



The application of post tender negotiation procedure: a public sector procurement perspective in UK

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Abstract:

Post Tender Negotiation (PTN) procedure is part of the tendering process in procurement of goods and services. The procedure could be triggered if the initial tendering activity does not result in the selection of a supplier. This could be due to a lack of clear Value for Money (VfM) bidder. The PTN procedure is sparingly applied in the UK public sector procurement and the reasons adduced for this are based on ethical considerations. The UK Office of Government Procurement (OGP), formerly known as the Office for Government Commerce (OGC) and the European Union (EU) are the chief proponents of restricting the use of PTN to exceptional cases. The premise of their argument is that the buyer could unethically tilt her/his actions in the process of applying the PTN procedure to favor certain suppliers. It is the argument of this paper that buyers from the public sector in UK are being deprived of the procedure's benefit and therefore, the restrictions should be relaxed. Evidence from this study suggests that the procedure could offer the opportunity for further clarifications of supplier's bid. The study also identifies that, for PTN to be successful, factors ensuring success in negotiations including cooperation should be present.

Keywords:

value for money, communication; procurement; negotiations; tendering.

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1. Introduction

Post Tender Negotiation (PTN) is a procurement procedure. Its usage has gained prominence as well as intense debate in recent times [1]; yet, there is limited research about its effects and the factors that contribute to the success of its application. The PTN procedure relates to the negotiations taking place before the issuing of final contracts and it is usually with bidders offering best Value for Money (VfM) [2]-[3]. The Chartered Institute of Procurement and Supply (CIPS) supports the above position [4]. CIPS argues that the main objective of a procurement activity is to gain VfM and that if initial assessments of bids do not provide VfM, then a buyer should be given the opportunity to apply the PTN procedure. Thus, as long as the procedure is applied in conformity with fairness in competition and ensures that the integrity of the tendering process is protected, public sector buyers should be encouraged to apply the procedure [4].

Notwithstanding the position of CIPS, certain public institutions in United Kingdom (UK) including the National Health Service, do not allow the application of PTN for the purposes of negotiating for price reductions [5]. The stance of the National Health Service in UK is in line with Directive 2004/18 by the EU where procurement interventions such as negotiated procedure and competitive dialogue are the only interventions which allow the PTN procedure [6]. The UK's Office for Government Procurement (OGP) formally known as Office for Government Commerce (OGC) ensures that EU Directives on procurement of goods and services are adhered to and this contributes to the limited usage of PTN in UK's public sector procurement [3].

There are limited studies in the area of PTN. Many researchers [7]-[8] have dwelled mostly on tendering thus, contributing to a gap in the literature of PTN. Thus, while the bidding/tendering process have received some attention [9]-[10], the PTN as a process within the tendering process have not been adequately discussed, hence the need for research to be done in this area. Previous research [1]-[11] explained the PTN procedure without discussing how the procedure can significantly influence VfM purchases and the factors that could ensure the application of the procedure's success. Thus, there is the need for research to be carried out to establish the effects of the PTN procedure and also identify the factors that would lead to the success of its application, particularly in the public sector procurements in UK. A research of this nature is important because, in a particular tendering process, there could be many scenarios that could arise which would necessitate the application of the PTN procedure. Such scenarios could include a lack of a VfM bidder, collusion in the bidding process, budgetary constraints, and the need for further clarifications in a supplier's bid [12]. The PTN could help address these scenarios; example, if the buyer realizes that the budget set for the purchase does not meet any of the prices quoted, the PTN procedure could be used to invite the supplier with closest quoted price for further negotiations. Perhaps, findings from such studies can influence authorities such as the EU and the OGP to realize the benefits that the procedure could bring to public sector procurement and encourage its usage.

The study aims at identifying the effects of PTN in the tendering processes, in particular how it impacts on VfM procurements. Thus, as UK public sector continues to embark on budget cuts and austerity program, there is the need for judicious use of available limited resources and therefore, every purchase has to deliver the expected value, hence, the need to ascertain how PTN can affect such VfM purchases. The study also seeks to identify the key factors that determine success in negotiations, the circumstances that trigger the application of PTN, and the reasons for the restrictions of the application of PTN in the UK's public sector procurement.

The next section discusses the background to the study and examines some theories and concepts of negotiations from which the study's underlying assumptions were developed. Section 3 discusses the research's methodology and data collection methods, the study adopted qualitative research approach and used interview techniques, as well as document review for data collection. Section 4 discusses the findings from the fieldwork and analyzes the data collected using Interpretative Phenomenological Analyses (IPA). Section 5 concludes the study, makes some recommendations and discusses the implications of the findings and how such findings can impact on management decisions on public sector procurement, especially in the United Kingdom.

2. Background

This section examines the concept of tendering, PTN, VfM and negotiations. It also discusses relevant theories on the topic especially negotiation theories such as, the games theories of cooperation and interdependence, the theory of multi-agent collaborative maintenance platform-communication, the conceptual framework of social motives and their influence on integrative negotiation, and also the Transactional Cost Economics (TCE) theory. The purpose of these reviews is to ascertain how these concepts and theories address the research's objectives.

