

**SUSTAINABLE PUBLIC PROCUREMENT:
A NEW APPROACH TO GOOD GOVERNANCE**

A.B. Adjei

This paper seeks to introduce the concept of SPP, its relevance in governance, and significance of its application for sustainable economic development. Good public procurement systems can help governments optimize resources to obtain better value for money and improve projects delivery. An enabling environment for good governance is thus created when public procurement systems are strengthened. Governance, according to the OECD, encompasses the role of public authorities in establishing the environment in which economic operators function to determine the distribution of benefits as well as the relationship between the ruler and the ruled. Good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable; and it promotes the rule of law (UNDP).

The International Development Law Organization (IDLO) based in Italy, identifies five dimensions of good governance:

- Structure of government
- Structure of the accountability and contestability of political leaders;
- Public sector management;
- Open entry and competition in the private sector: and
- Issues dealing with civil society, voice and participation

- Since the public procurement budget of developing nations is often large (about 60% of total government expenditure), a well regulated public procurement system will certainly promote good governance.

This will be visible in terms of efficient resource management (including natural resources), social services delivery, increased projects delivery (e.g. schools, hospitals, and highways), accountability, transparency, competitiveness, fairness, promotion of growth of local industry, etc. Public procurement can be influenced by consumer protection societies, media, environmentalists, social activists, and other groupings that demand social justice.

DELIVERABLES UNDER GOOD GOVERNANCE

Good governance demands that the state upholds the rights of the vulnerable, protecting the environment, maintaining stable macroeconomic conditions, maintaining standards of public health and safety for all at an affordable cost, mobilising resources to provide essential public services and infrastructure and maintaining order, security and social harmony. These are all sustainability issues.

Good governance delivers **sustainable development** by ensuring establishment of political, legal, economic and social circumstances for poverty reduction, job creation, environmental protection and the advancement of women.

According to the UNDP, the goal of governance initiatives should be to develop capacities that are needed **to realize development that gives priority to the poor, advances women, sustains the environment and creates needed opportunities for employment and other livelihoods** (- *UNDP Policy document on “Good Governance and sustainable human development”*).

Sustainable development, according to UNDP, is the balancing of the fulfillment of human needs with the protection of the natural environment so that these needs can be met not only in the present, but in the indefinite future. Sustainable development does not focus solely on environmental issues. More broadly, **sustainable development policies encompass** three general policy areas: **economic, environmental and social**.

WHAT IS SUSTAINABLE PUBLIC PROCUREMENT (SPP)

Sustainable Public Procurement is about spending public funds on products/services/projects that foster **sustainable development**. With

sustainability issues becoming vital in the developmental agenda of nations, it is time to shift the focus of public procurement systems from mainly immediate economic advantages to Sustainable Public Procurement systems which will result in long-term benefits not just to governments but to all their constituents.

Though a new concept, SPP is not another type of procurement; it rather seeks to address the environmental, social and economic consequences of procurement actions from design through manufacturing to use and final disposal. African communities are faced with worsening climatic conditions, poverty, deforestation and other environmental degradations. These are mainly the result of inappropriate production and consumption practices

Sustainable Public Procurement is defined as a process whereby Public Institutions meet their needs for goods, services and works in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organization, but also to society and the economy, whilst minimising damage to the environment. It is one of seven themes being promoted under the Marrakech Task Force. The six other themes are on:

- Sustainable Products (hosted by the UK);
- Sustainable Lifestyles (hosted by Sweden);
- Sustainable Tourism (hosted by France);
- Sustainable Buildings and Construction (hosted by Finland);
- Education for Sustainable Consumption (hosted by Italy);
- Cooperation with Africa (hosted by Germany).

SPP considers the environmental, social and economic consequences of: design; non-renewable material use; manufacture and production methods; logistics; service delivery; use; operation; maintenance; reuse; recycling options; disposal; and suppliers' capabilities to address these consequences. It upholds the principles of transparency, fairness (to both the supplier and society), long term economy, and accountability (from purchaser and supplier).

