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Andayi George Manasse
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EFFECTS OF THE PUBLIC PROCUREMENT AND DISPOSAL ACT OF 2015 ON THE FINANCIAL MANAGEMENT OF THE STATE CORPORATIONS IN KENYA: A CASE STUDY OF AGRICULTURE AND FOOD AUTHORITY

Andayi George Manasse
Research Fellow, ResearchSphere - Kenya

ABSTRACT

The objectives of the study was to find out the effects of Public Procurement and Asset Disposal Act, 2015 (PPADA) on financial management in Kenya's State Corporations, a case study of the Agricultural and Food Authority (AFA). The specific objectives were: cost of goods and services procured transparency in the procurement processes, lead-time of procured goods, quality of goods procured affects the financial management of Agricultural and Food Authority. A descriptive study design was adopted for this study. Stratified sampling was employed in the study to pick out the management and other staff at AFA countrywide offices where a total population study of 186 respondents working under Administration, Finance, Transport, Research and Production Departments were drawn from the study population. The primary data was collected using structured questionnaires. The study findings revealed that cost of goods and services procured, transparency, lead-time of procured goods and the quality of goods procured in State Corporations affect their financial management. The study recommends that State Corporations should efficiently implement Public Procurement and Asset Disposal Act, 2015 (PPADA) to improve their financial management.

INTRODUCTION

In service delivery, a public procurement system that is efficient, fair and transparent is increasingly becoming essential especially in developing countries (Basheka and Bisangabasaija, 2010). This is due to the fact that public procurement accounts for high proportion of government expenditure. There is a need for government procurement systems to be transparent and there be transparency in the way public funds are used (Hui et al., 2011). According to Hui et al. (2011), most public officials engage in malpractices and non-compliance with the set procurement procedures and policies. Non-compliance in public procurement is a big evil in European nations as it is in third world countries (Gelderman, 2015).

Financial management is concerned with obtaining money and using it effectively, efficiently and in an economical manner (Sarfo & Baah-Mintah, 2013). Financial management consists of financial planning, financial control and financial decision making. Public procurement is one of the component areas of Kenya's reform pillars under Public Financial management (PFM, 2006-2011). Public procurement is one of government fiscal policy which is directed towards improving the management of public expenditure and achieving public financial management (Sarfo & Baah-Mintah, 2013). A lot of money is spent on goods and services by of both developed and developing country's Governments in delivering their mandate and it's therefore essential to manage procurements effectively and properly for purposes of achieving value for money (VFM) for the taxpayer. For instance the public sector in the UK for example spends well over £150 billion a year on the goods and services necessary to deliver public services (European Commission, 2007). The highest professional standards are therefore expected to be applied when the Public Procuring entities spend money on behalf of taxpayers to ensure they get the most cost effective deal and to provide appropriate and necessary goods and services to the quality required to meet user needs (Kenya, 2010).

Further, Many countries in Africa have had their public procurement and disposal of functions facing the challenge of failing to meet the thresholds and standards requisite of them. They have always had to seek interventions as regards policy formulation to ensure achievement of the envisaged standards. The development of statutes notwithstanding shortcomings in the practices and business activities has always



exposed the procurement systems to exploitation from government bureaucrats and unscrupulous business people (World Bank, 2015). This has proved a challenge to jurisdictions which are doing their best to ensure the compliance to procurement statutes being developed and in various stages of implementation in their countries.

Development partners and donor agencies have had the challenge of enforcing issues of probity and adherence to the law as regards the public procurement functions. Many are the instances whereby we have had the exposure of the nascent procurement systems to abuse and exploitation especially so in many countries in Sub-Saharan Africa (Shaw, 2014). According to World Bank (2016), most governments' globally most governments are making public services more effective, accountable, transparent, reliable, professional and ethical also to assure Economic growth and competitiveness. Therefore Governments have been making all effort necessary for engaging services of experts to help reform and strengthen their public finance management (PFM) systems. The Government of Kenya has not been left behind and has been working towards having a major shift in the way the public sector runs its affairs especially on procurement which has the greatest bearing on financial management and this has led to prioritizing the attention to efficiency, effectiveness, and innovation (Ngari, 2010).

There has been a wide range of activities that have been designed to improve the efficiency of public expenditure which includes changing the structures of various public entities (including merger), using alternative means to delivering services (such as on line platforms), as well as engaging the private sector and the non-profit making organisation through public-private partnerships.

LITERATURE REVIEW

The study is premised on the innovation theory as postulated by Rohftan in 2009. The theory has the initiative of public procurement being used by governments in jurisdictions within the European Union as a tool of spurring innovation in the spheres of business nationally. This is by way of bridging inequalities by way of empowering players in the informal sector to trade with public entities.

The opening up of the avenues for trade calls for innovation to enlist a bigger participation of the local communities. The theory identifies well with the public procurement policy in the public sector. This is because it brings on board many more players from the informal sector into the public sector supply business. This allows them to innovate and have linkages with the institutions and engage in supply contracts. Creation of employment opportunities empowers the local communities.

