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**Policies and legal framework of involving small and medium enterprises in administrative contracts in Egypt: dynamics and influences**

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# **Policies and legal framework of involving small and medium enterprises in administrative contracts in Egypt: dynamics and influences**

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**Abstract:** This paper will present the concept of small and medium enterprises (SMEs) in Egyptian law and some other laws. It also presents the advantages and benefits of supporting SMEs to participate in public procurement contracts to reinforce many of the policies that the government seeks to implement such as limiting monopolistic practices, expanding the base of competition and limiting unemployment, raising the employment rate and achieving economic growth. The paper also expresses the challenges and barriers faced by SMEs to win a public procurement contract. Also, the paper provided a mechanism to overcome these challenges by using the descriptive approach, as well as the analytical approach, to find out the numbers of these enterprises in Egypt and the fields in which they operate, and the new law for public procurement, as well as the new law for SMEs.

**Keywords:** public procurement; small and medium enterprises; SMEs; economic development; employment; Egypt.

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## **1 Introduction**

Public procurement can play an important role to enhance many of the public policies that the government (Aboelazm, 2022) seeks to implement such as reducing monopolistic practices, expanding the base of competition (Anwar et al., 2021), limiting unemployment, raising the employment rate and achieving economic growth (Ali et al., 2019). These policies are to involve small and medium enterprises (SMEs) in public procurement, this is what has been adopted in some countries when they are going to increase innovation (Mahmutaj et al., 2021), modernise and develop their public procurement systems.

Public procurement can play an important role in reducing monopolistic practices, expanding the base of competition, limiting unemployment, raising the employment rate, and achieving economic growth by involving SMEs in it. Public procurement accounts for 10% to 25% of the gross domestic product (GDP) in most countries in the world (Aboelazm and Afandy, 2019). According to Singer et al. (2009), the biggest buyer in any market is the government and public agencies because their spending on their needs from the services and products is estimated at 18% from GDP.

On the other hand, the participation of SMEs in public procurement can be stimulated, as SMEs employ between 60% to 70% of the workforce (Abubakar et al., 2018; El-Said et al., 2014a). Also, SMEs represent 99% of the total European Union institutions (Reijonen et al., 2016), which constitutes a very large percentage due to the multiple advantages these companies achieve that may encourage developing and growing countries to encourage the emergence of these companies (Tumiwa and Nagy, 2021).

Accordingly, this paper will present the definition of SMEs, the impact and advantages of involving SMEs in public procurement, the role of SMEs in the Egyptian public procurement system, and how to maximise the benefits from involving SMEs in public procurement in Egypt.

## **2 Methodology**

This paper relied mainly on the descriptive approach in reviewing several different pieces of literature dealing with the concept of SMEs. The descriptive method was also used to identify the pillars of SMEs. The paper also relied on the analytical approach in concluding and extracting the advantages of SMEs and the challenges that could be considered a barrier to implementing this system in Egypt.

This paper also relied on the legal approach in analysing the legal frameworks governing public procurement (2018) as well as the laws that dealt with some aspects of small and medium enterprise development law (2020).

Using the previous methods helped to reach many important results at the end of the paper, such as reaching the advantages that SMEs can achieve in the Egyptian public procurement system, as well as the challenges that stand before the Egyptian system for its implementation.

## **3 What is the meaning of SMEs?**

The definition of SMEs is not one in all countries because every country defined the SMEs in their acts, laws, and regulations from their perspectives (Katua, 2014), so the definition of SMEs is not the same in all countries in the world (Zaied, 2012). SMEs are defined in some countries based on the number of employees in these companies. In other countries, SMEs are defined given the size of these companies' investments. In other countries, it is defined based on its turnover (El-Said et al., 2014b). Finally, in some other countries, more than one criterion is combined to define SMEs, such as the number of employees, the size of the company's sales, or the number of employees and the company's capital (Laitinen and Kadak, 2018).

According to the Act no. 102 of 1996 in South Africa, the SMEs can be defined based on one criterion only, which is the number of employees, as small companies were defined as those companies that have less than 50 employees, while medium companies generally were defined as those companies that have less than 100 employees and up to 200 employees in the fields of mining and electricity (Chapter 1 from Act no. 102 of 1996: National Small Business Act, 1996).

In India, SMEs are defined based on the size of the company's investments only. Small companies are those whose investments are less than 750 thousand US dollars annually, and medium companies are those whose investments range between 750 thousand to 25 million US dollars annually (International Trade Centre, 2007).

