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RISK MANAGEMENT IN PUBLIC PROCUREMENT IN TUNISIA

Ihsan KNOUZI

Ministry of National Defense, Tunisia

Abstract:

Risk management in Tunisian public procurement is vital to ensure the efficiency and transparency of public spending. Financial, technical, legal, and corruption risks can jeopardize project success. Rigorous risk identification, assessment, and the implementation of appropriate mitigation strategies are essential. Training and awareness-raising for stakeholders, the use of information technology, and public-private collaboration are levers to strengthen risk management. Concrete recommendations, such as improving the legal framework and strengthening institutional capacity, can contribute to improving the situation. Ultimately, effective risk management in public procurement is essential to guarantee the optimal use of public funds and the country's economic development.

Keywords: risk; procurement; public funds; costs; overruns.

Introduction

Public procurement plays a vital role in Tunisia's economic and social development, accounting for a significant portion of public expenditure. Governed by a stringent legal and regulatory framework aimed at ensuring transparency, efficiency, and equity, these procurements are nevertheless subject to numerous risks that can jeopardize project success. Such risks include financial, technical, legal, and most notably, corruption. If not effectively managed, these risks can lead to cost overruns, delays, or even complete project failures, thereby compromising the optimal utilization of public resources.

In this context, risk management in public procurement has become a priority to guarantee project success and safeguard public interests. The fundamental question is: How can effective risk management in Tunisian public procurement contribute to transparency and efficiency in public spending while reducing instances of corruption and dysfunction?

Tunisia's economic and social progress hinges on the efficient allocation of public funds. However, the nation's public procurement system faces significant challenges, including corruption and mismanagement. This study aims to unravel the complexities of risk management in Tunisian public procurement, exploring strategies to enhance transparency, efficiency, and accountability in public spending.

This study seeks to explore this question in three parts. The first chapter will delve into the conceptual and regulatory framework of public procurement in Tunisia. The second chapter will focus on the identification and assessment of risks in public procurement, including the methodologies employed. Finally, the third chapter will examine mitigation strategies and monitoring mechanisms necessary for robust risk management.



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1. Conceptual and Regulatory Framework

1.1 Introduction to Public Procurement

Public procurement is at the heart of public fund management and serves as a strategic lever for achieving Tunisia's development objectives. Public contracts can be categorized into three main types: works contracts, supply contracts, and service contracts.

A- Objectives of public procurement:

- Economic efficiency: Optimal use of public resources to ensure value for money.
- Transparency and anti-corruption: Public procurement aims to prevent favoritism and ensure equal opportunities among bidders, while adhering to international good governance standards.
- Support for the national economy: Public procurement can stimulate local businesses, foster innovation, and contribute to achieving social and environmental objectives (such as "green" public procurement).

B- Key actors in public procurement:

- Contracting authorities: Public bodies that issue calls for tender (central administrations, local authorities, public enterprises).
- Bidders: Economic operators who respond to calls for tender, whether local or foreign companies.
- Control bodies: Institutions such as the Court of Auditors or the National Anti-Corruption Authority (INLUCC) that oversee the regularity of processes.

1.2 Legislative Framework

Tunisia's legal framework has evolved to meet the modern demands of transparency and good governance. In addition to Decree No. 2014-1039, several other laws and decrees are significant:

- Decree No. 2018-416: Introduces modifications concerning the use of electronic platforms for calls for tender to enhance transparency and reduce the risk of manipulation or favoritism.
- Law No. 2017-10 on the reporting of corruption: This law aims to protect whistleblowers, a crucial tool for detecting irregularities in public procurement.
- HAICOP (High Authority for Public Procurement): It oversees all public procurement processes, issues explanatory circulars, and plays an advisory role. The legislative framework strives to align Tunisian practices with international best practices, including those recommended by the World Bank and the Organization for Economic Co-operation and Development (OECD).

1.3 Risk Management

In public procurement, risk management is imperative to ensure project success. Types of risks can be classified as follows:

- Financial risks: Budget overruns, cost underestimation, fluctuations in raw material prices.
- Technical risks: Delays in project execution, design or engineering errors, insufficient material quality.
- Legal risks: Contractual disputes, abuse of legal remedies, non-compliance with laws and regulations.
- Corruption risks: Collusion between parties, favoritism, conflicts of interest, lack of transparency in contract award. Proactive management of these risks can minimize financial losses and delays while improving the quality of results obtained.



