

Public Procurement and Bumiputera Company
Development in the Construction Industry:

Reviewing Policies, Exploring Possibilities

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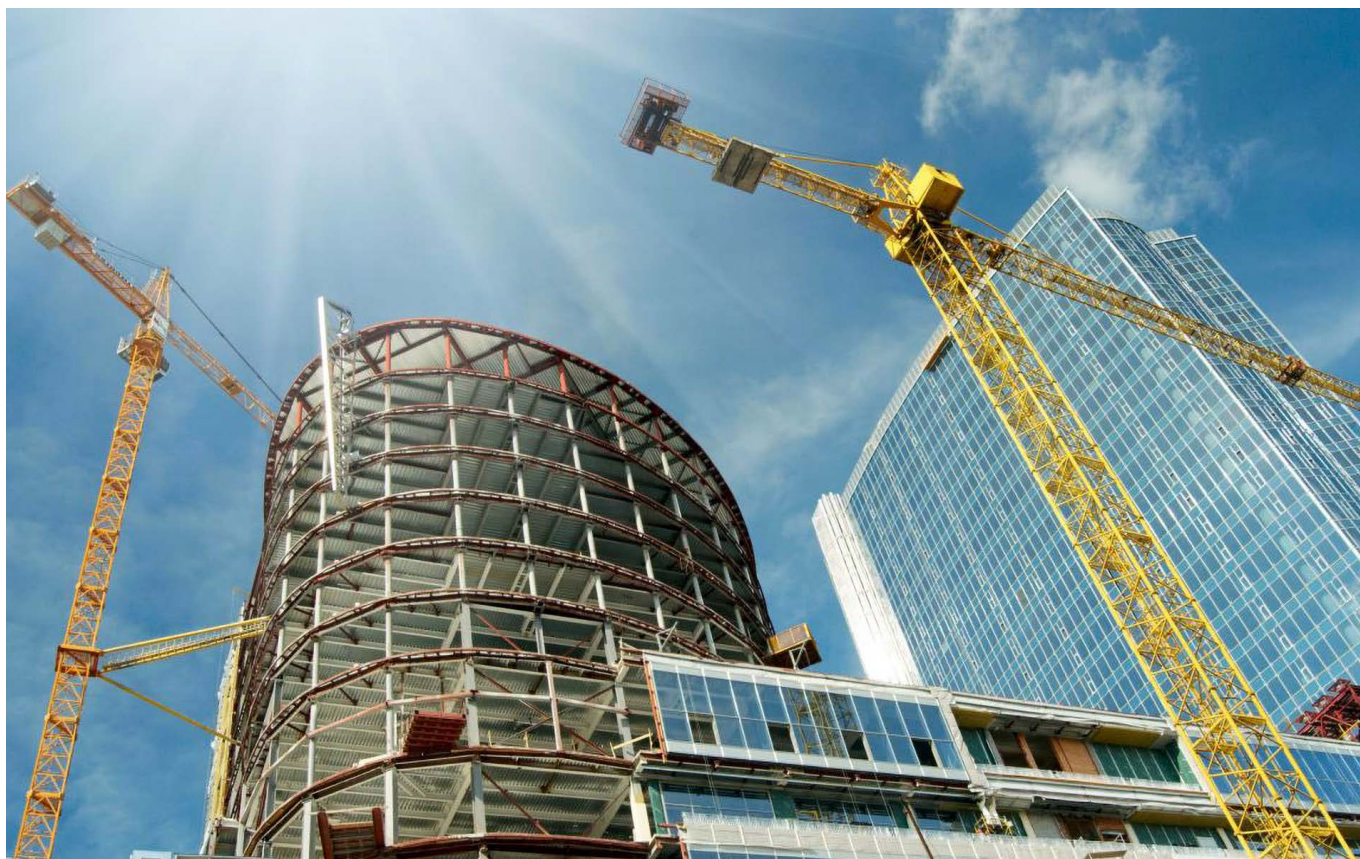
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Executive summary

Malaysia's efforts to develop Bumiputera companies through public procurement policy hold out potentialities and pitfalls. The construction sector has been a major focus of Bumiputera development policies, and continues to offer upward mobility opportunities especially for technical and vocational education and training (TVET) graduates. The approach, with reservation of G1 contracts – the smallest out of seven grades – exclusively for Bumiputera contractors, and quotas and price preferences for medium to large contracts, stands out internationally for its form and magnitude. These core elements have remained quite constant for four decades, but special initiatives, such as the Mass Rapid Transit's (MRT) 'carve out and compete' and young entrepreneurship programme, and a 2019 introduction of time limits on G1 contractor licenses, have occasionally emerged.

Among the widely articulated issues surrounding public procurement are Bumiputera contractors' continual access and adequate volume of contracts as income sources. Pronounced concern and debate also revolve around the concentration of Bumiputera contractors at the G1 tier, prevalence of proxy companies and 'cartels' that fraudulently amass contracts, and perceived manipulation of the 'cut-off' pricing and contract allocation. Undoubtedly, dynamic Bumiputera companies have also emerged, and mechanisms are in place to promote efficiency and equitable distribution. However, G1 persists as a comfort zone, even while some do develop capabilities or even graduate upwards to G2 or beyond. The accumulated track record and continual debate underscore the relevance and importance of research on the policy's design, implementation and outcomes.

This report presents an overview and update of pro-Bumiputera policies within public procurement, and the findings and implications of a research project undertaken in April-August 2021. Our research set out to survey and assess the distribution and characteristics of Bumiputera contractors, to investigate the effects of public procurement on Bumiputera company development, to evaluate policy implementation and make some recommendations moving forward. We undertook an exploratory inquiry through a combination of quantitative and qualitative analyses that provide both macro perspective and practitioner insight.

Synthesizing a broad range of data and interviews, we derive these key findings:

- Bumiputera contractors continue to be concentrated at G1, and proliferated when registrations were reopened in 2019 after a 14-year freeze. G1 accounts for 63.3% of all Bumiputera contractors, compared to 34.5% for non-Bumiputera contractors. The distribution across other tiers is uneven; Bumiputera contractors are particularly under-represented at G3 and G5, more so than at the highest grade of G7. We also observe disproportionately greater presence of G1 contractors in lower income states, and in rural or mixed rural/urban districts.
- Consistency in winning contracts corresponds with expansion of capability, as reflected in technical competencies registered with CIDB. Within G1, companies with a wider set of competencies tend to win tendered contracts more regularly. Some companies appear to adopt a higher-skilled and focused specialization mode of participation in procurement, which presents scarcer opportunity but potentially better financial reward per contract. Interviews with contractors and stakeholders add further insight on company growth paths, and distinction between G1 contractors that seek a simple means of income and profiteers that abuse the system. The move from G1 to G2 marks a significant departure from a comfort zone, but some take a bigger step skipping to G3 or higher. These variations underscore the importance of going beyond simplistic diagnoses of the problem of G1 concentration, and of being mindful of different pathways for company progress.
- In terms of regulatory enforcement, most saliently compliance with ownership rules, it is widely acknowledged that fraudulent practices are prevalent, especially the registration of proxy companies under one beneficial owner and their deployment as fronts in balloting or contract bidding exercises. The steep challenges of detecting and prosecuting these cases are arguably compounded by under-resourced enforcement authorities. In setting contract award price, there are rationales for implementing the 'cut-off' system referencing the average of bids, but the practice allows for the average to be inflated by multiple submissions and the system to be gamed. Enforcement shortfalls and policy loopholes detract from cost efficiency and effectiveness in promoting Bumiputera companies.
- Our probe into contractors' dispositions and outlooks in public procurement draws on observations of interviewees, and the experiences of a few participants in the MRT Young Entrepreneurs Programme (MYEP). We gather from these interviews that training and mentorship, exposure to rigorous professional standards, access to finance, linkage with networks and established trust between main contractors and subcontractors, contribute substantially to company growth. Political influence in the award of contracts can reduce morale among the excluded, or in some cases, spur movement into GLC or private sector procurement that can be both more rewarding and more transparent.

Our research informs these policy recommendations:

- On reservation and quota policy, locality – defined even more specifically than district, which can be very expansive – might be considered as an additional layer for granting preference in award of contract.
- A general rule for facilitating graduation can also be considered, in which margin of pricing preference, or a points system, diminish in the degree of preference over time, or with each successive contract.
- On ownership regulations and the contract award system, beneficial ownership declarations can be introduced as a starting point, with clear liability for infringements falling on the beneficial owner and protection against victimization of proxies. Enforcement can be bolstered by increasing resources of the relevant agency, and setting up whistle blower channels. More transparent and methodical procedures for determining when and how to implement cut-off system versus competitive price bidding, should be devised.
- The role and efficacy of numerous enterprise development institutions, which provide financing and services to Bumiputera contractors, and structural constraints such as supply chain access that may attenuate Bumiputera contractors' competitiveness, should be researched in depth. Our study finds a mixed picture, but further study is needed to specifically examine each programme and constraint.
- For development of Bumiputera companies, the principal interest of this study, we propose a points system reinforced by growth pathways. This scheme, by awarding the highest points to new entrants followed by a sliding scale based on time or number of contracts, can incentivize graduation while obviating the more contentious existing policy of license termination when contractors reach an expiry date. Points can also be awarded for entry into specific grades or specializations, or adoption of technology, and based on group disadvantage beyond Bumiputera status. Generalist and specialist pathways warrant consideration, with appropriate adjustment of terms and rewards, to increase the range of options for contractors to grow their companies.



Introduction

Malaysia's public procurement system, like many across the globe, pursues a broad range of objectives alongside cost-efficient and quality-controlled allocation of contracts. Within the overarching objective of value for money, many countries leverage on public procurement to achieve broader developmental concerns, such as group participation, living wages, industrial upgrading, and sustainability practices. Of these, affirmative action policies that promote the participation of companies owned by a designated policy beneficiary – most commonly, a disadvantaged or indigenous group – or hiring and procuring from suppliers with similar profile, have been among the most widely applied.

This is emphatically the case in Malaysia, where Bumiputera enterprise development constitutes the chief socioeconomic objective of public procurement. Correspondingly, the construction sector has long been policy focus, reflected in the relatively higher Bumiputera equity ownership in the sector of 36.4%, compared to 11.3% in manufacturing, reported for 2012 (Teraju 2012: 56).¹ National policy has increasingly prioritized the creation of dynamic and competitive Bumiputera enterprise. A further developmental aspect of public procurement is the opportunity afforded for upward socioeconomic mobility between generations, through self-employment or small business start-up opportunities specifically for technical higher education graduates.

The form of preferential practice in Malaysia is unique compared to various countries, such as South Africa, India and the United States, and the magnitude is extensive. Malaysia stands out, in particular, for its policy of exclusively reserving G1 contracts – the lowest (entry-level) grade out of seven – for Bumiputera companies. A portion – conventionally 30% – of works contracts in the other tiers are reserved for Bumiputera participation, while pricing preferences to Bumiputera companies bidding for supplies and services contracts in the G2-G6 range, with the margin declining as the size of contract increases. Various programmes have also been instituted to offer financial and technical support to Bumiputera contractors. Recent years have seen significant developments within this deeply embedded system in which potential change undeniably contends against vested interests, with new initiatives such as “carve out and compete” for the MRT, and a 12-year limit imposed on new G1 licenses issued in 2019.

Of course, public procurement is intensely political, and a mixed bag of results. Allocation of contracts is susceptible to patronage and corruption in any setting, moreover when certain groups enjoy preferential treatment. Bumiputera contractors enter the public limelight from time to time, pressing for continual access to contracts, notably in the wake of the 2008 and 2018 general elections, amid heightened attention to cost efficiency and open and competitive tenders. Various programmes for capacity building among contractors have been implemented, largely behind the scenes, but the high concentration of smallest tier G1 remains the most widely known and frequently critiqued outcome. This is certainly an emphatic feature that demands deeper empirical analysis, but it tends to be debated in sweeping and partisan terms. By and large, preferential selection mechanisms have largely remained intact, and are a recurrent focus of sharp commentary and polemical discourses. Despite the magnitude of the policy, and perhaps because of its embeddedness and seeming immutability, little research has been conducted on the pro-Bumiputera aspect of Malaysia's public procurement. Nonetheless, the combination of continuity with change underscores the timeliness and relevance of examining the state of policy implementation and outcomes at this juncture.

¹ These data are exceedingly scarce; we do not find a more recent estimate than 2012.

This report proceeds with an overview of policies and international experiences of pursuing social outcomes, particularly affirmative action via public procurement, followed by a survey of the ways Malaysia has utilized public procurement for Bumiputera enterprise development. We then present our research methodology, findings and policy recommendations. The research adopts an exploratory stance, in line with the breadth and depth of our objectives and various data limitations, compounded by Covid-19 mobility restrictions. Our mixed mode comprises quantitative data compiled from various sources, and qualitative insights from key informant interviews of policy formulating and implementing agencies, and special cases, especially the MRT which implemented Bumiputera carve-outs and young entrepreneur development. We apply the information garnered from these sources toward a typology of Bumiputera contractors that seeks to broadly differentiate modes and outcomes of engagement in public procurement.

Our findings provide new angles on the profile of Bumiputera contractors, and shed light on pathways to company growth and development, and procurement policy outcomes. The data provide an update on the distribution of contractors by grade and location. We note the continued concentration of Bumiputera contractors in the G1 tier of small companies eligible for small contracts, especially in rural or mixed rural/urban districts, but also particular under-representation at G3 and G5. Moving up in scale corresponds with broadening of technical capacities; within G1, those with wider set of competencies tend to win contracts more regularly. Specialization offers another mode of engagement, albeit with lesser frequency of contracts. Interviews with contractors and stakeholders add further insight on the motivations and opportunities for growth and development, which may entail moving up in grade by more than one step – not limited to G1 to G2 – but may also progress without upscaling.

Key features and experiences of dynamic companies include access to hands-on and effective training, mentorship and financing. Viable and differentiable pathways are possible for those that generalize or specialize. The static condition of many contractors persistently at G1 can be traced to inertia and sense of comfort, but is also intertwined with unethical and fraudulent practices of fronting and proxy companies that game the system – the ‘cartel’ problem. The enforcement challenges are steep, but authorities and mechanisms are also inadequate. Our research findings lead into policy recommendations, to consolidate enforcement of ownership regulations, to establish a points-based system to incentivize upgrading and promote more dynamism through various pathways, and to conduct rigorous research evaluating the numerous programmes that provide training, mentorship and financing for Bumiputera contractors.

Developmental objectives within public procurement

Inclusion and sustainability

The core function of public procurement is clear and simple – the provision of goods, services, works and utilities to the public – and wedded to a central purpose of maximizing value for money. An overview of journals specializing in this field observes that available research is focused on procedural, technical, and fiduciary aspects of public procurement.

At the same time, public procurement, as a process involving public funds, has also been utilized for various developmental objectives (McCrudden 2004, Noon 2009). The government wields considerable leverage to impose contractual terms and conditions supplementary to the basic requirements of the contract, in line with social, environmental or industrial policy objectives. There is growing advocacy for public procurement to adopt sustainability concerns (UNFSS 2020). Social outcomes such as living wage policy (Pollin *et al.* 2008), or technological standards such as industrialized building systems have also been integrated into public procurement contracts.

Public procurement can also incorporate affirmative action elements, in which characteristics of contract awardees, especially related to the racial, ethnic, gender or other identity trait of owners and employees, factor into the selection process. Various countries implement such policies, whether by favouring firms owned by minority groups or, as in the case of Malaysia and South Africa, by conferring preference on Bumiputera – and black-owned firms, respectively (Noon 2009). These public policy interventions seek to promote business development among the beneficiary group, through an instrument that is firmly under government control and directly disbursing opportunity and funding. Public procurement constitutes one of the major spheres of affirmative action globally, along with public sector employment and higher education enrolment.

The prominence of Malaysia in multi-country studies testifies to the significance of the policy in international perspective. McCrudden (2004) and Noon (2009) both cite the Malaysian case copiously in their overviews of public procurement utilized, respectively, for social outcomes and unity and cohesion. These studies, covering the legal frameworks and policy designs, also underscore how the underpinnings, objectives and mechanisms of affirmative action in public procurement are distinct to each country. It is pertinent for this study, as an empirical analysis of policy outcomes, to be situated in country-specific context.

