

Effects of Government Procurement on Prompt Tendering and Supply of Goods: A Case Study of Kenya Pipeline Company

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ABSTRACT: *To determine the important factors in current public procurement and tendering process at Kenya Pipeline Company; to find out whether procurement affects the supply of goods at Kenya Pipeline Company; to determine methods of improving procurement at Kenya Pipeline Company and to find out the challenges facing procurement and the supply chain at Kenya Pipeline Company. The study adopted a survey design with a target population of 65 and a sample of 33 was selected using stratified sampling. Questionnaires and interview schedule were used to collect data which was analyzed manual. The researcher found out from the study that the current purchasing system that is in place at Kenya Pipeline Company is in a position to sustain in the organizational operations; It was also realized from the study that procurement affects supply of goods in that purchasers does not inspect goods at the suppliers site, tendering is long and tedious which encourage skipping of stages, purchasers delay the delivery of goods in the organization and also purchasers failing to met goods specifications. The study revealed that changing the rigid organizational policy on procurement could improve procurement in the organization.. Government should consider conducting a review of current procurement practice against the best practice described in this study and develop appropriate action plans to improve practice, with concerned institutions and enable the extent to which the new public procurement is initiated. Performance appraisal should be carried out in an annual basis so as to make organizational employees work effectively in the procurement and supply chain effectively this will enable them to practice ethics and professionalism and in the procurement function as a whole. The procurement department in the organization should be updated with the latest technology so as to be in a position to practice e-sourcing, e-tendering and also curb corruption the tendering committee and employees in the procurement function should be motivated so as to work properly and also deliver god results. This can be best done through training and giving incentives and bonuses. Suggestions for further study on effects of information technology on tendering and effects of employees in competency on public procurement.*

KEY WORDS: *Procurement, Tendering, Supplies, Supply Chain, Reliability*

I. BACKGROUND INFORMATION

Procurement can take place at national, regional or supranational levels of government. Demand can be fragmented across or even within purchasing authorities. This fragmentation is perceived by industry as a major weakness of markets. Coordination and bundling of demand can be used to create markets of a critical size to incentives products. On the other hand, unbundling may sometimes be necessary to create opportunities for innovative SMEs to obtain manageable contracts (Dobler, 1996).The government public procurement legal framework is consists of coordination rules enabling institutions to establish, within the limits of this legislation, a procurement practice that fits their national needs. As the focus of this legislation is more on the procedure of buying (fair play) than on what is bought this, in practice, creates significant freedom for contracting authorities to set requirements that stimulate investment by private companies tendering for contracts (Dobler, 1996).

It should be borne in mind that the public procurement directives are not intended to transform national law into an airtight uniform model, but allow institutions significant freedom to draw up their legal framework according to the specific national situation. However, public procurement procedures should be established and run in an equal manner to enable enterprises to be familiar with the rules of the game, regardless of the institute in which they tender (Dobler, 1996).Good practice in procurement is emerging in several Member States, demonstrating the benefits of systematic approaches. Key to the spread of successful approaches is the development of a cohort of trained professional able to meet the criteria for customers.

These purchasers should be familiar with trends in technologies, markets and supplier capabilities, be able to specify functional and quality requirements and subsequently to assess tenders in terms of whole-life costs. A substantial effort in training and networking of experience is needed (Dobler, 1996). Early engagement of suppliers is an important element in procurement. Through foresight exercises and other collective activities, a common vision can be shared between the demand and supply sides. It is important that SMEs, with their less extensive networks should be included so that their innovative capabilities can be applied (Dobler, 1996). Risk a version is a particular problem in the public sector, especially when benefits go beyond the electoral horizon. However, risk can be effectively managed and mitigated, with partnership an important potential solution (Dobler, 1996). A major opportunity exists for governments to advance the Lisbon agenda for competitiveness and at the same time to engage with the pressing need for improved public services and productivity. However, achieving these goals through procurement for changes in the mindset and in the detail of practice in the procurement process.

Statement of the Problem : Government procurement procedures are marred by corrupt practices, skipping of vital stages which ensure that the goods and services provided meet the minimum standards, the time for deliveries not done on schedules, employment within the purchasing department staff who are highly politically connected but with no or less knowledge on procurement knowledge, this making it hard to streamline the procedures and improve the procurement practices through e-purchasing. All the above problems have to led to the many government control institutions and company to encounter huge financial losses with some closing shop. This study is meant to assess the government procurement and tendering process on the supply of goods.

