Challenges Facing Implementation of Public Procurement Regulations in Public Institutions in Kenya: A Case of Nairobi City County Government

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ABSTRACT
The main objective of this study was to determine challenges facing implementation of public procurement regulations in Kenya. Regulated public procurement plays a very vital role to the economy of Kenya. However, a report by Rapid Response Initiative (RRI) (2014) established that though most of the public procurement reforms have been achieved and procurement policies and institutions are in place, the level of implementation of such policies by the county governments is still low. This study therefore sought to determine the effect of funding, staff competence, government leadership and enforcement on the implementation of public procurement regulations in Kenya.. The study adopts descriptive research design. The target population was Nairobi City County Government with a workforce of 15,000 employees. The study adopted stratified random sampling in selecting only participants that were directly involved in the implementation of public procurement regulations in Nairobi County Government. The population was sub divided into clusters to help in selecting sample size that is representative of the population. A total of (69) employee from procurement department of Nairobi County Government was therefore incorporated as the sample. The key findings were that inadequate funding contributes more to the implementation of public procurement regulations in Kenya followed by staff competence. The study concludes that implementation of public procurement policies in public institutions today is tailored around enough funding and effective use of the available financial resources. The study also recommends that implementation of public procurement regulations in public institutions in Kenya to be successful, human resources function of public institutions and the PPOA must ensure there are capacity development initiatives across government (central and local).

Keywords: public procurement regulations, staff competence, funding, government leadership, enforcement

INTRODUCTION
Worldwide, public procurement has become an issue of public attention and debate, and has been subjected to reforms, restructuring, rules and regulations. World Bank, (2004) define public procurement as the acquisition of goods, services and works by a procuring entity using public funds. According to Roodhooft and Abbeele (2012), public bodies have always been big purchasers, dealing with huge budgets. World Bank (2004), also reiterated that public procurement represents 18.42% of the world GDP. Although several developing countries have taken steps to reform their public procurement systems, the process is still shrouded by secrecy, inefficiency, corruption and undercutting. In all these cases, huge amounts of resources are wasted (Odhiambo & Kamau, 2013). In developing countries, public procurement is increasingly recognized as essential in service delivery (Hunja, 2011), and it accounts for a high proportion of total expenditure.
Globally, adoption and regulation of public expenditure has quickly gained momentum. Procurement is
the acquisition of goods, services or works from an external source (Jason, 2014). In state run institutions,
governments across the globe continue to establish procurement systems to manage public expenditures.
Capone (2010) opines the widespread regulation of public procurement to realized benefits in cutting
costs and undertaking purchases competitively thus thereby improving the quality and value for the
money.
In the African context, McGinity (2014) explains that the current regimes establishments of procurement
regulations are based on the rationale that a regulated public expenditure is the cornerstone to effective
and efficient public service delivery and satisfaction. This view is shared by Ohkubo (2012) that explains
that unregulated public expenditure is a fodder to procurement frauds which mint millions of shillings
from public coffers hence leading to unrests.
In South Africa, the government through the ministry of education has developed a basic financial manual
for schools. This provides the regulations that should be followed by schools in their procurement process
(Western Cape Education Department). In Uganda, the Public Procurement and Disposal of Assets
Authority (PPDAA) was formed under the Public Procurement and Disposal Act (PPDA) of 2003. The
PPDAA provide guidelines and regulations in public procurement of all public entities including schools
and colleges (Eyaa, 2011). In Tanzania, the Public Procurement Act No 3 of 2001 became effective on
first July, 2001. The act provides a comprehensive coverage of all regulatory aspect critical to public
procurements including schools (Eyaa, 2011).
In Kenya, public procurement has surely evolved from the annals where the public expenditure was rarely
regulated to independent procurement structures and regulating bodies. Migai (2010) gives credit to
public procurement reforms and regulations in Kenya to competitiveness and transparency in acquisition
of government services and goods, wider stakeholders consultations, improved processes and procedures,
Improved accountability, elimination of collusion and corruption among supply agents and eradication of
non-value added purchasing methods.
Regulations in public sector in Kenya have also opened space for equity where small medium enterprises
are also considered and given priority in matters of public tenders. According to Okore (2011), a public
procurement regulation has opened a platform for equitable competition in allocation and supply of
government tenders. Indeed effectively regulated public procurement system is a source for both citizens
and public institutions benefits but this comes with some challenges.