THE DIMENSIONS (PILLARS) OF SPP

SPP has three dimensions known as pillars. These are environment, social, and economic. There are sustainable issues under each pillar that should be integrated into the procurement processes.

Environment

Every product or service bought has environmental impacts throughout its life-cycle- from the extraction of raw materials, the manufacturing of the product through to its use and disposal. The product must be environmentally harmonious, in the sense that its manufacture, use, or disposal will not negatively impact on the environment. For example the use of energy should be moderate (-use of energy saving lighting systems), and the method of generation should take advantage of renewable energies, to maintain fossil fuel levels.

Social

Purchasing actions have social implications, and public procurement can be used to drive social improvements- for example working conditions for publicly contracted construction workers, disabled access in public buildings, employment opportunities for marginalised groups, working against child labour or supporting Fair Trade. Another example of social sustainability: products that have been manufactured under good conditions and fairly traded.

Economic

The term economic in this case does not just mean the initial purchase price but also means efficient procurement including usage costs such as electricity and water consumption, maintenance expenditures and disposal costs at the end of its life. Also, economic sustainability ensures that there is an economic benefit both to the community from which the product was manufactured and to that in which it was sold.

SIGNIFICANCE AND BENEFITS OF SPP

Governments being the largest single buyers, it is evident that what and how governments buy and acquires in terms of goods, services and works contribute significantly, both to its ability to deliver sustainable development and to its credibility with its development partners. Public Procurement carried out purely on the basis of upfront costs

demonstrates unsustainable economy, since the cost of ownership will far outstrip the upfront cost.

Buyers have a lot of control over what is manufactured, and how it is manufactured. *Each time a product is purchased, the buyer is effectively "electing" or "voting" for the company that has provided it.* When products are purchased from companies that are ethically irresponsible, e.g. companies that exploit their workers, or companies that degrade the environment through their operations, then these companies engaged such un-sustainable practices are being encouraged to continue. The purchasing power should rather be used to support companies that produce sustainable products, e.g. recycled paper.

Government procurement therefore needs to consider sustainability issues as it is the only way that it can be sure to offer real value for money over a longer term without compromising environmental and social responsibilities. This would ensure that development targets are achieved through the acquisition of goods, works and services without much damage to society and the environment.

With these considerations, SPP seeks long term impact on economic, social and environmental issues, by helping to:

- achieve value for money;
- sustain economic development;
- improve ethical behaviour of suppliers / contractors especially, and the general public at large;
- reduce harmful emissions and waste generation;
- improved air and water quality;
- make local industries applying SPP internationally competitive;
- increase the wealth and health of the society (hence improve living standards),
- improve working conditions - health and safety, labour standards;
- reduce labour agitation;
- improve condition of disadvantaged groups in the country;
- help accelerate the achievement of the Millenium Development Goals, and

- create a better society, among other things.

EFFICIENT AND EFFECTIVE PUBLIC PROCUREMENT SYSTEM

An efficient and effective public procurement system is a good governance tool that:

- Promotes effective and efficient procurement practices and systems to enable government to deliver the services demanded by its constituents in a timely manner;
- Seeks to achieve value for money based on whole life cost;
- Enhances competitiveness among suppliers through its policies and practices;
- Adopts high standards of equity to ensure fairness and transparency, and to avoid corruption in its practices;
- Ensures accountability through good record keeping, auditing, and transparent review procedures, among others;
- Ensures uniformity for all public procurement by entities through regulations and use of standard documents;
- Ensures that public procurement complies with provisions of the country's public procurement law as well as the constitution;
- Enhances quality and quantity of government projects delivered.

Even though the above issues are elements of efficient public procurement systems, they are at the heart of good governance.