Objectives of the Study

The objectives of this study were;

- To determine the important factors in current public procurement and tendering process at Kenya Pipeline Company
- To find out whether procurement affects the supply of goods at Kenya Pipeline Company
- To determine methods of improving procurement at Kenya Pipeline Company.
- To find out the challenges facing procurement and the supply chain at Kenya Pipeline Company.

II. LITERATURE REVIEW

Main Review

Definition of Public Procurement : Public procurement refers to the contracts awarded (for pecuniary interest) by a public purchaser (contracting authority) or a utility (entities operating in the water, energy, transport and telecommunications sectors) to a supplier, contractor or service provider. It represents a major part of the country's economy. Under government legislation, contracts issued by the Public sector, local authorities,, government bodies and utility companies among others, must be advertised and awarded according to strictly regulated criteria. It is estimated that the existing Public Procurement Directives have reduced by 30% the prices paid by public authorities for goods and services and the government is making an on-going effort to further improve the Procurement procedures with the most recent directives aimed at promoting the use of electronic procurement (Dobler, 1996).

Modern procurement important factors : The need for a simplified legal framework adapted to modern procurement methods and best practice was highlighted in the responses to the government Public Procurement Act. The legislative package, which was based on extensive consultations with contracting authorities and businesses, has tow main objectives. The first objective is to simplify and clarify the existing directives. The second is to adapt them to modern administrative needs, for example by facilitating electronic procurement and for complex contracts, by introducing more scope for dialogue between contracting authorities and tenderers in order to determine contract conditions. With the objective of enhancing transparency in the award process and of combating corruption and organized crime, the legislative package also includes measures designed to make for greater clarity in the criteria determining the award of the contract and the selection of tenderers (Attaran, 2001). The Procurement Rules apply to the award of contracts concluded in the Member States on behalf of the State, regional or local authorities and other bodies governed by public law entities (Public Sector Directive) as well as the award of contracts by ministries and parastatals. The directives will also apply to contracts subsidized by more than 50% by contacting authorities. For contracts below the thresholds only the rules and principles of the Treaty are applicable in particular the principle of freedom to provide services and the principles deriving thereof such as the principle of equal treatment, the principle of non discrimination, the principle of mutual recognition, the principle of proportionality and the principle of transparency 9Kraljic, 1983).

Other contracts excluded from the scope of application of the New Public sector Directive are: Public service contracts for the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon; nevertheless, financial service contracts concluded at the same time as, before or after the contract of acquisition or rental in whatever form shall be subject to this Directive; Concessions to run public services, so called Service Concessions which are defined as contracts of the same type as public service contracts except for the fact that the consideration for the provision of services consist either solely in the right to exploit the service or in this right together with payment. Given that as recognized in the Green and the White paper on Services of General Interest, nowadays, public authorities increasingly use public-private schemes, such as service concession to ensure the delivery of services of general interest, including social services, their exclusion from the scope of application of the Directive is regrettable and incomprehensible (Attaran, 2001).