Statement of the problem
Regulated public procurement plays a very vital role to the economy. In Kenya, procurement reforms
through enactment of procurement laws and establishment of watchdog body such as Public Procurement
Oversight Authority (PPOA) has improved transparency, accountability and achievement of value for
money in public expenditures (Migai, 2010).
Despite this important role procurement regulations play in safeguarding public interests in public
established that though most of the public procurement reforms have been achieved and procurement
policies and institutions are in place, the level of implementation of such policies by the county
governments was still low. RRI report is supported by PPOA (2014) procurement review of public
institutions and counties report that established that based on a rating scale of 1>10, many county
governments ratings on the implementation of public procurement regulations fell between 3>5 out of 10.
This poses a problem of slow implementation of public procurement regulations than a desired rating of
any figure above 5 in relation to the rating scale established by the RRI report
From the above information, it is evident that there has not been impetus to implement public
procurement regulations in public institutions. This leaves a research gap that has necessitated this study
since the public procurement regulations were established to counter some of the problems that were
rampant before the regulations were established but to date procurement within the public sector still
faces some challenges. To achieve the intended objectives, the study will seek to answer the following
questions: How can the Public Procurement regulations be implemented at more robust speed in public
institutions? What are the current challenges of the that are affecting the existing regulations?
This is serious considering that procurement regulations are as good as dead if they are not being implemented. In fact according to Juma (2010) the benefits of cost savings, competitiveness, transparency and value for money are only achieved when public institutions fully implement and operationalize procurement regulations otherwise the initiative is meaningless. It is based on the aforementioned that this study seeks to answer the research gap; what are the challenges facing implementation of public procurement regulations in Nairobi City County Government?

**Objectives of the Study**
The main objective of this research study is to determine challenges facing implementation of public procurement regulations in Kenya.

These are the specific objectives this study sought to fulfill.
1. To determine effect of funding on implementation of public procurement regulations in Kenya.
2. To assess the effect of staff competence on implementation of public procurement regulations in Kenya.
3. To examine the effect of government leadership on implementation of public procurement regulations in Kenya.
4. To ascertain the effect of enforcement of implementation of public procurement regulations in Kenya.

**Research Questions**
These are the research questions this study seeks to fulfill.
1. To what extent does funding affect implementation of public procurement regulations in Kenya?
2. To what extent does staff competence affect implementation of public procurement regulations in Kenya?
3. To what extent does government leadership affect implementation of public procurement regulations in Kenya?
4. To what extent does enforcement affect implementation of public procurement regulations in Kenya?

**Scope of the Study**
This study was limited to challenges facing implementation of public procurement regulations in Kenya. Precisely, the study sought to examine the effect of funding, staff competence, government leadership and enforcement of implementation of public procurement regulations in Kenya. These variables were chosen because they were common factors that might have an impediment to implementation of policy in Kenya. The target population was Nairobi City County Government. The study was undertaken in a period of five months from February 2016 to June 2016.

**CONCEPTUAL FRAMEWORK**
A conceptual framework is a chart that explains the main things to be studied in conception. It provides the idea on establishing the relationship between the dependent and independent variables. It provides the primary model that provides the basis on deciding on the research question, objectives and methodology to be followed in order to solve the phenomenon under investigation (Kothari, 2004). See figure 1.
Effective implementation of public procurement regulations in public institutions in Kenya depends on strategic procurement planning in carrying out procurement activities, well trained and competent staff, zero political interference and maximum policy enforcement

**Funding**
Increased funding by government for procurement policy implementation and innovation in procurement best practices can also lead to streamlined procurement operations among public procurement in Kenya. In recent forums it has been discussed that increased public procurement funding can enhance innovation policy on both national and county levels of government (Aho, 2006). This theme is consistent with research in the private sector that has shown how value chain activities affect innovation. This is due to, the gain gotten in the procurement process in value chain, activities which are aimed at getting greater product quality and innovation which have greater impact in terms of value for money by tax payers (Prajogo, 2008).

**Staff Competence**
Having the necessary skills for procurement staff and experience to carry out procurements effectively has been a prime concern for stakeholders in implementing public procurement regulations (Ondiek, 2013). Staff competencies influence procurement performance and increased output in procurement operations can be enhanced through increased training and capacity building of procurement practitioners in public institutions in Kenya and subsequent improvement in procurement operations. Competencies procurement staff affect performance both on departmental and organizational level as they are carry out duties in a professional manner and reduces wastage of resources (Ogot, 2010).