2.1 The concept of tendering and its relationship with PTN

There is evidence to suggest that, the PTN could potentially aid a buyer's acquisition process especially if none of the submitted bids offers value for money [12]. It is therefore ideal to establish the understanding of the concept of tendering to place its relationship with PTN in context. Thus, if both procedures follow the same principles in their application, then it needs to be established whether the issue of ethics significantly impact on tendering process. If not, then ethical considerations should not be cited to restrict PTN because this study establishes that both procedures follow the same principles. The Organization for Economic Cooperation and Development (OECD) defines tendering as a process for procurement of goods and services [13]. The pitching of many suppliers against one another allows the buyer to secure cheaper price in the acquisition process as the suppliers compete among themselves. This could be an advantage to the buyer and many authors support this view [13]. However, it can also be argued that, the standardization of the buyer's requirements during the tendering process could potentially reduce the innovativeness of suppliers. Thus, in order to avoid supplier exploitation by the buyer, the tendering process should be guided by certain principles which the PTN procedure has to follow. The need to preserve the tendering process' integrity; the abhorrence to circumventing the tendering process; and thirdly, the duty to fair negotiations are some of the tendering principles advanced in academic literature [14]-[15]. The UK public sector rules governing the conduct of PTN stipulate that the same principles are followed during PTN applications [3]. Thus, if the same principles such as fairness in competition applies in both tendering and PTN, then it can be argued that, by implications, if ethical considerations are not used to restrict tendering, then the same should apply to PTN. The study further explores this proposition during the fieldwork.

The effects of PTN within tendering - The study also examines the effects of PTN within the tendering process. The PTN by implication could be used at the post tender stage if the actual tendering process does not yield the desired results [12]. This means that the PTN procedure has a significant effect on the tendering process as well as the buyer and the supplier. This is because there are many situations that could arise during the tendering process that would necessitate or trigger the PTN application in order for the desired results to be achieved in a particular acquisition [12]. Among these situations are when there is no overwhelming evidence that the evaluations of the final bids present a clear VfM supplier; where there is a possibility of doubt in relation to performance or quality; where there is the need for the clarification of terms and conditions; and where there is the need for the use of negotiation to achieve price reduction [12]. The fieldwork finding is used to examine whether the same factors form the basis of PTN application in UK public sector procurement. It is worth noting that the identification of price reduction as a trigger for PTN application adds interesting dimension to the PTN debate in UK public sector procurement. This is because, while some public sector institutions such as the University of Leicester permit the use of PTN for price negotiation [12], such practice is entirely forbidden in UK National Health Service [5]. Such inconsistencies in public sector procurement in UK have the tendency of creating confusion in the minds of public sector procurement officials and perhaps contribute to the procedures' limited applications and restrictions.

Kruger [16] traces the historical background to PTN restrictions by the European Union in the 1970s. He [16] observed that the public contract award in pan European environment regulated currently in a regime of comprehensive directives were originated from European Economic Community (EEC) early days in the 1970s and were consolidated in the 1990s. An intrigue proposition about the ban by EU on the rules of negotiations which is applicable to PTN is that, the ban has never been expressly identified by writing in any of the directives governing EU procurements [16]. Thus, the reviewing of the literature for EU ban on PTN for example, suggests that the issues have been considered both as self-

explanatory and self-evident, or there could be a probability that such issues have been left to national laws and EU/EEA laws interplay. This means that national laws can be crafted in a way that would allow the use of PTN without necessarily breaking the EU rules. The directive “Dir 93/37/EC [1994] O J No. L 111/114” [16] published in EC Council statements in 1994 gives slight scent of EU position on PTN in the past. However, this does not appear to be explicit expression of the ban of the procedure and therefore there is arguably a room to apply it, albeit the willingness and desire of national governments.

An opposing view of PTN restrictions based on theoretical underpinnings - there is a school of thought that argues that individual’s appreciation of ethics is based on their cultural values, traits, family and beliefs and not rules set by authorities [17]. This proposition directly challenges the idea that ethical considerations alone could be used to restrict the application of certain procedures in public sector procurement. Indeed, the potential exists for opportunistic behavior to occur during procurement activity. This may include bid collusion, cheating, contract breaches, and cutting corners [18]. However, using this notion alone without other evidence to back it may not necessarily give enough reasonable grounds for restricting certain procedures such as PTN in public sector and can be counter-productive. This is because individuals’ approach to ethics is different. The theory of Transaction Cost Economics (TCE) advances the argument that when opportunistic behavior is feasible during business transaction, individuals will take advantage of it [19]. This proposition is further explained in ethics behavioral assumption research [19]. Thus, it can be deduced from the above that unethical behavior during business transaction cannot be eliminated completely if profitable, rather individuals’ ethical behavior during procurement (tendering) activities may be guided by their cultural and family values and not rules that authorities set.

2.2 The effects of PTN on the buyer and the supplier

An empirically based review of two studies on the effects of PTN as a component of the tendering process identified that the procedure affects the buyer and the supplier on different levels. For instance, a study on subcontracting under the topic “Pre-tender and post-tender negotiation in Australia” found that bigger-sized sub-contracting firms support the procedure while smaller- sized sub-contracting firms oppose it. Similarly, opposing sub-contractors described the PTN as “bid peddling” and “bid shopping” and therefore an unethical practice [11]. However, a study conducted in Northern Ireland on PTN found evidence that the PTN contributes to securing VfM especially within the context of partnership and competition [20]. The two studies appear to be skewed towards a certain direction. While the research conducted in Australia concentrated on the PTN effects on only suppliers [11], the one conducted in Ireland discusses the PTN effects on just the buyer [20]. The reviewed studies established that the larger sub-contractors who support the PTN procedure argue that the procedure allows them to modify their bids to win contracts [11]. Buyers also argue that the PTN procedure allows them to negotiate for reduced prices and VfM [20]. Thus, while both research works give an insight about the effects of PTN, the focus of both on individual basis appear to be narrowed. This study widens its scope to both the buyer and supplier and ascertains how the fieldwork findings support the findings of the reviewed articles.