Contract Award Criteria : Directive lays down the principles that will govern the award of public contracts. These are: equal treatment, non-discrimination and transparency. Contracts shall be awarded on the basis of objective criteria which ensure compliance with the above-mentioned principles and which guarantee that tenders are assessed in conditions of effective competition (Harink, 1999). As a result, only two award criteria will be allowed: the lowest price or the most economically advantageous tender. Where the contracting authorities chose to award a contract to the most economically advantageous tender, they shall assess the tenders in order to determine which one offers the best value for money. In order to do this, they shall determine the economic and quality criteria which taken as a whole must make it possible to determine the most economically advantageous tender for the contracting authority. Various criteria may be used for example quality, price, technical merit, aesthetic and functional characteristic, environmental characteristics, running costs, cost-effectiveness, after sales service and technical assistance, delivery data and delivery period or period of completion. The determination of these criteria depends on the object of the contract since they must allow the level of performance offered by each tender to be assessed in the light of the object of the contract, as defined in the technical specifications and the value for money of each tender to be measured (Harink, 1999). As long as the criteria are linked to the subject-matter of the contract do not confer an unrestricted freedom of choice on the contracting authority, are expressly mentioned and comply with the fundamental principles mentioned in recital, economic and qualitative criteria for the award of the contract, such as meeting environmental requirements, may enable the contracting authority to meet the needs of the public concerned as expressed in the specifications of the contract. Under the same conditions, a contracting authority may use criteria aiming to meet social requirements, in response to particular authority defined in the specifications of the contract of particularly disadvantaged groups of people to which those receiving/using the works, supplies or services which are the object of the contract belong (Aberdeen, 2001). In order to ensure compliance with the principle of equal treatment in the award of contracts contracting authorities are obliged to ensure the necessary transparency to enable all tenderers to be reasonably informed of the criteria and arrangements which will be applied to identify the most economically advantageous tender. It is therefore the responsibility of contracting authorities to indicate the criteria for the award of the contract and the relative weighting given to each of those criteria in sufficient time for tenderers to be aware of them when preparing their tenders (Harink, 1999). When it is not feasible to establish the weighting in advance for demonstrable reasons, in particular on account of the complexity of the contract, the awarding criteria shall be indicated in descending order of importance (Harink, 1999). Some nationally or locally mandated governmental terms and conditions still require unlimited liability from the supplier, for both direct and indirect damages resulting from the execution of the contract. However, this liability has a cost and thus an indirect impact on the level of innovation within the procurement. The most obvious and important cost is the mere coverage of an absolute amount of risk. Liability insurance contracts could give a fairly good estimate of this value for direct liability; very few insurance companies would likely be willing to cover unlimited indirect liability. An additional problem for the purchasing body, however is that the value of unlimited liability is not comparable between different bidders. Unlimited liability will not be of great value to the procuring agency if the bidder is small and incorporated as a limited liability firm. The value of unlimited liability from an unlimited partnership or a larger limited company will already be of far greater value. It is therefore impossible for the procuring agency to make an adequate comparison of the different bids, as the actual value will vary considerably depending on the status, size and risk profile of the bidder. Unlimited liability clauses in the context of R&D may reduce competition between bidders as certain, otherwise acceptable, bidders will automatically exclude themselves ex-ante, either because they consider the cost of the risk would make their bid price prohibitive or because they are not willing to risk their livelihood on a government contract. The unlimited liability clauses therefore have the perverse effect of reducing the competition they are meant to enhance and thereby limiting the possibilities for enhancing innovation.

Most complex service contracts in particular those that involve in depth transformation of government processes, require contracts that extend beyond the traditional yearly budgeting cycles most common in public administrations. The externalization of certain services will require contracts that can last four to six years (renewable for another two) in order to ensure the completion of the transformation and the full generation of related benefits. The duration of the contract will thus have a decisive influence on the participation of potential bidders to the tendering procedures.

The EU directives do not regulate the duration of the contract. In principle it would be possible to conclude contracts on an indefinite term as well. Contracts with an indefinite term may be terminated upon contract notice without giving any reasons. Contracts with a definite term may only be terminated before the end of the term on the reasons stipulated in the contract. In cases where a supplier has to undertake a certain investment in innovation or RTD that is directly related to the matter of the contract, it might be advisable to limit the possible reasons for cancellation for a certain period and/or provide for appropriate compensation provisions, in order to permit the supplier to make some return on their investment.

In context of R&D, any decision as to the terms of the contract will have to bear in mind the investment of the future supplier. The larger the investment for a particular contract, the longer the contractual term should be in order to have a return on investment. Longer contract terms may be favourable to R&D and, of course, competition issues have to be taken into consideration at the same time. As noted less constraint from public investment practice.

Policy evaluation is a systematic, analytical activity to assess the appropriateness of a policy in a given context, its effectiveness against objectives and the efficiency of its implementation. The overall of policy evaluation is to assist policy-makers in improving on-going and future activities. As for other innovation policies, it is essential to evaluate measures to increase R&D and innovation through procurement and hence to promote policy learning.

An important first step is to be clear about what type of measure is being evaluated. Each evaluation needs to start with a clear understanding of the type of policy action and the level at which it is applied, its policy, the targets of the policy and the scope for innovation and R&D to be triggered by the procurement activity. The objectives are the determining variable for each evaluation. For each of these objectives, indicators and data sources have to be defined that measure the degree of goal, attainment and appropriate methods have to be designed that result in reliable and valid data for these indicators. Depending on the level of the policy, programme or measure, the target may be both those responsible for procurement (to change behaviour rationales, etc) and the supplying markets (to deliver more advanced goods and services and thus to engage in more innovative activities).