Affirmative action in public procurement

Various countries implement some form of affirmative action in public procurement. Table I summarizes a selection of salient examples. This is far from an exhaustive list, and each country's affirmative action policies are not fully captured. Nonetheless, this brief overview helps us situate Malaysia in comparative context, and take note of the type and scope of interventions. In terms of modality, there is wide use of set-asides across countries, typically applying to smaller-scale contracts involving small businesses in which a proportion is designated for a companies owned by a beneficiary group. Margin of preference constitutes another mode. This operates through the pricing channel, allowing bids of beneficiary groups to be placed on par with competitors, on the premise that the beneficiary group's disadvantages curtail their ability to compete on a fully levelled field.

In most countries, the beneficiaries are minority ethnic groups, with some countries incorporating disability or gender as well. Other variations include the qualification of contractors based on ownership and employment, and the distinction between more target-oriented systems versus quotas. South Africa's black economic empowerment scorecard system is highly distinctive for its range of objectives and scoring criteria, and like Malaysia, it operates in a majority-favouring affirmative action regime (Lee 2021).

Table I. Affirmative action in public procurement around the world (selected countries)

Country	Policy / Law	Notable features
SET-ASIDES / TARGETS		
United States ²	Small Business Act Public Law 95-507 (1978) Small Business Administration	<ul style="list-style-type: none"> Contracts above USD1 million to submit buying plan that includes percentage goals for employing minority business Prime Contracting Programs (set-asides & sole-source awards for small businesses owned by 'special interest groups': women, disadvantaged groups or veterans, or located in an historically underutilized business zone)
Australia ³	Commonwealth Indigenous Procurement Policy	<ul style="list-style-type: none"> Annual targets for number of contracts awarded to Indigenous businesses Set aside some Commonwealth contracts for Indigenous enterprises (AUD80,000-120,000) Minimum Indigenous participation requirement on certain contracts
Botswana ⁴	Public Procurement and Asset Disposal Act	<ul style="list-style-type: none"> Citizen Economic Empowerment Policy (CEEP) reservation Local Procurement Scheme (LPS) 20% of annual procurement budget to LPS target group Preference margins for companies, based on participation of woman, youth, people with disability, or rural dwellers.
India ⁵	Public Procurement Policy for Micro & Small Enterprises (MSEs) Order	<ul style="list-style-type: none"> Target of 25% annual procurement allocated for MSEs, of which: <ul style="list-style-type: none"> Minimum 3% reserved for women-owned MSEs
Malaysia	Treasury circulars	<ul style="list-style-type: none"> Government contracts in the smallest GI tier exclusively reserved for GI Bumiputera contractors 30% Bumiputera quota in other tiers (based on total value of contracts).
MARGIN OF PREFERENCE		
Kenya ⁶	Public Procurement and Disposal Act	<ul style="list-style-type: none"> Margin of preference and set asides for companies, based on ownership by persons of disadvantaged groups, employment of indigenous persons
Sweden ⁷	Swedish Public Procurement Act	<ul style="list-style-type: none"> Reserved procurement for disabled, disadvantaged persons 30% of employees in a company has to be from the disabled/disadvantaged community to qualify
India ⁸	Public Procurement (Preference to Make in India) Order	<ul style="list-style-type: none"> Preference to Class-I local supplier 20% price preference
Malaysia	Treasury circulars	<ul style="list-style-type: none"> Marginal price preference for G2 to G6 supplies and service contracts and manufacturing contracts

2 Congressional Research Service. 2021. *Small Business Administration: A Primer on Programs and Funding*. 9 August 2021. <https://sgp.fas.org/crs/misc/RL33243.pdf>

3 Australia. 2015. *Commonwealth Indigenous Procurement Policy*. Canberra: Australian Government.

4 Public Procurement & Asset Disposal Board. 2019. *Guidelines for application of empowerment schemes*. Gaborone: Government Printing and Publishing Services.

5 India. 2018. *Amendment to the Public Procurement Policy for Micro & Small Enterprise (MSEs) Order*. New Delhi: Government of India Press

6 Kenya. 2010. *The Public Procurement and Disposal Act*. Nairobi: The Government Printer

7 Ministry of Finance. 2017. *National Public Procurement Strategy*. Stockholm: Government Offices of Sweden.

8 India. 2020. *Public Procurement (Preference to Make in India) Order*. New Delhi: Government of India Press

Country	Policy / Law	Notable features
POINTS SYSTEM		
South Africa ⁹	Broad-based Black Economic Empowerment (BBBEE)	<ul style="list-style-type: none"> • BBBEE codes of good practice taken into account in procurement, licensing, public-private partnerships and sale of state assets. Elements and points of the score card: <ul style="list-style-type: none"> • Ownership _____ 25 • Management control _____ 15 • Skills development _____ 20 • Enterprise and supplier development _____ 40 • Socio-economic development _____ 5 • BBBEE score, computed by accredited private firms, counts toward 10-20% of total bid (80-90% based on technical merits and price)
SOCIAL VALUE ACCOUNTING		
United Kingdom ¹⁰	Public Services (Social Value) Act	<ul style="list-style-type: none"> • Government departments must take social value into account in planning and implementing procurement, so secure wider social, economic and environmental benefits

Sources: See notes 1 to 10; Malaysia condensed from Tables 3 and 4.

Affirmative action is quite widely applied in public procurement, along with higher education and public sector employment. The common thread in these salient affirmative action spheres is the control governments can exert over the relevant institutions: public universities, government departments and government contracts.¹¹ A common purpose also cuts across these interventions, in that all seek to facilitate learning and capacity building, but unique to public procurement is its focus on private companies as the policy beneficiaries. Participating in procurement requires owners to establish and operate their companies, which in turn introduces a unique set of challenges. Moreover, unlike higher education which is a once-off, 3-4 year engagement for most participants, public procurement contracts are continuously supplied and span a vast range of sizes which can confer windfall earnings, and unlike public sector employment which tends to offer career-long security, public procurement comes in the form of fixed-term contracts that contractors can repeatedly seek. Public works and services are continuously provided, but are also susceptible to political influence. Public procurement therefore holds out both considerable potential for starting up and growing businesses and substantial peril of profiteering, patronage and dependency.

Some implications of the incorporation of affirmative action conditions into public procurement merit a brief discussion. Appending developmental conditions can be justified on the basis of the social benefits that can accrue, but introduce various implementation challenges, particularly when preferential treatment comes into play. For each area offering potential for social benefit, there are attendant pitfalls as well, as summarized in Table 2.

9 Lee, Hwok-Aun. 2021. *Affirmative Action in Malaysia and South Africa: Preference for Parity*. London and New York: Routledge.

10 United Kingdom. 2012. *Public Services (Social Value) Act*. London: The Stationery Office.

11 Affirmative action in higher education applies mainly public colleges and universities in most of the world, with the notable exception of the United States, where private institutions participate vigorously in the policy.

Table 2. Major potentials and pitfalls of affirmative action in public procurement

Objective	Potential	Pitfall
Starting up opportunity	Businesses that otherwise might not receive opportunity due to disadvantage, inexperience, barriers to entry or other factors can get started.	Preferential treatment continues in perpetuity; dependency on preferential access, possibly gaming the system via proxy companies.
Building capacity	Procurement presents opportunity for business expansion and technological upgrading.	Beneficiaries do not take up the opportunity, or game the system via outsourcing or fronting.
Bolstering local business	Small businesses within the locality (district) can especially benefit; small projects are within their range of capability	Contingent on capacity of local contractors; larger operators may set up local small affiliates.

Source: Authors.

The magnitude of Bumiputera preference in public procurement in Malaysia – with 100% reservation of small contracts, and various financing and business support schemes – exceeds that of other countries, underscoring the imperative of stringent monitoring and effective policy execution. The state wields considerable leverage over the system and *can* utilize public procurement to productive effect; at the same time the scope is also wide for the policy to be subverted by vested interests and for dependency and unproductive practices to become entrenched. Among Malaysia’s specific and acute challenges are to close loopholes that allow the system to be gamed and to more broadly and impactfully facilitate growth of Bumiputera contractors in terms of scale, quality and dynamism. We now turn to Malaysia’s history in this policy sphere, and the current state of affirmative action in public procurement.

Bumiputera contractor development: History and policy

Timeline and key developments

The New Economic Policy’s launch in 1971 gave impetus to the utilization of public procurement to promote Bumiputera commerce. The 1973 Bumiputera Economic Seminar resolved to prioritize Bumiputera operators in government transportation, supplies and service contracts. Treasury Circular Letters have served as the medium for setting out such policies.¹² A tiered procurement framework – from the largest category A to the smallest F – was introduced in 1974, in which 100 percent of class F projects and 30 percent of the total value of other projects were reserved for Bumiputera contractors, while the remaining 70 percent were open for bidding among all companies, Bumiputera and non-Bumiputera. In services and supplies, Bumiputera contractors also received price preference, on a sliding scale, placing Bumiputera bids on par with lower priced non-Bumiputera competitors – except for the largest category of contracts.

Various government agencies have come to play key roles in public procurement and Bumiputera development. The Economic Planning Unit (EPU) sets out development priorities and the template for expenditures, especially for medium and large contracts that feature in the national development agenda

¹² Referenced in this section: Treasury Circular Letter No. 7, 1974; Treasury Circular Letter No. 3, 1982; Treasury Circular Letter No. 4, 1995; Treasury Circular Letter No. 11, 1993.

and that may involve technological advancement as well. The Ministry of Finance sets procurement terms and conditions. The Pusat Khidmat Kontraktor (PKK, Contractors Service Centre) was founded in 1981, as the government's policy implementation body. PKK's role presently focuses on certifying the Bumiputera status of contractors. In 1982, a provision was introduced to prioritize members of the Malay Chamber of Commerce. The parameters for classifying contracts and discounts have been adjusted from time to time, but the basic framework was retained. The Construction Industry Development Board (CIDB) was established in 1994 to consolidate regulation of the industry, to set standards, maintain a registry of contractors, and oversee policy on the whole, including Bumiputera development.

A few support schemes for contractors have emerged over the years. A "credible Bumiputera construction contractors" programme (Program Kontraktor Binaan Bumiputera Berwibawa) operated from 1993 to 2002, seeking to identify contractors with capability and potential for more direct access to contracts. Beneficiaries had to be fully Bumiputera owned, with good financial standing and track record, and would undertake to deliver the work themselves – rather than fronting for an associate – and to contribute to development of Bumiputera subcontractors and vendors. The programme was rather approvingly appraised after two years.¹³ However, high-level attention subsequently dissipated. *The Mid-term Review of the Eighth Malaysia Plan*, the national planning document following on the conclusion of this programme, omitted analysis while vaguely signalling continuity amid its formal closure. The document further pronounced a policy of awarding a minimum of 60 percent of public procurement and contracting to Bumiputera entrepreneurs, but "only competent and credible entrepreneurs will be awarded these contracts" (Malaysia 2003, 82).

Some changes in recent years – particularly, e-procurement, competitive tenders, and balloting for small contracts – have incorporated more structure and transparency.¹⁴ The balloting system for very small contracts holds out some efficiency advantages; for contracts involving basic tasks, or supplies and services, that many contractors can adequately deliver and for which the authorities are able to determine a fair price without bidding, a random draw can effectively and equitably allocate contracts. The balloting system for small GI contracts provided a useful mechanism for broadly distributing rents and steady income streams, and quid pro quos such as contractors' contribution to government relief efforts during floods and other contingencies, helped sustain the arrangement.¹⁵ At the same time, balloting can discourage company growth and induce fraudulent practices such as creation of proxy companies that circumvent limits on individual ownership. Malay contractors, particularly the smallest category of contracts where the vast bulk are located, remain a key political constituency.¹⁶ However, concern about a surfeit of GI contractors spurred the government to freeze new registrations in 2005.

Developments in the wake of the 2008 and 2018 general elections reflect the political dynamics. After the 2008 elections, incoming Penang Chief Minister Lim Guan Eng renounced the NEP, which he associated with cronyism and corruption, in his administration's procurement policy. A fierce backlash ensued by Malay politicians and Malay contractors, to which Lim conceded and effectively adhered to

¹³ The *Seventh Malaysia Plan* reported that under programme upgraded the managerial and technical capabilities of 236 contractors, which delivered on 1,221 projects worth RM3.6 billion (Malaysia 1996, 76).

¹⁴ Zairil Khir Johari, "Entering New Territory with Open Tenders", *Penang Monthly*, October 2011.

¹⁵ Interviews with Dato' Ir. Jamaludin Non, Deputy Secretary-General, Malay Contractors Association Malaysia on BFM radio ("Malay contractors – is the cookie crumbling?" 11 January 2018, "Open Season for Bumiputera Contractors", 5 June 2018).

¹⁶ Political interests also appear to have dominated a failed attempt to cultivate a special corps of contractors, through screening and training, that would qualify for direct negotiation with government. The ill-design of rewarding these contractors with direct negotiation rather than competitive processes, further undermined the project (Author's interview with Dato' Ir. Jamaludin Non, 26 August 2021).

federal policy in state-level procurement. In 2018, at the federal level, Malay contractors were among the early groups to secure concessions from the new Pakatan Harapan (PH) administration. In August 2019, PH also reopened registration of GI contractors, which had been frozen since 2005, noting that, out of 21,495 GI contractors, 70% were registered more than 20 years prior.¹⁷ Subsequently, the number of GI proliferated, reaching 42,000 in 2021.

In terms of administration and policy, a number of changes took place in the 2009-2013 interval (Lee 2017). Various amendments were made in terms of the classification, as presented later (Government Procurement Division 2010). From 2012, the Bumiputera Economic Transformation Programme (initially termed Bumiputera economic empowerment) introduced a number of initiatives for contractors. MARA introduced a funding scheme for contractors. On a broader scale and with greater public scrutiny and central coordination, the Teras¹⁸ and “carve out and compete” programmes administered by Teraju centred on Kuala Lumpur’s mass rapid transit (MRT) project – the initial Kajang-Sungai Buloh line – in which about 40% of the total value of contracts were reserved for Bumiputera contractors, with official commitment to a policy of competitive selection in the screening of contractors and the award of contracts. This mode was followed for the Light Rapid Transit 3 and MRT Putrajaya Line, where 40% and 45% of projects, respectively, were carved out.

More recently, the *Mid-Term Review of the Eleventh Malaysia Plan* (Malaysia 2018), in reinforcing the Bumiputera Economic Community agenda and outlining policies under this banner, articulated in clearer and bolder terms the pursuit of exit paths specifically in vendor development, and directed some stern words at those who outsource contract work, including a “stringent multi-tier exit policy” for Bumiputera vendor development programmes and warning of “appropriate action, including automatic termination, if contracts or Approved Permits awarded are sold or transferred to a third party” (Malaysia 2018, 11-14). It remains to be seen how effectively those commitments can translate into action.

Public procurement at present: Regulations and Bumiputera development policies

Construction industry

We now turn to an overview of construction industry regulations and the Bumiputera company development policies within the public procurement framework. The Construction Industry Development Board (CIDB) regulates industry standards and sets the technical, financial and professional terms for participation. Contractors seeking public procurement opportunities must be registered first with the CIDB, specifically to obtain a certificate of contractor registration, or PPK (Perakuan Pendaftaran Kontraktor), to operate in the industry. Subsequently, they must also obtain a government procurement certificate, or SPKK (Sijil Perolehan Kerja Kerajaan).

17 Jerry Choong, “After 14 years, govt reopens registration for entry-level contractors to Bumi”, *Malay Mail*, 16 August 2019 (<https://www.malaymail.com/news/malaysia/2019/08/16/after-14-years-govt-reopens-registration-for-entry-level-contractors-to-bumi/1781286>; accessed 25 June 2021).

18 Teras initiative sought to select ‘high-performing’ Bumiputera companies to be validated and given preference in public procurement. By design, its focus was on already well-poised companies, much less on developing new capacity. Teraju was in limbo during the Pakatan Harapan federal administration. Currently, almost one third of companies on the Teras list are inactive.

