



Effectiveness And Efficiency Of Public Procurement And Disposal Act In Shaping Competitive Purchasing And Disposal In The Civil Service In Kenya

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Abstract:

The purpose of this paper was to examine the effectiveness and efficiency of public procurement and disposal act in shaping competitive purchasing and disposal in the civil service in Kenya in Uasin-Gishu County. The study adopted both qualitative and quantitative approaches where Questionnaire and interview schedule were used to collect data. Purposive, stratified and simple random sampling techniques were used. The study interviewed 33 administrators and 20 procurement officers from Uasin-Gishu County. The study found that the Public Procurement and Disposal Act has enhanced employment of standard procurement procedures; development of international standards; development of a workable legal framework; creation of reliable ICT; achievement of transparency and improvement of public confidence in procurement.

Key words: Effectiveness, Efficiency, Disposal, Public Procurement, Purchasing

1.Introduction

The government remains the biggest entity that does procurement and disposal on a large scale in the country. Public procurement and disposal is big business that attracts a myriad of players and stakeholders. The funds dedicated to purchasing of supplies and disposal if spent effectively and efficiently will benefit all those who obtain supplies and services from the government. The government expects public procurement and disposal to contribute to the national economic growth and poverty reduction in the line with the national development goals. “In Kenya the total volume of public procurement in 2003-2004 was established at 3.64 billion US Dollars or 9% of the GDP” [1].

The correct public purchasing and disposal procedures when followed correctly play a big role in making the government responsive and responsible to the needs of the citizens, increasing the national income and spurring development and even leading to the achievement of the Millennium Development Goals (MDGs). Public procurement should be for the good of the population. The expenditure that is incurred is in effect taxpayers’ money. The government should be accountable to the public in whose name procurement and disposal money is expended. A primary purpose of public accountability is to prevent abuses of taxpayers’ money. The other purpose is to let it be seen that any such abuses have been prevented [2].

The government does procurement from the smallest consumables to multi-million projects that all require supplies and consequently there arise surplus stores, expired inventory, dead-stock, scrap, unserviceable equipment and obsolescence. To deal with the issues of procurement and disposal and manage the processes well, Parliament in the year 2005 enacted a law [3] that seeks to promote; maximization of economy, efficiency, fairness and value for money, in those processes. To operationalize this law it was necessary to make rules and regulations which led to formulation of Public Procurement and Disposal Regulations (PPDR 2006) in 2006, the Public Procurement and Disposal Oversight Authority Users Manual of 2007 (PPOAUM 2007), and the Public Procurement and Disposal General Manual of 2009, (PPDGM 2009). The Act also established the Public Procurement Oversight Authority (PPOA) to oversee procurement and disposal of goods, works and services in the civil service.

Despite the enactment of PPDA 2005, the issues that it sought to address are still with us and rampant in the public service. Non-governmental organizations and the civil society have variously raised this issue. Transparency International (TI), an NGO reported that “Kenya lost Kshs.475 billion to shady procurement deals in the last seven years” (TI

2005).“The Public Procurement Oversight Authority has disclosed tender worthy 200 million are riddled with irregularities in a damning report, which highlights the extent of the rot in the Water Sector. ‘There was no evidence that the prices of common user items have been compared with the price index provided by PPOA’. Other malpractices unearthed by the report include splitting of orders to avoid appropriate procurement method.” [4].

The then Director of KACC had been quoted as saying, “Kenya loses between 23-35 percent of annual budget through skewed procurement, pilferage and wastage of public resources” [5]. The implementation and operationalization of the Act has posed challenges to the end users and therefore there is need to re-examine the Act and its impact on the end users and the economy at large, with a view of taking remedial measures.

The government has the obligation of providing goods, works and services in order to meet a variety of citizens needs. In Kenya, public procurement and disposal sectors are the largest domestic market, big business, meaning that they require due attention from the public, researchers, the civil society, the media, donors and other stakeholders. The necessity for public procurement law and clearly defined procurement system arises from the fact that, unlike the private sector, public procurement is a business within a national and political system, whose pillars of strength are integrity, fairness, accountability, competition, transparency, national interest, promotion of local industry and economic development, in addition to economy (PPDGM, 2009). Procurement regulations the world over are based on The United Nations Commission on International Trade Law (UNICTRAL) Model law which embrace the principles of sound public procurement in significant respects and Kenya is no exception [6].

1.1 Statement Of The Problem

The government continues to incur huge losses in the field of public procurement, supplies and disposal. Over the years, the citizens’ confidence towards public procurement and disposal has been eroded significantly, portraying a negative attitude by the public towards these procedures. Surplus stores, expired inventory, unserviceable equipment, dead-stock, scrap and obsolescence continue to pile up in public stores, scrap yards and offices. This is an eyesore to the public in whose name procurement and disposal is done. The public constitutes the taxpayers and they are the ones who

contribute what the government spends they therefore deserve better. In essence, their confidence has been shattered arising from the foregoing state of sorry affairs.