Qualification of Procurement Staff : The skill of purchasing lies in achieving an optimum combination of quality and price. When dealing with off-the-shelf goods, such skills may be accumulated through general experience. However, when good and services are based on the newest innovative technology, which may not even be available elsewhere, then technological knowledge is necessary to specify them, to complete the purchase, and to follow through and learn from the consequences of the purchase. Such smart or intelligent staffs require several key characteristics throughout the procurement cycle. To identify real needs and opportunities they must be aware of trends in the technology and markets across what could be a wide range of sectors. They must have knowledge of advanced solutions implemented elsewhere and of the capabilities of suppliers to take the work forward. They will probably need a net work of external knowledge sources to supplement their own expertise. This could be in universities or in specialized consultancies, including public laboratories (Angeles, 2000). To specifying functional, cost and quality requirements they need access to external networks. In addition, it is important to be able to sustain a dialogue with potential suppliers and with this achieve a balance between rig our in definition of requirements and sufficient flexibility not to exclude innovative solutions (Angeles, 2000). To access tenders, specific knowledge of how to carry out techno-economic assessments of the area in question (or how to source them) is needed. The ability to predict whole life costs is particularly important. The technical capability for continuing dialogue with tenderers to seek clarification is necessary (Angeles, 2000). Upon award, design and management of the contract encompasses every aspect related to the purchase, including conformance tests, supply, documentation, associated training, after sales service, intellectual property rights etc. skills are needed in the negotiation and writing of contracts, which embody the necessary flexibility to allow the feedback needed in R&D activities and innovative activities (Angeles, 2000).

Finally, in order to accept the purchased goods, works or services and verify contact performance, the intelligent customers needs access to equipment and people qualified to perform functional, technological and environmental tests (Angeles, 2000). All of the above needs to be accomplished in a timely and economic manner study may also add a broader capability to the list managing risk and uncertainty. While both are concerned with that which cannot be known, it distinguishes between them by labelling at risk, probabilities that can be calculated and as uncertainty, things which are completely unknown and hence unquantifiable. We deal in detail with risk management. With respect to procurement for innovation, uncertainty is the right term to describe the absence of sufficient information based on prior experience. Uncertainty can also be seen as providing incentives to develop options. It may be driven by limitations in the accuracy and precision of data, lack of knowledge of future technology and market developments, buying model uncertainty and perceptions by individuals of the value of different impacts with economic, environmental or social drivers (Angeles, 2000).

Core to having an intelligent staff capability is the ability of procurement officials to apply and drive forward appropriate procurement practices in a professional way. Currently, public procurement training provision is very uneven across Member States. While some Member States have well developed training programmes, others have little or no training provision and rely on feted amateurs, often with no previous experience of procurement, let alone procurement for innovation and the ability to handle procurement exercise. This undoubtedly increases the risk of failed public procurement exercises and is likely to drive procurement officials towards the purchase of familiar goods and services in ways likely to both limit competition and reduce ability to address public service challenges. Lack of training is also likely to reduce compliance with Single Market principles. A series of good practice guidelines and recommendations which point the way to developing and incentivising a cohort of people who can fulfil the function of intelligent staff is crucial. (Angeles, 2000).

Market learning is treated here as an element of monitoring because it helps us to understand the complex process of market penetration of innovative products. Traditional separation of innovation and diffusion can obscure the many feedback loops which lead to the successful evaluation of technology (Angeles, 2000) The traditional S-curve model for the diffusion of a new technology is well known. This segments buyers into early adopters, majority groups and laggards according to when they buy an innovation and also indicates the ultimate level of penetration (saturation) for a market. Procurement for innovation could be seen as an effort to alter this curve in favour of earlier adoption, faster acceptance and higher saturation. The concept of a learning curve posits that the rate of cost-reduction by volume growth learning rate) is normally about 15-20% for each doubling of the accumulated volume of a technology. This is a factor that has been deliberately exploited in several procurement cases where the new technology is considered to be desirable for wider reasons, for example the large scale market introduction of photovoltaic, causing these technologies to be pushed towards affordability. Early purchases of this kind may be thought of as learning investments with an eventual private and social return (Croom, 2000).

Economic operators are checked in accordance with the following criteria: Personal situation of the candidate or tenderer, this provides that any economic operator that has been convicted by final judgement for participation in a criminal organization, corruption, fraud or money laundering shall be excluded from participation in a public contract. Economic operators may also be excluded in case they are bankrupt, are the subject of proceedings for a declaration of bankruptcy have been convicted of any offence concerning their professional conduct, have been guilty of grave professional misconduct, have not fulfilled obligations relating to the payment of social security contributions or taxes or are guilty of serious misrepresentation in supplying the information required under this Section (Croom, 2000). Suitability to pursue the professional activity, applies the rule of the country of origin and established that any economic operator wishing to take part in a public contract may be requested to prove its enrolment as prescribed in this Member State of establishment, on one of the professional or trade registers or to provide a declaration on oath or a certificate. In procedures for the award of public service contracts, in so far as candidates or tenderers have to possess a particular authorization or to be members of a particular organization in order to be able to perform in their country of origin the service concerned, the contracting authority may require them to prove that they hold such authorization or membership (Croom, 2000). Economic and financial standing, lays down the documents that economic operators may furnish as proof of their economic and financial standing (Croom, 2000). Technical and/or professional ability one of the means economic operators have to furnish evidence of their technical abilities is to provide the educational and professional qualifications of the service provider or contractor and/or those of undertaking's managerial staff and in particular those of the person or persons responsible for providing the services or managing the work (Croom, 2000).