2.3 Post Tender Negotiation and value for money

The Office of Government Commerce [3] defines PTN as a buyer-tenderer contact and interaction for the purposes of refining and improving bids to ensure that competitive contract terms are commensurate with associated delivery and prices. Various restrictions governing the PTN procedure means that some public sector institutions require tacit approval from their heads of procurement before the procedure can be applied [12]. The many benefits associated with the PTN procedure include the creation of better understanding and improving the tender bids; significantly increasing bids which are compliant thereby providing an opportunity for greater competition; reducing both buyer and supplier risks; creating better relationship and understanding among negotiated parties; strategic partnership opportunities; clarification of proposal and requirements; alternative solution identifications; and performance improvement [21]. Some authors have discussed what constitute VfM as supplier’s flexibility, prompt delivery and the supplier’s dependability [22]-[23]. This is a clear shift from previously widely held view where lower prices were regarded as the main constituent of VfM [24]-[25]. Thus, discussion on negotiation at post tender stage should not just focus on price reduction but the supplier’s capability and strength to adjust to the changing needs of the buyer [24]. The supplier’s

flexibility, not just the lower price matters because, if the buyer's requirements change as a result of increased business activity in the middle of the contractual term, the buyer can rely on the existing supplier for increased volume of supply instead of going through the tendering process to select additional supplier [24].

2.4 Games theories of cooperation and interdependence

The Games theories of cooperation and interdependence and other relevant theories and concepts of negotiations are also examined in the study. The objective is to establish the factors that determine successful outcome during negotiation at post tender stage (agreement between buyer and supplier) and is in line with the proposition that PTN would lead to award of contracts only when there is successful negotiation. There is theoretical proof that cooperation and interdependence contributes to success in negotiation [26]. Nelson & Greenhalgh [27] who support this position use game theory to advance the arguments that rational objectives inform the basis of decision making during negotiations and therefore negotiators use strategic reasoning to approach such negotiations. Thus, each party recognizes both parties' interdependence thereby making cooperation and interdependence key determinants for reaching agreements during negotiations at post tender stage. This is particularly the case in PTN because, the buyer and the supplier have the interest of getting their business flourishing through the supplying and buying of goods and services. The buyer also needs to ensure that the resource base of the business is not depleted hence, uninterrupted supply of needed materials [28]-[29].

2.5 Theory of multi-agent collaborative maintenance platform-communication

The multi-agent collaborative maintenance platform theory focuses on the contribution that verbal communication makes to create rapport which in turn leads to successful negotiation outcomes [30] and this forms part of the assumptions for the fieldwork of the study. Many researchers are of the view that verbal communication plays a role towards rapport creation [30]-[31]. Nonetheless, while there may be some evidence in this proposition, it is also true that in recent times communication through email or telephone has become common and has equally led to creation of friendship and rapport. Thus, while the direct face-to-face conversation during PTN cannot easily be discounted, recent development in communication during procurement activity such as e-tendering has allowed negotiations to be conducted without face-to-face conversation. Despite the availability of evidence of verbal communication and series of face-to-face meetings during negotiation [30], the use of electronic communication such as email and telephone were clearly evident in a detailed correspondence made available to the researchers for an application of PTN [32]. The extent to which such electronic communications contribute to rapport is an area for further studies as there is currently not enough research in this area to draw reasonable conclusions. However, there is evidence [30] to support the theory that communication contributes to successful negotiation, hence, such assumption in this study.

2.6 Conceptual framework of social motives and their influence on integrative negotiation

The proposition of conceptual framework of social motives and their influence on integrative negotiation is that, when social motives approach becomes the main objective for negotiations, it leads to agreements. This position is based on findings from a study where there was an application of dual concern and cooperation and competition theory, of which the conceptual framework of social motives and their influence on integrative negotiation were the basis [28]. The outcome was that interactions between negotiation partners which are devoid of egoism and pomposity but rather, pro-social generate non-contentious negotiations. This means that procurement personnel ought to adopt social motive approach during negotiation at post tender stage as such approaches lead to success in negotiation.

Assumptions of the study - the examination of the above theories and concepts has led to the assumptions of the field research and the proposed exploratory framework for the maximization of PTN. These are discussed as follows: It is the assumption of the study that achieving VfM is the ultimate objective of a procurement activity. Thus, a buyer recognizes the tendering process as an activity that facilitates such VfM procurement objective. The study also assumes that there are certain principles which govern the tendering process and these include the avoidance of unfair competition and protection of the tendering process' integrity [32]. Furthermore, the procuring institution's quests to overcome constraints in budgets and also make savings, oblige such institutions to negotiate at post tender stage. Thus, it is assumed that for negotiations to be successful at the PTN stage, certain factors such as communications, social

motive approach, interdependence and cooperation have to be present. As discussed, the theories underpinning these assumptions are games theories of cooperation and interdependence [27], transaction cost economics [19], theory of multi-agent collaborative maintenance platform and the conceptual framework of social motives and their influence on integrative negotiation [28].

2.7 Proposed exploratory framework for PTN's maximization

A proposed exploratory framework for PTN's maximization based on the assumption of the study has been developed and used as the model for the fieldwork [32]. The model illustrates that, as established theoretically from transaction cost economics, the potential exists for opportunistic behavior during business transaction. Thus, a tendering activity of which buyers regard as a means of facilitating VfM procurement should be governed by certain principles and that when the application of PTN is triggered based on factors such as the need to clarify bids, the same tendering principles also apply. The model further illustrates that as PTN application is triggered, certain factors that ensure negotiations success such as cooperation and interdependence have to be present and this would lead to the success of the negotiations for VfM procurement to be achieved. The negotiation partners (buyer and supplier) are linked to these scenarios and this is depicted on the model as seen from Fig. 1 below. The fieldwork was conducted based on the proposition of the model.