Contractors are classified by scale, with the terms most recently revised in 2013 (Table 3). The classification system then added one tier, and changed its nomenclature from Class F (smallest) – A (largest), to G1 (smallest) – G7 (largest). Requisite technical qualifications increase, moving up in scale. For G1-G3 companies, a technical certificate is not strictly required, but those who do not hold such qualifications will be required to take a course and obtain a certificate in business management competency at the first renewal of the license. G4 companies must have professional staff with diploma-level requirements; for G5-G7, degree-level requirements are the minimum. CIDB standard procedures also stipulate a mandatory course on integrity and code of ethics for new registrants, and Continuous Contractor Development (CCD) points, obtained through attending courses, for license renewal. A points-based schedule applies, with more points as grade increases (for grouped grades G1-G2, G3-G4, G5-G6, G7), and within each group more points will help secure longer renewals of two or three years. Other quality control and ownership requirements include the SME Competitiveness Rating for Enhancement (SCORE) SCORE ratings that G2 to G7 contractors must maintain – minimum 2-star rating for G2-G4, 3-star rating for G5-G7 – and a rule that a company shareholder or individuals that have owned SPKK cannot own more than 5% equity in any other companies with SPKK (CIDB 2018).

Table 3. CIDB classifications for Grades 1-7

Grade	Paid-up capital (RM)	Contract value (RM)	
		Building, civil and mechanical	Electrical
G1	10,000*	<RM200,000	<RM200,000
G2	25,000	RM200,000 – 500,000	RM200,000 – RM500,000
G3	50,000	RM500,000 – RM1 million	RM200,000 – RM1 million
G4	150,000	RM1 million – RM3 million	RM200,000 – RM3 million
G5	250,000	RM3 million – RM5 million	RM200,000 – RM5 million
G6	500,000	RM5 million – RM10 million	RM200,000 – RM10 million
G7	750,000	>RM10 million	>RM200,000

Note: *RM5,000 for PPK (CIDB); RM10,000 for SPKK (public procurement)
Source: CIDB (2018)

Initiatives have surfaced from time to time for compelling G1 contractors to move up. Past efforts including a nine-year limit on G1 contracts proposed around 2010, which did not materialize. A more recent policy, effective September 2019, limits newly registered G1 licenses to a maximum duration of 12 years (CIDB 2019). For pre-existing G1 companies, those that are 20 years or older in 2019 may renew their license for up to six years, while those 20 years or younger in 2019 may remain at G1 for a maximum total of 26 years since the initial registration date.

Bumiputera status and preferential policy

Bumiputera contractors must also have their Bumiputera status certified by the Pusat Khidmat Kontraktor (PKK, Contractor Services Centre), currently under the jurisdiction of the Ministry of Entrepreneur Development and Cooperatives (MEDAC). G1 contractors in public procurement must be 100% Bumiputera owned and have paid-up capital of at least RM10,000; they also must be staffed on a full-time basis and not be engaged in subcontracting. To qualify for preferential conditions in the G2-G7 categories, Bumiputeras must hold a majority stake and maintain Bumiputera majority in employment and directorships. They must also earn a three-star rating from the CIDB, which certifies that they meet certain standards in quality, systems and safety. Some geographic limits of operation apply, with reference to place of registration. G1 contractors must operate in the district where they are registered, G2 contractors (regardless of ownership) within their state. Notably, G3 Bumiputera-status contractors may operate nationwide, while G3 non-Bumiputera-status contractors are confined to their registered state (CIDB 2018).

The qualifying conditions for Bumiputera status and some procedures are worth noting:

- Bumiputera status hinges on ownership, executive positions and staff. G1 companies must be 100% Bumiputera owned, and fully occupied by Bumiputeras in the Board of Directors, key posts and workforce. For G2 to G7, Bumiputeras must account for at least 51% of ownership, board membership, key posts and the workforce.
- Bumiputera status can be claimed once by an individual. If owning multiple companies, only one of them can be registered as a Bumiputera company.
- G1 applications are evaluated based on documentation; PKK officials make premise visits to ascertain the authenticity of the business and compliance with terms and conditions, for G2 and above.

Public procurement procedures, institutions and agencies

Policies spell out preferential conditions for award and pricing of contracts (Tables 4 and 5) (Malaysia 2013). Works contracts valued at RM200,000 or less, and supplies contracts at the RM100,000 threshold, are reserved for Bumiputera contractors, and can be awarded by balloting, price quotation, or tender. Contracts worth RM50,000 and below can be settled by direct negotiation. One level up, G2 contractors bid for contracts worth RM200,000-500,000, and are allocated mainly through quotation. In tendering for service and supplies contracts, Bumiputera companies are entitled to marginal price preferences as outlined in Table 4.

Table 4. Major features of Bumiputera policy in public procurement

	Services and supplies contracts	Works contracts	Manufacturer
General terms	<p>Tender value range and % of preference:</p> <ul style="list-style-type: none"> • RM100K – RM500K: 10% • RM500K – RM1.5 mil: 7% • RM1.5 mil – RM5 mil: 5% • RM5 mil – RM10 mil: 3% • RM10mil – 15 mil: 2.5% • >RM15 million: none <p>If tender is open locally, the price preference is as follows:</p> <ul style="list-style-type: none"> • <RM10 mil: 10% • RM10 mil – RM100 mil: 5% • Exceeding RM100 mil: 3% 	<p>All projects' contracts below RM200,000 in value must be given to Bumiputera companies.</p> <p>At least 30% of work contracts must be given to Bumiputera companies except for projects under RM200,000.</p> <p>Bumiputera companies are allowed to compete in the remaining 70% of contract tenders as well but with no preference given.</p> <p>For projects valued between RM200,000- RM350,000, at least 50% should be distributed to Bumiputera contractors.</p>	<p>Tender value range (% of preference):</p> <ul style="list-style-type: none"> • < RM10 million:—10% • RM10 million – RM100 million:—5% • >RM100 million: —3%
Special cases	<p>Bumiputera companies are prioritised for procurement under Kontrak Pusat, Konsep Payung and Skim Anak Angkat</p>		

Sources: CIDB (2019); Treasury Circular PKI.1 (Punca Kuasa, Prinsip dan Dasar Perolehan)

The general rule of value for money applies, but the offer price of contracts is often determined by a 'cut-off' procedure based on the average of all bids, with reference to a baseline determined by the works department. Bids that fall outside a cut-off range are excluded.

Public procurement encompasses all levels of government, with corresponding designation, complexity, and value of contracts. Most large contracts and major development projects fall under federal jurisdictions, and state governments together with local councils oversee smaller developments and public amenities, as well as maintenance. Members of Parliament and state assemblypersons also, at their discretion, engage with public procurement. By volume, the majority of contracts transact between public offices and contractors, but in major projects, main contractors deal with sub-contractors in compliance with carve-outs and Bumiputera development terms. Various institutions and agencies also perform the range of public procurement functions, outlined in Table 6.

Table 5. Contractor grade, contract value and allocation mode

Grade	Value of contract and mode
G1	<ul style="list-style-type: none"> • Direct award: <RM20,000 for works • Balloting: <ul style="list-style-type: none"> • <RM20,000 for works • <RM50,000 for services & supplies • Price quotation: <ul style="list-style-type: none"> • RM20,000 – RM200,000 for works • RM50,000 – RM200,000 for services & supplies
G2	<ul style="list-style-type: none"> • Price quotation: RM200,000 – RM500,000
G3	<ul style="list-style-type: none"> • Price quotation: RM500,000 – RM800,000 • Tender: >RM800,000
G4-G7	<ul style="list-style-type: none"> • Tender: >RM800,000

Source: Treasury Circular PK2.2 (Kaedah Pelaksanaan Perolehan/Projek Kerajaan Tahun 2021)

Table 6. Institutions and agencies involved in public procurement

Name	Constitution	Main roles and public procurement features
POLICY MAKING AND IMPLEMENTATION		
CIDB (Construction Industry Development Board)	Statutory body (created by Act 520)	<ul style="list-style-type: none"> • Promote the development, improvement and expansion of the construction industry • Regulate the conformance of standards for construction workmanship and materials • Register and accredit contractors and building personnel (as well as to revoke/ suspend/ reinstate) • Regulate the implementation for safe and quality construction work
Government Procurement Division (GPD)	Division under the Ministry of Finance	<ul style="list-style-type: none"> • Formulate procurement policies and regulations; oversee implementation • Goods and Services Supplier Registration • Complete request submission (tender endorsement/special exclusion) by ministries/government agencies • Provide assistance and advice related to government procurement regulations and procedures
PKK (Pusat Khidmat Kontraktor)	Government agency under the Ministry of Entrepreneur Development and Cooperatives (MEDAC)	<ul style="list-style-type: none"> • Register and screen Bumiputera contractors • Monitor contractors; maintain black list • Manage complaints/ appeals/ disciplinary actions against Bumiputera Companies • Implement Program Pembangunan Kontraktor and Usahawan Bahan Binaan Bumiputera • Manage Skim Kumpulan Wang Amanah Kontraktor (SKWAK)

Name	Constitution	Main roles and public procurement features
EPU (Economic Planning Unit)	Government agency under the Prime Minister's Department	<ul style="list-style-type: none"> Strategic and developmental policy setting; allocation of development projects through state EPU offices (UPEN) Determine the ceiling and distribution of development expenditure Value management for development projects costing RM50 million and above
Teraju (Unit Peneraju Agenda Bumiputera)	Government agency under the Prime Minister's Department	<ul style="list-style-type: none"> General oversight of Bumiputera enterprise development and economic participation Initiated Teras (selection of 'high performing companies' for procurement), Carve out and Compete (for megaprojects)
State and local government	Procurement departments at state and local levels	<ul style="list-style-type: none"> Disburse small to medium public works projects: construction, maintenance, etc. Under the Selangor State Government, MBPJ, MBSJ & MBSA: No departments dedicated specifically for procurement, but oversight and co-ordination with relevant agencies (e.g. UPEN) under office of the Menteri Besar / Datuk Bandar.
Members of Parliament	MP offices	<ul style="list-style-type: none"> Award of constituency development funding on discretionary basis
BUMIPUTERA CONTRACTOR ADVOCACY AND LOBBYING		
Persatuan Kontraktor Bumiputera Malaysia (PKBM)	Non-government organisation	<ul style="list-style-type: none"> Provide technical support Foster close ties with government agencies General oversight on Malay contractor projects
Dewan Perniagaan Melayu Malaysia (DPMM)	Non-government organisation	<ul style="list-style-type: none"> Advocacy of Malay business, including contractors', interests
AGENCIES INVOLVED IN BUMIPUTERA ENTREPRENEURSHIP		
Perbadanan Usahawan Nasional Berhad (PUNB)	Company wholly owned by Yayasan Pelaburan Bumiputera (YPB), under the Prime Minister's Department	<ul style="list-style-type: none"> Provide entrepreneurial packages comprising business financing and support to Bumiputera companies – including MYEP with MRT Corp Promote Bumiputera entrepreneurs through training, mentorship and experience
Majlis Amanah Rakyat (MARA)	Government agency under Ministry of Rural Development	<ul style="list-style-type: none"> Encourage Bumiputera entrepreneurs through training/ business encouragement/ advisory and strategic cooperation Facilitate the SPIKE programme to support Bumiputera contractors
MRT Corp	Developer of Klang Valley MRT, fully owned by the Minister of Finance Incorporated	<ul style="list-style-type: none"> MRT Kajang Line (completed 2017); MRT Putrajaya (expected operational 2023) Implement carve-outs for Bumiputera contractors; facilitate Bumiputera contractor development

Sources: Author's compilations from organisations' websites and annual reports.

Research Background and Methodology

Empirical literature and knowledge gaps

This section surveys academic studies and policy papers, to note the relevant reference points and identify research gaps. There is a sizable literature on public procurement in Malaysia, notably in the broad themes of efficiency, integrity, and operations – particularly, e-procurement – but distinctly scarce research on the Bumiputera development aspect. The subject matters of original works, involving surveys to generate primary data, are instructive. McMurray *et al* (2014) focus on sustainability in procurement in Malaysia – encompassing both public sector and private sector entities. Wee *et al* (2010) interview procurement officers and contractors to gauge the mindset of key participants in procurement on principles and procedures, particularly transparency, compliance, and professionalism and ethics. Sitti Hasinah *et al* (2020), in a survey of government suppliers, investigate the participation of government contractors in e-procurement and their opinion toward national procurement objectives.

The lack of research partly derives from the dearth of data – specifically, data on Bumiputera contractors. REFSA's (2011) policy brief demonstrates this challenge, while also highlighting the key issues and challenges of Malaysia's efforts to groom Bumiputera business through the procurement system. Drawing on a parliamentary disclosure, seemingly the only means of obtaining such data a decade ago, the report found that, in 2010, out of 41,000 contractors licensed under the Ministry of Finance, 94% are Bumiputera. Among these contractors, 75% were in the smallest F class (currently G1), which are reserved for Bumiputeras.

This predominance in the smallest class contrasts with the industry on the whole; in CIDB's registry, 44% of contractors were in class F. The concentration of small operators is perpetuated by lack of upgrading; in 2010, only 47 out of 29,000 (0.2%) of class F contractors upgraded to a higher class. Little else is known about class F/G1 contractors, besides their preponderant number among Bumiputera contractors. A freeze on new registrations imposed in 2005 evidently contributed to a decline in the G1 tally. In August 2019, while the Pakatan Harapan government announced the reopening of contractor registrations after fourteen years, it also disclosed a total of 21,500 G1 contractors, of which 70% were registered more than 20 years prior.¹⁹ Within the month of September 2019, 946 new G1 contractors were registered (Lim 2019). However, little is reported about the spatial distribution of contractors across Malaysia, such as by state or district.

The specific issue of Bumiputera contractor development is a major gap in the literature. Academic literature has largely focused on financial and procedural aspects of Malaysia's procurement system. The reasons for this gap are difficult to discern. Arguably, Bumiputera preferential treatment in procurement may be regarded as a permanent fixture and hence sequestered from new analyses and inputs. It is also plausible that the dearth of research partly arises from data scarcity. Public procurement data – information on contractors and contract awards – as far as we know, are not organized in a central repository, and are difficult to access, except for disclosures by some state governments.

The institutional uniqueness of Malaysia's procurement system warrants specific analytical approaches and requires contextualization. We must take into account the terms and conditions of procurement which oversee the interactions of the state and market players, and the dynamics of protection and

¹⁹ Jerry Choong, "After 14 years, govt reopens registration for entry-level contractors to Bumi", *Malay Mail*, 16 August 2019 (<https://www.malaymail.com/news/malaysia/2019/08/16/after-14-years-govt-reopens-registration-for-entry-level-contractors-to-bumi/1781286>).

competition. Tensions between preferential treatment, competition and capacity building also play out, but not in a binary sense of market-based solutions delivering value and efficiency versus social policies that undermine market mechanisms. Even in the absence of affirmative action, the lowest priced bid is not necessarily the best value bid.

The pursuit of social objectives in procurement need not entirely preclude competition or negate efficiency, but can be conducted in ways that foster quality, accountability and value. The viewpoints of participants in Malaysia's public procurement – especially regarding the Bumiputera enterprise development aspects – are also conspicuously absent in the literature. It is timely and pertinent to convey and critically engage with contractors' own perspectives on the motivations, challenges and opportunities of their participation in public procurement. This research field also stands to benefit from a synthesis of opinions of other stakeholders with first-hand involvement or observation of public procurement, including policy-making bodies and advocacy groups.

Methodology, data sources and analytical framework

Exploratory mixed mode

Taking into account the context of Malaysia's procurement system and gaps in the literature, this research project set out to:

1. Survey and assess the **distribution** and **characteristics** of **Bumiputera contractors**;
2. Investigate the **effects of public procurement** on **Bumiputera company development** through an exploratory inquiry into the distribution of contracts, patterns of participation, and growth and capacity building among Bumiputera contractors;
3. Evaluate the **implementation** of **Malaysia's public procurement system**, and outline some **policy implications**.