Quality assurance standards should they require the production of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain quality assurance standards, contracting authorities shall refer to quality assurance systems based on the relevant standards series certified by bodies conforming to the Kenyan standards series concerning certification. They shall recognize equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent quality assurance measures from economic operators (Croom, 2000). Technical specification established that they shall afford equal access for tenderers and not have the effect of creating unjustified obstacles to the opening up of public procurement to competition they should as well be defined so as to take into account accessibility criteria for people with disabilities or design for all users (Croom, 2000) particular difficulty in achieving integration, the fight against unemployment or the protection of the environment. For instance, mention may be made, amongst other things of the requirements-applicable during performance of the contract to recruit long-term job-seekers or to implement training measures for the unemployed or young people to comply in substance with the provisions of the basic International Labour Organization

Conventions, assuming that such provisions have not been implemented in national law, and to recruit more handicapped persons than are required under national legislation (Raymond, 1997). Laws, regulations and collective agreements, at both national and community level, which are in force in the areas of employment conditions and safety at work must be applied during the performance of a public contract providing that such rules and their application comply with Community law (Raymond, 1997). In cross border situations the EU directive concerning the posting of workers will apply. The recital clearly indicates that non-compliance with those obligations may be considered to be grave misconduct or an offence concerning the professional conduct of the economic operator concerned, liable to lead to the exclusion of that economic operator from the procedure for the award of a public contract (Raymond, 1997). Awarding contracts does not explicitly include the possibility to use social consideration in the procedures for the final choice (award) of a tender. Nevertheless, inclusion of social criteria is possible under certain conditions, namely, when the choice is made on the basis of the tender which is most economically advantageous from the point of view of the contracting to the lowest price offer (Raymond, 1997). Procedure should be used to clarify the scope for including environmental and/or social criteria in the award of a contract. Social criteria shall be linked to the subject matter of the contract which means that they must be objective and bring added value to the choice of the work, supply and service. Law states that contracting authorities may use criteria aimed at meeting social requirements in response to the needs of particularly disadvantaged groups of people to which those receiving/using the works, supplies or services which are the object of the contract belong (Raymond, 1997). The technical specifications shall be formulated either by reference to technical specifications or in terms of performance or functional requirements (that may include environmental characteristics), or both. Purchasers are encouraged to use performance specifications (Croom, 2000).

Procedure offer greater scope to take account of social issues in public procurement: The procedure is based upon law so that specific provision primarily concerning specifications and award criteria are little different to current best practice. Relevant environmental and social requirements may be specified but must be defined sufficiently precisely to allow bidders to understand the requirement and to allow award of the contract. Production process standards and eco label criteria can be referenced but alternatives which demonstrate equivalence must be considered. Environmental and social issues may also be relevant to track record, grave, misconduct findings and technical capacity and ability (Raymond, 1997). **Variant bids may be used to** compare different levels of environmental (and other) performance where related to the subject matter of the contract. Minimum requirements including environmental and other criteria must be specified. Higher standards of performance or particular production processes are then specified in the form of variants against which a range of offers can be generated. Only most economically advantageous award criteria must be used. Most economically advantageous contract award criteria may include environmental and other characteristics provided these are linked to the subject matter of the contract and are economically advantageous from the point of view of the contracting authority (Raymond, 1997).

Conditions for the performance of a contract : The procedures allows contracting authorities to lay down special conditions regarding the performance of the contract that concern social considerations as long as they compatible with Community law, they are not directly or indirectly discriminatory and are indicated in the contract notice or in the contract documents. May, in particular be intended to favour on-site vocational training the employment of people experiencing