Regulations require that the institutions advertise for the procurement programmes and the any interested and eligible service provider benefits from the awareness created. This is innovative in the sense that it provokes the local communities to rise up to the challenge of formalizing their businesses to the level requisite for the doing business with the public sector institutions. It aids grow the local economies and open up avenues for empowerment. This has the benefit of enabling local industry growth.

The engagement of a greater participation of more players in the public sector supply chain by way of the open tender system helps the government raise more revenue in form of taxes. This is occasioned by the formalization of business by the suppliers forcing them to pay taxes to the government. These impacts positively on the capacity of the government meet its obligation of raising revenues.

The aspect of advertising for the procurement contracts and supply tenders opens up the supplies business to more participants. This helps the public sector institutions benefit from the competitive process and have goods supplied to them at a lower cost and provision of quality goods and services. This is innovative in that it lowers the costs of goods and services. The reduction of the cost of goods and services enables the public sector entities to make savings which may impact on their lead-times.



The innovation theory of public procurement is thus very much in tandem with the PPADA which seeks to create austerity in the governance and public fiscal programmes. This is because it encourages transparency and competitiveness through open tender system. This has helped to reduce rampant corruption and inefficiency in the supply business as witnessed before the enactment of PPADA.

The public procurement system in Kenya has evolved from a crude system with no regulations to an orderly legally regulated procurement system. The Government's procurement system was originally contained in the Supplies Manual of 1978, which was supplemented by circulars that were issued from time to time by the Treasury. The Director of Government Supply Services under the Ministry of Finance was responsible for ensuring the proper observance of the provisions of the Manual. The Manual created various tender boards for adjudication of tenders and their awards and subsequent follow up.

However, these boards were not so effective (Aketch, 2005 as quoted by Kipchilat, 2006). According to Bukhala (2013), a review of the country's public procurement systems was undertaken in 1999 and established that there was no uniform procurement system for the public sector as a whole. The system had more loopholes as it did not have sanctions or penalties against persons who breached the regulations in the Supplies Manual, other than internal disciplinary action. Consequently application of the rules was not strict and many of the norms were not followed. Furthermore, the Supplies Manual did not cover procurement of works; the dispute settlement mechanisms relating to the award procedures as set out in the manual were weak and unreliable for ensuring fairness and transparency. In extreme cases, records of procurement transactions were found to be inaccurate or incomplete or absent.

In view of the above shortcomings it was found necessary to have a law to govern the procurement system in the public sector and to establish the necessary institutions to ensure that all procurement entities observed the provisions of the law for the purpose of attaining the objectives of an open tender system. Consequently there was establishment of the Exchequer and Audit (Public Procurement) Regulations of 2001 which created the Public Procurement Directorate (PPD) and the Public Procurement Regulations of 2001.

Aljin (2014) attested that different organizations have varying procedures to facilitate the supply of goods and services to them. This is driven by the fact that the function of purchasing of goods and services has to be guided by stipulated regulations guiding the operation of the same to ensure the smooth running of the organization. This is because in the absence of regulations guiding an organization as regards the same, it may end up losing and run the risk of incurring losses in the procurement and supply chain.

Procurement, according to Wind and Thomas (2001), is as old as organizations but it has evolved over time. It developed from the need of organizations to acquire those goods and services that they could not produce but needed in their operations. Initially, the focus of contracting was typically on minimizing costs to the procurement entity rather than on delivering specific service quality outcomes. With time procurement has evolved to include new aspects like strategic sourcing, procurement and performance-based service contracting. In seeking to outsource for goods and services, good practice and business efficacy demand that the purchaser wants to find a supplier who was both reliable and who provide products or services that are good value for money (Griffith and Griffith, 2012). Good value for money does not simply mean the cheapest but includes a variety of other factors such as quality, compliance with tendering criteria and after-sale service. Procurement may either be for public or for private institutions.

Kipchilat (2006) noted that public procurement is different from private procurement because in public procurement the economic results must be measured against more complex and long-term criteria. Furthermore, public procurement must be transacted with other considerations in mind, besides the economy. These considerations include accountability, non-discrimination among potential suppliers and respect for international obligations. For these reasons, public procurement is now subjected in all countries to enact regulations, in order to protect public interests, especially public finance.



Adan (2014) suggested that public procurement goes through a process of competitive bidding. The process may entail local, international or restricted bidding depending on the scope of the contract. The same is subject to the regulation of the public procurement oversight authority which gives leeway to the bidders to have an avenue to voice their concerns, complaints and petitions in the case of discontent with the process. This always gives the authority the mandate to supervise, oversee and seek corrections in the event of shortcoming in the exercise. It cautions the procuring entities to strive to conduct business which is above board in terms of passing the test of integrity.

RESEARCH DESIGN AND METHODOLOGY

This study adopted a research design in form of a descriptive survey. It is deemed as the best approach with regard to collection of facts as they are on the ground without any manipulation of the variables under study. It concurs with Kombo, (2006) when he argued that a descriptive study design can be used when the emphasis is determination of the extent to which a problem is influenced by the variables under study. In this case the study seeks to find out how the Public Procurement and Disposal Act, 2015 affects the financial management of state corporation, a case of AFA.