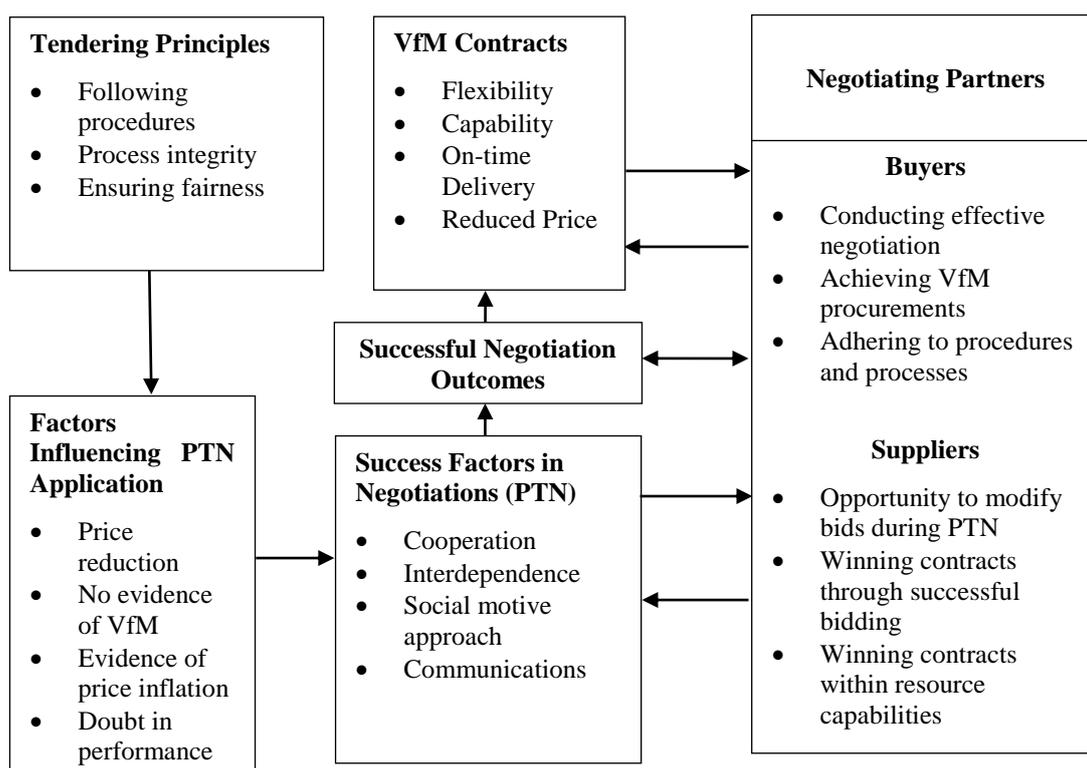


Fig. 1. Proposed exploratory framework for PTN's maximization

3. Research Methodology

The establishment of the contextual framework for the design of the research was helped by using the qualitative research approach [33]. This approach is consistent with the philosophical doctrine of the study and this greatly influenced the research's design. The unavailability of standardized, hard or objective data due to the limited application of PTN created a challenge. The qualitative research approach is interactive and this allowed for divergent views to be solicited from the participants. The need for detailed understanding of how UK public sector organizations apply PTN and the effects of its outcomes, as well as the factors that ensure the success of PTN application needed to be established. The above justifies the suitability of constructionist epistemology (qualitative) of the study as opposed to positivist epistemology (quantitative).

3.1 The research design

Both primary and secondary data were collected for the research between April 2014 and August 2014. The primary data collection was directly through in-depth interviews and the secondary data was based on literature and documentary reviews. The sample for the research consisted of eighteen (18) interviewees with mean age of 42 years. Initially, all participants were contacted by either phone or email with the view of seeking their agreement in advance before attending to the locations of the interviewees. The participants' number consisted of the following: three buyer managers and four buyers from a procurement department of a Local Government Authority in London; another three buyer managers each from three separate Local Government Authorities in London; five heads of supplier companies with current contracts with a London Local Authority; and three buyer managers in private sector institutions. The decision to include private institution participants was to allow a comparative view about PTN from the private sector perspective. In order to ensure the reliability of the data collected, opportunity or convenience sampling was chosen for the research [34]. The choice of such accidental or non-probability sampling was consistent with the nature of the topic's specificity. The selected sample composed of different stakeholders from the procurement industry and was regarded as interviewees with the technical competence and the necessary experience in PTN matters. This allowed biasness to be reduced as varied opinions were solicited thereby ensuring the reliability of the data collected. Documents were also reviewed extensively from a London Local Authority's Strategic Procurement Department. The documents reviewed detailed PTN's applications processes and procedures. They also unearthed the frequency at which PTN was applied in the Local Authority and provided figures which detailed the spend analysis of procurement of goods, works and services.

3.2 Data analysis

The data gathered through interviews and document reviews were analyzed separately and the findings were used for comparison purposes in order to gain the fieldwork's complete effect. The Interpretive Phenomenological Analysis (IPA) was adopted for the analysis of data gathered from the interviews.