The wide scope of these research objectives concurs with the breadth of issues this project seeks to inform. Our interest in the current Bumiputera contractor population and procurement policy outcomes led us to probe data availability at the macro level, and to consider the options of a quantitative large-sample survey or a more qualitative and open-ended exploration. Taking into account the difficulty in obtaining sufficient and reliable response and complications posed by Covid-19 mobility restrictions and safety concerns, and taking on board feedback from stakeholder engagements and a consultation with academics and researchers in mid-April 2021, we gravitated to the latter.²⁰ Our research proceeded with a mixed mode comprised of:

²⁰ A number of probable obstacles and challenges were brought to our attention. First, incompleteness and questionable reliability in the database of active contractors. Although CIDB keeps a large registry, selecting a sample will be fraught with missing information or non-response. Second, the already dim prospects of contacting Bumiputera contractors, securing their participation and ability and willingness to respond credibly and substantively, are compounded by a host of factors that curtail data reliability. These factors include the considerable presence of proxy companies, reluctance to disclose information that may be construed as critical of the government or main contractor, or lack of rapport or trust vis-à-vis a research project on a subject they are invested in. In addition, while slight relaxation of Covid-19 restrictions in the first quarter of 2021, when a survey was being formulated, left open the possibility of fieldwork visits to interview contractors in the Klang Valley, subsequent lockdowns prohibited surveying work.

1. Quantitative inquiry, through analyses of data compiled, organized and synthesized from multiple sources, on contractor characteristics and contract awards. This portion of the study seeks to shed new light on the current distribution of Bumiputera contractors involved in public procurement, particularly by scale and location, and features related to ownership and technical abilities. We also observe patterns of engagement in procurement and associated outcomes, based on frequency and pricing of contracts, and participation in special programmes especially MRT construction.
2. Qualitative inquiry, drawing on interviews with key informants, stakeholders and participants in public procurement. This portion of the study explores the inner workings of policy, including implementation constraints and challenges, and gathers and synthesizes insight from stakeholders and participants of the public procurement system. Prospective parties from government, contractor organisations and company owners were identified, and interviewed with targeted but open-ended questions.

The two portions combine to supply empirical material for our analysis of Bumiputera company development, with the objective of generating new insights. Quantitatively, the concentration of Bumiputera contractors at the lowest GI tier is widely known, but the distribution across all levels, and by state and also district, provide us a fuller picture – which demands up-to-date information. From data on contract bidding and award, and company ownership, we may derive broad patterns of engagement in public procurement.

Qualitative data obtained through interviews inform the underlying structures, motivations and constraints that shape Bumiputera contractors, and the obstacles and opportunities vis-à-vis the policy goal of developing dynamic, capable and competitive companies. Our interest is primarily in construction and civil engineering projects, given the levels of complexity that pose both policy opportunities and challenges, rather than public procurement of supplies and services. However, it is difficult to maintain this focus throughout, given the lack of distinction between construction and mechanical/electrical works in the data, and also the tendency for most contractors to participate in projects across the board.

Data sourcing and research material

We tapped into a variety of sources, as listed in Table 7, while Table 8 shows the tally of contractors in each category. Three sources provided company data. All contractors must be registered with CIDB. We compiled data of company names, location (state and district), and CIDB grade, and technical specializations of selected samples. Pusat Khidmat Kontraktor is the repository of Bumiputera-status companies. In the course of our interactions with PKK, we were provided a summary of the tally of Bumiputera contractors, by scale and state. Ownership data were purchased from the Companies Commission of Malaysia (SSM) for a selection of companies. Selangor state government procurement data – comprising price quotation and open tenders – were extracted from the tables displayed at tender.selangor.my.²¹ We obtain a dataset from 2006 to March 2021, including contractor name, district, and contract offer price. For a selection of contracts, we also manually compiled data on the full list of bid prices, including the contract offer prices. Contracts awarded to Bumiputera contractors are also publicly reported by MRT Corp. We collated the names of contractors in these special projects.

21 This data 'scraping' was performed using the Octoparse application. The author commends the Selangor government for transparently publishing data of projects under its purview.

Interviews were conducted via online applications, in a semi-structured manner with open-ended questions. Due to pandemic conditions, we were unable to meet face-to-face, but video-enabled meetings proved to be effective for facilitating candid interaction and productive information gathering. We conducted nine interviews with government agencies and contractor advocacy organisations, and three interviews with contractors. MRT Corp also provided up-to-date contact information of some graduates of its MRT Young Entrepreneur Programme (MYEP), which we elected to use as case studies of new and dynamic contractors whose experience will be valuable for drawing policy lessons, and whom we also expected to be responsive to our interview invitations. Indeed, we secured interviews through this channel, while attempts to reach contractors in the Selangor database using contact information recorded with CIDB were fruitless. The interviewed organisations/contractors are listed in Appendix Table 1, with individuals anonymized. On average, each session lasted one and a quarter hours.

Table 7. Data sources and uses

Data source	Contents	Uses in this study
QUANTITATIVE		
CIDB registry	CIDB registered contractors by grade and state • Data compiled from cims.cidb.gov.my	<ul style="list-style-type: none"> • Mapping out distribution of all contractors, by scale and location • Profiling of contractors based on technical specializations
Pusat Khidmat Kontraktor	Summary of Bumiputera-status contractors	<ul style="list-style-type: none"> • Mapping out distribution of Bumiputera contractors, by scale and location
Companies Commission of Malaysia (SSM)	Company profile • Purchased from SSM	<ul style="list-style-type: none"> • Profiling of company ownership and basic background information • Bumiputera ownership to be verified • Family relations among shareholders can be examined
Selangor contracts ²	Contract awards, bid prices and award price • Data extracted from tender.selangor.my (2006-2021)	<ul style="list-style-type: none"> • Price quote and tender contracts awarded, bidding price and scope of works • GI contractors are by definition Bumiputera
MRT contract awards	Bumiputera contractors that were selected in balloting (G1-G4), appointed as sub-contractors (G5-G6) or main contractors (G7)	<ul style="list-style-type: none"> • Balloting success in MRT projects (and qualifying for ballot through screening process)
QUALITATIVE		
Key informant interviews	Office holders of major agencies and stakeholding organisations, notably PKBM, MRT Corp, Selangor government, and contractors graduating from the MYEP (see Appendix Table 1)	<ul style="list-style-type: none"> • Incorporation of expert and stakeholders viewpoints – informed by first-hand involvement or observation of public procurement, and with capacity to evaluate qualitative outcomes • Main source for subjective assessment of contractor quality/performance and challenges in procurement

Source: Author.

Table 8. Data compiled: Bumiputera contractors

	G1	G2	G3	G4	G5	G6	G7	Total
Company ownership	Bumiputera	Bumiputera and non-Bumiputera						
Selangor contracts only*	638	540	196	120	36	14	41	1585
Company ownership	Bumiputera							
Selangor contracts plus:								
+ MRT Kajang	9	15	10	6			1	41
+ MRT Putrajaya	5	6	4	2	3	1	2	23
+ MRT Kajang + Putrajaya			2					2
Total	652	561	212	128	39	15	44	1651

Note: * Contractors that won price quotation or open tender contracts administered by Selangor state government (2006-2021).
Source: Author's compilations.

The scope and limits of our data must be briefly noted. Although the registries that we tap into are quite extensive – totalling 1,651 companies with track record in Selangor state procurement, some of whom were selected for MRT contracts – we should point out that the data contain omissions or lack detail in some important aspects. Bid prices are not fully availed by some districts, due to book-keeping practice of reporting the prices in terms of their differential relative to the JKR target price.²² MRT contract awards only name the contractors, without price or other specifications. However, being shortlisted for MRT contracts can be taken as a significant credential, and due to the timing of contract awards (especially the Kajang line which was completed in 2016), allows us to observe subsequent developments.²³ The financial state of companies, an important measure of firm-level performance, are not available from SSM, due to the absence of such reporting requirements for registered businesses (sole proprietorships or partnerships) and missing data among private limited companies. Our evaluation of policy and company-level outcomes, therefore, primarily reference company experience in securing public procurement contracts.

Commensurate with data availability, our analysis focuses more on the macro picture, referencing patterns of Bumiputera contractor development, especially in technical ability and upscaling. We also synthesize insights from our interviews, which crucially inform the inner workings of the procurement system, dispositions and constraints of Bumiputera contractors, and variations in response to opportunities and challenges. We are also mindful that our data sources predominantly capture empirical outcomes and Bumiputera contractor profiles of Selangor, which is not necessarily

22 Specifically, there is a plethora of bid prices, especially for tenders administered by Majlis Bandar Subang Jaya (MBSJ), fixed at -RM20.00, -RM10.00 or RM0.00 in the Tender Selangor records (tender.selangor.my).

23 The contract award processes spanned the following periods:
MRT Kajang: 2 March 2011- 4 May 2016 (<https://www.mymrt.com.my/business/tender/awarded-contracts/>); MRT Putrajaya: 23 November 2015- 17 May 2019 (<https://www.mymrt.com.my/business/tender/awarded-contracts/#ssp>)

representative of the whole country. Nonetheless, while conditions do vary across states and regions, we proceed with a national procurement system as our scope of analysis, exercising due caution when generalizing our findings and policy prescriptions.

Typology of Bumiputera contractors

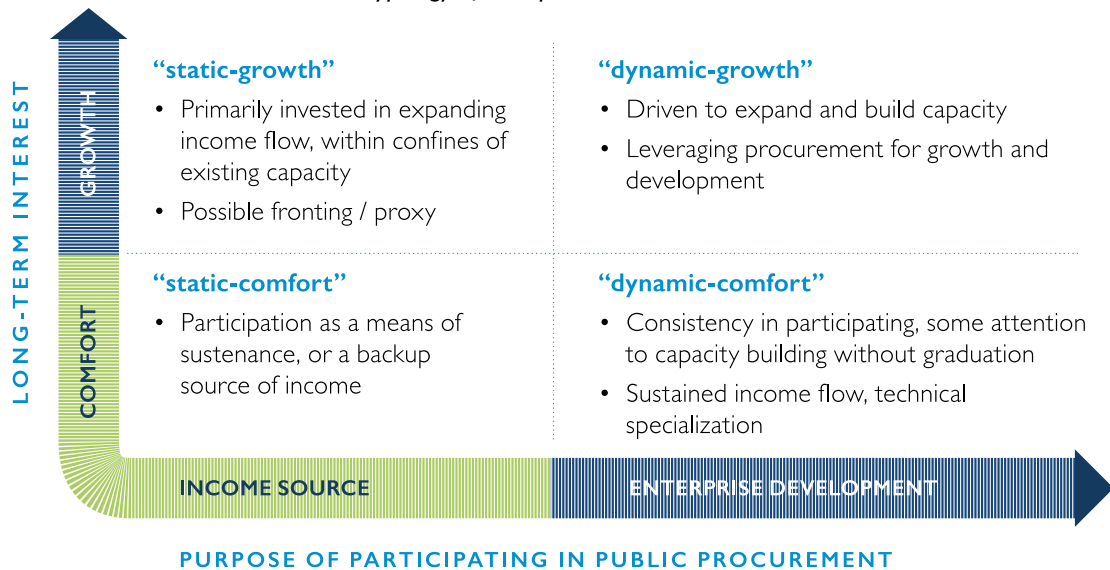
Undertaking this research from an exploratory standpoint, our analysis proceeded in an open and responsive manner, taking into account emergent data and drawing broad insights rather than firm causal links. Our quantitative inquiry yields a set of observations, and interview material provide some granular details. We draw on certain strengths – chiefly, by analyzing actual tender awards, company technical information officially registered with CIDB, and company ownership. However, the constraints explained above preclude rigorous statistical analyses.

The professed aim of public procurement distinctly includes two key dimensions: *first*, efficient and equitable distribution of contracts – mindful that public procurement involves public finance and is a source of company and household income; *second*, development of Bumiputera contractors as capable and competitive enterprises – which bifurcates further into quantitative and qualitative dimensions. The Bumiputera developmental objective entails growth in scale, one element of which – moving up in CIDB grades – is clearly measurable, but companies may also grow their income without moving up the grade. Malpractices also enter the frame, in the form of efforts to game the system through fronting or deception, resulting in players amassing income through proxy companies. It is important to differentiate fraudulent cases from genuine small-timers, some of whom may be sustaining family livelihoods through public procurement participation in areas with modest local economies offering limited business growth opportunity. Persisting at GI is not uniformly a ‘failure’. Contractors’ development of technical capacity can also take a variety of paths, with some expanding the range of competencies and other focusing on specific areas, or some electing to develop the business within existing scale of operations and others growing all-around – capital, workforce and equipment.

Ultimately, our objective remains to inform the structural constraints, policy opportunities and outcomes, and Bumiputera contractors’ growth and development. To do this, we devise a typology for synthesizing our findings. This typology approach, based on the interplay of characteristics in two or more dimensions, emerged as a useful and viable avenue of analysis. This typology, informed by observable behaviours and modes of engagement in public procurement, offers a schematic for differentiating Bumiputera contractors, and the manner, strategies and outcomes of their participation in public procurement.

We propose two axes, with the horizontal differentiating the relative weight of income earning and enterprise development as the underlying purpose for participating in public procurement, and the vertical capturing long-term interests – which matters relatively more: a comfortable and stable livelihood or income growth? Undeniably, these variations are not binary but should span a continuum. However, we consider the simplifications reasonable, and adequate components of a heuristic device that helps broaden our conception of Bumiputera contractor participation and achievement in public procurement.

Typology of Bumiputera Contractors



Within this four-compartment plot, the ‘dynamic-growth’ quadrant can be considered a ‘best case’ scenario. Companies that converge in these dispositions seek to grow income and in technical capacity. However, it is less clear which represents the converse ‘worst case’, and in some ways it is unimportant to assign the label. The “static-comfort” companies persist in their operational scale, for the potential provision of steady income without undertaking investment in increasing capacity or participating in the more rigorous selection at higher levels. The exemplary case is the GI contractor contented with the balloting system, or continually joining the pool while also seeking out larger price quotation projects. The main underlying factors are contentment or complacency, and perhaps some degree of local economy limitations. While less prone to committing fraud, effecting change in this category of contractors poses distinct policy challenges.

It is important to note that our typology focuses on contractors, not companies, which can account for the usage of proxy companies that are fronting for the beneficial owner and providing the means for long-term income growth doing simple, routine jobs without enterprising efforts to develop one’s own business. It should be noted that misconduct and manipulation take various forms, some of which involve collaboration of non-Bumiputera contractors; “Ali-Baba” outsourcing or fronting by definition involves two parties. These practices, represented in the “static-growth” quadrant, are an open secret, although they are difficult to prove conclusively. The combination of profiteering and fraud brings forth the role of vested interest and political connections, and associated policy challenges, especially related to monitoring and enforcement. We eschew any assumption that scaling up – most saliently, graduating out of GI – presents the only avenue of enterprise development. Contractors may remain comfortable at this scale of operation, and not aspire for major income growth, but still develop the company within the limits. These cases are typified by the “dynamic-comfort” quadrant.

Our various data sources merge in this portion of the study, with key informant interviews especially informative. We reference quantitative findings which sketch out broad profiles. Participants’ and stakeholders’ perspectives are acutely useful and relevant for shedding light on the experiences, motivations and constraints of Bumiputera contractors and the efficacy of the public procurement system in facilitating their development.

Research Findings

Profiles of contractors

Scalar and spatial distribution

We begin with a profile of contractors in the construction industry. The distribution across the full grade spectrum, and differences between Bumiputera and non-Bumiputera, are key matters of interest. The statistics presented in this segment are assembled from the CIDB's centralized information management system (CIMS) online database, which identify location by state and district, and Bumiputera contractor unpublished data from Pusat Khidmat Kontraktor disaggregated by state (Table 9). All construction contractors must register with CIDB, including G1 non-Bumiputera contractors who do not qualify for public procurement but operate freely in the private sector.

It should be reiterated that Bumiputera status denotes 100% Bumiputera ownership for G1 contractors, and minimum 51% for other grades. We derive the number of non-Bumiputera contractors by subtracting the PKK tallies from the CIMS totals. These data include contractors registered in all works categories: building, civil engineering, mechanical and electrical works, and project management services. The CIDB registry shows that the bulk of contractors are registered with building and civil engineering competencies, and most contractors participate in multiple categories. Based on CIDB's database, as of March 2021, out of a total of 122,600 contractors, 122,400 registered under building and civil engineering and 80,000 under mechanical and electrical engineering (CIDB, 2021).