In Egypt, the law defines the small company based on the size of its turnover, in addition to the size of its capital (El-Said et al., 2015) is defined as every company or individual enterprise that practices an economic, service, or commercial activity whose paid-up capital is not less than 50 thousand pounds and does not exceed 5 million pounds or its turnover is 1 million pounds and does not exceed 50 million pounds (Article 1, Micro, Small and Medium Enterprise Development Law in 2020).

The World Bank and European Commission defined SMEs by relying on the criteria of employment and the company's annual sales size. It defined small-sized companies as those companies whose number of employees is less than 50 and whose annual sales value is less than 10 million euros or that the total budget of these companies is less than 10 million euros. Whereas, medium-sized companies are those that have less than 250 employees and their annual sales are less than 50 million euros or the total annual budget of these companies is less than 43 million euros.

Most of the definitions of SMEs focus on the factor of the size of employment in addition to another element, such as the definition adopted by, the World Bank, and the European Commission, while most of the countries that do not rely on the definition of SMEs on the component of employment may depend on the size of investment component such as India. Consequently, it is difficult to set a specific definition for SMEs as this definition of these companies differs according to the different policies followed in each country as well as the legislation prevailing in them, additionally this varies according to the size of the economy and whether it is an emerging economy or one of the big economies.

#### **4 The role of SMEs in public procurement**

SMEs play an important economic role in many industrialised countries, but the opportunities for these enterprises are very limited to participate in public procurement (Fee et al., 2002). Supporting the participation of SMEs in public procurement helps create a better situation for both parties, the government on the one hand, and SMEs on the other hand, and through the involvement of small and medium companies in public procurement, multiple benefits can be achieved (Di Mauro et al., 2020), which are represented in contributing to job creation (Katua, 2014), economic development (Fakhreldin and Hattab, 2019; Indarti and Langenberg, 2004) and limiting monopolistic practices of large companies in public procurement processes, as the participation of SMEs increases competition and ensures that the buyer does not rely on a few large companies only (Reed et al., 2005).

Any government needs to design a policy (Aboelazm, 2021) for involving SMEs in public procurement (Huka, 2016) considering the size of public procurement annually because it is a big chance for these enterprises to be government suppliers. According to UNID public procurement is one of the important factors to improve SMEs, but these enterprises faced a lot of challenges to win with one contract because of competitive procurement methods that are used to obtain goods, services, infrastructure, and business include challenges in all of the public procurement cycles such as: the pre-bidding phase, insufficient advertising, complexity in the submission procedures in tender processes, lack of transparency in these processes, difficulty in obtaining the necessary funding, and primary and final insurance. So, the government must take an action to eliminate these challenges (Huka, 2016).

#### *4.1 Benefits of involving SMEs in public procurement*

Generally, if the government support SMEs to participate in public procurement can lead to achieving a lot of benefits as follow.

##### *4.1.1 Reduce monopolistic and increase the competitive base*

The government can use public procurement to support SMEs which can lead to Increasing competition in government markets between SMEs on the one hand, and large enterprises on the other hand. Additionally, the government policies which present the support to SMEs can be helped to reduce the prices of bids submitted in public procurement processes (Di Mauro et al., 2020), which directly contributes to reducing and rationalising public spending, in addition to that this would reduce the dominance of large companies in public procurement processes, to prevent monopolistic practices in this field (Strömbäck, 2015).

##### *4.1.2 Creating jobs*

Generally, the rapid growth of SMEs contributes to creating new jobs in the economies of developing countries because these enterprises depend on labour-intensive (Di Mauro et al., 2020) and a more equitable income distribution more than large enterprises. SMEs provide job opportunities for reasonable wages to workers which can play an important role to alleviate poverty (Fakhreldin, 2018). Additionally, SMEs help generates job opportunities by providing training and using modern technology, which helps to promote the development of these companies which will once again create more jobs (The World Bank, 2012).

SMEs are a significant element of the Egyptian economy, as they are the spine of the economy; analytical studies reveal that Egypt has 2.5 million SMEs, which account for 99% of the total non-agricultural projects in Egypt. Additionally, 39,000 new projects are added yearly, contributing about 75% of the total labour force. Of which 17% are exported (ElBaradei, 2016).