Interviews - the purpose of the interviews was to gain an insightful understanding into the interviewees' world and also explore their personal perceptions and experiences and that made the IPA analytical approach a perfect fit [35]. This is because the IPA allows interview transcripts to be examined in detail which helps to unearth important themes emerging from the interviews [36]. Five stages of IPA [35] were identified and used for analyzing the transcripts from the interviews. These include the transcribing of the interviews into more clearer handwritten notes; thoroughly reading the transcripts several times; using the left margin to annotate significant and interesting information including interpretations and associations coming from the respondents; annotating themes that became apparent from the interviews on the right margin and initially transformed notes into statements that are meaningful; theoretically analyzing identified links that appear common and listing them as main ideas coming from the interviews; and finally creating tables of main ideas (themes) in order of coherent arrangement. Themes which appear to be irrelevant are eliminated at the final stage, while the relevant ones are connected to their contents of origin. Each interview followed same process described above. The IPA approach allowed detailed cross-checking and verification of interview transcripts to ensure data richness, reliability and validity [35].

Document reviews - The researchers were granted access by a Local Authority in London (UK), to review and analyze documents which outlined the processes and procedures involved in the application of PTN. The purposes of the documents review were to identify procurement processes and procedures including that of PTN and compare the findings to the findings from the interviews. The emphasis was to identify whether the purchasing processes outlined in the documents, emphasize PTN and VfM, and how this is consistent with the information gathered from the interviews and also from literature review.

3.3 The role of the researchers in the study and ethical issues

As noted by Simon [37], qualitative researchers have to explain if they are assuming the role of insiders which make their role an emic one and fully participate in an activity, phenomenon or program; or an etic role where the researchers take an objective or outsider's view. The researchers in this study assumed participant interviewer roles and immersed themselves fully in the participant's world [38], thus allowing researcher-participant interaction [39]. This allowed concepts adopted by the researchers based on the review of literature on the topic, as well as the researchers' knowledge and experiences to be incorporated in participants' perspectives. Furthermore, as exploratory investigation, the participant role assumed by the researchers allowed them (the researchers) to responsively react to data being collected by way of asking new questions for further clarifications and extensions and also occasional promptings [40]- [41].

Ethical Issues - The research's practical strategic management implication was explained to the Local Authorities in UK chosen for the study. The nature of data collected was explained to the participants prior to collection and the confidentiality of the answers from the respondents were addressed and guaranteed to the respondents. This was done by treating the views of an interviewee in the strictest confidence during the process of the interview and assured participants that views they have expressed would only be used for the purposes of the research. Quotations are used as pseudonyms in the study.

4. Results presentation and discussion - Analysis of interview data using IPA

This section presents and discusses the findings from the fieldwork including interviews and document reviews. The section also explains how the interviews were analyzed and illustrates the identified themes supported by quotes as seen in Table 1. The findings from document reviews were also presented, followed by discussion of the fieldwork findings.

As described in section 3.2, the application of five-stage process of IPA, allowed data to be observed closely by the researchers [35]. Data was interrogated in conformity with the research's objectives and in such a way that the participants' phenomenological integrity was ensured. The analysis of the interviews began by transcribing the interviews into handwritten notes. Interviews were thoroughly read interpretatively and the researchers annotated first responses to the text on the left margin. A translation of the initial researchers' notes into themes that emerged followed, and the right margin was used to record these emergent themes. The themes appeared abstract at this stage so they (themes) were further interrogated from which a connection was made between the themes. The result of this was that, subordinate themes with information identification, where themes being supported by instances that could be traced to the interviews transcripts were arranged. The process described above was repeated for all the interviews conducted. After each interview was analyzed, patterns were identified by cross-examining the cases from which seven principal (superordinate) and corresponding subordinate themes table was documented as illustrated in Table 1.

Table 1 illustrates the various themes identified from the analysis of the interviews using the IPA method. It identifies principal (superordinate) themes and subordinate themes and shows the number of participants who evidenced individual themes through their responses. Selected quotes have been used for illustration purposes to contextualize the themes. The rest of the section provides detailed presentation of identified themes with supported extracts from participants' responses, and also evidence from document reviews.

Table 1. Identified final themes from analysis of interviews with illustrations in quotes

Principal and subordinate themes	Illustrations in quotes	Source
Theme 1: PTN affects both supplier and buyer Opportunities for savings (13) Negotiated desired contracts (17) Modify bids to win contracts (4) Achievement of VfM (17)	“As a buyer, I can assure you that PTN is very effective to achieve VfM outcome.”	Participant 5
Theme 2: Factors ensuring negotiation success Cooperation (18) Interdependence (18) Communications (16) Social motive approach (17)	“I personally believe that when one adopts an arrogant posture during negotiations the outcome has always been a failure.”	Participant 1
Theme 3: PTN leads to achievement of VfM On-time delivery (13) Flexibility (16) Resource maximization (4) Capabilities (17) Reduced operational cost (12)	“PTN offers sub-contracting opportunities to our local SMEs and for me this ensures resource distribution in our local community.”	Participant 18
Theme 4: Some factors trigger PTN application Price reduction (17) No evidence of VfM (13) Doubt in performance quality (13) Evidence of price inflation (16)	“...we often encounter situation to apply PTN yet, there are limited opportunities for us to do so due to existing restrictions.”	Participant 4
Theme 5: Tendering principles apply to PTN Following procedures (18) Avoiding unethical sourcing (18) Ensuring fairness (18) Maintaining integrity (18)	“Public institutions have responsibility to maintain integrity in the PTN process and if we are satisfied that the process has been fair, we will have no problem.”	Participant 17
Theme 6: Ethical reasons for PTN restrictions Ethical reasons lack evidence (10) Sparingly application of PTN (10)	“Citing of ethical reasons by EU/UK government to ban PTN is intriguing; Why not ban on tendering?”	Participant 6
Theme 7: Restriction of PTN should be relaxed EU/UK to consider decision (15) PTN is an important procedure for VfM (17)	“Our private sector counterparts are reaping full benefits of PTN whilst we are denied.”	Participant 2

Note: Numbers in parenthesis represent the number of participants who evidenced each theme.