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2. Risk Identification and Assessment

2.1 Risk Identification

Risk identification involves detecting all internal and external events or factors that could potentially harm a project. The following techniques can be employed:

- PESTEL analysis (Political, Economic, Sociological, Technological, Environmental, and Legal): This tool enables a mapping of external risks, including regulatory changes, economic developments, and environmental pressures.
- Brainstorming: Gathering stakeholders to collectively identify potential risks.
- Historical data analysis: Examining past projects to learn lessons and identify recurring risks.
- Specific examples of risks in Tunisia include:
 - Political instability: Can lead to project delays or cancellations.
 - Difficulties in material procurement: Risks of price increases or shortages of raw materials.
 - Coordination issues between actors: Risk of extended delays due to poor coordination among subcontractors or different organizations.

2.2 Risk Assessment

Risk assessment quantifies identified risks in terms of probability and impact. Evaluation criteria include:

Probability of occurrence: Assesses the frequency with which a risk could materialize.

Severity of impact: Measures the financial, legal, or technical consequences of the risk occurring.

Evaluation tools:

Risk matrix: A table that cross-references probability and impact to classify risks.

Monte Carlo analysis: A simulation technique that can predict various possible outcomes of a project and assess the associated risks for each scenario.

2.3 Risk Prioritization

Risk prioritization allows for focusing efforts on critical risks. Risks are ranked in order of importance according to their criticality, using techniques such as:

- Pareto analysis (80/20): This approach targets the 20% of risks that account for 80% of problems.
- Gantt chart: Used to visualize the impact of risks on project planning.

3. Mitigation Strategies and Monitoring

3.1 Mitigation Plans

Mitigation strategies aim to reduce the impact or likelihood of risks occurring. Several types of strategies can be considered:

- Protective contractual clauses: Incorporating penalty clauses for delays, requirements for bank guarantees, or price revision clauses to address economic fluctuations.
- Risk transfer: Utilizing specific insurance to cover financial or legal risks.
- Supplier diversification: Reducing dependence on a single supplier to minimize supply risks.

3.2 Risk Monitoring

Risk monitoring should be continuous throughout project execution. Tools and techniques used include:

- Risk management dashboards: Real-time monitoring of risk status and corrective measures.
- Regular audits: Periodic verification of the compliance of risk management processes.
- Software tools (ERM, Enterprise Risk Management): Integrated management systems enable automated monitoring and alerts in case of increased risk.



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3.3 Training and Awareness

Training is a cornerstone of risk management, as it ensures that all public procurement stakeholders are aware of risks and know how to address them. Specific training programs should be established for:

Project managers: Strengthening their risk management skills.

Legal teams: Training on legal developments and dispute resolution.

Private sector actors: Raising awareness of the specific risks of public procurement to foster better cooperation with contracting authorities.

Initiatives in Tunisia: HAICOP organizes seminars and workshops to raise awareness among stakeholders about good risk management practices. INLUCC also plays a role in anti-corruption training, a crucial aspect of risk management in public procurement.

Conclusion

Risk management in public procurement is an essential process to ensure the transparency, efficiency, and integrity of public projects, particularly in an economic and political context where public funds are limited and subject to increasing pressure. The risks associated with these procurements are manifold—financial, legal, operational—and can severely compromise project execution if appropriate mechanisms are not in place.

Risk identification and assessment tools, such as internal and external audit methods, risk mapping, and lessons learned analysis, enable the detection of potential vulnerabilities upstream and the consideration of solutions to anticipate them. These tools provide public authorities with a clear view of the threats they face and contribute to the implementation of effective prevention and mitigation strategies.

Prevention strategies, including anti-corruption measures and e-procurement, help to strengthen transparency and limit fraudulent practices. The implementation of contingency plans and the capacity building of public and private actors also optimize the management of unforeseen events and ensure better project execution.

Finally, post-contract monitoring and control mechanisms, such as continuous monitoring and independent audits, play a central role in overseeing public procurement. The role of external stakeholders, such as civil society and international institutions, provides additional oversight and strengthens the accountability of contracting authorities.

For Tunisia, strengthening risk management in public procurement remains a significant challenge but also an opportunity to modernize its public governance. Ongoing efforts in transparency, auditing, and control must be continued and intensified to ensure that public resources are managed with integrity and efficiency. This requires enhanced collaboration among various stakeholders, better use of digital tools, and a culture of transparency rooted in all spheres of public management.

Ultimately, the establishment of a rigorous risk management framework in public procurement is a prerequisite for ensuring the optimal use of public funds, fostering economic growth, and strengthening citizens'

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