PROMOTING A SUSTAINABLE PROCUREMENT AGENDA- GHANA'S EXAMPLE

Sustainable Procurement should be run through deliberate national or municipal level policy implementation backed by legal instruments. Strong political will and leadership to drive the implementation process is required for its successful implementation. Institutional buyers' focus on upfront savings and profit maximization would have to be redirected to include consideration of sustainability issues to enhance social equity, economic advancement and environmental sustainability. This may necessitate legal/legislative compulsion, in combination with incentives. There is need to train compliance inspectors for successful Sustainable Procurement implementation.

Ghana's public procurement is regulated by an Act of Parliament which was passed into law in December 2003, Act 633. Section 59 of Ghana's Public Procurement Act, 2003 (Act 663) includes some Economic and social sustainable issues. The emphasis as outlined in Section 59 is on the Economic aspect. Despite this, some Economic sustainable issues have also not been integrated into the procurement processes. There are few social considerations, with virtually no consideration on Environmental issues.

The Environmental aspect, though not captured in the law, has stand-alone regulations on issues like Energy Efficiency Standards, Pesticides Control and Management, reduction in green house gas emissions, Forest & Wildlife management, Mining and others.

On the Social side, Ghana's labour Law, Act 651 of 2003 addresses issues like:

- Equal Opportunity for Employment,
- Occupational Health & Safety,
- TUC-Employers dialogue,
- Child labour, among others

These are sustainability issues (for supplier compliance) that are not integrated into Act 663. Also, the Draft Bill on the Physically Challenged when passed into law can influence public procurement once it becomes a requirement under Act 663. There are however some Social issues in the procurement Act, Act 663 that have not yet been mainstreamed into the procurement process. For example Section 59 (4c) considers the *effect acceptance of a tender will have on encouragement of employment in Ghana.*

SUSTAINABILITY ISSUES IN PROCUREMENT LAWS OF OTHER COUNTRIES

Like Ghana, most countries also have SPP issues in their procurement and other laws and regulations. Each country has to search its laws/regulations for sustainability issues and try to bring them under the procurement law/regulations for ease of application.

Norway's policy document on SPP

The primary objectives of the document are:

- Procurement in the public sector should take place with the minimum of environmental impact and with respect for fundamental workers' rights and human rights.
- Environmental and ethical/social considerations in public procurement shall contribute towards an efficient public sector and a competitive business sector.
- Section 12 (1) of the Tanzanian Procurement Regulation of 2005, states "A procuring entity shall avoid wherever possible the procurement of chemicals, pesticides or other goods which are known to have or suspected to have harmful effects on the health of the population, the environment, domestic animals, wildlife and flora".

Botswana's policy document on SPP

Economic and social objectives and procurement clause: "The Government may from time to time introduce reserved and preferential procurement schemes. The schemes referred to shall **apply to specific, disadvantaged women's communities and regions and areas subject to occasional calamities**".

Gambia's policy document on SPP

The Authority is required under section 37(2) of the Procurement Act, to identify and promote ways of facilitating participation by small enterprises in public procurement. Such measures may include, for example: Establishing small-enterprise set-asides (may be total, partial, or limited to a particular region); and in the event of equal low bids, making awards first to small enterprises

All the issues discussed under the various laws and legislations are sustainability issues though it could be argued that they appear to be protective clauses which may infringe upon WTO equal opportunity provisions. An example of Social sustainable issues in a tender document may include a clause or have as part of its specification:

- that "products that contribute to ozone layer depletion are excluded".
- that "suppliers that use child labour in their production are excluded"; or
- "suppliers that do not administer fair wages are excluded".
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The SPP Task Force

There is an international taskforce spearheading sustainable public procurement, and Ghana is a member. It is the only African country on the taskforce. Other members are drawn from China, Indonesia, Philippines, Argentina, El Salvador, Sao Paulo, Austria, Czech Republic, Norway, Switzerland, and United Kingdom.