4.1 Evidence from document review

It was established from the document reviewed that when it became clear to the Strategic Procurement Unit and Adult Services of a Local Authority in London that the cost of procurement for Independent Living Support Service (ILSS) would potentially exceed the available budget, the PTN was recommended. The reason given by the authorities was to ensure available best prices and profitable outcome for the Authority. It was also established from the document reviewed that the PTN is sparingly applied especially in one of the Local Authorities in London, which confirms the views gathered from the interviews. For example, a look at the figures constituting the spend analysis for a Local Authority in London, a UK public sector entity for 2011/2012 financial year showed that the Authority spent a total amount of £285,652,216.00 on the top twenty areas of the Local Authority's expenditure [42]. A significant portion of the figure was spent on contractors and agencies providing structural works and repairs, and consultants providing services to the Authority. These two main areas constituted total expenditure of over £77m. In almost all the cases (except purchases below £10,000.00) tendering process or competitive bidding was applied but the PTN approach was applied on only one occasion.

4.2 Discussions of findings

The findings from the fieldwork as presented in the Table 1 are discussed in this section. The fieldwork findings largely confirmed the assumptions for the research thereby proving the effectiveness of the proposed exploratory framework developed for the maximization of PTN. Each of the seven findings is briefly discussed from which the study's conclusions and recommendations are made.

Finding 1: PTN affects both the buyer and the supplier - the study set out to establish the effects of the PTN as one of its main objective. The fieldwork findings confirmed directly that there is recognition on the part of both the buyer and the supplier that the PTN procedure affects them in a positive way. This confirms the findings of other researchers [11]-[20]. Although some suppliers expressed reservation about the procedure, the reservation was not related to the procedure itself but a feeling of nervousness and anxiety while waiting for decision on PTN selection. Thus, to a public sector buyer, the need for price reduction due to budgetary constraints makes the procedure necessary, while a supplier sees the procedure as a means to modify bids to enhance chances of winning a contract. A Buyer confirms this with the following quote: "... as a Buyer who has worked in both public and private sectors, I can assure you that it is very effective process to achieve the best prices and value for money outcomes". A Supplier also provided the following quote to confirm the above finding: "I do not oppose to the procedure in itself but waiting to hear whether I have been selected for further negotiations or not, brings me anxious moment and nervousness".

Finding 2: Factors ensuring negotiations success - the theoretical model for the research proposed that there should be presence of certain factors including cooperation and interdependence during negotiations to ensure agreements in PTN. Interestingly, evidence from the fieldwork confirms this proposition. This is significant because, if there are no agreements in negotiations at post tender stage, there could be no awards of contracts. As already established, the buyer's objective for negotiating with suppliers at PTN stage is to achieve VfM. However, this cannot be achieved if there are no agreements. The fieldwork identified cooperation, interdependence, communication and social motive approach to negotiations as key factors that ensure success in negotiation. This also confirmed findings from the academic literature. **Cooperation:** There was evidence from the field work that both buyers and suppliers recognize the importance of cooperating with each other during negotiations in order to reach agreement. The confirmation from the fieldwork on cooperation is evidenced by a quote from a supplier as follows: "over the years, I have developed relationship with officials in the Local Authority and anytime we are in negotiations, we cooperate with each other to achieve common goal" [27]. **Interdependence:** It was identified from the fieldwork that if a buyer and a supplier have previously negotiated and have existing relationship, they establish a greater degree of interdependence between them. This implies that the realization of interdependence between negotiating partners allows cooperation during negotiation and this contributes to agreements. The following is a quote from an interviewee; "as a buyer, I enter into negotiation with the aim of getting a deal which offers the best outcome for my organization and I can only achieve this if I receive the support of my negotiating partner. At the same time the suppliers also depend on us for their business and therefore we both need each other". This finding supports findings from academic literature [26]. It can thus be concluded that

one can predict an outcome of a negotiation if there is a history of existing relationship between a buyer and a supplier. This could in turn help to predict an eventual outcome of VfM contract award. **Social Motive:** The fieldwork established that when negotiation is conducted with friendliness approach it leads to agreement. This implies that when the negotiation is conducted in an unfriendly atmosphere, it becomes contentious and would likely lead to disagreements. The social motives concept's influence on integrative negotiations as identified in the literature confirms this proposition [28]. While the theories proposed by the authors of social motives concept's influence on integrative negotiations do not specify the nature of the social motive; that is, whether a case of arranging meetings in social settings or just being friendly would constitute social motive, the fieldwork findings suggest that, the longer the relationships, the higher the degree of harmony among a buyer and a supplier. Thus, in situations where there is longer relationship, one can arguably conclude that negotiations will be conducted in a harmonious atmosphere and arrive at agreements. This in turn will lead to the award of VfM contracts. The following is a quote by a participant; "I personally believe that when one adopts an arrogant posture during negotiations the outcome has always been a failure... I can say that this is not the case with this Local Authority as we have all become one family and thus enjoy harmonious atmosphere in our negotiations" [32]. **Communications:** The fieldwork established that during PTN, negotiating partners use electronic communication for most of their interactions and this leads to a creation of rapport among them. These include the use of emails, telephone and e-tendering to communicate to reach agreements. Thus, unlike the generally held view that face-to-face verbal communication creates rapport [30]-[31], this finding reflects recent advancements in communications and information technology. Such technological advancement leads to reduction in costly travels for meeting. A buyer supports the above findings with the following quote: "... non-verbal communications including email has become an integral part of our negotiation process during PTN".