These challenges happen despite the legal framework that informs purchasing and disposal in the civil service being firmly in place. “The use of the law as a regulatory mechanism may be overestimated, laws alone do not achieve anything and it depends on how they are implemented” (Arrowsmith, 2009). The study sought to unravel the challenges that are inherent in the process of implementation of the PPDA 2005 with a view of making policy recommendations that will mitigate the problem, and define the role of the Act more explicitly, while assessing its effectiveness in shaping competitive procurement and disposal. This in turn will lead to a high level of compliance.
**Government leadership**

Government leadership in spearheading best practices in public procurement has been slow leading to good and services supplied to the government institutions being more expensive compared to the prevailing market rates leading to overspending (Ondiek 2013). Goods and works of inferior specifications have been delivered and accepted. Indeed, in some cases no goods have been delivered at all but payment has been made all the same. Other challenges associated with compliance with the Act include: deliberate splitting of contracts to fit certain ceilings in order to defeat set thresholds, failure to provide bidding firms with full and accurate tender information, failure to advertise, “safety valve” advertising, failure in complying with advertising rules, inclusion of discriminatory requirements in contract bidding documents, political interference with the tendering process and lack of adherence to set thresholds. These challenges defeat the purpose of the Act and render; integrity, fairness, transparency, value for money, maximization of economy and public confidence unattainable. It has been reported that the, “Public Works Minister has cited the Procurement Act as a hurdle to the implementation of the Economic Stimulus Package (ESP). (Ondiek, 2013)

**Enforcement**

Enforcement of public procurement regulations has been boosted by PPOA through development of standard tender documents for goods, works and services. Open tenders accounted for an almost equivalent though slightly higher proportion of the total procurement spend than restricted tenders, followed by quotations. Thus placing open tenders somewhat closer to its intended status as the default procurement method. Despite these findings, assessment confirmed the trend of relying excessively on procurements through request for tenders (Ondiek, 2013).

**METHODOLOGY**

**Research Design**

Research design is the outline, plan or scheme that is used to generate answers to the research problem (Cooper & Schindler, 2003). The study adopted a descriptive research design in order to provide a framework to examine current conditions, trends and status of events. Descriptive research design was more investigative and focused on a particular variable factor. It is analytical, often singles out a variable factor or individual subject and goes into details and describing them. According to Cooper and Schindler (2003), such a study is concerned with finding out who, what, when, where and how of the relevant phenomena. Descriptive design was therefore the most appropriate design for the study.

**Target Population**

Peil (2003) defines a target population as an entire group of people, events, or things of interest to a researcher for analysis. The target population incorporated the top county officers, senior county officers and staff working in the procurement department in Nairobi City County Government which totaled to 225 personnel. The company staff is categorized as middle level management and operational level of management which includes procurement officers.

**Sample and Sampling Technique**

A sample size of 30% of population was selected to participate in the study. This was supported by Mugenda and Mugenda (2003) that explains that 30% of the population incorporated as sample size is representative enough to reflect true and accurate outcome of a study.

**Table 1. Sampling and sampling frame**

<table>
<thead>
<tr>
<th>Category</th>
<th>Target Population</th>
<th>Sample Size (30% of Population)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Top County Officers</td>
<td>25</td>
<td>8</td>
<td>12</td>
</tr>
<tr>
<td>Senior County Officers</td>
<td>95</td>
<td>29</td>
<td>42</td>
</tr>
<tr>
<td>Procurement Department</td>
<td>105</td>
<td>32</td>
<td>46</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>225</strong></td>
<td><strong>69</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
Data Processing and Presentation
Data collected from the field was processed through data cleaning / editing to detect and correct errors and omissions, missing values, then categorized and coded into categories, themes and patterns for further analysis. The researcher used inferential and descriptive statistics for further analysis. The qualitative data was analyzed for themes. Statistical Package for Social Sciences (version19) was used to analyze the frequency and percentages.
The results were presented in tables and charts. Further interpretation of the findings was done in narrative form.
A multivariate regression model was applied to determine the relative importance of each of the four variables in relation to the study.
The regression model was as follows:
Y= β0+ β1 X1+ β2 X2+ β3 X3+ β4 X4+α
Where Y is the dependent variable (Implementation of public procurement regulations), β0 is the regression coefficient, β1, β2, β3 and β4 are the slopes of the regression equation, X1 is the funding independent variable, X2 is staff competence independent variable, X3 is government leadership independent variable and X4 is the enforcement independent variable, while α is an error term normally distributed about a mean of 0 and for purposes of computation, the α is assumed to be 0.

