

Analysis of Procurement Procedures in Local Government Authorities: Experience after Procurement Reforms and Case Analysis from Selected Councils in Kilimanjaro Tanzania

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Abstract

Since the beginning of the 21st Century most developing countries have been reforming their public procurement systems in order to cope with the development of Information and Communication Technologies (ICT), adopt world class professional practices, improve performance and enhance value for money achievement. However, the reforms have been crowded with organisational, market, legal, technological and political challenges which in return affects the implementation and performance of procurement procedures especially in public procurement and donor funded projects. The study found out that reforms have improved the performance procurement procedures through enhancing transparency, accountability and competitiveness. However, the practitioners have been facing the challenges of limited accountability, unethical purchasing practices among some employees, interferences from other departments and stakeholders and failure to get specification on time from user department.

Keywords: Procurement Reforms, Procurement Procedures, Public Procurement Act of 2004, Procuring Entity and Councils.

1.0 Introduction

1.1 Background Information

Governments are the biggest spenders of public funds worldwide. The figures, of course, vary from country to country but generally government spending on public services accounts between 15-45% of Gross Domestic Product (GDP). Approximately, 25% to 50% is indeed spent "externally" (on sourcing goods and services) and mainly through Public Procurement. The sheer amount of this spending has a huge impact on the economy. It is no wonder that the area gained increasing attention during the last decade from all sorts of directions (Knight *et al.* 2003).

The government of the United Republic of Tanzania (URT) has long realized the importance of the public procurement function and its role in the socio-economic development of the country; as well as its contribution to poverty reduction. As a response to that need, the government, beginning in the mid 1990s, has initiated a number of procurement reforms in its public procurement system with the aim of making it more efficient and transparent in line with requisite and basic procurement guidelines and best practices (Public Procurement Policy, 2012). The reforms led to the enactment of the first Public Procurement Act number 3 of 2001 and thereafter amended by the Public Procurement Act number 21 of 2004 and its Regulations of 2005.

Notwithstanding the efforts undertaken, the implementation of procurement procedures has been shrouded with allegations of corruption and secrecy instead of transparency. The observed ineffectiveness led into paying for goods or services which were never delivered and acquisition of goods and services of poor quality as a result of selecting incapable suppliers or service providers. The CAG¹ (2013) revealed that Six (6) Councils procured goods worth Tanzania Shillings 125,681,000/= (equivalent to \$ 77,105) were ordered and paid for while not delivered by suppliers.

This was contrary to the legal requirements of regulation 122 (1) of the Public Procurement Act Regulations of 2005 whereby Procuring Entities are required to authorize payments to the supplier only after obtaining receipt reports of the goods delivered.

The failure of such government procurement procedures is due to failure of interdepartmental coordination of purchasing activities. As pointed out by Lolojih (2003) such failure may have been caused by lack of control function within government purchasing and the development of purchasing policies. On the other side, public procurement practitioners have always faced challenges in the implementation of purchasing procedures and policy imposed upon by a variety of environment factors (external factors) including market, legal, political, organizational and socio-economic (Osei-tutu, 2011). Regardless of the efforts undertaken by the central government and its related agencies and the acknowledgement that the procurement department is capable of

¹ Controller and Auditor General

adding value to the organisation, still at large number of the internal experts act on their own and more frequently bypass the procuring department (Schiele and McCue, 2006). All these problems (internal and external) requires establishment of clear procurement procedures implementation and performance standards which will provide the decision makers with unbiased and objective information regarding the procedures implementation status and performance of the procurement function.

1.2 Statement of the Problem

Public procurement has important economic and political implications because of spending public funds to a large proportion; hence, ensuring that procurement procedures are implemented in economical and efficient manner is crucial. Unfortunately, for most developing countries, this is not the case. Though Kenya, Tanzania and Uganda have taken steps to reform their public procurement systems, the process is still shrouded by secrecy, inefficiency and corruption. Worse enough, in all these cases, huge amounts of public resources are wasted (Odhiambo, 2003) and in return value for money is not achieved.