The population of interest consisted of the staffs working under Administration, Finance, Transport, Research and Production. The target population is composed of one hundred and eighty six employees of AFA. The study used the stratified random sampling method because it is deemed as the best approach with regard to getting information from an equal and representative sample targeted by the study. The departments acted as the strata and 50% of the population of the employees within every department was taken to get the sample size.

This study's data was collected through a self-administered questionnaire. Self-designed Open and closed ended questionnaires are going to be used to collect information for the study. According to Christensen, Johnson, and Turner (2014), questionnaires are the most commonly used method of data collection as they are simple to administer and relatively easy to analyze. For collecting primary data, questionnaires are most appropriate to use. Questionnaires use is the most popular method especially when the population and sample size are large. According to Mugenda and Mugenda (2008), a questionnaire is a collection of questions to which a research subject is expected to respond, this instrument can be administered by providing written questions to the respondents. Questionnaire was designed with most of closed ended questions and only few open ended question, designed to cater to all areas and aspects of the study.

The data collection was by way of self-administered questionnaires which sought to get primary data from the respondents. The secondary data was collected from the institutions records in the procurement department.

The target respondents was issued with questionnaires and they was given adequate time, for them to fill them in and the researcher collected them for the purposes of conducting the analysis. The filled questionnaire was sorted and subjected to scrutiny to check for the presence of any unfilled questions, incorrect answers and any incorrect information. After the cleaning, the data was analyzed to generate frequencies and percentages which was used to quantify the data. The data was thereafter presented in form of tables, pie charts and bar graphs.

The collected data was first be coded to ensure accountability of the number of questionnaires to be issued. The questionnaires was edited and cleaned for completeness, accuracy and consistency. The data was then be edited and coded using the Statistical Packages for Social Sciences (SPSS) software before it is analyzed using descriptive and inferential statistics. According to Kumar (2005), in quantitative and qualitative data analysis the Statistical Package for the Social Science (SPSS) is used.

Descriptive statistics was used to summarize, organize and simplify the study findings which was graphical presented using such as graphs, pie charts and tables. The data to be collected was subjected to reliability and



validity tests. As per Mugenda and Mugenda (2003), dependability alludes to a measure of how much research instruments yield steady outcomes.

The precision of data gathered generally depended on the instruments to be utilized to gather data as far as legitimacy. Robinson (2002) plainly takes note of that validity is how much the investigation result to an expansive degree really speaks to the marvel under examination.

Regression model was employed to test the relationship between the dependent and independent variables to establish whether there is any relationship that exists be it positive or negative. A regression analysis was undertaken to estimate the strength and the direction of the relationship between the dependent and independent variables.

The regression model for this study took this form:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \dots$$

Y = Dependent Variable (Financial Management)

β_0 = Constant (value of Dependent Variable when all independent variables are zero)

β_{1-4} = Regression Coefficient for each independent variable

X_{1-4} = Independent variables (cost of goods and services, transparency, lead-time, quality of goods)

INTERPRETATION OF FINDINGS

The study sought to find out the effects of Public Procurement and Asset Disposal Act, 2015 (PPADA) on financial management in the Agricultural and Food Authority. The study was guided by the following objectives:

Most respondents agreed that the organization carries out an evaluation of the cost of goods and services before procurement and that the cost of goods determines the supplier to be awarded contracts to supply goods and services. The study also revealed that the procurement procedures set defines the standards with regard to the costs of goods and services supplied to the organization and that the Public Procurement and Disposal Act, 2015 impacted on the cost of goods and services supplied to the organization.

On whether the respondents consider the procurement procedures employed in the organization as transparent, most of them indicated that there is transparency. Most respondents agreed that there has been instances of complaints from aggrieved parties in the organization procurement process due to lack of transparency. Most of the respondents were aware of any insider trading perpetuated by the employees within the organization. The study also indicates that the implementation of Public Procurement and Disposal Act, 2015 affected the level of transparency in the organization.

Again, the study established that lead time in the procurement process has a greater impact on financial management of State Corporations when the lead time is not long and bureaucratic. These results were similar to Budi (2012), who studied challenges in the management of procurement process within Kenya Rural Roads Authority where he established that most of the delays in completion of road projects were a result of long, rigid and bureaucratic procurement processes. He noted that this in turn affected the overall budgeted costs for most of the road construction projects.

Further, the study indicates that there are set out procedures to evaluate the quality of goods and services supplied to the organization and that the procedures ensured they uphold high level of standards in line with the Public Procurement and Disposal Act, 2015. Most respondents also indicated that the procurement regulations employed by the organization ensured adherence to the Public Procurement and Disposal Act, 2015.

The study concludes that transparency, fair treatment in bidding and award of tenders, accountability and responsible purchasing and supply had a positive implication on procurement processes in any organization.



Finally, the researcher recommends that state corporations should ensure that the entire procurement process is characterized by transparency. All the players who are involved in the procurement process including the suppliers and individuals working in the supply chain management department should be involved.

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