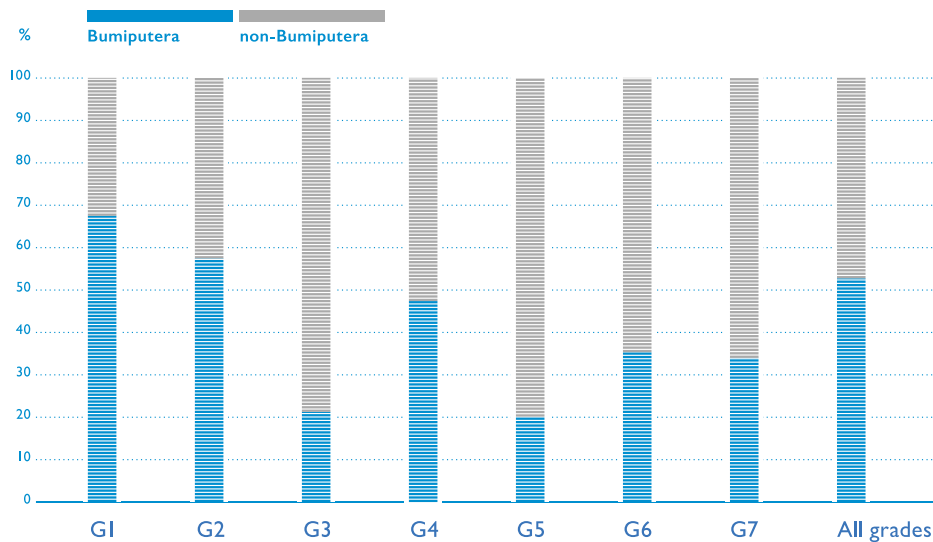
In the universe of contractors, the concentration at the smallest G1 tier, with smaller numbers at G2 followed by G3, as expected. As noted above, the re-opening of G1 registration in 2019 triggered a surge in new players; total Bumiputera G1 presently exceed 42,300. However, the distribution does not follow a continuous decline as we move up in scale, with G7 exceeding G5 followed by G4, and G6 the least populated of all. The greater concentration of Bumiputera contractors at G1, where 63.3% are located, is also expected, although the share of G2, at one fifth, is quite sizable. The dearth of Bumiputera G7 contractors – comprising 4.3% of all Bumiputera contractors – perhaps gains the most public and policy attention, and is reflected here, and reinforced by comparison to non-Bumiputera counterparts. Among non-Bumiputera contractors, G1 also constitutes the largest share (34.5%), followed by G3 (24.3%) and then G2 (19.4%). G7 contractors comprise almost one tenth of all non-Bumiputera contractors. Comparing the share of Bumiputera contractors within each grade – the rightmost column in Table 9 – serves better as a gauge of the relative shortfall of Bumiputera contractors. Bumiputera contractors comprised 67.0% of all G1 contractors, 56.9% at G2, 47.0% at G4, and about one third at G6 and G7, but only one fifth at G3 and G5.

We also gain some insight on the spatial distribution of contractors by disaggregating by state or district and juxtaposing these data with GDP, income and population. This exercise explores the proportion of contractors – G1 contractors, in particular – by state or district, relative to the proportion of GDP or income in that state or district. Note that these statistics represent the total, encompassing Bumiputera and non-Bumiputera companies. Figure 1 shows that states' shares of national population are broadly aligned with their share of total contractors. Populations require infrastructure and services, which correspond with contractor presence, including G1 contractors that conduct small works projects needed most broadly, in all states. To illustrate, Perak contains 7.7% of national population, 7.1% of all contractors and 9.3% of G1 contractors. States' shares of national GDP reflect the concentration of economic activity and market power in Selangor and Kuala Lumpur, which translates into a preponderance of G7 contractors.

Table 9. Contractors* by CIDB grade and ownership

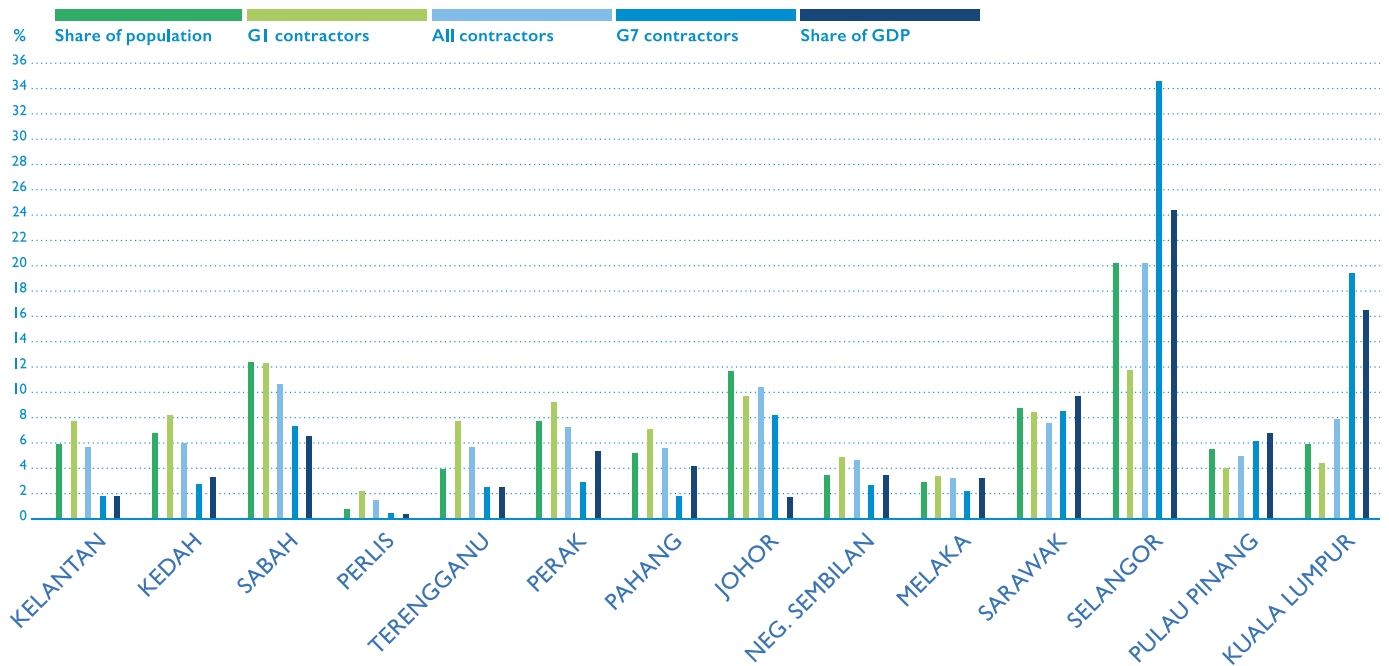
Grade	Overall		Bumiputera		Non-Bumiputera**	
	Number	% Total	Number	% Total	Number	% Total
G1	63,210	49.6%	42,354	63.3%	20,856	34.5%
G2	23,507	18.5%	13,379	20.0%	10,128	16.7%
G3	18,035	14.2%	3,779	5.6%	14,256	23.6%
G4	5,335	4.2%	2,517	3.8%	2,818	4.7%
G5	6,572	5.2%	1,283	1.9%	5,289	8.7%
G6	2,035	1.6%	711	1.1%	1,324	2.2%
G7	8,694	6.8%	2,883	4.3%	5,811	9.6%
Total	127,388	100%	66,906	100%	60,482	100%

Notes: *All works categories included: construction and building works, mechanical and electrical works, and project management services; **Overall minus Bumiputera.
Sources: Overall tally from CIDB (cims.cidb.gov.my) (end Aug 2021); Bumiputera tally from PKK (end July 2021).



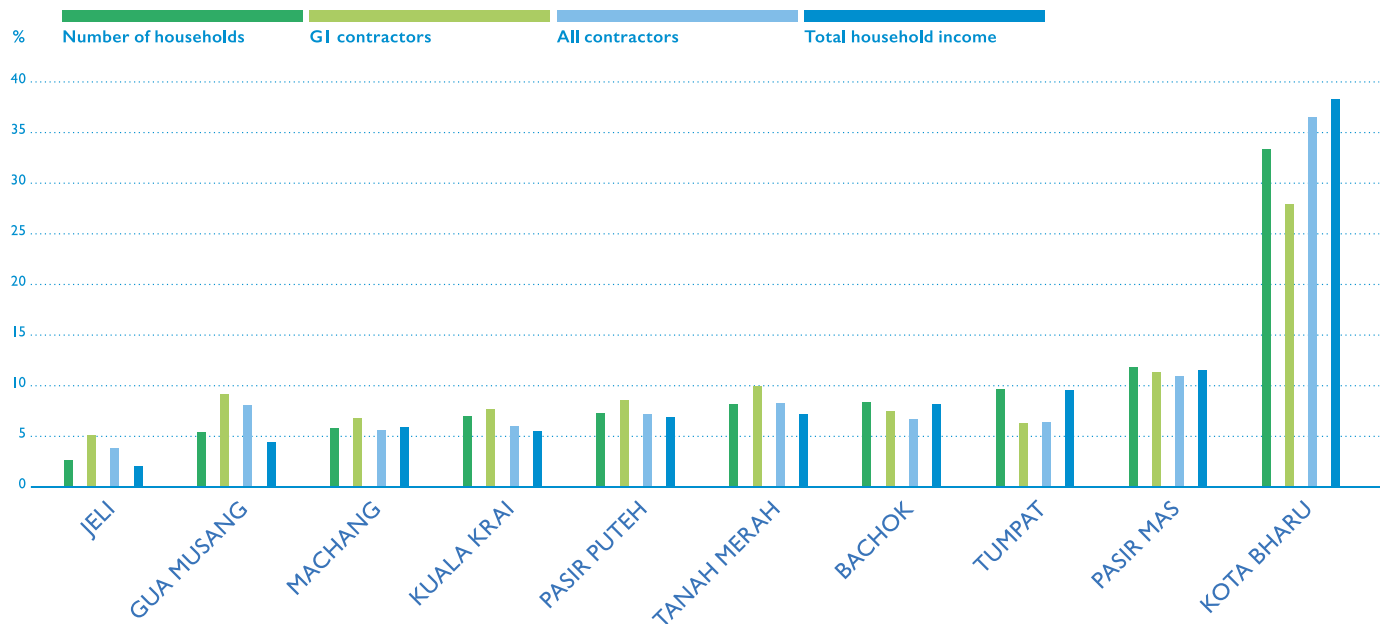
Notably, there is a disproportionately higher presence of G1 contractors in less economically developed states. Kelantan and Sabah, respectively, account for 1.8% and 6.5% of national GDP, but 7.6% and 12.2% of all G1 contractors. We observe parallel patterns within states, in these cases comparing between districts and referencing household income data which are available by district. Figures 2 and 3 show that, in Kelantan and Selangor, lower income districts – which correspond with more rural or mixed rural/urban areas – have a higher share of G1 contractors relative to the districts’ share of state-wide households or income. At the other end, 90% of Kelantan’s G7 contractors are based in Kota Bharu while Petaling holds 70% of Selangor’s.

Figure I. States' share of total CIDB-registered contractors, GDP and population (lowest to highest GDP per capita)



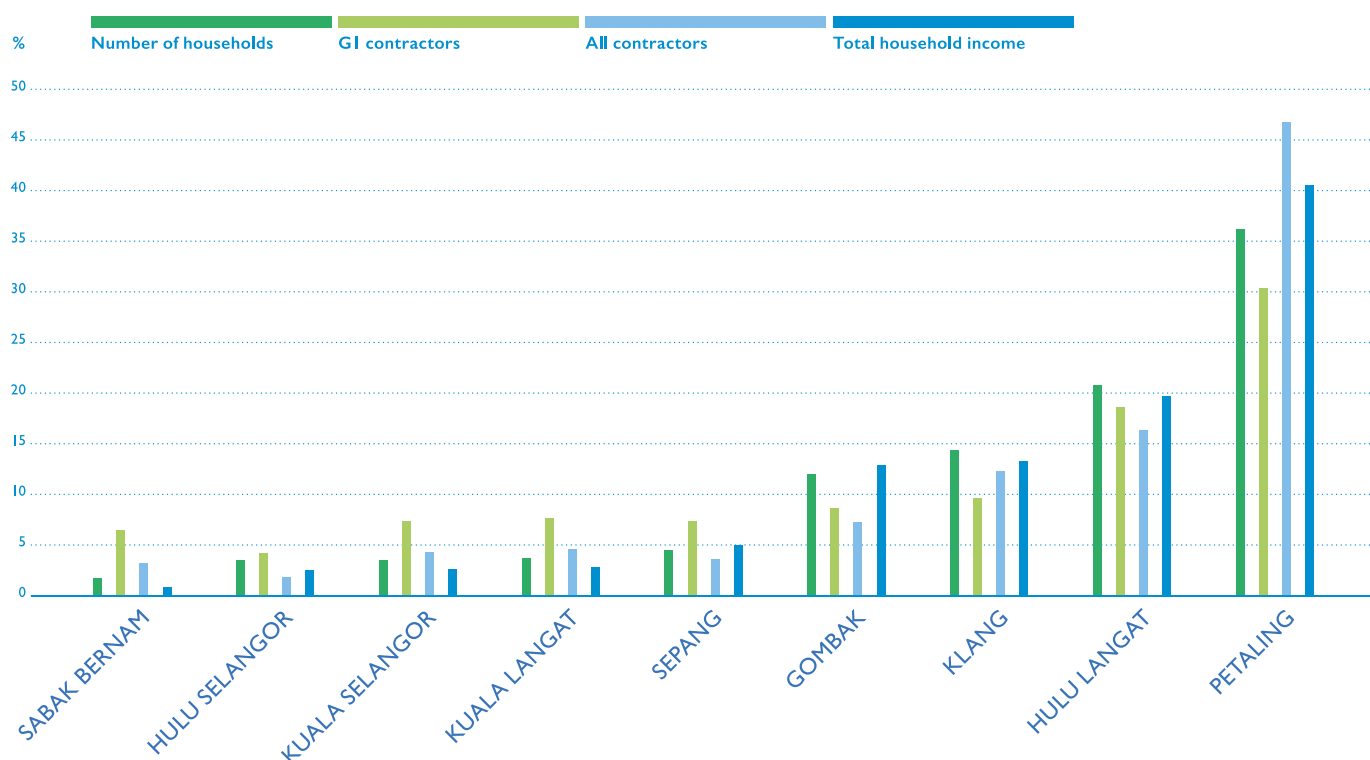
Sources: Author's calculations from CIMS, DOSM (2021a, 2021b).
Note: Kuala Lumpur includes Putrajaya.

Figure 2. Kelantan: District share of CIDB contractors, population and income (% state total)



Source: Author's calculations from CIMS, DOSM (2020).

Figure 3. Selangor: District share of CIDB contractors, population and income (% state total)

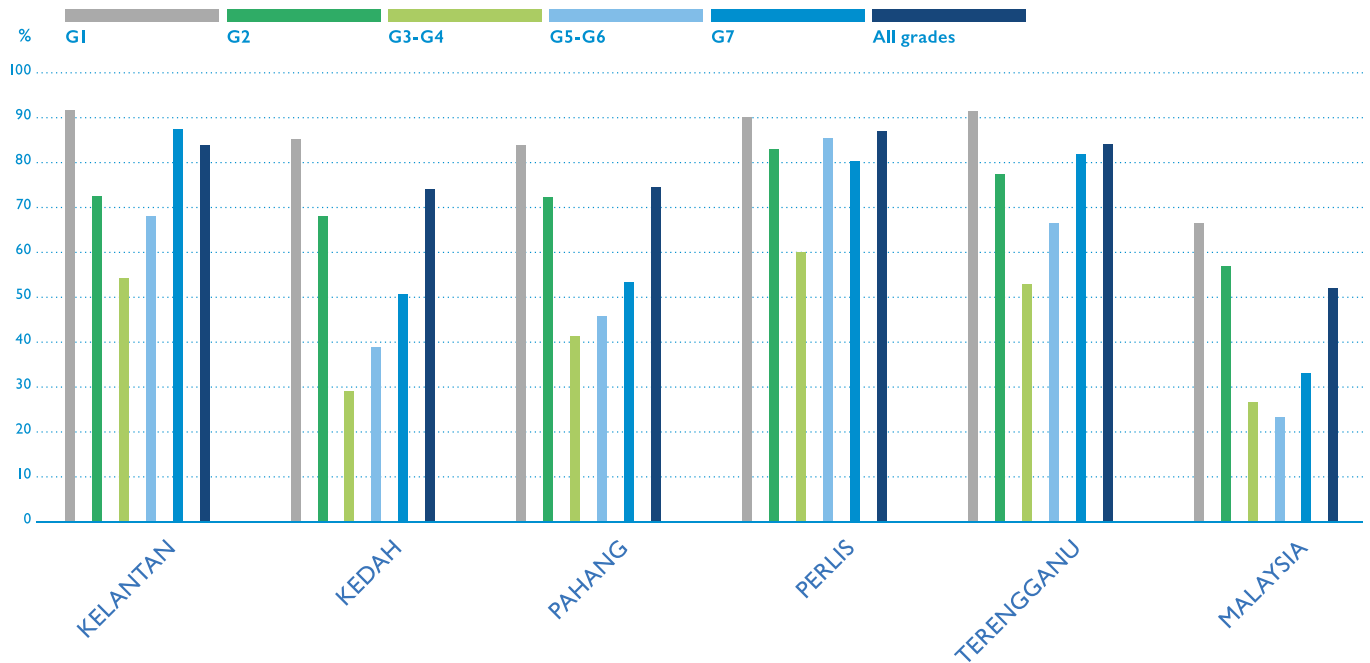


Source: Author's calculations from CIMS, DOSM (2020).