RESULTS AND DISCUSSION
The objective of the study was to determine challenges facing implementation of public procurement regulations in public institutions. This study, adopted a descriptive study design.
The key findings were that inadequate funding contributes more to the poor implementation of public procurement regulations in public institutions followed by staff competence.
They study also revealed that majority agreed that staff competence influenced implementation of public procurement regulations while minority disagreed. The findings showed that staff competency as an important human resource tool that is often used within public sector to guide human resource practices such as selection, assessment, career management, employee development and performance appraisal”.
Additionally the study found out that majority of the respondents were in agreement that government leadership affects implementation of public procurement regulations in public institutions while the minority disagreed.
Moreover the study found out that majority of the respondents were in agreement while disagreed. The findings argued that the threat of legal sanctions is essential to regulatory compliance and that enforcement action has a cumulative effect on the consciousness of regulated companies and it reminds companies and individuals that violators will be punished and to check their own compliance programs

Inferential Statistics
Correlation Analysis
Correlation analysis was conducted to find out how inadequate funding, staff competence, government leadership and enforcement are correlated with implementation of public procurement regulations in public institutions. Funding has a positive correlation at 0.184 and a p=0.015<0.05 with implementation of public procurement regulations, staff competence has a positive correlation at 0.214 and p=0.023<0.05 with the implementation of public procurement regulations, government leadership has a positive correlation at 0.107 and a p= 0.012<0.05 with the implementation of public procurement regulations while enforcement has a positive correlation at 0.153 and a p= 0.027<0.05 with implementation of public procurement regulations.
Table 2. Correlation analysis

<table>
<thead>
<tr>
<th></th>
<th>Implementation of public procurement regulations</th>
<th>Inadequate funding</th>
<th>Staff competence</th>
<th>Government leadership</th>
<th>Enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Implementation of public procurement regulations</td>
<td>Pearson Correlation Sig. (2-tailed)</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inadequate funding</td>
<td>Pearson Correlation Sig. (2-tailed)</td>
<td>.184</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff competence</td>
<td>Pearson Correlation Sig. (2-tailed)</td>
<td>.214</td>
<td>.201</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Government leadership</td>
<td>Pearson Correlation Sig. (2-tailed)</td>
<td>.107</td>
<td>.180</td>
<td>.184</td>
<td>1</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Pearson Correlation Sig. (2-tailed)</td>
<td>.013</td>
<td>.005</td>
<td>.051</td>
<td>.107</td>
</tr>
<tr>
<td></td>
<td></td>
<td>.153</td>
<td>.056</td>
<td>.238</td>
<td>.023</td>
</tr>
</tbody>
</table>

Multiple Regression Analysis
A linear multiple regression analysis was conducted so as to test the relationship among variables (independent) on the challenges facing implementation of public procurement regulations in public institutions. The researcher applied the statistical package for social sciences (SPSS) to code, enter and compute the measurements of the multiple regressions for the study.

Table 3. Multiple Regression Analysis

<table>
<thead>
<tr>
<th>Model</th>
<th>R</th>
<th>R Square</th>
<th>Adjusted R Square</th>
<th>Std. Error of the Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>.898</td>
<td>.806</td>
<td>.801</td>
<td>.19758</td>
</tr>
</tbody>
</table>

Coefficient of determination explains the extent to which changes in the dependent variable can be explained by the change in the independent variables or the percentage of variation in the dependent variable (implementation of public procurement regulations) that is explained by all the four independent variables (funding, staff competence, government leadership and enforcement)
Table 4. ANOVA

<table>
<thead>
<tr>
<th>Model</th>
<th>Sum of Squares</th>
<th>df</th>
<th>Mean Square</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Regression</td>
<td>11.007</td>
<td>4</td>
<td>2.752</td>
<td>3.804</td>
<td>.006</td>
</tr>
<tr>
<td>Residual</td>
<td>78.853</td>
<td>54</td>
<td>.723</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>89.860</td>
<td>58</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The significance value is .006 which is less than 0.05 thus the model is statistically significant in predicting inadequate funding, staff competence, government leadership and enforcement. The F critical at 5% level of significance is 2.4473. Since F calculated (value =3.804) is greater than the F critical, this shows that the overall model is significant.