The reforms instituted aimed at encouraging competition, transparency, efficiency, ensuring accountability (Hunja, 2003) and achievement of value for money. On the contrary, the identified reforms are characterised with several difficulties/challenges in the implementation process. These include poor dissemination of the procurement laws (Azeem, 2003) and lack of proper training for the managers of the procurement process (Forgor, 2007). Political interference with the procurement process is also a big challenge to the implementation process and public procurement reforms. A good number of politicians think that they have the right to intervene in the implementation of procurement procedures thereby leading to capricious procurement decisions (World Bank, 2004b).

Collectively, the observed challenges have had a great impact on the implementation of the procurement procedures in Government Entities. In 2006 it was reported in Uganda that the procurement functions of most Public Entities were not complying to set procurement process and performance procedures, leading to irregular and subjective decisions (PPDA¹, 2006). These decisions have had costly consequences for many Public Entities and the country at large. In Tanzania, 30% of the audited procurements had interference between the individual functions of the Accounting Officer, Tender Boards, Procurement Management Unit and User Departments while 6% indicated that the time provided for the preparation of bids did not comply with the minimum time provided in the Public Procurement Act of 2004 and its Regulations of 2005 (PPRA², 2012).

Furthermore, the CAG (2013) reported that Tanzania Shillings 443,107,149/= (equivalent to \$ 271,200) were expended by Councils for procurement of works, goods and consultancy services without following proper procurement procedures for competitive bidding contrary to Regulation 63 of the Public Procurement Act Regulations of 2005 which requires Procuring Entities to use competitive means of procurement in order to benefit from better quality, prices and reasonable delivery schedules. Therefore, based on the identified procedures implementation gaps the study had a general objective of analysing the implementation of procurement procedures and establish the performance standard.

1.3 Research Objectives

In order to understand and analyse problem in the selected cases the study had the objectives of identifying the procurement procedures used by Government Authorities, examine the effectiveness of procurement procedures implementation in Government Authorities and determine the challenges facing Government Authorities in the implementation of identified procurement procedures.

2.0 Conceptual and Theoretical Underpinnings

2.1 Public Procurement Principles

Public procurement means buying, purchasing, renting, leasing or otherwise acquiring any goods, works or services by a procuring entity spending public funds on behalf of a ministry, department or regional administration of the Government or public body and includes all functions that pertain to the obtaining of any goods, works or services, including description of requirements, selection and invitation of tenderers, preparation and award of contracts (URT, 2004). In order to maintain standards and better practices the Public Procurement Act 2004 (PPA 2004) under Section 58 (1-2) requires all public procurement to be conducted in accordance with the basic principles. Subject to the Act all procurement shall be conducted in a manner to maximize competition and achieve economy, efficiency, transparency and value for money. The principles underpins the conducts and decisions of procurement professional and all decision making organs involved in the implementation of the procurement procedures. Despite those requirements the pursuit of those principles has been a distant goal especially value for money as observed by Mamiro (2010).

2.2 Public Procurement Procedures and its Implementation

Generally, procurement management involves the systematic flow of activities from the point where an order

¹ Public Procurement and Disposal of Public Assets Authority

² Public Procurement Regulatory Authority

originates (i.e. need identification) to where the order is met (i.e. goods delivery). This is the area where the organization spends a lot of money in the implementation of procurement procedures with expectations of obtaining value for the money spent. Lenders (2006) puts forward that the entire process begins with need recognition, description of the needs, identification of the sources of supply, supplier evaluation and selection, order preparation and placement, follow up, goods receipt and inspection, and once satisfied with the supply payment is done.

With regard to public procurement, the PPA 2004 under section 59 (1) requires Procuring Entities to make use of the competitive tendering method in all cases when doing procurement unless otherwise. In such a case the procedures to be followed have been detailed from section 61-68 which includes invitation to tender, issue of tender document, receipt and opening of tenders, evaluation and comparison of tender and award of contract. The procedures are supposed to be followed consecutively and during its implementation procurement practitioners are required to observe the principles of competition, economy, efficiency, transparency, accountability and value for money.

2.3 Challenges in the Implementation of Procurement Procedures

In both developed and developing countries, public procurement practitioners have and will always face many challenges. Each country has its own economic, social, cultural and political environment, and each country's public procurement practitioners face different types of challenges, or the same types of challenges but at different levels from their counterparts in other countries (Thai, 2004). The internal challenges range from interference from other departments to shortage of funds. Externally, the practitioners are always faced challenges imposed upon by a variety of environment factors including market, legal environment, political environment, organizational environment, and socio-economic and other environmental factors.