The presence of Bumiputera contractors by scale, disaggregated by state, yields some noteworthy patterns. Figures 4 to 6 group these statistics by region. In the Northern and East Coast states of Peninsular Malaysia (Figure 4), where Malays are demographically dominant, the Bumiputera share of contractors is correspondingly high, and especially high within the GI tier. Consistently, Bumiputera contractors are considerably high at G7, and the shortfall is most pronounced at G3-G4. In Peninsular Southern and West Coast states (Figure 5), GI concentration remains the most striking pattern, but we can also observe that the Bumiputera share of the higher grades is significantly lower.

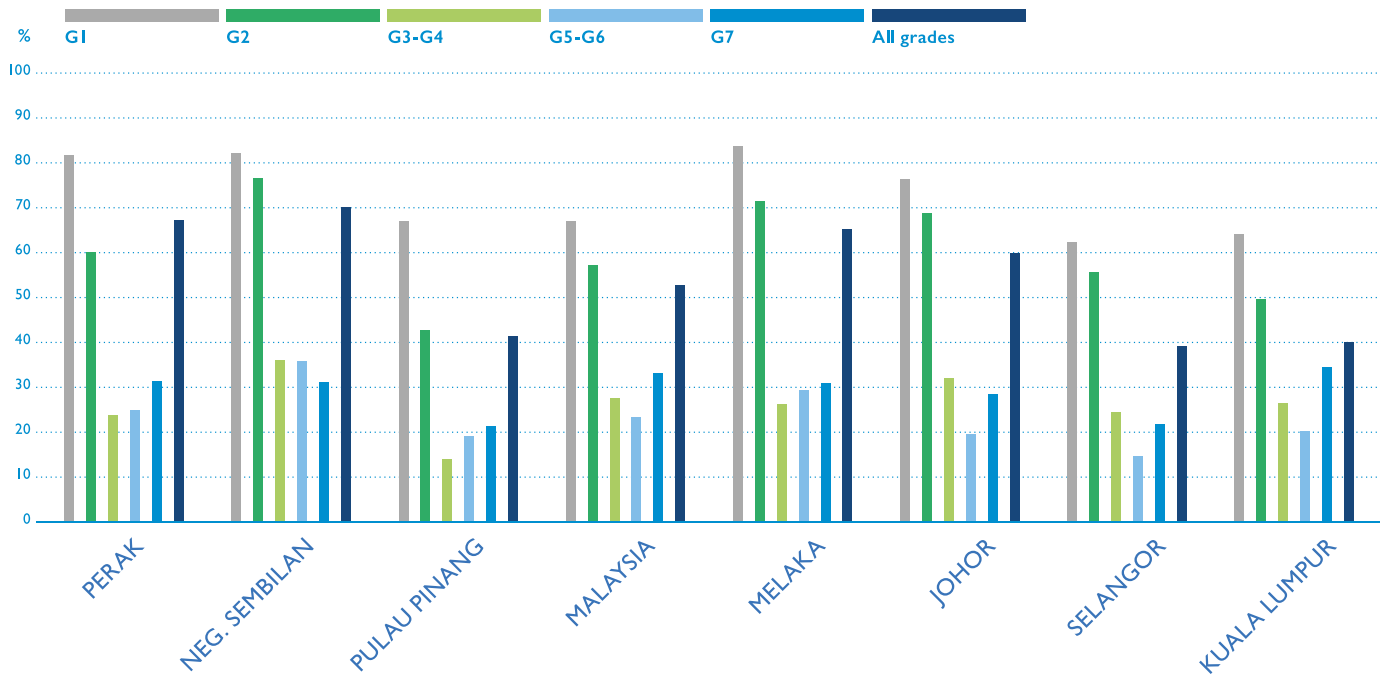
A starkly different picture emerges in East Malaysia (Figure 6). The share of Bumiputera companies is much lower in Sabah and Sarawak across all grades, including GI. Indeed, a converse picture emerges, of Bumiputera companies comprising the lowest share at GI and highest share at G7, and a steadily rising share as the scale increases in between. In recent years, and especially since 2019, East Malaysian concerns have gained a bit more traction, through developments such the rebranding of Persatuan Kontraktor Melayu Malaysia (PKMM) to Persatuan Kontraktor Bumiputera Malaysia (PKBM), and a succession of Sarawakian federal works ministers. Nonetheless, the disparities compared to the Peninsula remain, and surely derive from factors specific to Sarawak and Sabah – which this study is admittedly unable to address with sufficient detail and rigour.

Figure 4. Peninsular North and East Coast: Bumiputera contractors as % total contractors, by grade and state (lowest to highest average household income)



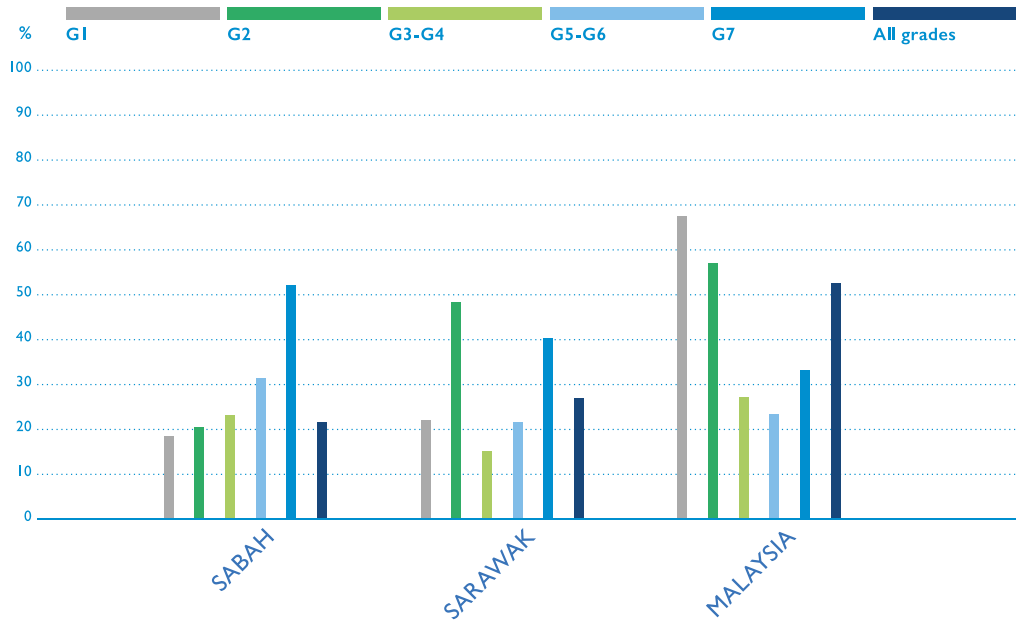
Source: Author's calculations from CIMS and PKK data.

Figure 5. Peninsular South and West Coast: Bumiputera contractors as % total contractors, by grade and state (lowest to highest average household income)



Source: Author's calculations from CIMS and PKK data.
Note: Kuala Lumpur includes Putrajaya.

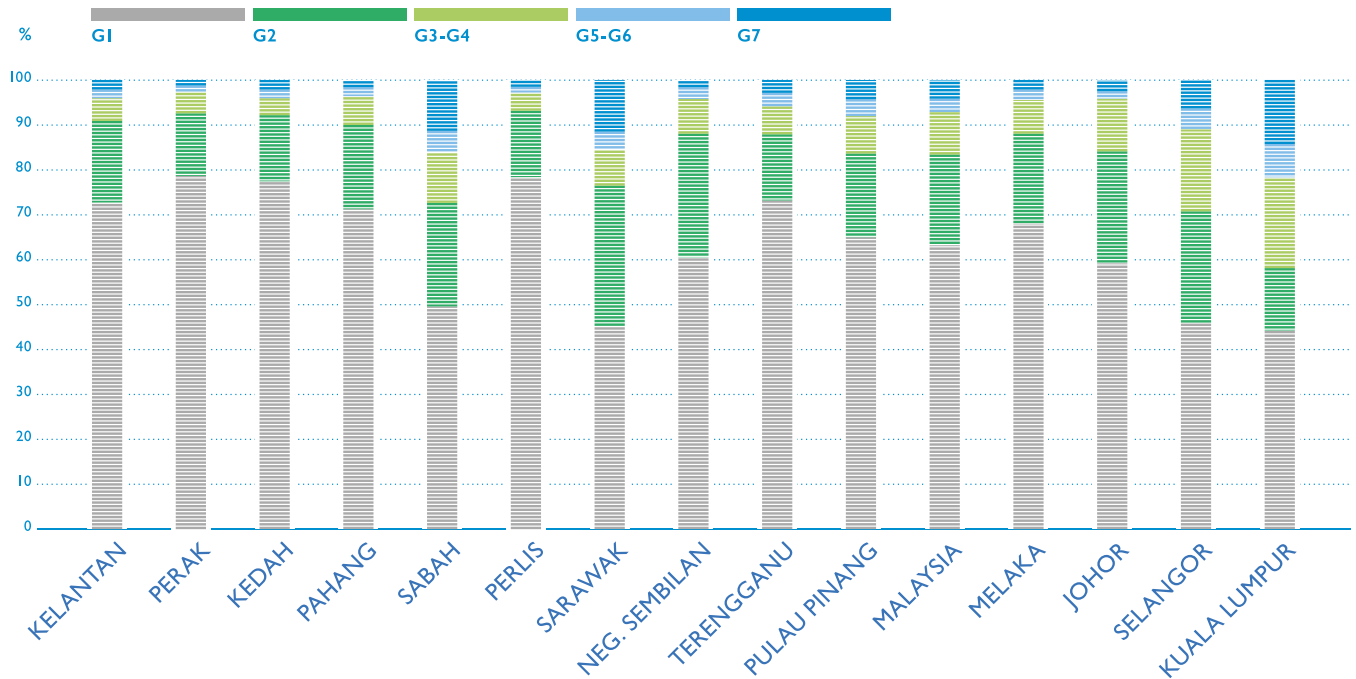
Figure 6. Sabah and Sarawak: Bumiputera contractors as % total contractors, by grade and state



Source: Author's calculations from CIMS and PKK data.

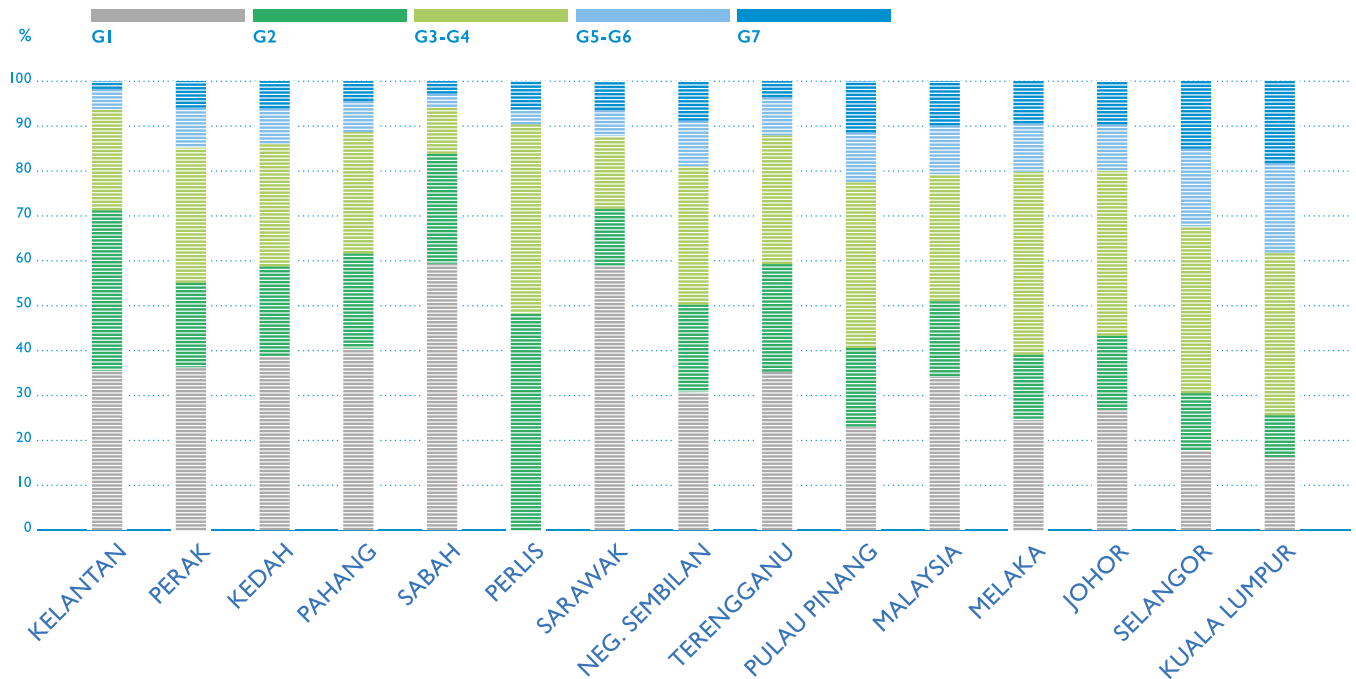
How do the relative concentration of G1, and other distributional features of Bumiputera and non-Bumiputera contractors, differ across states? Arranging these data by states' average household income (Figure 7), we find that, among Bumiputera contractors, the share of G1 tends to be higher in the lower-income states, with the Sabah and Sarawak be the exceptions. The shares of G3 to G7 are also conspicuously low. At the upper end, in Johor, Selangor and Kuala Lumpur, Bumiputera contractors have made more ground in reaching the upper tiers, although they remain a continually small share. Figure 8 underscores the importance of zooming in beyond the national scope. A high prevalence of G1 non-Bumiputera contractors clearly inflates the overall figure for Malaysia. In all other states, non-Bumiputera contractors are significantly lower than in Sabah and Sarawak.

Figure 7. Bumiputera contractors: Share of G1-G7, by state (lowest to highest average household income)



Source: Author's calculations from CIMS and PKK data.
Note: Kuala Lumpur includes Putrajaya.

Figure 8. Non-Bumiputera contractors: Share of G1-G7, by state (lowest to highest average household income)



Source: Author's calculations from CIMS and PKK data.
Note: Kuala Lumpur includes Putrajaya.

Company ownership

Ownership data are highly labourious to obtain, involving the purchase of one company profile at a time from SSM and manual data entry of owner names and other basic company information. Our intention in probing SSM company profiles was to deduce possible patterns in ownership structure and affiliation between owners, especially in terms of family joint ownership or succession. The entire sample of contractors from the Selangor tender records, spanning 2006-2021, was too voluminous and wide-ranging, and also had many evidently dormant contractors in the online published list. We therefore conducted a purposive sampling of ‘established Bumiputera contractors’ – contractors with a sustained track record of winning multiple contracts over a few years.

