

## CONSTRAINTS OF EFFECTIVE IMPLEMENTATION OF PUBLIC PROCUREMENT REFORMS IN KENYA: A CASE OF NAIROBI CITY COUNTY

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### ABSTRACT

Public procurement is the purchase of goods, services and public works by government and public entities. While Kenya spends nearly Kshs 150 billion per year on the public procurement, losses attributable to malpractices approximates Kshs 30 billion per year (World Bank, 2010). The public procurement and disposal Act 2005 was introduced in Kenya to streamline the anomalies in the public procurement. The implementation of the Public Procurement and Disposal Act 2005 has been quit challenging coupled with a number of inefficiencies. The inauguration of the new constitution 2010 which outlines principles for public procurement, the launch of public procurement disposal( preference and reservations) regulations 2011 and public procurement and disposal (county governments) regulations 2013 its an effort towards the reform path but still a lot has to be done to overhaul the entire system. The objective of the study was to establish constraints of effective implementation of public procurement reforms in Kenya with special reference to Nairobi City County. Descriptive research design was used in this study because it enables the study to generalize the findings to a larger population (Cooper & Schindler, 2003).The target population for this study was staff members at Nairobi City County procurement department who have information on procurement process. The study concludes that corporate governance, ICT, Financial resource availability and capacity building influences effective implementation of public procurement reforms to a great extent. The study recommends that the stakeholders in charge of the corporate governance should remain committed to the implementation of public procurement reforms in Nairobi City County. This will help in giving guidelines on critical stages of implementation process, the management should assume a leading role in the effective preventative mechanism that promotes transparency and accountability, facilitates oversight and provides a good basis to prevent corruption.

**Keywords:** *Constraints Effective Implementation Public Procurement Reforms*

### Introduction

Public procurement has tremendous impact on the economy, social, political and environment (White paper, 2005). Public entities are the major purchasers of goods, works and a service in a country hence influences the size, structure and performances of domestic industries. To this end, it is important for the government from time to time to review the effectiveness and efficiency of its procurement system. In 2003, the Government of Kenya (GoK) began to implement reforms

to address inefficiency in the use of public resources and weak institutions of governance. Reforms included the development of anti-corruption strategies to facilitate the fight against corruption and the enactment of the Public Officer Ethics Act 2003, the Anti-Corruption and Economic Crimes Act 2003, the Financial Management Act 2004, and the Public Procurement and Disposal Act 2005. The latter will make the public procurement process more transparent, ensure accountability, and reduce wastage of public resources.

### Statement of the Problem

Public procurement is the purchase of goods, services and public works by government and public entities. While Kenya spends nearly Kshs 150 billion per year on the public procurement, losses attributable to malpractices approximates Kshs 30 billion per year (World Bank, 2010). The public procurement and disposal Act 2005 was introduced in Kenya to streamline the anomalies in the public procurement. The implementation of the Public Procurement and Disposal Act 2005 has been quit challenging coupled with a number of inefficiencies. The inauguration of the new constitution 2010 which outlines principles for public procurement, the launch of public procurement disposal( preference and reservations) regulations 2011 and public procurement and disposal (county governments) regulations 2013 its an effort towards the reform path but still a lot has to be done to overhaul the entire system. The objective of the study was to establish constraints of effective implementation of public procurement reforms in Kenya with special reference to Nairobi City County. Descriptive research design was used in this study because it enables the study to generalize the findings to a larger population (Cooper & Schindler, 2003).The target population for this study was staff members at Nairobi City County procurement department who have information on procurement process. The study concludes that corporate governance, ICT, Financial resource availability and capacity building influences effective implementation of public procurement reforms to a great extent. The study recommends that the stakeholders in charge of the corporate governance should remain committed to the implementation of public procurement reforms in Nairobi City County. This will help in giving guidelines on critical stages of implementation process, the management should assume a leading role in the effective preventative mechanism that promotes transparency and accountability, facilitates oversight and provides a good basis to prevent corruption.

### Objectives of the Study

#### General Objective

The general objective was to identify constraints of effective implementation of public procurement reforms in Kenya.

#### Specific Objectives

1. To examine how corporate governance influence effective implementation of procurement reforms in Nairobi City County.
2. To analyze the influence of capacity building on effective implementation of procurement reforms in Nairobi City County.
3. To establish whether financial resource availability influence effective implementation of procurement reforms in Nairobi City County.
4. To analyze the influence of ICT on effective implementation of procurement reforms in Nairobi City County.