Nonetheless, the Industrial Companies Working Group (2012) pointed out that the implementation of public procurement procedures is crowded with a number of challenges including contracts awards to bidders incapable of performing properly due to inadequate assessment of bids, choice of suppliers made primarily on the basis of the price, inadequate check of suppliers, lack of feedback on their performance, inadequate examination of tender documents, ineffective planning as contracting organizations send their requests at the last moment without checking or refining all the details, unfair behaviour of bidders, organization flaws and technical problems.

3.0 METHODOLOGY

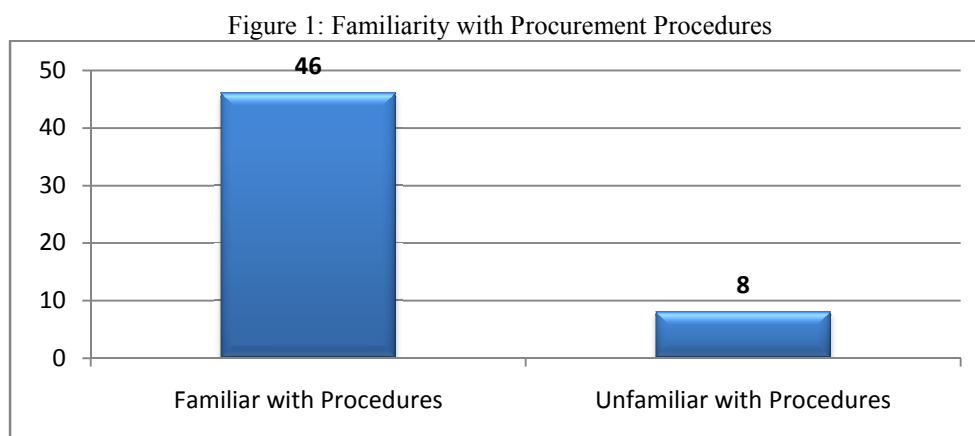
Case study research design was used to undertake the study where multiple cases were selected to include District and Municipal Councils in Moshi Municipality (in Kilimanjaro Region) that engage in the procurement of goods, works and services as required by the PPA 2004. The design involved intensive analysis of the phenomenon in its natural habit, in such a way that the mutual relationship of relevant factors remains intact (Yin, 2003). Moshi Municipality is the Kilimanjaro Regional Headquarters covering about 50sq Kilometres located under the Southern slopes of Mt. Kilimanjaro which lies approximately 3°18 south of Equator and 37°20 east of Greenwich.

Purposive and Random sampling techniques were used to pick a sample of 50 respondents including members of Procurement Management Unit and Tender Boards, Accountants, Legal Officers and Procurement Experts. Multiple approaches including questionnaire, interviews and document review were used to gather primary and secondary data respectively. Furthermore, obtrusive observations were made to observe the implementation procurement proceedings and related procurement practices. Data were analysed through applying qualitative techniques that involved the use of "interpretive" and "reflexive" approaches while quantitative techniques involved use of SPSS as a tool for data analysis whereby descriptive statistics were highly used.

4.0 RESULTS AND DISCUSSION

4.1 Procurement Procedures used by Government Authorities

Knowledge over procurement procedures lays a foundation for the implementation of the same procedures. Hence, the study aimed at identifying the procurement procedures used and how knowledgeable (familiar) practitioners are regarding the overlaid procedures in the PPA 2004.



Source: Survey Data (2013)

Findings in the figure above shows that 42 respondents (92%) were familiar with procurement procedures applied at the Councils as they have been involved in the implementation of the procedures in certain occasions. The remaining 4 (8%) were new employees, hence not well exposed to the procedures. However, it was observed that District Councils follows different procurement procedures basing on the procurement method selected as stipulated in the PPA 2004. The methods used included National Competitive Tendering, Restricted Tendering, Direct Contracting, Competitive Quotation, Single Source and Minor Value Procurement.