According to the Central Agency for Public Mobilization and Statistics report, Egypt achieved an unemployment rate of 7.5% during the third quarter of 2021, compared to 7.3 in the previous quarter. The report attributed the reasons for the decline in the unemployment rate, despite the persistence of some of the repercussions of the corona

pandemic, to supporting the sectors affected by the crisis, in addition to continuing to implement national projects that absorbed a large amount of employment and improving the business climate and environment to attract and flow more investments, which had its fruits are in improving the expectations of international institutions regarding the unemployment rate in Egypt. The report revealed the continued recovery of labour market indicators thanks to the success of the economic reform program, as the unemployment rate decreased by 5.2 percentage points, to record 7.3% in the second quarter of 2021, compared to 12.5% in the second quarter of 2016. The unemployment rate in the same quarter was 9.6 % in 2020, 7.5% in 2019, 9.9% in 2018, and 12% in 2017 (CAPMAS, 2021).

#### *4.1.3 Raising the efficiency of resource allocation in developing countries*

SMEs tend to adopt labour-intensive productive methods, reflecting the position of these countries in terms of the abundance of the labour force and scarcity of capital. SMEs support the building of comprehensive productive capacities (Fakhreldin, 2017), as they help to absorb productive resources at all levels of the economy and contribute to the establishment of economic systems characterised by dynamism and flexibility in which SMEs are interconnected (Doshmanli et al., 2018). Also, SMEs spread over a wider geographical area than large companies, support the development and growth of entrepreneurship and skills, and help reduce economic differences between urban and rural areas (UNID, 2015).

#### *4.1.4 Equality between SMEs and large companies*

The government can address equity, fairness, and social concerns in public procurement if the government awards a percentage from public procurement to SMEs.

## **5 Government policies to involve SMEs in public procurement in Egypt**

According to Egyptian law, a small company based on the size of its turnover, in addition to the size of its capital it defined as every company or individual enterprise that practices an economic, service, or commercial activity whose paid-up capital is not less than 50 thousand pounds and does not exceed 5 million pounds or its turnover is 1 million pounds and does not exceed 50 million pounds (Article 1, Micro, Small and Medium Enterprise Development Law in 2020). Table 1 can express the SMEs in the Egyptian law.

According to CAPMAS (2021) in Egypt, “around 2.5 million SMEs are representing 75% of the total employed workforce and 99% of non-agricultural private sector establishments”, as Figures 1 and 2 shown.

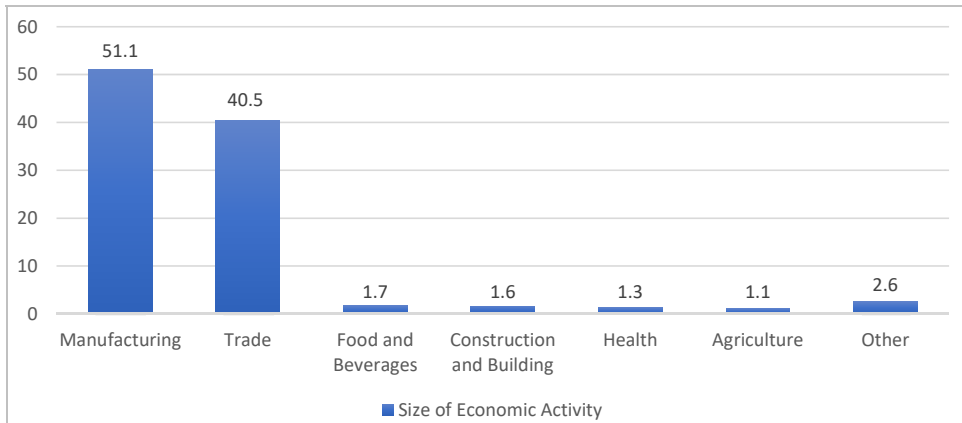
The law that regulates Small Enterprise Development Law in 2020 has stipulated that 20% of public procurement operations be allocated for the benefit of medium enterprises and 20% of public procurement operations be allocated for the benefit of micro and small enterprises.

**Table 1** MSMEs definition

	<i>Micro</i>	<i>Small</i>	<i>Medium</i>
Annual turnover for any project	Less than 1 million LE	From 1 million to 50 million LE	From 50 million to 200 million LE
The paid or invested capital for any newly established industrial project	Less than 50,000 LE	From 50,000 to 5 million LE	From 5 million to 15 million LE
The paid or invested capital for any newly established non-industrial project	Less than 50,000 LE	From 50,000 to 3 million LE	From 3 million to 5 million LE