2. Literature Review

2.1. The Effectiveness And Efficiency Of The PPDA (2005)

The effectiveness and efficiency of the PPDA refers to the essence of competition and the delivery to government of goods and services by the most cost effective and efficient means. The principle of competition means that contracts should be awarded by holding competition between a number of contractors to establish which can offer the most favourable terms for delivering governments requirements. Competition not only ensures that government obtains value for money but is also important in maintaining the integrity of public procurement since it is an effective means of the transparency which prevents abuse of discretion. From an economy perspective competition ensures that government obtains goods and services that are appropriate to its requirements from contractors with requisite financial and technical capability on the best possible terms [7].

The PPOA Program contributes to implementation of the state policy in public procurement, encouragement of competition, seeking for economical and rational utilization of funds assigned for public procurement. Measures set forth in the Program cover improvement of the public procurement system, increase of effectiveness of control and preventive measures, improvement of the quality of complaint review, implementation of information technologies, training of public procurement experts and refreshing of their qualifications [8].

Key measures set forth in the Program meet strategic priorities of the Government of the Republic of Lithuania – prepare for the membership in the European Union, develop information society. In the field of improvement of the public procurement system, there is expected to initiate required amendments of the Law, share in drafting of such amendments, analyze valid legislation, and give recommendation with regard to improvement thereof. In implementation of the Program there are set forth and implemented measures to enable detection of infringements of the Law on Public Procurement and prevent likely violations. This goal is sought by reinforcing the control of performance of public procurement and intensifying preventive actions [9].

Presently active legislation regulating public procurement has not been fully aligned with provisions of directives. It is a national adoption program. For this purpose, the Office shared in drafting of amendments of the PPDA, drafts of all secondary legislation falling under the Office competence have been elaborated and followed by initiation of their adoption [8]. It is necessary to advance an analysis of the active legislation in the field of public procurement and give recommendations with regard to amendment thereof in order to exclude all provisions likely to create conditions for abuse and eliminate unnecessary restrictions. The legislation should provide for an opportunity to carry out procurement of small value in the simplified procedure. In addition a legal framework should be created for performance of electronic procurement in future [7].

Effectiveness of public procurement is reduced by too high input related to organization of procurement. One of the measures to minimize such input is employment of standard procurement documentation in practice of procurement. The goal of the Office is to develop some portion of standard procurement documentation every year for procurement of certain types of goods and services. While controlling activities of the procuring organization, infringements of the Law on Public Procurement should be detected and violators should be exposed to administrative liability [10]. In addition, effectiveness of preventive measures should be increased, procurement documentation should be evaluated in the prevention procedure, applications of the procuring organizations to perform certain proceedings of public procurement should be analyzed and reasonability of such applications must be justified. Review of suppliers' (contractors') complaints should be arranged in the Independent Committee for Public Procurement Complaint Review [11].

In order to satisfy the need of state authorities and society for information about public procurement, formation of an information system is being started on the basis of modern information technologies. Such information system should enable accumulation, processing, systemization, storage and provision of information related to public procurement (12). Creation of the information system will contribute to solution of objectives of information society development in the field of public procurement. Web site created by the Office will provide with information actual for state authorities, procuring organizations, suppliers (contractors) and the general public. The procuring organizations will be given an opportunity to place electronic notices on public procurement [13]

The effectiveness of public procurement is strictly related to the legislation in force, efficiency of the public procurement regulatory bodies and professionalism of procurement officers. The challenge is to develop a legal regime that will balance the competition and transparency safeguards and efficiency aspects in the public procurement regulations. The public procurement framework forms an essential part of the market economy; purchases by public entities are realized through the market and market mechanisms should be applicable. When developing such a legal regime, one needs to create a framework that is consistent and easy to enforce in order to ensure that the rules are respected. To comply with this regime, all of the stakeholders; the contracting entities, the suppliers and contractors and the general public have to be aware of the fundamental values for public contracts [14].

3. Methodology

The study was conducted in all the civil services in Uasin-Gishu County. The County has a population of 894,179; a surface area of 3,345km²; and population density of 267 people per km².

3.1. Research Design

The study employed a case study research design of Eldoret West district. This is because such a design usually provides rich details about those cases, of a predominantly qualitative nature. A case study design generally aims to provide insight into a particular situation and often stresses the experiences and interpretations of those involved. It generates new understandings, explanations or hypotheses [15].

3.2 Target Population

This refers to the population to which a researcher will generalize the results. Target population will be 92 respondents from Eldoret West district which include the heads of departments and their deputies. These are the people who hold the Authority to Incur Expenditure (AIE) and are the initiators of the procurement and disposal procedures at the district level. Table 3.1 shows the configuration of the target population.

