



ROADS INDUSTRY COUNCIL

Representing Uganda's Road Sector

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Poor road contract performance: Are briefcase contractors the cause?

Summary

'Briefcase contractors' are fraudulent roads contractors who use dishonest practices to win road maintenance contracts despite their lack of capacity to do the work. They have a long history in Uganda's road sector and have a negative impact in many ways: such as undercutting competent contractors and delivering poor quality work (which leads to further deterioration in the roads and increased costs to put things right). They also have problems completing the work – which leads to delays.

The Government of Uganda has tried to eliminate the use of briefcase contractors, particularly through the introduction of the Public Procurement and Disposal of Public Assets Authority (PPDA) Act. Nevertheless, government officials, contractors, consultants and the general public continue to hold the view that briefcase contractors are rife. This issues sheet summarises the findings of a RIC study to evaluate the scale of the problem, identify the causes and suggest solutions.

What is the impact of poor contract performance?

The Uganda National Roads Authority (UNRA) estimates that the Ugandan Government loses UGX 30 billion per year because of the “poor performance of road contractors,”¹ or around 15% of UNRA's total annual road maintenance budget. In fact, this is probably an underestimate as it only reflects direct government monetary losses from time extensions or contract abandonment, for example. It does not include government and contractor costs associated with resolving performance problems, contract terminations or litigation. Importantly, estimated figures do not appear to be available for the impact of such poor performance on the national economy and on the livelihoods of the poor.

Do briefcase contractors really exist?

It is not easy to describe a typical briefcase contractor. They may simply lack fit-for-purpose premises or plant, and have few or no permanent staff. Or, they may be highly skilled at submitting tenders, lobbying and under-bidding.

Whatever the case, it can be difficult to distinguish a briefcase contractor from a legitimate but inexperienced or undercapitalised contractor.

The RIC study

All 256 contracts awarded by UNRA between 2010 and 2013 were reviewed in the RIC study. A sample of 10 UNRA contracts was then selected for an in-depth examination of performance and impact issues.

Key conclusion

The overwhelming conclusion from the RIC review of 256 UNRA contracts is that while poor contract performance is endemic, there is little evidence that briefcase contractors contribute significantly to national road maintenance problems.

¹ Presentation made by UNRA Director of Planning, reported in *New Vision*, February 2014.

What is actually happening?

Underperformance and non-performance of contracts is widespread. Of the 256 contracts awarded by UNRA between 2010 and 2013, only 149 (58%) were completed satisfactorily (i.e. within time and on budget). With such a large number of contractors underperforming, poor performance cannot be attributed solely to briefcase contractors.

Of the 256 contracts, 41 were large and complex enough to be suitable only for the largest and most experienced contractors. However, almost one third of these contracts were awarded to smaller contractors with insufficient experience. This suggests that the tender evaluation process is not rigorous enough.

A true briefcase contractor is likely to tender for, and win, more contracts than they could successfully execute. However, analysis of the 256 contracts shows that 149 contractors were awarded only one contract each. Just 36 were awarded two or more contracts, and only a handful were awarded three or more contracts. So, few contractors appear to be winning several large contracts at a time.

A small sample of contractors who were awarded multiple contracts was examined to assess whether they had the capacity to execute contracts proportionate to the number they had won. Eighteen contractors were selected. Approximately 35% of the 46 contracts awarded to them were completed satisfactorily; this is significantly worse than the average 58% success rate for all 256 contracts. So there is some evidence that the performance of contractors who win multiple contracts is worse.

Despite improvements made by UNRA, the Uganda Road Fund (URF) and PPDA over the last few years, the main causes of poor contract performance are in the procurement and contract management process:

- Poor contract planning necessitates changes to the scope of the work, increasing time and cost
- Weaknesses in evaluation mean that contracts are often awarded based on unverified tender documents, leaving the contractors' capacity, competence and track record unchecked
- Poor contract management during implementation results in delays and costs due to late mobilisation, and delays and disputes in certification
- Weaknesses in supervision mean that underperforming contractors are not held to account.

What needs to change?

Perhaps the most valuable change which would address these shortcomings is the proposed **Uganda Construction Industry Commission (UCICO) Bill**. The National Construction Industry Policy (NCIP) and the UCICO Bill

already reflect plans to register and classify contractors and continuously monitor and evaluate their performance. UCICO will also provide a significant boost to registering and regulating the performance of contractors, consultants and other construction sector professionals.

The following specific changes could also strengthen the systems for procurement and contract management:

- Improve project planning and budgeting so that both scope of works and estimates are realistic
- Renew efforts to improve selection using contractor pre-qualification, registration and performance track records
- Strengthen evaluation criteria and processes to improve the credibility of information provided by contractors
- Improve UNRA contract management by:
 - continuing efforts to train, support and monitor contract managers and supervisors
 - putting in place rewards and sanctions for good and poor performance by contract managers and supervisors
 - ensuring that prompt action is taken to deal with underperforming contractors
 - continuing efforts to improve timeliness of payments for road maintenance works, and
 - ensuring that contractors and UNRA's project managers and finance staff understand that contractors are contractually entitled to receive interest on delayed payments.