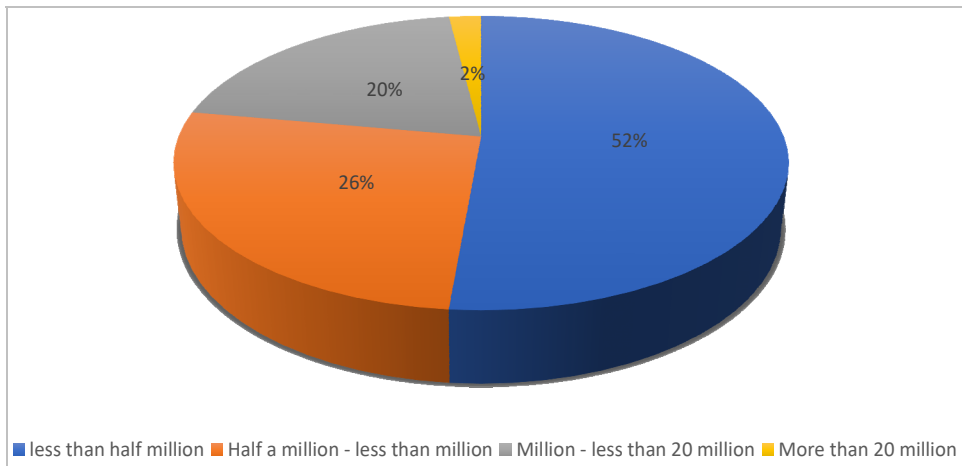
Source: Author

**Figure 1** Distribution of SMEs according to the industries (see online version for colours)



Source: Author using CAPMAS statistics about SMEs

**Figure 2** Distribution of SMEs according to the size of turnover (see online version for colours)



Source: Author using CAPMAS statistics about SMEs

However, despite allocating 20% under the law regulating contracts conclude by public authorities in 2018 for the benefit of these companies, these companies still suffer from entering public procurement and winning one of these operations (Aboelazm and Afandy, 2019). This is due to the presence of many challenges and barriers (Mwesumo et al., 2019) that impede this, which were previously explained in detail in the previous chapter, and here they can be referred to as follows:

- 1 The burdensome financial costs of participating in public tenders and practices.
- 2 There are no time limits for the work of the committees.
- 3 The guarantee period for contracting work.
- 4 Administrative requirements and complex procedures for tenders and practices.
- 5 The authorities of the broadcasting administration.

All these obstacles prevent small and medium-sized companies from making public procurement, as they represent a material burden for these companies.

### *5.1 Challenges of engaging SMEs in public procurement in Egypt*

SMEs may be achieved a lot of benefits when entering the market in general and the government market by participating in public procurement processes but entering SMEs into the public procurement process faces some challenges that impede this, as follow.

#### *5.1.1 Lack of knowledge/information*

Generally, the most important challenge or barrier facing SMEs in most countries to participate in public procurement is the lack of sufficient information about tenders and biddings (Mishory, 2013). Due to SMEs are not targeting the government market has led to limited knowledge of public procurement and how to participate in it (Soong et al., 2020), which ultimately leads to the lack of entry or lack of interest of SMEs in public procurement (Perry, 2011). Transparency and disclosure of information about tenders and public procurement contracts are the most important obstacles facing small and medium-sized companies (McKevitt and Davis, 2015) towards their entry into public procurement contracts (Karjalainen and Kemppainen, 2008; Fee et al., 2002). For example, offering limited tenders by requesting some companies without offering those tenders in a public way via newspapers or the internet, was according to European Commission (Nicholas and Fruhmann, 2014).

#### *5.1.2 Legal framework*

There are a lot of acts, laws, and regulations in most countries that are barriers to SMEs from winning public procurement contracts (Chang et al., 2020). This is due to several reasons, which are the inability of these companies to enter public procurement contracts due to the enormity of the contract, as such contracts require large financial guarantees that exceed the capabilities of these enterprises. In addition to the requirements of previous experience or business as one of the conditions for participation in these operations, which is something that SMEs are unable to provide due to their recent inception and their lack of participation in public procurement processes before. The size



of contracts offered by public agencies constitutes a barrier for SMEs to enter public procurement contracts (Gordon and Kang, 2009). According to quantifier literature, the participation of SMEs in public procurement contracts is inversely related to the size of these contracts, so the greater the contract size (Di Mauro et al., 2020), the lower the percentage of these companies' participation in public procurement contracts (Smith and Hobbs, 2001; Bovis, 1998; Morand, 2003; Zheng et al., 2006). As well as the lower the contract size, the higher the proportion of these companies' participation in public procurement contracts (Tammi et al., 2014).