The insights we gleaned turned out to be quite limited and broad-brushed, but a confirmation nonetheless of the role of ownership type in the operational scale of contractors. As displayed in Table 8, sole proprietorship is the preferred mode for G1 and G2 contractors, although a substantial proportion are also constituted as partnerships. At the G3 and G4 tiers, which are eligible for contracts up RMI million and RM3 million in value, respectively, the proportion of private limited companies starts to expand. Within our sample, from G5 and beyond all companies are limited by shares. A major challenge in expansion, especially above the G4 scale, is to shift out of the sole proprietorship or partnership models that serve smaller companies well. This point was emphatically made by the G5 contractor we interviewed, for whom reconstituting as a private limited company was crucial for acquiring more loans for business expansion.²⁴

Table 10. Ownership type of selected ‘established’ Bumiputera contractors

	Total	G1	G2	G3-G4	G5-G7
Sole Proprietorship	82	37	34	11	0
Partnership	45	27	14	4	0
Limited By Shares – Private Limited	13	0	0	6	7
Overall	140	64	48	21	7

Note: sample consists of contractors with consistent track record of securing multiple Selangor contracts, including a few winners of MRT balloting. Source: Company reports purchased from SSM.

A manual, line-by-line examination of these records generates a few other insights, specifically regarding family ownership and transfers. Due to Malay naming conventions and the absence of family names, co-ownership between spouses, and even parents and children, can be difficult to detect. Our small sample also cautions against extrapolation; the frequency of these ownership patterns in the contractor population cannot be ascertained. However, it is worth pointing out that inter-generational and intra-generational partnerships are not uncommon. We also note a few cases of ownership change, sometimes to due death of a spouse or parent, and handovers, typically from parent to child. Even more remarkably, some cases of transfer, or addition of new partner, involve children as young as 18. Although we do not have information about the rationale for these ownership moves – whether to groom the next generation from a very early age.

24 Author’s interview with MYEP participant B.

Company growth and development

Technical capacity and bidding outcomes

Another aspect of company development concerns the broadening of technical abilities and specializations. Small companies will be more limited in their range of specializations, and their capacity to focus on more technically demanding works. We should expect contractors in higher grades to acquire more competencies and to pursue more sophisticated works, or a combination of breadth and concentration, depending on the company's trajectory. To examine this, we compiled the technical specializations of the same sample of established Bumiputera contractors in Selangor (Table II). Contracts specify the requisite code of technical specifications that must be matched by contractors.

We notice uniformity across G1, G2 and G3-G4 in registration for the most general areas: B04 general construction, B14 painting, B24 building maintenance works, CE01 road construction and pavement, CE21 public construction engineering and CE36 earth works. Public procurement constantly requires jobs in these categories; contractors accordingly ensure their eligibility to bid for them, and also diversify the scope of income-earning opportunities by being able to perform a broad range of simple tasks. Expectedly as well, progression from G1 to G3-G4 sees higher proportions qualifying for more specific and higher-skilled jobs, saliently, B13 tiling, CE08 protection systems and slope stabilization, CE13 advertising board installation. We also notice that G1 contractors, compared to their higher-tier counterparts, on average have fewer specializations (14.2) and have also been in operation for longer on average (19.7 years).

Table II. Technical specializations of 'established' Bumiputera G1-G4 contractors in Selangor

CIDB technical specialization		Share of contractors with specialization		
Code	Description	G1	G2	G3-G4
B04	Building construction works	98%	100%	100%
B09	Within-building landscaping	48%	58%	41%
B13	Tile installation	48%	67%	81%
B14	Paint works	92%	87%	94%
B24	Building maintenance works	94%	92%	91%
B28	Modification works	39%	81%	59%
CE01	Road and pavement construction	89%	90%	91%
CE06	Drainage structures and flood control	60%	56%	59%
CE08	Protection systems and slope stabilization	26%	33%	44%
CE13	Advertisement board installation	55%	81%	81%
CE14	Outside-building landscaping	73%	2%	6%
CE21	Public construction engineering	98%	98%	97%
CE34	Precast concrete installation	68%	62%	63%

CIDB technical specialization		Share of contractors with specialization		
CE36	Earth works	92%	90%	88%
CE42	Road paint works	73%	85%	81%
CE43	Roadside furniture	69%	85%	72%
Number of works/civil engineering contractors		62	52	32
Average years of operation		19.7	17.5	17.3
Average number of works/civil engineering specializations		14.2	18.7	18.3

Note: Sample consists of contractors with consistent track record of securing multiple Selangor contracts, including a few winners of MRT balloting. Source: Author's compilation from cims.cidb.gov.my.

Next, we focused on the GI layer based on Selangor state contract awards. We sorted contractors in the Selangor state government's contract awards based on track record of winning tenders over time (Table 12). Within each category, we report the number of companies that fit the criteria and the average number of specializations. We first explore possible associations between the number of contracts and specializations. We draw representative samples of companies that have attained, respectively, 1-2 or 3-4 contracts since 2015. Contractors in the latter group register a slightly higher average number of specializations. To account for sustained engagement in procurement, we also demarcate companies that have secured more than five contracts since 2006 and more than two since 2015. The figures reported in Table 12 comprise all companies meeting these criteria. The number of specializations is higher, by a wider margin relative to the preceding groups. A further group consists of GI contractors who have secured Selangor state contracts and were successfully balloted in the MRT contract award process. This set of companies have accumulated even higher numbers of specializations. These patterns suggest that contractors with a broader range of specializations fared better in MRT Corp's screening to qualify for the balloting exercise.

Table 12. Selangor Bumiputera GI contractors: contract track record, technical specialization and years of operation

Track record	1-2 contracts since 2015*	3-4 contracts since 2015*	≥5 contracts since 2006 & ≥2 contracts since 2015	MRT contract
Number of companies	62	36	72	12
Average number of specializations	12.2	13.0	14.4	15.3

Note: *Companies sampled sequentially from an alphabetically sorted list.
Source: Author's compilation from cims.cidb.gov.my.

We may posit that the relationship between volume of contracts won and number of specializations cumulates in a virtuous cycle: contractors with more technical capabilities are better poised to bid for contracts, and the resulting company growth provides resources for expanding specializations. Undoubtedly, factors that are less quantifiable or uncaptured in these data, such as reputation, reliability, acumen and persistence, correspond with success in contract bidding and breadth of technical capabilities. Over time, local councils and state government officials overseeing procurement, partly due to the regularity of disbursement especially of small contracts, become familiar with contractors and their track record of quality and dependability.²⁵

One other emergent category of contractors shed light on technical capacity – and raise caution against over-generalizing the advantages of having a broad range of specializations. One avenue for increasing earnings is through repeated contracts, but we also observe cases of exceptionally large GI contracts – defined as contracts that are more than 1.5 times to upper limit for GI contracts (i.e. (>RM150,000 pre-2013; >RM300,000 post-2013). Among these rare cases, some comprise multi-year contracts to perform routine jobs such as cleaning, building maintenance and landscaping, we note one exceptional case of a swimming pool maintenance contract, with offer value of RM350,000, awarded to a two-year old Bumiputera GI contractor. Interestingly, the company has only three general technical categories officially registered on its CIDB profile. An online search of the company shows it is involved in this specialized work. Additionally, the winning bid was the third highest price among nine bids. Although rare, such instances do present a narrower but ‘premium’-paying pathway for participating in public procurement – more likely as a supplementary work alongside private sector business.

The project bidding stage plays a considerable role in contractor development. Competitive selection ideally induces applicants to raise their game, improving cost efficiency and overall quality. We probed deeper into the Selangor tender database, examining for possible patterns in bid prices and the contract offer price of GI contracts, mindful of the pursuit of value for money as well as cut-off pricing practices in public procurement. Due to the volume of data involved, we focus on projects with large numbers of bids. Among these, we recurrently observe that contract award goes to either the lowest priced bids or bids that are close to the average, often below the average.²⁶

Since bid price is our only data point differentiating competing tenderers, and we lack information on the technical merits of each candidate, we must be circumspect in reaching conclusions about the competitive process.²⁷ Nonetheless, the price surely weighs heavily in the evaluation process, especially for general works for which contractors will likely meet the technical requirements, and based on our observations, we can deduce that most contract awards adopt either the cut-off system, based on average price of bids and a reference price, and cost saving mode – at least in the case of Selangor state procurement. The relative merits of these modes are difficult to generalize. In some cases, low-end bids may reflect the most efficient, but for other projects, the more feasible price may be close to the average. The frequency of low-end winning bids, however, shows that it may be possible to set this

25 Author’s interviews with Selangor state secretary (SUK).

26 Some illustrative examples of GI contracts, as awarded to:

- a) Lowest price bid, of 47 bids: min RM67,200 – max RM278,400 (winner RM67,200 < mean RM118,302).
- b) Lower than average price bid, out of 46 bids: min RM70,920 – max RM188,400 (winner RM80,640 < mean RM100,330)
- c) Lower than average price bid, out of 56 bids: min RM163,720 – max RM353,715 (winner RM208,320 < mean RM233,550)
- d) Higher than average price bid, out of 59 bids: min RM86,400 – max RM178,735 (winner RM159,050 > mean RM151,090).

27 From what we can gather from interviews with government officials, there is no precise formula for determining the offer price, or for setting the weightage of cut-off and lowest bid considerations. Author’s interviews with Selangor state secretary (SUK), MOF Procurement Division and Pusat Khidmat Kontraktor (PKK).

as the default mode, particularly for general works, with flexibility to reference the median or mean based on infeasibility of the lowest bidders. Another observation we make is that there are often very large numbers of bids, with prices heavily clustered at the median. The possibility of proxy company participation to raise the likelihood of selection, and to raise the average price, cannot be ruled out.

Indeed, an inquiry into Malaysia's public procurement will not be complete without delving into political-business relations and fraudulent practices. This issue emerged at various junctures in our interviews. It is an 'open secret' that contractors can and do game the system through fronting – the notorious 'cartel' problem – or by working political 'cables', particularly between contractors and local council officials, by sharing information on the target price, or effectively pre-selecting candidates. Evidence for such fraud and abuse are difficult to conclusively prove these phenomena, but it is widely agreed that such practices are quite rife, and anecdotally attested.²⁸ Monitoring and enforcement are exceedingly difficult, as communicated to us by government and non-government sources interviewed for this research.²⁹ We unpack these a bit more in the overall synthesis and contractor typology segment.

MRT Bumiputera carve-outs and Young Entrepreneur Programme (MYEP)

To engage in a more granular analysis, we use Bumiputera contractor development programmes administered within MRT construction as a case study. These programmes fulfilled a key objective of the MRT project. As a project located in Selangor, MRT also overlapped with the focus of this study on Selangor-based contractors. The MRT project implemented the "Carve out and Compete" programme, together with Teraju, which targeted to set aside 45% of the total project value for Bumiputera main contractors and sub-contractors. The targets were exceeded; about 50% of the value of both Line 1 and Line 2 have been awarded to Bumiputera contractors. Contracts were awarded through the main contractor and directly by MRT Corp. Other rail megaprojects, prominently LRT3 in the Klang Valley and RTS connecting Johor Baru to Singapore, have similarly set aside a portion of contracts for Bumiputera companies.³⁰

Our inquiry focuses on the MRT as the main arena of the Carve-out and Compete programme, with a track record of project completion (Line 1). MRT Corp adopted CIDB and MOF classifications and norms, but also enjoyed substantial latitude to set its own protocols. Bumiputera main contractors were appointed by MRT Corp and provided inputs for the appointment of sub-contractors; with due consideration of past collaborations and networks that could facilitate smooth and trusted relations. We zoom in further on G1 to G4 contracts disbursed directly by MRT Corp, given our primary interest in the small to medium scale contractors and information gathered from an interview with company management.

MRT Corp's allocation of G1 to G4 contracts is better characterized as carve-out and select. Work packages in these categories were awarded via balloting, with price determined by MRT Corp not via bidding. Unlike the public procurement procedure of price quotation or open tender for G2 to

28 Among accounts disclosed to us were one instance of an half-hour late arrival to the in-person submission deadline, which was nonetheless accepted, and subsequently also won.

29 Author's interviews with Selangor state secretary (SUK), MOF Procurement Division and Pusat Khidmat Kontraktor (PKK), and a senior official of a contractors' organisation.

30 Reportedly, 40% of RM1 billion RTS contracts have been reserved for in-state contractors, with about 300 Bumiputera contractors poised to benefit (Rizalman Hammim, "Over 300 local contractors to benefit from RTS project", *New Straits Times*, 2 December 2020).

G4, MRT contracts in this range were also randomly drawn out of a pool of screened and selected contractors – which in some ways exceeded the rigour and stringency of normal procurement.³¹ The prestige of passing the screen sufficed to attract many applicants. MRT Corp monitored progress and audited finances of sub-contractors. The completion of the MRT Kajang Line, and steady progress on the Putrajaya Line, reflect a successfully delivered and well-managed project on the whole, which has presumably also yielded experiential benefits for the contractors involved. One reference point for assessing constructive effects on contractors is to compute cases where companies move up or down in grade, by comparing their MRT contract grade with current CIDB registration. As with earlier portions of empirical analysis, we continue to work with our sample of contractors winning both Selangor contracts and MRT contracts. While only an indicative finding, it is still worth noting that the number that that upgraded is quite significant, and far exceeding the number we classify as downgraded.

**Table 13. Bumiputera contractors with Selangor state and MRT contracts:
Possible upgrade/ downgrade scenarios, by current (2021) grade**

	G2	G3	G4	G5	G6	G7	Total changing grade	Total in sample
Upgrade: Current grade (displayed here) is higher than MRT contract grade								
MRT Kajang	2	6	6			1	15	41
MRT Putrajaya		1	1			2	4	23
MRT Kajang + Putrajaya			1				1	2
Downgrade: Current grade (displayed here) is lower than MRT contract grade								
MRT Kajang							0	41
MRT Putrajaya		2					2	23
MRT Kajang + Putrajaya							0	2

More substantial and meaningful insight into the impact of MRT participation, however, can be gleaned from case-by-case exploration. Through our interactions with MRT Corp, we were connected to three participants in the MRT Young Entrepreneurs Programme (MYEP). This initiative, a partnership with the Bumiputera micro and small business agency PUNB (Perbadanan Usahawan Nasional Berhad) and CIDB, included a training programme supported by PUNB, with management and accounting courses and placement with a main contractor, plus on-site visits under its tutelage. MYEP participants mostly had prior engagement with PUNB's entrepreneurship programmes or business loans. Many were fresh graduates or young aspirant contractors with some work experience gained through PUNB support. Upon completion of a few months training, and clearance of evaluation steps, successful candidates were selected to receive MRT contracts, and to establish a company if necessary.

31 For example, beyond bank statements, company owners were also asked to show proof of credit facilities and personal savings (Author's interview with MRT Corp management).

The participants, typically holding technical diplomas, emphatically review their MYEP experience in a positive light, especially through their immersion in a high level of professionalism, and the consequent requirements of documentation, discipline, timeliness, and quality control.³² Prior exposure to PUNB programmes also laid some groundwork and brought them into the organization's orbit. Indeed, PUNB prompted them to join MYEP. Of the three companies, two were established as G1 contractors upon completion of MYEP and transition into a MRT contract, one of which upgraded to G3 and another to G5 (also reconstituted as a private limited company). The graduations to G3 and G5 were undertaken with a strategic outlook, particularly to pursue specialization and to skip over the more crowded G2 field. Another participant had established a G3 company prior to joining MYEP and was exempted from various in-class training programmes, but regards the MRT participation as formative for enterprise development, while continuing to operate in the same G3 scale which is commensurate with the company's capabilities.

Chief motivations for graduating, on an accelerated pace, include the opportunity to bid for larger contracts, dissatisfaction with G1 packages offered, and also to diversify beyond public procurement into the GLC vendor system (specifically, utilities) and private sector contracting. Undeniably, these MYEP success cases are exceptional; some of their peers dropped out or did not grow their business as rapidly. Nevertheless, they offer various policy pointers.