## Literature Review

### Agency theory

Corporate governance broadly refers to the mechanisms, processes and relations by which corporations are controlled and directed (Shailer, 2012). Corporate governance has also been defined as "a system of law and sound approaches by which corporations are directed and controlled focusing on the internal and external corporate structures with the intention of monitoring the actions of management and directors and thereby, mitigating agency risks which may stem from the misdeeds of corporate officers (Greg, 2011). There has been renewed interest in the corporate governance practices of modern corporations, particularly in relation to accountability. Since the high-profile collapses of a number of large corporations during 2001–2002, most of which involved accounting fraud; and then again after the recent financial crisis in 2008. Corporate scandals of various forms have maintained public and political interest in the regulation of corporate governance. In contemporary business corporations, the main external stakeholder groups are shareholders, debt holders, trade creditors, suppliers, customers and communities affected by the corporation's activities.

### Social learning theory

According to social learning theory, learning new skills or behaviors comes from (1) directly experiencing the consequences of using that behavior skill, or (2) the process of observing others and seeing the consequences of their behavior. According to social learning theory, learning is also influenced by a person's self-efficacy. Self-efficacy is an important factor to consider in the person analysis phase of need assessment. Why? Self-efficacy is one determinant of readiness to learn (Barret, 2012). A trainee with high self-efficacy will put forth efforts to learn in a training program and is most likely to persist in learning even if an environment is not conducive for learning ( for example, in a noisy training room).

### Human Relations Theory

Human relations theory, also known as behavioral management theory, focuses more on the individuals in a workplace than the rules, procedures and processes. Instead of directives coming directly from management, a human relations theory provides communication between employees and managers, allowing them to interact with one another to help make decisions. Instead of giving workers quotas and requiring certain procedures, workers are exposed to motivational and emotional tactics to get them to increase productivity. The focus of this style is creating fulfilled, productive workers and helping workers invest in a company (Mayo, 2000).

### Resource based theory

The resource based theory perspective argues that sustained competitive advantage is generated by the unique bundle of resources at the core of the firm (Corner and Prahalad, 2007; Barney 2010). In other words, the resource based view describes how business owners build their business from the resources and capabilities that currently possessed or can acquire (Dollinger, 2008). The term "resources" was conceived broadly as "anything that can be thought of a strength or a weakness" of the firm (Wernerfelt 2007). The theory addresses the central issue of how superior performance can be attained relative to other firms in the same market. Implicit in

the resource-based perspective is the centrality of the venture's capabilities in explaining the firm's performance.

### Empirical Review

In the year 2005 studies were carried out to explore the phenomenon of public procurement and assess its potential as an industrial policy instrument in the telecom sector in the four countries (Denmark, Finland, Norway and Sweden). On a general level it was concluded that "although there are several indications that private and public procurement is an efficient means of generating economically viable innovations, it does not follow that government policies to stimulate public and/ or private procurement are easily implemented"( Granstand & Sigurdsson, 2005).

Corruption and malpractices in procurement are facilitated by the general expectation among all participants and the public at large that this kind of behavior is the norm and consequently that bribery is a necessary means to obtain government contracts. Leading by example and educating the public about the true costs of corruption can be a powerful means of changing. Knudsen (2010), suggested that procurement performance starts from purchasing efficiency and effectiveness in the procurement function in order to change from being reactive to being proactive to attain set performance levels in an entity.

According to Keebler (2007) from New York he concludes that: supply chain activity affects profit and loss statements, balance sheet and the cost of capital; significant opportunities exist for the competent supply chain managers to reduce expenses, generate better return on invested capital and improve cash flows. By controlling supply chain expenses, profit margins are improved by continuing to shorten cycle times, cash flow are enhanced, superior supply chain performance can also produce the leverage and the competitive advantage to increase revenues and the supply chain share market. Traditionally accounting techniques do not provide accurate and timely information that informs the financial aspects of supply chain trade off decisions.

### Research Methodology

#### Data Collection Methods

Quantitative and qualitative data analysis methods were used this study collected quantitative data using a self-administered questionnaire. Nevertheless, where it was proved to be difficult for respondents to complete the questionnaire immediately, the questionnaires were left with the respondents and picked later. Before final questionnaire was administered to respondents, a pilot study was conducted; the pilot study aimed at determining the reliability and validity of the questionnaire including the wording, structure and sequence of the questions (Cooper and Schindler, 2003). Each questionnaire was coded and only the researcher got to know which person responded. The coding technique was only used for the purpose of matching returned, completed questionnaires with those delivered to the respondents.

#### Data Analysis/Findings

#### Multiple Regression Analysis

The following are the results of regression analysis.

**Table 4.7: Model Summary**

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.403 <sup>a</sup>	.142	.061	.42127

Predictors: (Constant), corporate governance, Capacity building, Financial resource availability and ICT. Dependent Variable: effective reforms implementation.

Analysis in table above shows that the coefficient of determination (the percentage variation in the dependent variable being explained by the changes in the independent variables) R square equals 0.142, that is, corporate governance, capacity building, Financial resource availability and ICT explain the variance in effective reforms implementation.

The Analysis of Variance (ANOVA) was used to check how well the model fits the data. The results are presented in table 4.8.

**Table 4.8: ANOVA (Analysis of Variance)**

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	1.045	3	.123	.342	.000 <sup>a</sup>
	Residual	5.102	28	.177		
	Total	5.628	93			

Predictors: (Constant), corporate governance, capacity building, Financial resource availability and ICT

Dependent Variable: Implementation of public procurement reforms

The F statistic is the regression mean square (MSR) divided by the residual mean square (MSE). Since the significance value of the F statistic is small (0.000 smaller than say 0.05) then the predictor's variables corporate governance, capacity building, financial resource availability and ICT explain the variation in the dependent variable which is effective procurement reforms implementation. The regression output of most interest is the following table of coefficients and associated output:

Table 4.9: Regression Coefficients results

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sign.
		B	Std. Error	Beta		
1	(Constant)	0.903	0.123		7.367	0.000
	Corporate governance	0.056	0.028	0.158	2.021	0.045
	Capacity building	0.036	0.030	0.105	1.194	0.034
	ICT	0.047	0.028	0.147	1.686	0.0472
	Financial resource availability	0.039	0.031	0.109	1.183	0.0247

Dependent Variable: effective procurement reforms implementation

From the Regression results in table above, the multiple linear regression model finally appear as

$$Y = 0.903 + 0.056 X_1 + 0.036 X_2 + 0.039 X_3 + 0.047 X_4 + 0.123$$

**Y** is the dependent variable (effective procurement reforms implementation); **X<sub>1</sub>** is corporate governance; **X<sub>2</sub>** is Capacity building; **X<sub>3</sub>** is financial resource availability and **X<sub>4</sub>** is ICT

The multiple linear regression models indicate that all the independent variables have positive coefficient. The regression results above reveal that there is a positive relationship between dependent variable (effective procurement reforms implementation) and independent variables (corporate governance, capacity building, financial resource availability and ICT). From the findings, one unit change in corporate governance results in 0.056 units increase in implementation of procurement reforms. One unit change in capacity building results in 0.036 unit increase in implementation of procurement reforms. One unit change in financial resource availability results in 0.039 unit increases in implementation of procurement reforms. One unit change in ICT results 0.047 unit increases in implementation of procurement reforms. The t statistics helps in determining the relative importance of each variable in the model. As a guide regarding useful predictors, we look for t values well below -0.5 or above +0.5. In this case, the most important variable was corporate governance followed by ICT, Financial resource allocation, and staff competence respectively.

## Discussion

Regression and correlation were used in analysis of inferential statistics. Analyzed data was presented using frequency tables, charts and percentage. From the study, the response rate was 81.82% and the respondents had different levels of education.

## Corporate Governance

From the findings majority of the respondents agreed that corporate governance affect the implementation of public procurement reforms in Nairobi City County to a great extent. indicators Ambiguity in the public procurement procedures may provide a chance for dubious acts including opaque tendering and supplier discrimination as shown by a mean of 4.056, Separation of key functions contributes to professionalism, accountability and an efficient procurement system shown by mean of 3.167. Appropriate actions should be employed for non-performance and non-compliance to procurement ethical code of conduct; this was shown by a mean of 4.33. Availing justification and explanation of procurement results to both internal and external auditors this was also indicated by a mean of 4.389. Awarding public tenders equitably without discrimination to the most responsive bidders was seen to have a mean of 4.33 while slanting product specification to limit competition and prejudice supplier qualification decisions was noted to have a mean of 4.167. From the findings, it was noted that most statements relating to corporate governance were seen to have high mean values. This indicated that the majority of the respondents generally agreed or strongly agreed to the statements. From this we can generally infer that corporate governance had a significant and positive influence on effective implementation of procurement reforms in the city county of Nairobi. The standard deviation calculated in the analysis was noted to less than 1.5.