### *5.1.3 The complicated administrative procedures*

Public procurement processes always include many procedures in most countries, and many of these procedures make small and medium-sized companies unwilling to participate in and enter these operations since these operations take a long time (Karjalainen and Kempainen, 2008). In addition to the complexity of their procedures, SMEs do not have much experience in the matter of open tenders (Patajoki, 2013), which does not help them to enter these tenders (Fee et al., 2002) because they will risk a large amount of their capital in these processes. Besides, the long period of the tender process (McKevitt and Davis, 2015). All of these are a huge burden on SMEs, which depend mainly on the speed of capital turnover (Perry, 2011).

The administrative obstacles that SMEs face when participating in public procurement contracts (McKevitt and Davis, 2015) are among the most hateful obstacles that afflict these companies from entering such operations (Anderson et al., 2011), due to the presence of many complex administrative procedures and the multiplicity of these procedures according to the different stages of tender or practice which is the most complicated stage for these companies (Jurcik, 2008).

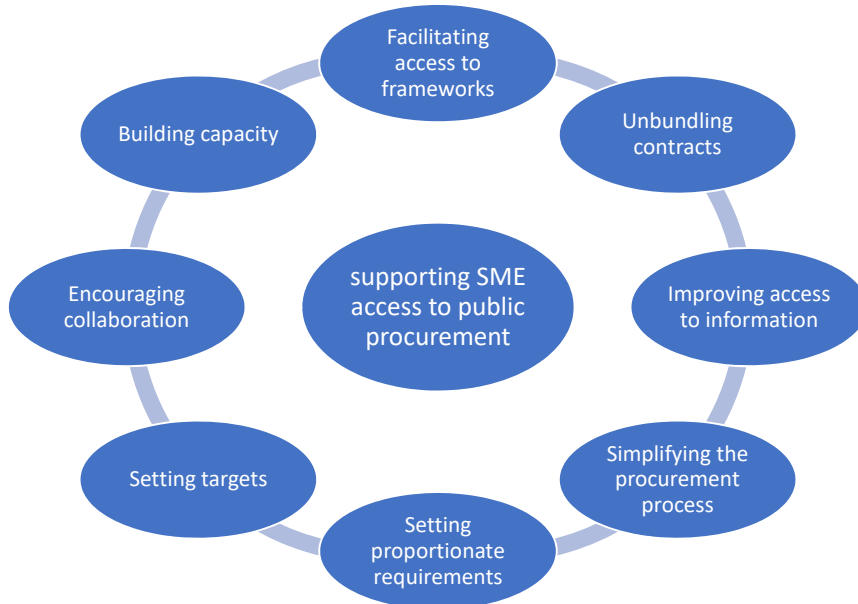
Moreover, political connections play an important role in long-term debt that can be covered by fixed assets owned by SMEs. So, politically connected SMEs can gain access to debt without sufficient liquid collaterals. On the other hand, the unconnected politically SMEs will not get a loan or financial support (Bencheikh and Taktak, 2019).

## *5.2 Policies of encouraging SMEs to participate in public procurement*

Governments can set some policies through their legislation to encourage and support SMEs to enter and participate in public procurement contracts, which may be represented in allowing the division of large-size contracts between these companies, as well as working to provide technical support and advice and is to train workers in these companies as well as reduce conditions Participating in government procurement processes and simplifying the procedures of these processes while giving preference to joint bidding in addition to the possibility of allocating a part of public procurement contracts to these companies in addition to working on the ease of access of these companies to all the information necessary to participate in public procurement contracts. Export performance of SMEs: the performance of SMEs is very weak in terms of export to foreign markets, not exceeding the proportion of exporting institutions 6% in 2019, while other projects meet the requirements of the Egyptian market only (El-Said et al., 2014a; Mansour et al., 2019). In addition to using them to increase the rate of exports, according to the size of the SMEs in the domestic economy, which are inappropriate to the size of its participation in the country's export power, as it does not exceed its size

SMEs exports 4% (Ibrahim, 2021). Figure 3 shows the policies that can support SMEs to participate in public procurement contracts.

**Figure 3** Methods of supporting SME access to public procurement opportunities (see online version for colours)



*Source:* Northern Ireland Assembly (2011)

According to Figure 3, the government policies can play an important role to involve SMEs in public procurement contracts as follow.