Improving public procurement: In terms of policy, the potential for procurement has received growing emphasis recently. This is to be strongly welcomed as a policy of this magnitude cannot be successfully implemented without political commitment from the highest levels down. Public procurement is both a key

source of demand for firms in sectors such as construction, health care, environment, security and transport and a major area in which governments are striving to improve effectiveness. Procurement seeks to promote the implementation of measures to support the objective set by the government of specific action to support the development and diffusion of information, for example on best available technologies for public buyers and also an initiative to set procurement in the broader context of policy mixes to exploit its synergies with other research and innovation policies for example technology platforms (Attaran, 2001). Procurement could be used to provide pioneer markets for new research and innovation intensive products. The strategy is the proposal to make jobs and growth its central focus and explicitly called for government to refocus public procurement and services. The proposal for a Competitiveness and Programme networks for public procurement practices that are conducive and launching public procurement projects which foster on technical specifications elaborated. However, at present these measures are foreseen as being confined to the private sector. It is important that the government should capture lessons from this experience and transfer them into other technical domains (Boer, 2001). Modern procurement is also on national agenda, the Government should propose a series of measures aimed at increasing the impact of public procurement. Consequent actions, described in public procurement Act, limit the scope of Technical Public Procurement. Private sector is working on the possibilities of promoting innovation dynamics from the market place by adjusting procurement practice in general, as well as through strategic procurement measures in selected technology areas (Boer, 2001)

Further reasons for singling out public procurement in this way are: the public sector can lower the risk for the developing firms and subsequent customers by acting as a launching customer for innovative technologies and solution. And the introduction of innovation –oriented technological requirements in tendering procedures can stimulate the use of new but not yet commercialized technologies. This in turn can foster investment in R&D to improve these technologies or develop new ones, creating a dynamic knock on effect through the economy (Boer, 2001).

Public Procurement: Significance to the single Market: In the Treaty, provisions exist for the opening up of the internal market within the country, meaning an open market without trade barriers. More detailed rules were created to ensure that markets would become accessible to contractors over the whole of the continent. These rules were created in the early seventies, building on the internal market provisions in the Treaty. Common to these directives were the founding principles on which they were built: the principle of non-discrimination (also referred to as the principle of equal treatment) and the transparency principle (Boer, 2001).

The Legal Framework for Procurement: These principles are not abstract, but practical norms applied in practice. Besides their main objective of opening up markets, they serve other interest as well, reducing possibilities for favoritism, nepotism or corruption. The principles are elaborated into procedures which the authorities apply when tendering contracts. Contracting authorities can choose freely between the restricted and the open procedure. The other procedures are special procedures and are restricted to the conditions for application set in the directives. In certain cases the use of negotiated procedures can be of relevance to innovation e.g. in the case where no satisfactory (regular and admissible) tenders have been received or in exceptional cases, when the nature of the works, supplies or services or the risks thereto do not permit prior overall pricing. The public procurement legal framework, although many other possibilities exist. These are put forward to demonstrate the possibilities of employing a policy to challenge private companies to be innovative (Long, 2001)

The technical dialogue, acknowledged in the legal system through a reference in the recitals, is a very effective instrument that can be used by the contracting authority. It gives the contracting authorities the opportunity to prepare the tender procedure properly and to focus on the various possibilities which the market will be able to provide to satisfy its needs. This flexibility is crucial in practice as contracting authorities often lack in house expertise, particularly where knowledge of new or innovative technologies or processes is concerned, for example. A technical dialogue gives the contracting authority knowledge and knowhow from the market, limiting the need for external consultants (Long, 2001) In cases in which the contracting authority decides to hire external consultants, there is always the risk of the specification or schedule being tailored to a particular party, thereby ultimately restricting or in the worst scenario, even precluding competition. As has been underlined by EC jurisprudence, the contracting authority has a heavy responsibility to prevent preferential treatment for particular suppliers/service providers (Long, 2001). The main characteristic of a market survey is that the contracting authority makes an inventory of the opportunities available in the market before deciding upon technical solutions that fit its needs. These opportunities might for example, regard both technological solutions and the market players that can supply them. Generally, a market survey will be preceded by the drawing up of a so-called needs inventory. Using the needs inventory and the market survey, it is then possible to

prepare an overview of (technical) requirements which of course is geared towards the specific needs of the contract (Long, 2001).

Technical Specifications : Technical specifications roughly serve two purposes: the first is for the contracting authority to describe the intended contract to the bidders and the second, to enable the contracting authority to perform an evaluation of offers based on these technical requirements. The manner in which the technical specifications are drawn up determine the variety and quality of the offers. The offers received will answer to the requirements laid down by the authority. Therefore, if the authority does not allow freedom for the contractors to supply innovative solutions, then it is sure that the market will not be keen to supply these. Therefore, it is crucial for contracting authorities not to define these specifications too tightly, but to leave open means by which companies can prove they have achieved desired results (Long, 2001)

