cav-N), compliance with the rejection of bids (RSs-R), the lack of difficulties during implementation (Dex-U), the archiving service - Yes (SA-O), the presence of a specialist and engineer on the committee (SIC-O), and knowledge of regulatory texts (CTR-O).

- **Class 2 : Mastery of regulatory texts and implementation of PPM**

Class 2 includes 54% of stakeholders. Failures to be corrected in order to improve the procurement procedure will be raised, given that the CMP is considered unsatisfactory (SC-P), the practice of the CMP (PCMP-A) and those concerning the texts (CT-A) are considered fairly good, there is little impact of the project on the CTDs (IPC-P), the failure to take into account the comments of the CTDs (RCTD-N), the existence of stamps on notices (Cav-O), the presentation of the rejection of bids is not widely respected (RSs-P), several difficulties encountered during the execution of the various stages (Dex-O), regularization in public procurement (RMP-O), and finally the number of unsuccessful AOs less than 2 (NAI-D).

Prioritization of determining factors in the procurement process

Three levels are identified for the determining factors of PPM (Figure 4): level 1 to 10, level 11 to 20, and level 21 to 32.

Levels 1 to 10 deserve special attention. In order of importance, the role of the UGPM (Prof-U) ; age under 40 (Ag-A) and over 50 (AG-C); types of studies in construction, civil engineering (TE-B), computer Science (TE-I); experience of less than 12 months (Exp-A) and more than 36 months (Exp-C); training (F°-O), unsatisfactory public procurement code (SC-P); CMP practice rated as very good (PCMP-T), good (PCMP-B) and mediocre for other actors (PCMP-M) . Level 1 ends with texts deemed good (CT-B), PPM duration of less than 45 days (Du-A), 66-75 days (Du-D); and non-compliance with the PPM (NrP-O).

The other two levels (11 to 20 ; 21 to 32) are not of much interest to respondents

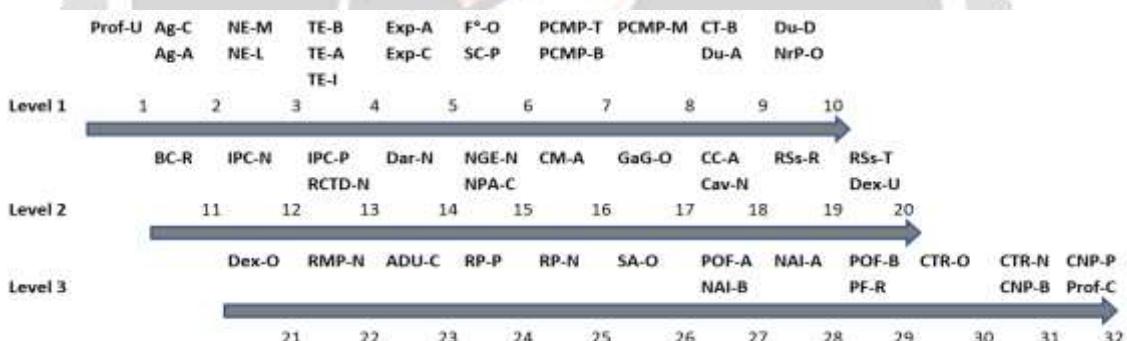


Figure 4 : Ranking of determining factors

Caption :