The coefficients of the multiple regression model were shown as below

Table 5. The coefficients of the multiple regression model

<table>
<thead>
<tr>
<th>Model</th>
<th>Unstandardized Coefficients</th>
<th>Standardized Coefficients</th>
<th>t</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>Std. Error</td>
<td>Beta</td>
<td></td>
</tr>
<tr>
<td>(Constant)</td>
<td>2.396</td>
<td>.850</td>
<td>.085</td>
<td>6.345</td>
</tr>
<tr>
<td>Staff competence</td>
<td>.254</td>
<td>.059</td>
<td>.085</td>
<td>1.907</td>
</tr>
<tr>
<td>Enforcement</td>
<td>.108</td>
<td>.090</td>
<td>.290</td>
<td>1.094</td>
</tr>
<tr>
<td>Inadequate funding</td>
<td>.437</td>
<td>.138</td>
<td>.162</td>
<td>3.167</td>
</tr>
<tr>
<td>Government leadership</td>
<td>.242</td>
<td>.137</td>
<td>.085</td>
<td>1.767</td>
</tr>
</tbody>
</table>

All the variables were significant as their P-values were less than 0.05. At 5% level of significance and 89% level of confidence; Inadequate funding showed a 0.002 level of significant; Staff competence showed a 0.017 level of significant; Government leadership showed a 0.021 level of significant, Enforcement showed a 0.029 level of significant

The P value show the level of significance of each variable, from the p-value of all variable were less than 0.05 this is an indication that they were statistically significant. The study further revealed that there was positive relationship between inadequate funding, Staff competence, Government leadership and Enforcement and implementation of public procurement regulations in public institutions.

CONCLUSIONS

From the findings, the study found that funding, Staff competence, Government leadership and Enforcement had a significant impact on the implementation of public procurement regulations in Kenya.

The study established that there was strong relationship between implementation of public procurement regulations in public institutions and inadequate funding, Staff competence, Government leadership, Enforcement.

The study concludes that implementation of public procurement policies in public institutions today is tailored around enough funding and effective use of the available financial resources which is seen in the context of adaptive actors’ vis-à-vis a dominant environment determining their chances of survival and growth.

The study further concludes that in developing countries like Kenya; one of the major obstacles to the procurement system is ministerial interference with the tender process where ministers intervene and influence tender awards.

The study concludes that enforcement action and increased penalties lead to greater levels of compliance with laws. Corruption among government procurement officials in developing countries such as Bangladesh, India, Sri Lanka, Kenya and Venezuela have been linked to a weak enforcement of the rule of law.
RECOMMENDATIONS
From the findings, the study found that funding, Staff competence, Government leadership and Enforcement had a significant impact on the implementation of public procurement regulations in Kenya. The study established that there was a strong relationship between the implementation of public procurement regulations in public institutions and inadequate funding, Staff competence, Government leadership, and Enforcement.

The study concludes that implementation of public procurement policies in public institutions today is tailored around sufficient funding and effective use of the available financial resources which is seen in the context of adaptive actors’ vis-à-vis a dominant environment determining their chances of survival and growth.

The study further concludes that in developing countries like Kenya; one of the major obstacles to the procurement system is ministerial interference with the tender process where ministers intervene and influence tender awards.

The study concludes that enforcement action and increased penalties lead to greater levels of compliance with laws. Corruption among government procurement officials in developing countries such as Bangladesh, India, Sri Lanka, Kenya and Venezuela have been linked to a weak enforcement of the rule of law.

This study established that record management positively affects procurement performance to a large extent. The study recommends that public institutions in Kenya should be well provided with financial resources in order to operate more efficiently.

The study also recommends the enforcement of procurement laws in order to improve compliance. Enforcement action leads to greater levels of compliance with laws.

The study also recommends that for implementation of public procurement regulations in public institutions in Kenya to be successful, human resources function of public institutions and the PPOA must ensure there are capacity development initiatives across government (central and local). In addition, the process of developing a comprehensive capacity building strategy, including a training program must be encouraged.

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