Establishing a public procurement strategy that can ensure the allocation of part of the public procurement contracts for each government agency for the benefit of SMEs, or allocating a percentage of the value of each contract concluded by large companies for the benefit of SMEs through subcontracting and that this contract is also under the supervision of the administrative body to ensure business execution as a guarantee for SMEs. For example, the USA adopt a law requiring federal agencies to allocate a percentage of their total spending on purchases to suppliers from small and medium-sized companies as preferential treatment for SMEs (Kidalov and Snider, 2011).

Simplifying government contracting procedures by merging some procedures and reducing the time between submitting bids, evaluating bids, awarding the process, and making the contract, as the many and complex bureaucratic procedures are one of the reasons for the reluctance of SMEs to deal with public agencies in general, and to engage in public procurement in particular (Flynn and Davis, 2016).

Using electronic methods and means in public procurement contracts by preparing an integrated system that would increase the process of simplifying procedures (De Almeida, 2006). Also, using e-public procurement reduces bid preparation costs for small and medium-sized companies, as well as achieves more transparency (Leipold et al., 2004).

As well as developing a simple mechanism characterised by accuracy and speed in settling disputes that may arise due to public procurement contracts and their contracts between government agencies and SMEs. The complexity of the judicial system is one of the reasons for the aversion to transactions in public procurement contracts (Nicholas and Fruhmann, 2014), especially since these companies may not be able to bear the cost of litigation expenses.

Providing training programs and technical support to SMEs, in two ways, the first of which is to raise the capabilities and skills of those working in these companies, as these companies face shortcomings in the trained technical workers (Foresti et al., 2006). SMEs also face a shortage in vocational and educational training systems (Fee et al., 2002; Dollinger et al., 1991; Drabkin and Thai, 2003), and the second of them is to provide training programs on how to enter into public procurement contracts, starting from preparing bids and the requirements of these processes and ending with contracting and contract implementation (Nicholas and Fruhmann, 2014).

Providing the necessary funding and financial support: financing and availability of financial liquidity are one of the obstacles facing the owners of SMEs (Chang et al., 2020), which can be overcome by providing credit facilities in granting loans, whether in terms of the repayment period or in terms of reducing interest rates. Financial support may be through participation in the loan contracts between the bank and these companies so that the risks that may result from the implementation of public procurement contracts can be divided and distributed. Financial facilities can also be provided to SMEs by contracting government agencies, by paying an advance payment upon contracting (Lundstrom and Stevenson, 2005). Likewise, government procuring agencies should consider not spacing out the periods of paying the dues of these companies during the implementation of the contract and upon completion of the implementation. Additionally, the value of insurance whether primary or final represents one of the financial obstacles facing SMEs (Passaro et al., 2020), due to the difficulty of these companies obtaining large financing securing them to enter into public procurement contracts, which is mainly due to the small size of capital and thus they are unable to provide evidence of their ability financial (Nicholas and Fruhmann, 2014).

Government procuring entities can dismantle their large-scale contracts to increase opportunities for SMEs to obtain public procurement contracts, which allow these companies to compete with each other for the parts of these contracts, and thus it is possible through this means to facilitate the access of small and medium companies to public procurement contracts (Nicholas and Fruhmann, 2014).

The participation of SMEs in public procurement contracts can also be facilitated by reducing the cost of tender or practice documents (books of conditions and specifications) by selling them at their true cost, as the high value of tender documents may prevent entering into the procurement process, which is due to the fear of not being winning the tender and thus losing the amount of these documents (Nicholas and Fruhmann, 2014).

## **6 Conclusions**

In light of global policies in the field of engaging small and medium-sized companies in public procurement, which were previously mentioned in Figure 3, and in light of the challenges that small and medium-sized companies face winning public procurement

contracts, these challenges can be addressed by facilitating the entry of companies by following:

- Allocating a percentage of the value of each contract concluded by large companies for the benefit of SMEs through subcontracting and that this contract is also under the supervision of the administrative body to ensure business execution as a guarantee for SMEs.
- Simplifying government contracting procedures by merging some procedures and reducing the time between submitting bids, evaluating bids, awarding the process and making the contract.
- Using electronic methods and means in public procurement contracts by preparing an integrated system that would increase the process of simplifying procedures.
- Developing a simple mechanism characterised by accuracy and speed in settling disputes that may arise due to public procurement contracts and their contracts between government agencies and SMEs.
- Delivering training programs and technical support to SMEs, in two methods to raise the capabilities and skills of those working in these companies.
- Presenting the essential funding and financial support.
- Public procuring authorities can disassemble their large-scale contracts to increase opportunities for SMEs to get public procurement contracts.

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