Prof-U	UGPM	NrP-O	Non-compliance with the PPM	Dex-U	Difficulties during execution - Some
Ag-C	Age over 50	PCMP-M	CMP Practice Mediocre	Dex-O	Difficulties during execution - Yes
Ag-A	Age under 40	BC-R	Compliance with CTD Requirements	RMP-N	Regularization in public procurement - No
NE-M	Level of study Master's degree	IPC-N	Impact of the CTD project - None	ADU-C	Direct purchase for emergencies - Recommended
NE-L	Bachelor's degree level	IPC-P	Impact of the CTD project - Not so much	RP-P	Compliance with PPM - Low
TE-B	Type of study: Construction, Civil Engineering	RCTD-N	CTD remarks not considered	RP-N	Compliance with PPM - No
TE-A	Other types of studies	Dar-N	Difficulties in responding DAO-No	SA-O	Archiving service - Yes
TE-I	Types of studies Computer Science	NGE-N	Negotiations with companies - No	POF-A	Percentage of NC and NQ offers - 26-50%
Exp-A	Less than 12 months of experience	NPA-C	Number of participants in an open tender - between 5 and 10	NAI-B	Number of unsuccessful AO - 3 to 5
Exp-C	Experience over 36 months	CM-A	Corruption in public procurement - None	NAI-A	Number of unsuccessful AO - Less than 2
F°-O	Training - Yes	GaG-O	Over-the-counter trading encourages corruption - Yes	PF-R	Fundamental principles—Respected
SC-P	CMP unsatisfactory	CC-A	Causes of corruption - Other	CTR-O	Knowledge of regulatory texts - Yes
PCMP-T	CMP practice - Very good	Car-N	Seal of Approval - No	CNP-B	Knowledge of PCOP nomenclatures - Good
PCMP-B	CMP Practice - Well	RSs-P	Rejection of bids - Not widely observed	CTR-N	Knowledge of regulatory texts - No
CT-B	Concerns texts - Fine	RSs-R	Rejection of bids - Compliant	CNP-P	Knowledge of PCOP nomenclatures - Not good
Du-A	Duration of the PPM less than 45 days	RSs-T	Rejection of submissions - Highly respected	Prof-C	Bid Review Committee
Du-D	PPM duration Over 75 days				

DISCUSSION

Causes of PMP process malfunction

Slow procedures

Several points are raised concerning the cumbersome nature of the public procurement procedure (Figure2). According to PMP stakeholders, this is reflected in a process that is complex, lengthy, and costly. The slowness affects both public purchasers and suppliers.

On the one hand, regulations, i.e., the legislative and regulatory framework, are becoming increasingly complex, as are the legal requirements and compliance rules that must be observed by the parties. On the other hand, formalization requirements are very strict. The preparation of calls for tenders, the submission of bids, and contract management require supporting documents. Apart from the technical aspects and the preparation of administrative files, the organizational aspects are also significant, as technical and organizational weaknesses compromise the proper functioning of the Malagasy public procurement system (Randrianarivo, 2023).

Procedural delays are increasing at every stage and affecting service delivery. The length of the delays, leading to a 90-day approval period, and the multiplicity of checks and stakeholders raise questions about the relationship between the administration and its co-contractor and about the transparency of procedures and decisions (Transparency, 2006).

Public procurement is one of the areas of public administration most vulnerable to the problems that undermine the functioning of PPM, particularly corruption. The multitude of means available does not prevent public decision-makers from circumventing legislation, either unconsciously due to a lack of or insufficient knowledge of the regulations, or deliberately (Djilali, 2002).

Emergency treatment

Emergency treatments were discussed (Figure 2). The incompleteness of the procedural control mechanism encourages opportunism on the part of the PRMP to exploit the cancellation of the award decision to its disadvantage or to not follow up on a call for competition. By observing the data and information on award appeals available at the Appeals Section, the bidder is led to alert the PRMP to bad practices and behavior that do not comply with the institutional rationality defined in the public procurement governance framework (Jaonasy, 2015).

Complexity of procedures

Several measures have been launched to address issues related to public procurement. Texts have been revised and commissions are operational, but anomalies are still being observed (Figure 2). Indeed, despite the introduction of major reforms aimed at reviving the national procurement system, the practices of stakeholders and prevailing trends show resistance to reform (Randrianarivo, 2023).

Public procurement procedures are often governed by a complex legislative and regulatory framework. Action plans for monitoring have also been strengthened, and one of the most significant factors impacting the process is the cumbersome nature of public procurement procedures. This can manifest itself in several ways that make the process complex, lengthy, or costly, affecting both public purchasers and potential suppliers. According to the World Bank (2019), public procurement procedures in Africa are often characterized by excessive regulatory complexity, leading to prolonged delays, increased costs, and reduced accessibility for suppliers. This has a negative impact on competition and the efficiency of public procurement.

Malfunctions are found during the execution of the PMP procedure, namely poorly drafted tender documents, bids that do not meet the minimum expectations of beneficiaries, and ineffective competition. Faced with poorly drafted tender documents or poorly defined requirements, potential candidates will not venture to participate and respond. Bids that are disparate from one another would make it difficult to compare them. With the same subject matter and the same amount, the PRMP launched a price consultation notice for the construction of an administrative building instead of an open tender as in the previous case.