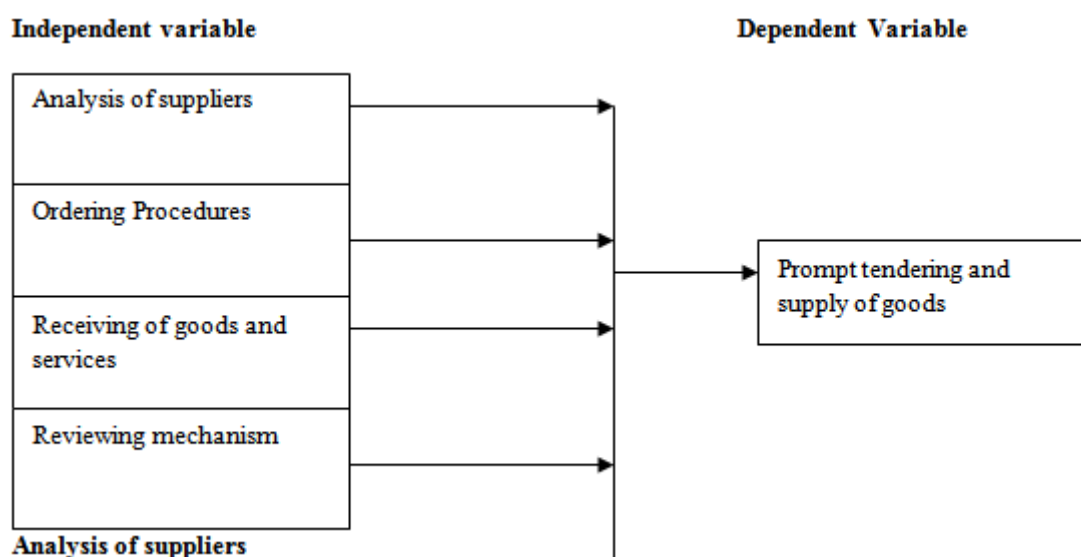
Selection criteria : Selection criteria exist to test the bidder's technical or economical/financial capacity and capability to perform the contract. This means that if a contract is defined in terms of innovative quality or the need for investment into research, it is possible to assess whether this bidder has the capacity to do so (Long, 2001). The legal framework provides the contracting authorities not only with the possibility to evaluate past experience for example by asking for the principle (innovative) contracts performed over recent years, but also to evaluate the capacity and capability of a bidder to perform the contract (Long, 2001).

Critical Review : In 2004, the Parliament adopted new consolidated public procurement directives. These directives were adopted in the light of a necessary revision of the directive in order to make these more modern, flexible and clear. In this process, explicit changes were made to the legal framework to stimulate innovation through public procurement. In the overview below, some of the most important changes have been indicated (Leenders, 19993). According to the study done by Raymond (1997) indicated that the procedure is based upon laws that specific provisions primarily concerning specifications and award criteria are little different to current best practice. He further indicated that relevant environmental and social requirements may be specified but must be defined sufficiently precisely to allow bidders to understand the requirement and to allow award of the contract. This study however failed to link tendering and promptness.

Summary : Procurement can take place at national, regional, or supranational levels of government. Demand can be fragmented across or even within purchasing authorities. The government procurement can be improved to suit the current organizational demands. This chapter gives details of the important factors to consider during the procurement exercise, the importance of goods supply and the tendering process, the qualification of the staff to work within the purchasing section, how purchasing can be improved and eventually the chapter gives previous studies in procurement.

Conceptual framework

Figure 1.1 Relationship between Government procurement analysis and Prompt tendering and supply of goods



Before winning a tender with the Kenyan government, there are always very many procedures that the organization must fulfill. The government will always analyze suppliers to assess its worthiness this will involve assessing financial and quality ability of the organization. This will ensure that the organization will meet a quality standard and specification.

Ordering procedures : The procedures that the organization follows before acquisition of goods and services in the organization are very many, this will determine the promptness of the organizational procurement unit. The time between order placement and delivery will determine the nature of supplies that is effectiveness and efficiency.

Receiving of goods and services : Goods receivership will always determine whether the goods will be accepted or rejected by the organization. The government institution always checks the worthiness and quality and also specifications of the goods. This will lead to customer satisfaction and smooth running of the business operations.

Reviewing mechanism : This is a evaluative process where supplies are appraised to determine its worth, this will help to know the effective and efficient supplies that qualify to supply materials to the organization.

Research Design : The study adopted a case study design. According to Kombo and Tromp (20067) a case study research design seeks to describe a unit in detail, in context and holistically, it looks at the object to be studied as a whole, in a case study a great deal can be learned from a few examples of the phenomenon under study. A single case research design was chosen because of the explanatory nature of the study and the level of detail in the data required. Using a single case design will allow an increase in the quality and quantity of data obtained (Yin 1994). Although a single case study approach cannot over generalization in the statistical sense, it can represent a significant contribution to knowledge.