Nonetheless, in most cases National Competitive Tendering method was highly used in order to maximize competition as required by the PPA 2004. As pointed by respondents and observed by researchers the procurement procedures used included preparation of tender notice to invite potential bidders to submit priced offers, issuing of bidding documents to interested bidders, bids receipt and opening soon after the expiry of deadline date and time, evaluation of bids and award recommendation, approval of recommendations and contract award. It was noted that the procedures were standard to all Councils and Internal Auditors had been monitoring and checking procedures compliance regularly.

4.2 Effectiveness of Procurement Procedures Implementation

Presence of procedures is only the initial step but how effectively are they implemented had been another puzzle in the District Councils. Hence, the study wanted to examine if the laid down procurement procedures are adhered and implemented as expected. Results are shown in Table 1 below where by respondents were required to rank the level of effectiveness regarding the performance of implementation.

Table 1: Implementation of Procurement Procedures

Attributes	Value	Frequency (n=50)	Percentage (%)
Preparation of tender notice to invite potential bidders	Highly Effective	12	24
	Effective	28	56
	Neutral	5	10
	Ineffective	5	10
	Highly Ineffective	0	0
Issuing of bidding documents	Highly Effective	10	20
	Effective	30	60
	Neutral	3	6
	Ineffective	7	14
	Highly Ineffective	0	0
Bid receipt and opening	Highly Effective	15	30
	Effective	31	62
	Neutral	4	8
	Ineffective	0	0
	Highly Ineffective	0	0
Bid evaluation and award recommendation	Highly Effective	14	28
	Effective	27	54
	Neutral	0	0
	Ineffective	9	18
	Highly Ineffective	0	0

Source: Survey Data (2013)

The implementation of procedures begins with preparation of tender documents and invitation to tender. 12 respondents (24%) and 28 respondents (56%) agreed that the implementation of procurement procedures is effective because the Councils invited potential bidders fairly, competitively through using websites, public notice boards and news papers of country circulation. This improves the transparency in public procurement and ensures the widest reach of competent, eligible and competitive bidders to supply goods and provide services to the public as required by the PPPA 2004. With regard to the issuing of bidding documents, 10 respondents (20%) pointed out its highly effective and 30 respondents (60%) effective because the Councils make use of the standard bidding documents as required by PPRA and documents were issued on time immediately after the publication of invitation tender notice as required by section 62 of PPA 2004. However, 3 respondents (6%) argued it is ineffective due to delays in the issuing of tender documents as it was observed from time to time by the respondents.

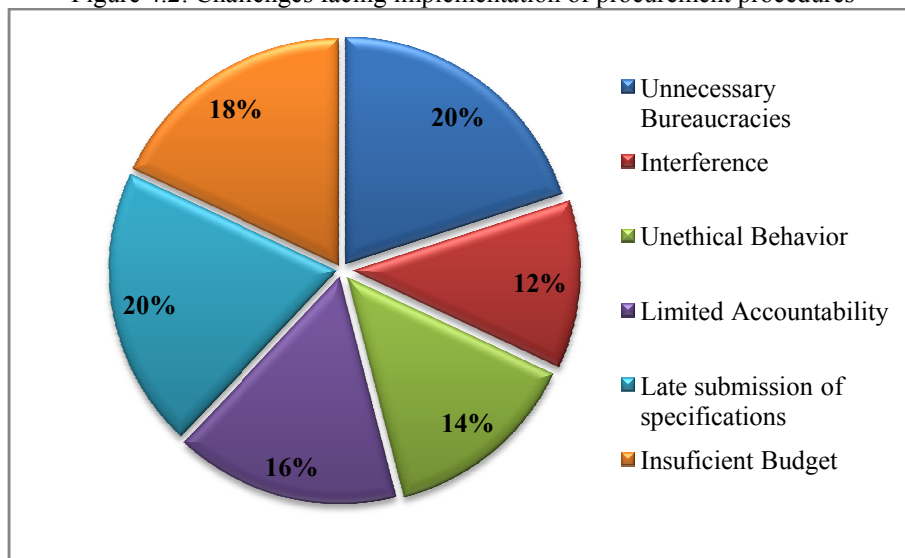
The process of bid opening was effective as it has been observed by 31 respondents (62%) and highly effective (30%). During the interview, respondents pointed out that bid were opened immediately after the deadline in public in the presence of bidders and their representatives. Also, bid prices were read out openly prior to detailed evaluation which enhances transparency in public procurement as required. Hence, the process was effective as required by the regulatory authorities and PPA 2004. Furthermore, the process of bid evaluation was done effectively as observed by 27 respondents (54%) and highly effective (14 respondents). Respondents commented that evaluation was done competitively by the evaluation committees basing on the provided criteria which are known by bidders in advance. Evaluations were done competitively through technical conditions and price comparisons in order to determine the lowest evaluated bidder for contract awards. The awards were also communicated to the respective bidders. However, 9 respondents (18%) pointed out it was ineffective because some of the bidders awarded contract had poor performance in terms of delivering substandard goods and services.