High levels of corruption and difficulties in enforcing the CMP

Given the administrative burden and complexity of certain stages, those involved in public procurement face several challenges (Figure 2). This is why reforms have been implemented to strengthen competitiveness on the one hand and improve transparency on the other. According to Andriamalala (2015), this situation can encourage circumvention practices, thereby increasing the risk of corruption and irregularities in the awarding of contracts. These situations also have a negative impact on competition in a market, as small and medium-sized enterprises may be discouraged, reducing the number of bidders. This leads decision-makers to optimize monitoring and control mechanisms in order to streamline procedures and take each case into account, so that the system is more efficient and accessible while contributing to the sound management of public funds.

Many irregularities are found during the execution of PMP, as in PPM – AGPM planning. The use of exceptional procedures to make up for delays is often linked to poor internal organization within the public

procurement body, the use of abusive splitting to avoid a more competitive procurement procedure or prior review by the CNM, and the use of a procedure not provided for in the texts (MEF, 2021).

Corruption in public procurement can be attributed to a combination of socioeconomic factors. The most critical of these is poor governance, which manifests itself in a lack of transparency, weak financial accountability, and a lack of integrity on the part of public officials responsible for procurement. These officials often violate regulations and procedures with impunity (Mawenya, 2008). However, in practice, numerous imperfections plague the entire public procurement management process in Cameroon. These "bad practices (BP)" are generic and reported in various reports and in the local media. All stakeholders in the process are involved: project owners, chairpersons of procurement committees, members of procurement committees and subcommittees, independent observers, donors, ARMP, bidders, and beneficiaries (Mbendas, et al., 2012).

The NGO Transparency International Initiative Madagascar (IT-IM) publishes an annual Corruption Perceptions Index (CPI) ranking of countries, which shows the level of corruption in 188 countries. Each country is given a score. Madagascar currently ranks 147th out of 188 countries.

Corruption undermines the integrity and effectiveness of procurement processes. It manifests itself through illegal acts that favor certain suppliers and undermines certain principles, including fair competition and the efficient use of public funds. The best measures to combat corruption are to strengthen monitoring and evaluation of the process. Control and supervision activities can have a deterrent effect on acts of corruption (Jenayah, 2017). The use of emergency procurement procedures reduces standard controls and checks and balances and increases the risk of fraud and corruption within the procurement process (Transparency International, 2020).

Procurement process : levers for success and causes of failure

For the PMP process to be effective and transparent, several factors, particularly individual and organizational ones, must be taken into account.

Importance of PRMP experiences

Experience plays a decisive role in the system given its importance in decision-making. It also enables better control of procedures and facilitates the application of current regulations (Figure 4). The level and type of studies are also important for public procurement actors in order to familiarize themselves with each stage of the process and better understand the code. Proper application of the code indicates that actors have mastered the rules, which reduces the risk of litigation and improves the quality of contracts awarded (ARMP and UNDP, 2017). Public procurement actors directly involved in the PMP, such as the UGPM and the PRMP, therefore play a crucial role in the proper functioning of the system, as does the Tender Appeal Commission (Prof-C). This is a key body that guarantees fairness, regularity, and transparency in the awarding of contracts. Its functioning determines confidence in the system¹.

Essential continuing education

Continuing education also makes it possible to keep up with changes in current laws and regulations while ensuring that procedures run smoothly. Training for stakeholders is essential to ensure the proper application of rules, the effectiveness of procedures, and the professionalization of public procurement².