Category	Frequency
The heads of department	46
Deputy heads of department	46
Total	92

Table 3: Target Population

Source: Author 2011

3.3. Sample And Sampling Design

Sampling is taking any portion or universe as representative of that population. Universe Sampling means selecting a given number of subjects from a defined population as a representative of that population or universe [16]. The ideal sampling method of this study was simple random sampling of a convenient and purposive nature. The first 46 open offices were picked and the officers therein sampled. This was because the target population is concentrated in one area and is known to the researcher.

The sample size of the study was 50% of the target population which was 46 respondents. This was a non probability sampling method arrived at due to my experience and expertise as a member of staff at the district. According to Kalton (1983)[17], the principal object of any sampling procedure is to secure a sample, which, subject to limitations of size will reproduce the characteristics of the population especially those of immediate interest as closely as possible.

This study employs a non probability sampling design of a homogenous nature, a simple random sample. These are officers of almost the same rank and do similar work. With non probability sampling; the probability of selecting an element into the sample may not be the same for each element. This type of sampling cuts costs and time requirements as compared to probability sampling [18].

3.4. Data Collection Procedures

A questionnaire was used in data collection. Structured questions were used, where a list of alternative answers was given and the respondent was required to pick from the given answers. These types of questions are easy to analyze, easy to administer, and give no room for respondents to offer irrelevant information. They are specific, and economical in terms of time and cost.

3.5. Data Analysis Methods

Various statistical tools were used including: measures of central tendency (mean and mode), measures of dispersion (range, variance and standard deviation). Coding was done initially on the raw data before being processed and presented. Descriptive statistics was used to analyze data and present it with more clarity. In analyzing data the following four aspects were crucial: First, was to ensure that the report contained an accurate interpretation of the data collected, and analyzed. Drawing inferences from the synthesis was key in effective data analysis. Secondly, the methods used in collecting the data and data analysis techniques were made explicit. Care should be taken to ensure that the language used, organization of the report as well as the emphasis on data, and data information presentation clearly communicates the message to the reader [19].

4. Findings

In order to determine the effectiveness and efficiency of Public Procurement and Disposal Act of 2005, six variables were presented to the respondents in form of Likert questions having a five scale degree of answers from strongly disagree to strongly agree.

Statements	Mean	S.D	Skew	Kurtosis
Employment of standard procurement procedures	4.30	.68	-.47	-.73
Developing international standards	4.18	.64	-.16	-.45
Developing a workable legal framework	4.12	.86	-1.8	5.26
Creation of reliable ICT	3.97	.95	-1.09	1.73
Achievement of transparency	3.94	.86	-1.4	3.52
Improvement of public confidence in procurement	3.88	.99	-1.58	3.02

Table 1: Descriptive statistics for the variables measuring effectiveness of PPDA

Source: Survey data, 2011

The chi-square (χ^2) goodness of fit for all variables was significant at $P < .05$, 'developing international standards' ($\chi^2=10.364$, $df = 2$, $p = .006$); 'achievement of transparency' ($\chi^2=37.758$, $df = 4$, $p < .001$); 'developing a workable legal framework' ($\chi^2=43.212$, $df = 4$, $p < .001$) and 'employment of standard procurement procedures' ($\chi^2=6.727$, $df = 2$, $p = .035$). Others were 'creation of a reliable ICT system' ($\chi^2=22$, $df =$

4, $p < .001$) and 'improvement of public confidence in procurement system' ($\chi^2=37.152$, $df = 4$, $p < .001$). It therefore implies that these observed proportions are likely to exist in the population, that is, civil servants in the region are likely to have similar opinions on the effectiveness and efficiency of PPDA as these sample proportions.

In relation to effectiveness and efficiency of PPDA, it was established that employment of standard procurement procedures was placed first (4.30); developing international standards was placed second (4.18); developing a workable legal framework was ranked third (4.12); creation of reliable ICT was ranked fourth (3.97); achievement of transparency was ranked fifth (3.94); while improvement of public confidence in procurement was ranked least with a mean of 3.88 from the Likert scale.

From the study findings, it was deduced that respondents agreed to all the six variables. This is attested by the statement having means of 4.30-3.88 respectively which stand for 'agree' from the Likert scale. In addition, all the six variables, most respondents answered either agree or strongly agree. The scale for all the six variables ranged from 1 (strongly disagree) to 5 (strongly agree). The means for all the variables ranged from 3.88 (minimum) to 4.30 (maximum) while the mode for all of them was 4.