Finding 3: PTN can lead to the achievement of VfM procurement - it was established from the fieldwork that there has been significant shift from focusing mostly on pricing to develop evaluation criteria for bids, to evaluation criteria where on-time delivery, flexibility and reduced operational cost are given prominence [22]-[23]. It was also established from the fieldwork that local authorities use the negotiation process to argue for potential suppliers to engage Small and Medium Enterprises (SMEs) in a form of sub- contract works in their localities. This was a way of bringing employment opportunities to the locality and was seen as fulfilment of the local authority's corporate social responsibility and therefore VfM. A Buyer Manager from a Local Authority offered this quote; "as part of our sustainability procurement campaign, we use the PTN procedure to advance the case for our suppliers to consider a certain percentage of their sub-contract works to our local SMEs to increase job opportunities in the community as a way of fulfilling our corporate social responsibilities". The theoretical proposition developed to address the study's objectives suggests that the PTN is used mainly for the purpose of achieving VfM. The findings from the fieldwork confirmed this proposition. However, while the review of literature identifies VfM variables such as flexibility, capabilities, reduced prices, and on-time delivery [22], the fieldwork findings suggested that public sector organizations, especially local authorities focus on additional VfM variables. They identify green procurements, sustainable procurements and local business participation as important VfM variables as the above quote confirms. Also, in order to meet their greenhouse emission commitments, public sector buyers, negotiate with suppliers to commit to environmental policies which are consistent with that of the local authorities. It can be concluded from the above that the PTN procedure presents significant advantage to public sector buyers as it provides opportunities to meet their environmental commitments and spread their resources to the benefits of the community. Furthermore, while the literature findings did not establish the exact VfM variable that benefits the supplier, the fieldwork findings suggested that the PTN provides the opportunity for suppliers to negotiate for contracts that meet their resource capabilities. A supplier volunteered the following response; "... PTN has the potential for me to achieve VfM as I can negotiate for supply of goods or services that are within my resource capabilities". It can be argued from the above that if suppliers view PTN as an avenue to negotiate for work that would not over-stretched their resource capabilities, then they would be less hostile to the PTN procedure and reduce the level of opposition if any.

Finding 4: Application of PTN is triggered by certain situation - the research model proposes that certain factors could emerge during the tendering processes which could trigger the application of PTN procedure [12]. The fieldwork sought the views of the interviewees on this proposition and these were confirmed as seen from the following quote: "in our

everyday procurement practices, we encounter several situations that make it necessary for us to apply PTN yet, there are limited opportunities for us to do so due to existing restrictions". The fieldwork establishes that the occurrences of these factors are common phenomena as the following quotation suggests; "in our everyday procurement practices we encounter several situations that make it necessary for us to apply PTN, yet there are limited opportunities for us to do so due to existing restrictions". Thus, it can be concluded that the PTN plays a crucial role when using the tendering procedure to procure goods and services in an organization. This is because factors such as the need to seek price reduction and also achieve VfM as identified in the literature and also from the fieldwork are the main objectives for every buyer and also supplier. Therefore, if the PTN is a procedure that can provide the opportunity to achieve these objectives, then the procedure's effectiveness and importance cannot be ignored.

Finding 5: Tendering principles apply to PTN - the fieldwork also sought participants view on PTN within the context of tendering to discuss the principles that guide the application of PTN [14]-[15]. It was established that the same principles that guide the tendering process are used for the PTN. The interviewees concluded that the PTN is an extension of the tendering process and therefore the same principle apply in PTN thereby confirming the proposition of the Office for Government Commerce [3]. The importance of this finding is that any deviation from these principles could be deemed as unethical. Thus, if ethical considerations are the basis for restrictions, then this finding addresses that. The need to follow procedures; maintaining the integrity of tendering in the PTN processes; ensuring fairness in competition; and avoiding unethical sourcing are the principles identified. The general consensus gathered from the application of these principles is to avoid subjecting the PTN application to manipulation. This was not just important to buyers, but suppliers as well, as the following quote suggests: "public sector institutions have the responsibility to maintain confidence in the tendering process and it is only when this is done that small business like ours can invest our resources in the tendering process".

Finding 6: Ethical reasons for PTN restrictions - findings from the literature suggest that the EU/OGC cites ethical considerations to restricts PTN application [3]. Thus, it was evident from the fieldwork findings through the interviews and document review that the restrictions have resulted in considerable low amount of PTN applications in UK public sector. However, as already established, there are always situations that would come up during tendering process which make the application of PTN inevitable as the following quotation shows: "... when I was working in the private sector there were always situations that would arise for me to apply PTN. However, in public sector there is the potential for accusation of 'Dutch Auction' and suspicion in PTN application". The above suggests that the public sector buyers are under severe constraints in their efforts to apply PTN. They are caught up in public sector bureaucratic web where they recognize that the PTN can help achieve their VfM procurement objective but hampered by restrictions. The implication of these fieldwork findings is that private sector buyers tend to reap benefits from PTN application more than that of their public sector counterparts. It can be summarized that buyers from all sides agree that PTN application generate VfM procurements which confirms the findings of other researchers [20]. A Buyer who opposes the restrictions offered the following quote: "in local government in particular, purchases above certain threshold require mayoral approval and therefore you cannot afford to engage in any underhand deals or circumvent the process".