Legal frameworks consistent with local realities

In order to ensure the proper functioning of the system, the existence of a legal framework alone is not sufficient. The resources available to stakeholders and their ability to adapt play a very important role. According to the results, the gap between the reality at the local level or the application of procedures and the laws and regulations in force is not negligible, given the socio-economic contexts and the specificities of the cases. This can be explained by the handling of urgent cases and the cumbersome nature of the procedures, which forces some actors to resort to other options. The study also reveals that improvised solutions are sometimes adopted, which hinders the proper functioning of existing procedures (Figure 1). Given this situation, Bierschenk et al. (2002) recommend reforming legal frameworks by incorporating flexible mechanisms adapted to local realities, while maintaining institutional control to ensure a certain degree of consistency in public action (Bierschenk, 2002). The lack of comments from decentralized local authorities (RCTD-N) and the very limited impact on decentralized local authority projects (IPC-P) are also noted (Table 2). However, taking into account the real needs of local

¹https://www.aude.gouv.fr/index.php/contenu/telechargement/24177/166510/file/fiche_13_les_commissions_d_appel_d_offres.pdf

² http://www.armp.mg/site/A%20la%20une/formation_en_passation.php

authorities is essential for ensuring that public procurement meets local expectations: a prerequisite for good public management³.

MP codes to be improved

The opinions of stakeholders regarding the CMP are divided: the majority consider it unsatisfactory (SC-P), others consider it very good, and some consider it mediocre.

Code improvement (AMC-O) is also raised. Satisfaction with the CMP is one of the indicators that facilitates its application. Assessment of the public procurement code is fundamental, given that a code deemed unsatisfactory can lead to difficulties in application or inefficiencies in the procedure. In addition, compliance with the duration of the PPM also plays an important role in terms of payments. Compliance with payment deadlines encourages bidding companies, as appropriate reforms will be developed as transparency and competitiveness improve. The speed or slowness of the procedure has a direct impact on the implementation of projects and the satisfaction of public needs (SNV, 2007). Strict compliance with procedures is a guarantee of legality, transparency, and the fight against corruption (ARMP, et al., 2017).

Reforms and efforts have been made at the national level to ensure transparency and efficiency in procedures. The ease of preparing tender documents is crucial to ensuring competition and equal treatment among candidates (ARMP, 2008; UNDP, 2017). Stakeholders have pointed out that companies have no difficulty responding to a tender dossier (Dar-N).

Complete rationality of the public procurement code

The comprehensive rationality of the public procurement code highlights a legal and operational framework that supports the sound management of public resources, transparency of processes, and integrity of the system (Table 2). The key principles of public procurement include value for money, fairness and integrity, effective competition, transparency, and accountability (AU Procurement Manual, 2016; Lynch, 2013).

Streamlining public procurement can help reduce costs, improve the quality of goods and services purchased, enhance competitiveness, and promote economic and social development. It can also help prevent corruption, favoritism, and collusion. To streamline public procurement, it is important to develop quality management systems for procurement processes, establish standardized procedures for all public procurement processes, and put in place monitoring and control measures to ensure the effective use of public funds and compliance with applicable rules and regulations.

CONCLUSION

The actors involved in public procurement each have their own perceptions of the causes of dysfunction in the procurement process. It appears that dysfunction in public procurement refers to any situation where the rules and procedures governing public procurement are violated or infringed upon. These malfunctions can include problems such as corruption, favoritism, collusion, lack of transparency, failure to meet deadlines, procedures, or legal requirements, among others. This confirms the first hypothesis that “cumbersome procedures, a highly corrupt environment, and the difficulty of enforcing the CMP hamper the public procurement process.”

Malfunctions in public procurement can have serious consequences, such as loss of public confidence in government institutions, excessive costs for taxpayers, discrimination against competitors or suppliers, and distortion of competition.

To prevent these malfunctions, public procurement must be governed by transparent and fair rules and procedures, with strong supervision and enhanced control by the relevant authorities. Companies, suppliers, and stakeholders must also play their part by complying with rules and procedures and reporting any suspected malfunctions to the competent authority. This partially verifies the second hypothesis, which states that “The complete rationality of the public procurement code hinders the public procurement process.”

The rationalization of public procurement aims to improve the effectiveness and efficiency of public spending by optimizing the use of public resources. It can be achieved by streamlining the procurement process, establishing supplier selection policies, setting quality standards for purchased products and services, and increasing transparency and accountability in public procurement management.

In addition, governments should encourage the participation of small and medium-sized enterprises in public procurement, provide training to relevant parties on applicable rules and procedures, and promote transparency and accountability in public procurement management.

3 <http://www.droit-afrique.com/upload/doc/madagascar/Madagascar-Loi-2004-09-marches-publics.pdf>

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