Target Population : The study targeted non teaching staffs which work on the procurement and supplies department. The target population comprises of 65 respondents who work at the organization. The population was be categorized as 4 Senior procurement officers, 12 Departmental heads in procurement, 19 Supplies chain employees and 30 Non managerial employees in procurement department. This can be best illustrated in the table below:

Table 3.1 Target Population

Department	Target Populations
Senior procurement officers	4
Departmental heads in procurement	12
Supplies chain employees	19
Non managerial employees in procurement department	30
Total	65

Source: Kenya Pipeline Co. (2010)

Sampling Size and Techniques

According to Oso and Onen (2005) a sample is part of the target population that has been procedurally selected to present it. Where time and resources allow a researcher should take as big sample as possible, the researcher is confident that f another sampler of the size were to be selected, findings form the two samples would be similar to a high degree. The researcher used stratified and simple random sampling techniques to derive a sample of 50% of the target population that is 33. According to Ghoshi (1982) a minimum of 1/3 of the target population should be included in the sample when dealing with a case study. This is shown in table 3.2

Table 3.2 Sample size

Department	Target populations	Sampling procedure	Sample size
Senior procurement officers	4	4x0.5	2
Departmental heads procurement	12	12x0.5	6
Supplies chain employees	19	19x0.5	10
Non managerial employees in procurement department	30	30x0.5	15
Total	65	33	

Source: Kenya Pipeline Co. (2010)

To arrive at the figures illustrated above the researcher rounded off to the nearest whole number.

Data Collection Methods : The researcher first visited the organization which assisted the researcher to familiarize himself to the respondents and also assisted to get the date of bringing in the questionnaires. The

researcher personally administered the research tools after a securing a permission for the organization under study. This was done through presenting a letter of authority from the Kenya Institute of Management. The letter introduces the purpose of the study, the nature of the researcher and also it acts as an official document. The researcher gave the respondents a period of one week so as to answer the items in the questionnaire.

Validity and Reliability of the Instruments : According to Mugenda and Mugenda (1999) the validity of research is concerned with the extent to which that data measures what they are supported to measure, while the rest of reliability is concerned with the extent to which the researcher can depend confidently on the information gathered through various sources of data, adopted to obtain the study. In measurement of reliability the researcher constructed the questionnaires afterwards the researcher discussed with classmates to ensure that all the objectives are covered. Then finally the researcher gave the questionnaires to the supervisor for scrutiny. Afterwards the supervisor made modifications so as to make the questionnaires consistence's. In measurement of validity, the researcher used the test retest method; this is whereby the researcher administered a questionnaire to two different respondents at different times. The method involve identifying a group of respondents to administered the first test, then afterwards another group is administered the same questionnaires. The two results are then correlated.

III. DATA ANALYSIS

Data collected was then codec, sorted, to ensure consistency. Afterwards, data was analyzed using descriptive statistics, this involve using frequency, percentages and presented in a tabular form where frequencies and proportions were then used in interpreting the respondent's perception of issues raised in the questionnaires so as to answer the research questions.

IV. RESULTS AND DISCUSSION

Assessment of the current purchasing system within the organization.

This was very important as it will help the researcher to know the nature and effectiveness of the organization purchasing system. The results are as shown below:

Table 4.6 Assessment of the current purchasing system within the organization

Current purchasing system	SA	A	U	D	SD	Total
Able to sustain operations	20	35	10	25	10	100
Enable the company realize profit	10	15	25	30	20	100
Ensure active competitive operation	10	15	25	15	35	100
Practice professionalism and ethics	15	25	10	18	32	100
Characterized with incompetent personnel	15	20	20	25	20	100

The data shown in the table above shows that 55% of the total agreed that the current purchasing system that is in place at Kenya Pipeline Company is in a position to sustain the organizational operations. This was according to 20% who strongly agreed and 35% who mildly agreed. There were 10% of the total respondents who was undecided that is they neither agreed nor disagreed. On the contrary there were 35% respondents who disagreed that are 25% disagreed and only 10% strongly disagreed. The issue of purchasing system being able to help the organization realize profit was also discussed, the researcher realized from the respondents that most of the respondents disagreed that is 30% just disagreed and 20% strongly disagreed. There were also other 25% of the total respondents who cited that they are undecided. On the other hand 10% of the respondents strongly disagreed and 15% only just agreed. