

ROLE OF REGULATORY FRAMEWORK ON IMPLEMENTATION OF E- PROCUREMENT BY STATE CORPORATIONS IN THE MINISTRY OF AGRICULTURE IN KENYA

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ABSTRACT

E-Procurement is an important instrument for preventing corruption in goods and services procurement. Effective implementation of e-procurement practices is determined by the level of compliance with procurement regulations. The need to adopt e-procurement cannot be underscored given the fact that public sector procurement is large and complex, accounting for between twenty and thirty percent of gross domestic product. The objective of the study will be to investigate the role of regulatory framework on influence of e-procurement by state corporations in the Ministry of Agriculture in Kenya. The independent variables of this study include public procurement oversight authority, procurement laws, organizational culture, and procurement procedures while the dependent variable is implementation of e-procurement. This study will adopt a descriptive research design. The target population will consist of the management staffs drawn from the Ministry of Agriculture Head Offices that are based in Nairobi. The 21 state corporations under the Ministry will represent the study population.

The study will adopt both purposive and simple random sampling techniques in determining the sample size. In this case, the researcher will purposely sample all the 21 corporations under the Ministry of Agriculture constitutes the sample size. Further, 3 respondents will be randomly selected within the procurement department in each of the sampled corporations bringing to a total of 63 respondents. The study will collect both the primary and secondary data. Primary data will be collected by use of a structured questionnaire. Drop and pick technique will be used. The data collected will be analyzed qualitatively using brief explanations and quantitatively using descriptive statistics; percentages, mean and standard deviation and inferential statistics; regression analysis. Tables, bar graphs and pie charts will be used to present the data. Ms- Excel and Statistical Package for Social Sciences (SPSS Version 23) will be the major tools for data analysis. Finally, a multiple regression model will be adopted.

Key Words: *Public procurement oversight authority, procurement laws, organizational culture, procurement procedures, regulatory framework, E- Procurement*

INTRODUCTION

Procurement is a crucial element in the working functions of any state. Accordingly, e-Procurement is an important instrument for preventing corruption in goods and services procurement (Tukamuhabwa, 2012). Every government has the obligation to provide essential services to its citizens. e-procurement" means the process of procurement using electronic medium such as the internet or other information and communication technologies. According to Croom and Brando-Jones (2007), e-procurement is the amalgamation of sales and purchasing business models and calls for differentiation based on application and functions. The close relationship between E-procurement and development demonstrates that there is need for

transparency and accountability in the manner in which procurement is conducted (Kinoti 2013). Government is often the single biggest customer within a country, and governments can potentially use this purchasing power to influence the behavior of private sector organizations.

According to Meehan and Bryde (2011), effective implementation of e-procurement practices is determined by the level of compliance with procurement regulations. The purpose of the e-procurement governance framework is to drive behavior towards achieving the e-procurement objectives of the government. The e-Procurement regulatory framework defines and allocates accountabilities, communications, standards and major practices, and institutional responsibilities for public procurement. e- Procurement regulatory system designed and implemented in line with the framework complements attaining the expected outcomes. Modern governments are now complex service organisations and major economic players (Principles and Practices of Public Procurement, 2012). Procurement has shifted to being more focused on complex infrastructure and services, often involving complete service solutions, high risk and high value, with just-in-time supply lines, and requiring high level skills required for the preparation of specifications, market research, financing and contract management.

According to PPOA (2015), problems inherent in traditional paper-based procurement processes include, in addition to a lack of management information, inefficient procedures, high compliance costs for suppliers and departments, simplistic and ineffective procurement methodologies, and a profound lack of transparency. Principles and Practices of Public Procurement (2012) reported that governments around the world are taking the introduction of e-Procurement System as the solution to tackle with the complexities of today's procurement requirements of the governments, which is turn is taken as the magic tool for transparency, equal treatment, value for money, and modern intervention for the good governance in the public procurement sector. It is found that such implementations of e-procurement regulation are initiated either solely as the IT project for automation of few of the procurement processes, or taken as part of the reform projects focusing on the compliance requirements of the existing manual procurement laws (Malta, Schapper, Calvo-Gonzalez & Berroa, 2011).

E-procurement implementation regulatory frameworks should be based on the core principles of procurement, and built around the procurement governance framework which provides a clear blue print of procurement guidance for its design and implementation. According to the Kenya government procurement (2014), the shift from manual to e-procurement is set to enhance transparency in the management of public finances and tendering process through the Integrated Financial Management Information System (IFMIS). The system that enables monitoring of all transactions during the procurement process provides functionalities such as the approval hierarchy, which is an end to end process that facilitates the procurement process from planning to payment.

PROBLEM STATEMENT

The need to adopt e-procurement cannot be underscored given the fact that public sector procurement is large and complex, accounting for between twenty and thirty percent of gross domestic product (Thai & Grimm, 2000). The benefits of e-procurement regulatory frameworks for public sector organizations include lower costs, improved quality of purchases and increased productivity. The simplification and/or elimination of repetitive tasks in the procurement process by moving them online results in time and cost savings. According to Kamotho (2014), 80 percent of public corporations in the world have adopted e-procurement. A number of studies have been carried out on e-procurement and public procurement.

According to Simon (2013), e-procurement regulatory framework has capabilities that affect the use of e-procurement of incompetent staff in basic information communication technology, insufficient in-house skilled IT personnel, unavailability of IT skills in Kenya which is making the firm to take time before implementing e-procurement. Kangongo & Gakure (2013) conducted a study on factors affecting electronic procurement implementation in Automobile industry of Kenya. The study established that e-procurement adoption is commonly affected by low awareness, understanding and skill in relation to evolving technologies in management. Mose, Njihia, & Magutu, (2013) conducted a study on the Critical Success Factors and Challenges of E-procurement Adoption among Large Scale Manufacturers in Nairobi Kenya.

However, these studies did not specifically address role of regulatory framework on influence of e- procurement by state corporations in the Ministry of Agriculture in Kenya with regard to public procurement oversight authority, procurement laws, organizational culture and procurement procedures. This study therefore seeks to investigate the role of regulatory framework on influence of e- procurement by state corporations in the Ministry of Agriculture in Kenya.

OBJECTIVE OF STUDY

The objective of the study will be to investigate the role of regulatory framework on influence of e- procurement by state corporations in the Ministry of Agriculture in Kenya.

THEORETICAL REVIEW

This study is grounded on institutional theory. The institutional theory is the traditional approach that is used to examine elements of public Procurement. Scott (2013) identifies three pillars of institutions as regulatory, normative and cultural cognitive. The regulatory pillar emphasizes the use of rules, laws and sanctions as enforcement mechanism, with expedience as basis for compliance. The normative pillar refers to norms (how things should be done) and values (the preferred or desirable), social obligation being the basis of compliance (Preuss, 2007). The

cultural-cognitive pillar rests on shared understanding (common beliefs, symbols, shared understanding).

Several recent studies have taken an institutional approach to e-procurement or EDI diffusion and assimilation (Scott, 2013). Institutionalism allows the identification of self-formed purchasers and suppliers to separate the network of economic actors' public and private sectors, groups and organizations. Institutional theory argues that all organizations take the shape they do because they draw from the culture around them value-based notions of how things should be organized. According to an independent economic institutionalism theory direction, the public procurement process can be understood as a set of institutions with an exceptional inter-relationship between purchasers and suppliers, as well as affecting the economic development of the country (Scott, 2008).

The institute in the procurement process consists of: 1) the formal rules governing public procurement procedures, and informal relations between contracting authorities and suppliers, affecting both their mutual relations and their common agreements and economic development activities, 2) the coercive measures imposed to ensure public procurement procedure norms, sanctions and violence in defiance of state of the Republic of Lithuania procurement legislation. Institutional factors that would exert influence over the behavior of all governmental departments and agencies, irrespective of their own particular circumstances. Any public sector organization contemplating the adoption of e-procurement technology would be greatly influenced by the behavior and experiences of its peers, as well as by governmental policy and initiatives possible to use.

According to Olsen (2006), the institutional structure formed in economic circumstances reflects the situation in the procurement process, the state authorities of the contracting authority must be interested in a cost-effective and/or efficient purchasing, while suppliers (business organizations)–the maximum profit possible after the procurement. The case organizations are all experiencing significant problems with their manual procurement processes, and can clearly see the benefits to be realized from the implementation of a more complete e-procurement infrastructure. However, there are a number of significant factors that are impeding their plans, particularly in terms of resistance to change, the lack of appropriate skills and capabilities, and reluctance to tamper with established ways of working. Such inhibitors may be particularly apparent in public sector organizations, in which the presence of a physical paper trail is often perceived as being the best way of ensuring the accountability of processes, due to their strong bureaucratic cultures (Olsen, 2006). This theory is therefore tries to explain the effects of regulatory policies and Governance structure on implementation of E-procurement.