Finding 7: Restriction of PTN should be relaxed - there was overwhelming agreement that the EU and UK Officials should relax the restrictions on PTN in order for the public sector buyers to also reap the benefits associated with it. The following quotes summarize the views of the public sector buyers interviewed: "I find the ethical reasons being cited by EU/OGC to restrict PTN application intriguing because there is also a possibility for a buyer to behave unprofessionally during normal tendering process so why not ban that?" Another participant offered this quote: "our counterparts in the private sector are reaping the full benefit of the procedure but we find ourselves in a long bureaucratic chain where decisions are made by the top echelons with no knowledge about what happens on the ground".

5. Conclusions

The study has revealed that the PTN positively affects both the buyer and the supplier as it leads to the achievement of VfM procurements. However, the success of PTN application largely depends on the negotiating partners' ability to cooperate and realize that they both depend on one another in order to achieve agreements during negotiations. Such

negotiations should also be conducted with social motive approach and in the atmosphere of friendliness. Thus, in order to reduce cost in travelling to locations for meetings for the purposes of PTN, electronic communications such as email could be used as a means of correspondence and this could also create rapport for agreements to be reached.

5.1 Recommendations for the relaxation of PTN restrictions

The study has adduced evidence to prove that the restriction on PTN by EU and UK authorities put public sector buyers at a disadvantage compared to their private sector counterparts. This is particularly the case because, contrary to the view that the PTN procedure could potentially distort competition as alluded to by EU/OGC [3], the study found no evidence to support this proposition. Significantly, the study uncovered evidence in the academic literature which proposed that the appreciation of an individual's ethical considerations is based on their, traits, beliefs, cultural values and family and not necessarily the rules set by authorities [17]. Moreover, the fieldwork also confirmed that officials in public sector procurement accept their obligations and responsibility of working within rules and therefore follow the principles associated with PTN. This in a way allows them to fulfil their duties of meeting public sector ethical standards in order to meet audit test. Thus, the awareness that there are consequences when processes are circumvented make public sector officials in procurement behave ethically in the course of performing their duties. Therefore, there is a strong case for the restriction to be lifted as the negotiations at post tender stage could be used to clarify bids and make a case for suppliers to consider using local SMEs for sub-contract works. This will give opportunities to create employment for local people. Thus, even if the procedure could prolong the tendering process, the cost that could be incurred is necessary if there are economic gains to be derived from it as argued in TCE theory [19].

5.2 Potential areas for future studies

While the study has helped to establish that the PTN application could lead to VfM procurement, the degree to which this can happen was not quantified. This is a weakness to the study because it cannot be expressed objectively and in absolute terms the rate at which PTN leads to VfM achievement. Thus, future studies could use quantitative research approach to objectively establish the correlation between PTN and VfM. Another interesting area of study could be an investigation into how the use of non-verbal communication such as emails and e-tendering can be used to establish rapport between buyers and suppliers to improve communication during PTN. Also, local government institutions are constantly relying on their procurement activities to distribute their resources within the local community as a way of fulfilling their corporate social responsibilities. The PTN has been used as bargaining chip in recent times to encourage bigger suppliers to award sub-contracts to local SMEs which could lead to improvement in employment opportunities. Therefore, it would be necessary to carry out a study to establish how PTN could be used as a means to fulfil corporate social responsibilities in Local Government Authorities.

5.3 Limitations of the study

The participant interviewer approach adopted has some weaknesses. This approach has been criticized as unscientific due to its interpretative and subjective nature [39]. However, the approach was necessary because some participants were not familiar with the PTN procedure and the interviewer participation allowed knowledge enhancement. Also, the IPA technique adopted to analyze the interview data increases the potential for subjective interpretation which may not be appropriate. The exercise involved in the approach itself is laborious and time consuming. Notwithstanding these limitations, a credible and reliable data was collected while a reliable technique was used to analyze the data. The demographic composition of the participants indicates that participants with different levels of experiences and differing views have been carefully selected and deliberately interviewed. This allowed data to be triangulated and catered for the smaller sample size. Also, the IPA approach allowed detailed cross-checking and verification of interview transcripts and the information gathered was synthesized with that of the document reviewed to ensure data richness, reliability and validity.

5.4 Learning Reflections

The researchers were aware that the PTN procedure is not a typical procurement activity in UK public sector and therefore not common. However, the level at which it has been minimally applied in some UK public sector institutions came as a surprise. A junior buyer interviewed has been in post for three years but has never experienced the application of the procedure. Considering the fact that many aspects of the PTN procedure, for example, negotiations are related to most procurement activities, one would have expected that junior procurement officials are trained about the procedure. Besides, evidence has been adduced from this study to demonstrate that the application of the PTN procedure may be inevitable in some instances and therefore necessary for officials' knowledge to be broadened about it. Furthermore, the task involved in collecting qualitative data using in-depth interview technique and document reviews and analyzing and interpreting the data collected, using the IPA technique to make the data rich was much daunting than initially thought. However, in the final analysis, this task has allowed a convincing case to be made and therefore a worthy undertaking.

5.5 Concluding Remarks

The confirmation of the study's theoretical proposition by the findings from the fieldwork meant that the objectives set for the research have been fully addressed. Thus, in spite of some weaknesses of the study, the qualitative research approach adopted allowed rich data collections and this accounted for the uniformity between the study's theoretical model and the findings. The study has policy implications for decision-makers in procurement management especially, public sectors as it provides understanding about how PTN could be used to achieve their VfM procurement objectives.

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