

Report on meeting between ZPPA, CCPC and CUTS

Need for Pro-competitive Public Procurement in Zambia

1. 1st Meeting – August 18, 2015

A meeting was held between CUTS, CCPC and ZPPA on the 18th of August, 2015. Representing CCPC was the Director legal and corporate affairs Ms Mumba, a senior investigator Mr Chester Njovu, research analyst Ms Thelma Musonda and the director mergers and restrictive business practices, Ms Naomi Fulaza. CUTS was represented by Simon Ng'ona Centre Coordinator and Faith Mwamba. On the other hand, ZPPA was represented by the Director General Mr Chibelishi Musongole, Director Compliance monitoring Ms Gloria Ngoma, the Board Secretary Ms Mwaka Ndhlovu, Contracts and procurement Audit department Ms Vid Kamanya and the Manager Compliance Monitoring Ms Ethel K Munkowe Kayonde. The purpose of the meeting was for ZPPA to enlighten CUTS and CCPC on the current situation and the challenges in the fertiliser procurement systems in Zambia.

A brief background of the CREW project and the specific issues under the maize sector were shared in the meeting by CUTS. It was indicated that one of the key issues that emerged from studying the FISP-related fertiliser supply in Zambia was the process of Fertiliser procurement. It was mentioned that fertilizer is an essential and the most expensive input into crop production. Contracts given to private fertilizer companies to source appropriate fertilizer for resale to Government for its agriculture subsidy programme to small scale farmers (FISP) constitutes a big chunk of the agriculture sector budget in Zambia. Hence, according to the CREW study, it is recommended that measures be put in place to ensure the procurement process is pro-competitive. Having a competitive procurement process will assist government in saving revenue that is often lost due to high costs of supply and distribution of fertiliser inputs.

From ZPPA's point of view, the Director General indicated that ZPPA does not play a major role in choosing who supplies and distributes fertiliser. He added that the procurement process is decentralised. The Ministry of Agriculture (MOA) takes a leading role in determining the procurement process of fertiliser supply and distribution. MOA uses two types of bids, that is, the open bid which is the most competitive bid and accords an opportunity for a large number of firms to tender for the bid. On the other hand MOA also uses what is referred to as a limited or direct bid where only a few firms are shortlisted and given contracts to supply and distribute fertiliser. Essentially, the procurement process supports competition in the sense that the bids are initially floated out as open bids however the process is often curtailed by external factors such as late availability of resources through the Ministry of Finance to procure the fertiliser. This often results in the Ministry undertaking what is called limited bidding where the MOA's Procurement Committee shortlists candidates to supply and distribute fertiliser. It is therefore at this point that the Ministry Notifies ZPPA not to object to direct (limited) bidding. In addition, it was stated that the past three years, the Ministry has floated open bids however they still end up using the same firms to distribute and supply fertiliser.

It also came to light during the meeting that ZPPA is also interested in understanding what the challenges are at the MOA in ensuring that the procurement process for fertiliser supply and distribution remains competitive. ZPPA was of the view that MOA does appreciate the importance of

competitive bidding. ZPPA cited the procurement plans which are shared with ZPPA at the beginning of every year which always indicate that MOA will competitively bid, however, ZPPA mentioned that the challenge of resource availability as the potential challenge. It was therefore suggested by ZPPA that we have another round table meeting with participation from the Ministry of Finance, Ministry of Agriculture and other stakeholders.

Therefore in moving forward, the following where the action points;

- CUTS to facilitate a roundtable brainstorming meeting with the two Ministries as well as other key stakeholders. Among other issues, the purpose of this meeting will be to get buy-in from all stakeholders taking into account the political economy surrounding the maize sector. The meeting was tentatively slotted for the second week of October and will be spearheaded by ZPPA and CCPC.
- CUTS to work on a background note for the meeting which will be shared with the Ministries and other stakeholders to be invited. Additionally, CUTS was advised to pick key questions from the study which could have not been answered conclusively and invite the Ministries and other institutions to make presentations on the exact state of affairs at the roundtable meeting.
- During this meeting, it will be suggested to the Ministry that all stakeholders be engaged in the planning process for the next farming season. CCPC will thus take the role of analysing the solicitation documents (bids) and identify angles that are anti- competitive before the document is closed so as to find lasting solutions to the problem.

In conclusion, the Director General advised CUTS to undertake a similar research in other sectors. He mentioned that the procurement process is very dynamic and there are a number of Ministries that do not adhere to competitive procurement processes. He indicated that one such Ministry is the Ministry of health which has always resorted to having limited bids as opposed to open bids. He added that the issue might be bigger than we may perceive it to be at the moment and extensive research by organisations like CUTS would assist government in identifying and addressing these issues.

2. 2nd Meeting – February 11, 2016

Meeting with Chibelushi M. Musongele (Ph.D.), Director General, ZPPA and Brian Muletambo Lingela, Director – Consumer Protection

- 1.1.** The purpose of the meeting was to decide on an action plan. Two points specifically were discussed, namely: the review of the Public Procurement Act, and the development of a toolkit to facilitate the capacity building of those responsible for the implementation of the Act.
- 1.2.** On the topic of the review of the Act, it was decided that there was no need to do this as it already pro-competitive there we needed to focus more on the implementation of the Act.
- 1.3.** It was agreed therefore that a Tool Kit would be developed to aid in the implementation of the Act. It was therefore decided CUTS would be responsible for developing the first draft of the tool kit based on the findings of the CREW project. CCPC would then provide the comments on the same after which it would be shared with the ZPPA.

CREW Project



- 1.4. The toolkit itself would be anchored under the ZPPA. Once developed it was discussed that this toolkit would also be used as a basis for streamlining the training session that will be undertaken by the various research institutions that will be engaged in capacity building initiatives
 - 1.5. It was also agreed that the funding for the development of this toolkit would be provided by CUTS International Lusaka as a deliverable under the CREW project
- *CUTS International, Lusaka to develop a draft toolkit to share with CCPC and ZPPA*