EMPIRICAL REVIEW

The Public Procurement Act, 2003 (Act 663) set out the legal, institutional and regulatory framework to secure fiscal transparent and public accountability in Ghana's procurement system. The Act establishes five basic principles upon which the public procurement is based World Bank, (2003). These pillars are: The legal and institutional framework; Standardized procurement procedures and tender documents; Independent control system; Proficient procurement staff; and anti-corruption measures. To many practitioners, the procurement laws are not explicitly clear and in many case their interpretation is subjective. Therefore, familiarity with the rules by both purchasers and suppliers can influence the chance that public agents will comply with the rules (Brammer & Walker, 2011).

Public procurement systems in Kenya have not been active because of weak laws and legal barriers. Many of the institutions involved in government procurement lack the requisite technical and human resources capacities (PPOA 2005). According to Tukamuhambwa (2011) one of the factor causes of noncompliance with procurement regulations is the level of familiarity with the procurement rules. During the early days of inception of public contracts regulations in the Netherlands, many municipalities could not comply with the regulations because they were not familiar with them.

Besides the amendment of the PPDA and the aligned of the regulations in accordance with the new Constitution, the successful implementation of a sound, transparent, fair, equal, competitive, efficient and value for money orientated public procurement system on the level of county governments, which are newly created through the 2010 Constitution, is the most challenging task for the next couple of years to come. The general weaknesses in Kenya like the insufficient implementation of laws and regulation in daily administrative actions, the culture of impunity and the widespread culture of corruption are the main obstacles for a sweeping success of the reforms efforts so far (PPOA, 2005). It is possible that those who are familiar with the regulations know it so well that they know how to beat the loopholes to their advantage. Ambiguity in the public procurement procedures may provide a chance for dubious acts including opaque tendering and poor compliance levels (Eyaa & Oluka, 2011).

Procurement laws need to be updated to allow procuring entities to issue request for proposals, notices of award, protest and award information as well as receive bids and proposals via the internet. The legal framework should also consider legislation, case law and administrative policies regarding electronic transactions, and electronic document management policies and regulations. These will affect whether e-procurement is authorized, whether transactions are binding, and the extent to which the procurement system can be automated (PPOA 2006). As (Tukamuhambwa, 2011) maintains that public purchasers will comply with the rules if they perceive them as clear. Educating and training public customers will be a useful tool for increasing the compliance with the directives of public procurement.

The inception in of legislation in different countries has had a number of effects. They include; promotion of effective competition, investments and innovations, cost effects, promotion of ethics and transparency. The public sector, by conformity of its overall demand in certain markets, may be in a position to protect and promote competition; this may be done by maintaining a competitive market structure through deliberately sourcing of its requirements from a different range of suppliers, by encouraging suppliers to invest and innovate, or by helping firms to overcome barriers to entry. On the other hand, it can restrict and distort competition, e.g. by adopting e-procurement that have the result of restricting participation of certain entities in public tenders (Parry, 2003).

In order for an organization to be able to effectively implement PPDA, it is necessary to comprehend the laid out policies and procedures. Organizations also need the required skills, competencies and tools. PPDA guidelines are themselves complicated concepts, and procurement professionals may not be competent enough to efficiently put into practice the policies. A recent survey found that 83 per cent of purchasing professionals are not fully qualified to deliver the required outcome through public procurement. Studies have found that purchasing managers are unable to incorporate both the ethical and social issues in public procurement by using them together (Cooper et al., 2000).