Nonetheless, through observation and document review, researchers found out that there are internal procurement guidelines which provide the details of approved policies and procedures to be followed by purchasing personnel when executing their duties. The manual provides guidance, boundaries and limitations towards implementation of procurement activities.

4.2 Challenges in the Implementation of Procurement Procedures

The effective implementation of procurement procedures is usually challenged with several internal and external factors as observed by Thai (2004), Schiele and McCue (2006) and Osei-tutu (2011). Based on that, the study wanted to determine the challenges encountered by procurement experts in the implementation of District Council procurement procedures. Results are as shown in Figure 4.2 below:

Figure 4.2: Challenges facing implementation of procurement procedures



Source: Survey Data (2013)

The challenge of unnecessary bureaucracies was mentioned by 10 respondents (20%) whereby it was pointed out that implementation of the procedures consumes a lot of time internally because of administrative activities that do not add value in the process. It takes a lot of time for signing and obtaining approval for procurement even for routine items such as stationeries. These create unnecessary bureaucracies which in return delays the procurement and delivery of goods and services in the Councils. Also, it was established by 6 respondents (12%)

that procurement experts in the Procurement Management Unit have been interfered by user departments, political leaders and other internal organs in the implementation of procurement procedures and decisions making especially in searching for suppliers, obtaining quotations and award recommendations. In return, this has been limiting the independence and accountability of procurement experts and it is against the provisions of the PPA 2004 under section 38 requiring procurement organs to act independently in relation to their respective functions and powers.

Some respondents (20%) pointed out that there was a challenge of late submission of specifications from the user departments in order to initiate the procurement procedure on time basing on the specifications provided. Hence, late submission caused the procurement procedures implementations to delay unnecessary most of the time. Furthermore, 7 respondents (14%) commented that unethical practices are one among the challenges hindering effective implementation of procedures. There have been allegations of corruption as some staff in charge with procurement have been accused of seeking bribes from suppliers and service providers. Also, dishonest staff used some loopholes to favor bidders and ending up purchasing substandard goods or services. Lastly, 9 respondents (18%) commented that there has been a challenge of insufficient budget within the Procurement Management Unit to finance activities in the implementation of procurement procedures.

5.0 CONCLUSION

Findings revealed that after procurement reforms the selected Councils enjoys a number of benefits through having proper procurement procedures including economy, effective and efficiency use of organization funds, accountability, fairness, openness and transparency which in return helps to reduce allegation of fraud and corruptions. Despite the benefits, findings show that there is existence of some challenges of unnecessary bureaucracies, limited accountability in the process of applying procurement procedures, unethical procurement practices among employees, interferences from other departments and stakeholders to procurement department, insufficient budget and failure to get specification from user department on time. Therefore, based on the above analysis, it is concluded that procurement reforms have a great impact on the overall performance of the procurement systems in the Local Government Authorities which has been supported with the experience and facts from the selected Councils. Hence, the reform process should not be an end to itself but rather be flexible, strategic and continuous in order to harmonise the implementation of procurement procedures with the aim of removing bureaucracies, unethical practices, interferences and political influence whilst improving performance and enhancing achievement of value for money.

ACKNOWLEDGEMENT

Our heartfelt appreciation goes to the management and of the Councils that granted us permission to collect data from their institutions. Also, special thanks to all respondents who filled the questionnaires and agreed to be interviewed. Finally, we acknowledge the fruitful contribution from our fellow procurement colleagues and experts in Kilimanjaro Region.

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