Typology of contractors applied

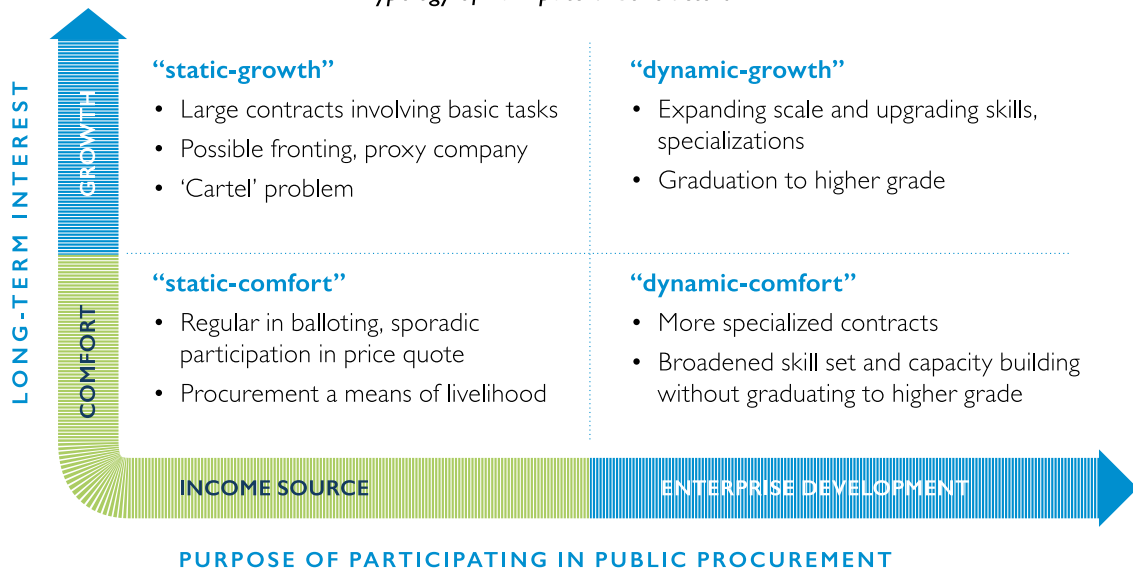
The final portion of our empirical analysis synthesizes the myriad data collated in this study, and applies them to our typology of Bumiputera contractors. Our data do not permit us to sort Bumiputera contractors proportionately into the four quadrants, and neither is that our purpose. Our data empirically update the concentration levels of Bumiputera contractors at the bottom end, which may have been inflated by a surge of new G1 registrations. We showed that G1 contractors are disproportionately – relative to population or GDP shares – located in rural or semi-rural/urban districts.

It is safe to conclude that the vast majority of contractors reside in the 'static' column. To differentiate 'static-comfort' from 'static-growth', we reference insights from interviews, in which the gravitation of many longstanding contractors toward the comfortable arrangement of Bumiputera reservation, coupled with the balloting system that essentially rotates local contracts and guarantees an income flow. Those less contented with the modest earnings from G1 contracts, but predisposed against expansion and upgrading, may consistently secure contracts, even sizable G1 contracts, but persist in doing routine jobs. The ethically unconcerned exploit loopholes by setting up proxy companies or cultivating ties with local government to gain an unfair edge in price quoted or tendered projects. Lack of enforcement of ownership regulations, due to time-consuming complexities of prosecuting, inadequacies in reporting mechanisms and reluctance of contractors to report on rivals' malpractices, allow these 'cartel' abuses to persist.

A key objective of Bumiputera company development is to go beyond procurement as an income source – that is, to nudge participants into the 'dynamic' column. Venturing in these directions, especially the upper right 'dynamic-growth' quadrant, is undeniably fraught with some risk and cannot be compelled as a standardized policy. Our survey of project portfolios observes some do follow the 'dynamic-comfort' pattern of work specialization and enterprise development in general, but without scaling up. One should not be simplistic in limiting the measure of success to moving up the G1-G7 scales.

32 Author's interview with MYEP participants A, B and C.

Typology of Bumiputera Contractors



There is room for meaningful business development within the grade, although the limits at G1 are more evident. Moving up also entails exit from comfort zones – most saliently, access to Bumiputera reserve at G1 – and uncertainty and risk. Remaining at G1 is, of course, not uniformly rewarding; some contractors have been prompted to upscale to G2 due to rising materials costs, or anticipation of a growth spurt in G2 contracts based on local infrastructure plans. Arguably, though, contractor's internal drive, coupled with access to technical and financial resources, are decisive push factors.

A few insights we gathered from our interviews on the factors promoting and hindering growth, will be pertinent. *First*, training and mentorship can provide the added acumen, experience and confidence that helps equip dynamic companies. The MYEP graduates underscored the importance of the work ethic, professionalism and exposure to high-level operations to their business growth. That their training was relevant, hands-on and methodical was also key.³³ Interviews also noted how training that is formalistic, irrelevant and sometimes perfunctory, for compliance with license renewal requirements, and sometimes not even attended by the contractor but delegated to staff, fall short of their purpose.³⁴

Second, managerial capacity emerged as a decisive factor. For MYEP participants, immersion in the management aspects of contractors' work, more than formal technical skills, equipped them for success, by impressing on them the need for meticulous documentation and accounting, and for attention to personnel requirements, such as quantity surveying. Being equipped with these capacities enhanced their ability to deal with the main contractors, including in handling disputes.³⁵ Managerial confidence will also facilitate the conventional pathway for small companies established as sole proprietorship or partnership, predominantly G1 but also G2, to reconfigure as private limited companies in order to facilitate further growth.

33 Author's interview with MYEP participants A, B and C.

34 These training programmes shortcomings were emphasized by a senior official of a contractors' organisation.

35 Author's interview with MYEP participant B.

Third, financing is a major constraint, although public procurement presents opportunities as well, depending on contractors' resolve and resourcefulness. Companies can make cumulative progress in expanding and upgrading operations in all respects including technical capacity, paid-up capital, and staffing, with persistence in seeking contracts, establishing a reputation, and retaining earnings to be reinvested. Access to credit may be continually needed, to smooth cash flow or to make investments before receiving contract payments. The various financing schemes that support contractors or small businesses, operated by PUNB, MARA and other agencies, warrant a thorough inquiry to enhance their efficacy.

Fourth, the potential impact of reputation, trust and networks, while less tangible, cannot be denied. Building up a track record of competitive bidding and on-time project delivery enhances reputation, putting such companies on the authorities' radar. In large projects involving main contractors and their sub-contractors, past collaborations build trust and set up future partnerships, as demonstrated in the MRT process that gave room for main contractors to put in their nominations. In contrast to these virtuous cycles of inclusion, there are also vicious cycles of exclusion from networks and supply chains, including the disadvantaged position of Bumiputera contractors that lack access – to procure and at competitive prices – raw materials and inputs. As often argued, their relative exclusion from established networks, whether by the inertia of the status quo, persisting prejudice, or other factors, undercuts their opportunity to make breakthroughs. These structural issues are complex and beyond the scope of this study, but must be acknowledged and further researched.

Policy Recommendations

Our research has several policy implications. Accordingly, policy recommendations derived from our findings are presented more as a means to initiate discussion on how to improve public procurement policy and more effectively achieve aspirations.

Bumiputera reservation, set asides and margins of preference

We accept that the core elements of GI reservation, carve-outs at other levels, and margin of preference in supplies and services, are deeply embedded– but not impervious to change. Some modifications are worth considering:

- Preference based on locality rather than ownership, with a portion of contracts set aside for within-district operators. The demographics will translate into Bumiputera contractors being the predominant beneficiaries in rural or semi-rural/urban areas where the community constitutes the overwhelming population majority. The preferential treatment may even be demarcated by more immediate localities rather than municipality or city, to even more precisely target local businesses.
- A general principle, which is developed more in-depth below, might be applied in the design of margin of preference, in line with the policy objective of graduating out of preferential treatment. A possible modification could be to award margin of preference on a diminishing scale for each contractor – i.e. for each successive year or successive contract won, the imputed margin declines.

Ownership rules and contract award system

The fronting / proxy problem, and broader manifestation of 'cartels' – with individuals or families known to amass contract offers in their geographic domain – remains a blight in the system. The practice clearly flouts the rule of each individual only claiming Bumiputera status through one company. However, as noted in multiple interviews, the registration of contracting companies under extended family members, staff, or other persons, is difficult to prove conclusively, rendering the threat of project termination or other penalty a blunt enforcement tool, compounded by the prospect of lawsuits from the disciplined parties. Initiatives are believed to be under way, guided by the concept of beneficial ownership, hold out the possibility that owners must declare the beneficial owner and providing a layer of liability.³⁶ Such directions are worth considering, but it is also imperative for prosecution and punitive action to be taken against the beneficial owner, should any investigations be opened, with due protection of the proxy.

On the monitoring and enforcement of ownership and legitimate participation in public procurement, the following recommendations arise:

- Capacity must be expanded and the relevant authority empowered, to effectively root out fraud and deception. The enforcement agency must also be empowered and autonomous to conduct investigations, especially cases that involve collusion of government official with contractor.
- The creation of mechanism for anonymous reporting provides avenues for whistle-blower initiative and protection. Although the likelihood of participation may remain slim, for fear of retribution from powerful 'cartel' operators, availing such a facility is well worth a try, subject to the pre-requisite consolidation of enforcement capacity.

The 'cut-off' system warrants a review to clarify the instances and scope of its application. Its main rationales – that the average bid price reflects a 'market price', and that lowest bid, especially for construction (in contrast to supplies), may compromise on quality, safety, or even ability to deliver – remain pertinent. However, the scope for abuse, through price inflation of multiple 'cartel' bids, and negative impact on competition, are serious and can be costly to society. These practices also undermine the goal of developing dynamic and competitive contractors. Our study observed patterns of contract award close to the lowest price and close to – more often lower than – the average price, reflecting two modes in operation, specifically in Selangor but presumably nationwide as well. Our recommendation is thus to explore the possibility of low bid price as the default mode, and the average price-referenced cut-off system as the exception.

36 Author's interview with government officials.

Growth and development of Bumiputera contractors

The goal has been elusive, with notable but few success cases. At the same time, new opportunities present themselves, with an influx of new Bumiputera GI contractors in the past two years, policy commitment to more efficient public procurement and efficacy in Bumiputera company development, and ongoing policy discourses for long-term planning.

A blend of carrots and sticks can be utilized, but for the purpose of promoting Bumiputera contractors to scale up, Malaysia has generally been reticent, with one particular stick surfacing from time to time. In response to the long persistence of many at the GI tier, limiting GI licenses to a maximum duration of 9 years has been proposed in the past.³⁷ In 2019, a similar policy, but at a limit of 12 years for new GI registrants and about 26 years for already established registrants, came into effect. This approach seeks to compel upgrading through the spectre of termination, and is applied across the board. Its enforceability remains shrouded in uncertainty. Its emergence can be taken a step of progress, although the lack of awareness about this rule, even among contractors, portends meek enforcement. Whether this CIDB policy will stand up to resistance, which will likely escalate as the deadline looms, or perhaps just fade into oblivion, remain to be seen.

Aside from the doubtful massive political will needed to enforce this termination of GI contracts that reach certain thresholds, the more important questions revolve around conceptual and practical limitations. Even if enforced, this reliance on license termination as the policy instrument, without creating incentives for company growth and competitiveness, will foreseeably perpetuate fronting, as contractors circumvent the rule simply setting up new companies on their own or via proxies. The one-size-fits-all plan also omits local economic situations, especially the possibly lesser prospects of moving up to G2 for GI contractors in rural or semi-rural/urban districts with depressed local economies. The standardized time limit approach may also preclude inter-generational handovers and forego potential benefits through learning the trade within a family business.

In this vein, we propose a policy for promoting Bumiputera company development via points-based system reinforced by growth pathways. The points system can consider these building blocks:

1. A key element is that points diminish, whether on a time-based or contract-based schedule – i.e. new entrants receive the most points, which subsequently decline for each successive year or each successive contract won.
2. A corollary in supplies and services will be for the margin of preference claimable by each contractor to diminish over time or with each contract.
3. Licenses of established companies need not be terminated, but their preferential points will be exhausted. Moving up, they will be eligible to collect the maximum as a newcomer.
4. Additional considerations can be incorporated, subject to broad deliberation, including points for:
 - Forming consortiums, which allow for companies to bid for contracts above their grade, or points to contractors for winning private sector contracts (proposed in the past, but failed to gain traction),

³⁷ Author's interview with a senior official of a contractors' organisation.

- Disadvantaged persons, expanding from the current designation of Bumiputera as beneficiaries of affirmative action in public procurement,
- Technological upgrade.

Policy should also integrate the reality of varying pathways in company growth and development. Two aspects are important. First, 'generalist' and 'specialist' modes of participation, with the former deriving from our data showing that broader range of specializations correspond with volume and consistency of contracts won, and selection for MRT projects. The latter tend to focus on specialized works, which likely limits the range and frequency of contracts, but can be an effective growth path. Second, the step-up process can also vary. Presumably the more common occurrence is sequential: G1 to G2, G2 to G3, and so on. However, we also observe other approaches, notably skipping G2, which is also quite crowded whereas Bumiputera contractors are most acutely under-represented at G3 and G5, and aiming for other grades commensurate with the company's capacity and strategy.

1. The points system can incorporate the generalist and specialist pathways, with the generalist operating on a time basis (bonus points diminish over time) given the constant supply of general works projects, while the specialist pathway might suitably operate on a per-contract basis (bonus points diminish with each successive contract)
2. The system can further incentivize starting at particular grades, such as G3 or G5, by adding bonus points

A final area of policy attention concerns the broad range of training, mentorship and financing. In view of inadequate research and references, we refrain from specific recommendations. What we can prescribe, however, is that a comprehensive, rigorous and critical evaluation of the myriad programmes – operated by MARA, PUNB, Teraju, and other agencies at federal and other levels – should be commissioned and publicly availed. This research should address the scope and efficacy of Bumiputera programmes, *inter alia*, in the following areas:

1. Training and mentorship
2. Redressing financial, technical and supply chain constraints
3. Subcontracting arrangements

Conclusion

Malaysia's public procurement system has come a long way, and will continually play a key role in providing public goods and services, infrastructure and amenities. Policy commitments to efficient and effective delivery, from cost and quality perspectives, and to develop Bumiputera companies through public procurement, have heightened in recent years.

A further concern, compounded by Covid-19, are the potential fiscal constraints. The convergence of various factors highlight the gravity of improving prudential standards and developmental pursuits – not only related to equitable growth, the overarching principle of this paper, but also sustainability.

This report has provided an overview and update of Malaysia's public procurement, with a focus on Bumiputera company development. Our explorations, through quantitative and qualitative data compiled from various sources, have helped broaden our understanding of Bumiputera participation in public procurement, and shed light on policy outcomes. The analysis signals some policy recommendations, but clearly, there is immense work still to be done. We hope that this report has engaged with the debates, generated some new insights, posed constructive questions and highlighted further areas of research.



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Appendix

Appendix Table I. List of research engagements (April – September 2021)

No	Date	Stakeholder	Meeting objective
1	13 Apr	Dewan Perniagaan Melayu Malaysia (DPMM) / Malay Chamber of Commerce	Feedback on the research plan and possibility of conducting a survey
2	13 Apr	Institut Masa Depan (MASA)	Feedback on the research plan and possibility as survey facilitating partner
3	16 Apr	Academics and researchers	Consultation on the research methodology
4	11 May	Bumiputera Agenda Steering Unit, TERAJU	Feedback on the research and interview TERAJU as policy maker
5	25 May	Ministry of Finance, MOF	Discussion on procurement research and IDEAS public finance research in general
6	23 Jul	MRT Corp management	Interview on Bumiputera carve out and contractor development
7	5 Aug	Selangor state secretary (SUK)	Interview on procurement policy and Bumiputera contractor development
8	5 Aug	MOF Procurement Division	Interview on procurement policy and Bumiputera contractor development
9	13 Aug	Pusat Khidmat Kontraktor (PKK)	Interview on Bumiputera contractor licensing and development
10	24 Aug	MYEP participant A G3 (initially G1)	Interview on Bumiputera contractor experience, growth and development
11	26 Aug	Senior official, contractors' organisation	Interview on procurement policy and Bumiputera contractor development
12	26 Aug	MYEP participant B G5 (initially G1)	Interview on Bumiputera contractor experience, growth and development
13	2 Sep	MYEP participant C G3 (initially G3)	Interview on Bumiputera contractor experience, growth and development



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