CONCEPTUAL FRAMEWORK

Independent Variables

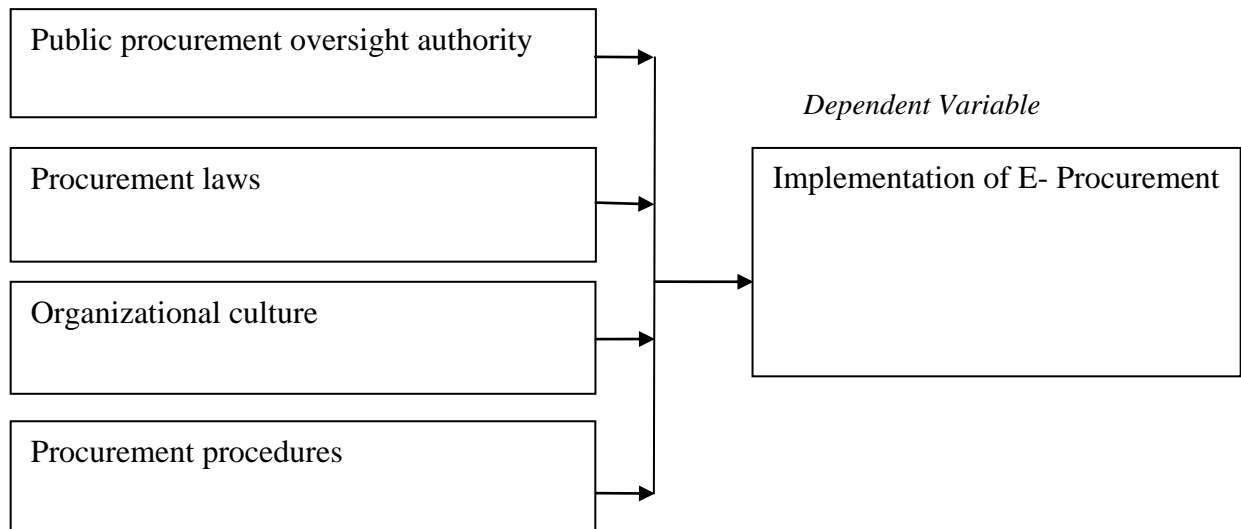


Figure 1: Conceptual Framework

RESEARCH METHODOLOGY

Research Design

This study will adopt a descriptive research design. This design is preferred because it is concerned with answering questions such as how, who, which, what, when and how much. This design will enable the researcher describe the characteristics of the population being studied as they exist at present hence minimizing biases and maximizing the reliability of the evidence collected. The intention of descriptive research is to gather data at a particular point in time and use it to describe the nature of existing conditions.

Target Population

The target population will consist of the management staffs drawn from the Ministry of Agriculture Head Offices that are based in Nairobi. The 21 state corporations under the Ministry will represent the study population.

Sample Size and Sampling Technique

The study will adopt both purposive and simple random sampling techniques in determining the sample size. In this case, the researcher will purposely sample all the 21 corporations under the Ministry of Agriculture constitutes the sample size. Further, 3 respondents will be randomly selected within the procurement department in each of the sampled corporations bringing to a total of 63 respondents.

Data Collection

The study will collect both the primary and secondary data. Primary data will be collected by use of a structured questionnaire where the variables in the study will be included in the different sections of the questionnaire. The questionnaire will comprise of both close-ended and open-ended questions. Secondary data will be gathered from books, government publications and the internet. A letter from the Jomo Kenyatta University of Agriculture & Technology will be used by the researcher to introduce herself. In this case, the letter will be presented to the management of the corporations under the Ministry of Agriculture. Drop and pick technique will be used by the researcher in distributing the questionnaires. However, the intention to drop questionnaires will be explained to the human resources manager and the respondents. Further, a time frame of one week will be allocated to the respondents to allow for complete filing of the questionnaires after which the researcher retrieved the questionnaires from the respondents.

Prior to the actual study, pilot study will be conducted using the designed questionnaire administered to 6 respondents (10% of 63) who are part of the target population but not part of the sample population. In this case, the 6 respondents will be randomly picked from procurement

departments within other corporations not under the Ministry of Agriculture. The questionnaires will be pretested to ensure clarity and validity of the instrument.

Data Analysis

The data collected will be analyzed qualitatively using brief explanations and quantitatively using descriptive statistics; percentages, mean and standard deviation and inferential statistics; regression analysis. Tables, bar graphs and pie charts will be used to present the data. Ms- Excel and Statistical Package for Social Sciences (SPSS Version 23) will be the major tools for data analysis. A multiple regression model at 95 percent level of confidence and 0.5 level of significance will be adopted to find out whether there existed a relationship between Public procurement oversight authority, procurement laws, organizational culture, procurement procedures and implementation of E-procurement in state corporations in Kenya.

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