The objective of the taskforce is to promote and support the implementation of Sustainable Public Procurement, by developing tools and supporting capacity building in both developed and developing countries. Its functions are to:

- Develop a practical Toolkit to give the various stakeholders in the procurement process an easy start to implement the concept of Sustainable Public Procurement;
- Carry out research and prepare background documents in SPP;
- Promote the implementation of SPP through pilot projects;
- Facilitate the dialogue and work among different countries and stakeholders interested in SPP.
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SPP IMPLEMENTATION

The implementation of SPP concept in public procurement should be a strategic rather than a short term process. The approach should involve the following, among others:

- Set up a national taskforce for SPP implementation;
- Draw up an implementation plan;
- Public education and training to create awareness; training of entities;
- Mainstreaming social and environmental issues into the Procurement Act;
- Ensuring the infusion of SPP issues into the existing procurement processes;
- Mobilisation of interested parties e.g. EPA, Energy Commission, AGI, TUC, etc;
- Establishing indicators to measure SPP operations and impact;

- Mobilising budgetary support for SPP activities.
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CHALLENGES AND REMEDIES

SPP implementation will certainly not be without challenges there will be hurdles to be surmounted. However, the remedies outlined in this section will largely address the implementation challenges. The challenges will arise from the following areas, among others:

- Getting a reasonable budget for SPP;
- Availability of SPP Compliance Inspectors;
- Legal framework;
- Budget holders;
- Suppliers / contractors;
- Entities;
- Politicians.

Funds will be needed to implement the SPP agenda. These can be sourced from Government's own funds and from Development Partners. Due to the benefits expected to accrue to the world at large, Development Partners will be too willing to support SPP projects.

For SPP to work effectively there should be a class of Inspectors to monitor and carry out audits to ensure compliance. This will be a challenging task. Experts will have to be hired to train the inspectors.

Country procurement laws will need to be amended to introduce sustainability issues. Closely linked is the ability to integrate the SPP issues into the Procurement Process itself. Experts can be outsourced to undertake this task.

For budget holders, there will initially be some resistance from them, since they may have loyal suppliers / contractors who may not necessarily qualify under the sustainable criteria.

Furthermore, they may resist because it will appear to them that they will obtain less value for their money since the sustainable products may be more expensive in the short term. A lot of effort should go into education on the benefits of SPP to carry along the budget holders.

Suppliers / contractors will naturally show resistance since they will have to expend additional funds to bring them up to an SPP compatible level.

They may need to change production technology, train staff on new processes, and improve staff benefits, among others.

Politicians will act the same way as the budget holders because they will feel that they cannot deliver as many projects as promised in their manifestos as compared to the number of projects non-SPP projects would yield due to perceived extra cost. The solution will again be effective education. It is expected that with good planning of the implementation process, SPP can take off and be implemented successfully.

CONCLUSION

The world is paying much attention to sustainability issues, especially on the environment (-global warming). Governments' procurement budgets are large and they should not be used to encourage procurement of products/works that will contribute to degradation of the environment. This is because in the long run it will cost those governments more in trying to fix the problems.

Government procurement should also be used to bring development to deprived areas in the nation through margins of preference and other measures in the procurement process.

A nation stands to benefit in the long-term if Sustainable Public Procurement is implemented (now). SPP is one major way of seeking to achieve the UNDP's good governance goal of "realizing development that gives priority to the poor, advances women, sustains the environment and creates needed opportunities for employment and other livelihoods."

Countries stand to benefit in the long-term if Sustainable Public Procurement is implemented. Sustainable Public Procurement is one of many strategic instruments available for effective promotion of sustainable production and consumption.

Most countries have embarked on institutional procurement reforms with almost all of them operating under National Procurement Laws. These laws have to some extent addressed sustainability issues in deciding on the lowest evaluated responsive bidder. SPP can therefore be made operational in these countries without having to pass new legislations. Effective implementation of SPP will certainly promote and enhance Good Governance.