### Financial Resource Availability

The findings of the study revealed that financial resource availability affected public procurement reforms implementation to a great extent. From the findings, majority of the respondents agreed that, Procurement department is sufficiently financed to cater for all procurement requirements in a financial year as shown by a mean of 3.83; Inadequately drafted procurement and disposal plan adversely affects the allocation of funds for procurement purposes as shown by mean 4.61; Delays in supplier payments results in non-collaborative relationship hence jeopardizing procurement process as shown by mean of 4.22. Price overrun of various contracts interferes with the target budget as while as time and quality of public projects which was shown by a mean of 4.48. Value for money is realized for funds spend on various projects which was also noted to have a mean of 4.22. The findings also indicate that respondents were mostly neutral on the variable There are delays on budget approval by the finance committee to facilitate procurement functions in relation to implementation of procurement reforms in Nairobi city county. This was indicated by the mean calculated of 3.17. The standard deviation calculated in the analysis was noted to be mostly less than 1.5. This indicated that there was a small variance from the mean mark.

### Capacity building

The study established that the capacity building of all stakeholders is of essence to the implementation of effective procurement reforms in the NCC which the respondents agreed to a moderate extent. Majority of the respondents were in agreement with the statements that Breach of law may occur if the procurement workforce is not adequately educated on the procurement laws as shown by a mean of 4.39 and SD of 0.76. A majority of the respondents disagreed with the statement that some members of the implementation committee don't possess adequate competences to handle the reform process as shown by mean of 1.89. However the respondents

agreed with the statement Inadequate training programs to enhance professionalization of public procurement results in low capacity, high turnover and implementation deficiencies as shown by mean of 4.11. All the cases were supported by a low standard deviation calculated in the study implying that majority of the respondents were of similar opinion.

### Information Communication Technology

The findings indicated that majority of the respondents agreed that Adopting modern technology enable NCC overcome today's procurement operating challenges occasioned by the use of manual processes as shown by a mean score of 4.17 and a variability in agreement by a SD of 0.600 indicating uniformity in support of their response.

E- Procurement can address issues such as little attention to contract management, high operational costs and extended delivery times was noted to have a mean of 3.77 and a standard deviation of 1.181, the findings also indicate that a majority of the respondents agreed that the ICT in public procurement is intended to speed up the procurement process by improving internal efficiencies hence lowering costs and increasing productivity. As shown by a mean score of 3.944 and a variability in agreement by a SD of 0.970. however, majority of respondents disagreed with the indicator adoption of ICT in public entities is intended to foster collaborations amongst various participants within the supply chain as shown by a mean of 1.555 and SD of 0.895. The case was supported by a low standard deviation which implies that majority of the respondents were of similar opinion.

### Conclusions

From the findings the study concludes that corporate governance is very crucial in implementing public procurement reforms in the NCC. Corporate governance is so important because it acts as the driving force behind the whole implementation process. The study also concludes that capacity building of staff members positively affects the implementation of public procurement reforms in the NCC. Most of the respondent agreed that inadequate training programs to enhance professionalism of public procurement results in low capacity, high turnover and implementation deficiencies.

The study concludes that most of Most the respondents agreed that availability of financial resources is vital for successful operation of procurement process. Most respondents agreed that inadequately drafted procurement and disposal plan adversely affects the allocation of funds for procurement purposes as while as delays on budget approval by finance committee to enable facilitation of procurement function. Majority of respondents disagreed with the statement that some members of the implementation committee don't posses adequate competences to handle the reform process.

Finally the study concludes that ICT influences effective reform implementation to a great extent. Most of the respondents agreed that adopting modern technology will enable NCC to overcome today's procurement operations challenges occasioned by use of manual processes. In the contrary most respondents disagreed that adoption of ICT in public entities is intended to foster collaborations amongst various participants within the supply chain.



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