Since all the means and modes are close to 5, this further supports the inference that most respondents either agreed or strongly agreed that PPDA (2005) has improved competitive purchasing and disposal in the civil service. This finding was further buttressed by the negative values of skewness for all the variables, which indicated that the distributions of the variables were skewed to the right, that is, more respondents as answered 'agree' or 'strongly agree'. Given that the chi-square tests of goodness of fit for all the variables were significant at $P < .05$, this implied that civil servants in the region agreed that PPDA (2005) is effective and efficient in shaping competitive purchasing and disposal in the civil service. Specifically, the enactment of the PPDA (2005) has led to the development of international guidelines, improved transparency and competition, developed workable legal framework regimes and led to the development of standard procurement procedures and documents. In addition, it led to the creation of a reliable ICT system and helped to improve public confidence in the procurement system. The mean for employment of standard procurement procedures was the highest, followed by that of developing international standards and guidelines. The ranges for these variables was from 3 (undecided) to 5 (strongly agree), which meant that no respondent disagreed that PPDA could lead to the employment of standard procurement procedures or developing international standards. They also had the lowest standard deviations

(meaning that most respondents answers were bunched around the mean) and negative kurtosis (which meant that there were fewer items in the tails of the distribution). The variables with the lowest means, large standard deviations and the greatest ranges were ‘improvement of the public confidence’, ‘achievement of transparency’ and ‘creation of reliable ICT’.

A close scrutiny of the findings indicate that PPDA (2005) has led to the employment of standard procurement procedures and documents, developing international standards and guidelines, and in developing workable legal framework regime. In addition, PPDA has enabled to improve public confidence in the procurement system, achievement of transparency and competition and in creation of a reliable ICT system as can be deduced from the data.

4.1. Contribution Of PPDA To The Accumulation Of Scrap, Surplus Stores, Unserviceable Equipment, Shoddy Works And Obsolescence

To further elaborate on the effectiveness and efficiency of PPDA, the study sought to determine its contribution in terms of accumulation of scrap, surplus stores, unserviceable equipment, shoddy works and obsolescence. Five variables were formulated under the five scale Likert questionnaire.

The descriptive statistics for these variables are presented in Table 2.

Variable	Mean	S.D	Skew	Kurtosis
Prevents loose management of new items	3.79	1.02	-.47	-.79
Doesn't allow immediate scrap disposal	3.67	1.11	-.74	-.31
Doesn't maintain economy in inventory costs	3.58	1.17	-.33	-1.0
Doesn't identify obsolescence-prone items	3.32	1.07	-.18	-.84
Doesn't get rid of scrap	3.21	1.17	-.19	-1.0

Table 2: Contribution of PPDA

Source: Survey data, 2011

The chi-square (χ^2) goodness of fit for all variables was significant at $P < .05$; ‘does not coordinate management efforts in getting rid of scrap’ ($\chi^2=9.576$, $df = 4$, $p = .048$); ‘does not identify obsolescence-prone items’ ($\chi^2=10.79$, $df = 4$, $p = .029$); ‘does not maintain economy in inventory costs’ ($\chi^2=9.88$, $df = 4$, $p = .043$); and ‘does not allow immediate

disposal of scrap' ($\chi^2=20.18$, $df = 4$, $p = < .001$) except for 'prevents loose management of new items' ($\chi^2=4.69$, $df = 3$, $p = .195$).

As a result, the study established that respondents agreed that PPDA prevents loose management of new items (3.79), does not allow immediate scrap disposal (3.67) and does not maintain economy in inventory costs (3.58). This is attested by the statements having means > 3.50 which stands for 'agree' from the Likert scale.

The results from the frequencies table suggest that most respondents among civil servants in the region perceived that the PPDA (2005) could not be able to coordinate efforts of management in ridding the service of scrap, could not identify obsolescence-prone items, could not maintain economy in inventory costs, and does not allow immediate disposal of scrap. This finding is supported by the observation that all these variables have means and modes that are close to 5 and by the negative values of their skewness. The results also indicated that the role of PPDA in accumulation of scrap, surplus stores, unserviceable equipment, shoddy works and obsolescence was ambiguous, given the relatively high percentages of respondents who had no opinion on the subject.

5. Conclusion

Although most public servants in the region are conversant with PPDA 2005, roughly half of the civil servants are ignorant of the Public Procurement and Disposal regulations of 2006 and the Public Procurement Management Manual. Enactment of PPDA has improved competitive purchasing and disposal in the civil service, especially in achieving employment of standard procurement procedures, developing international standards and in developing workable legal framework regimes. However, it has not been as fully effective at improving public confidence in the procurement system, achievement of transparency and competition, and in the creation of a reliable ICT system. The failure of PPDA in being able to afford implementers the wherewithal to dispose of obsolete items, scrap and surplus stores could be due to deficiencies in the PPDA 2005 and ignorance of the role of the Act in the disposal process.

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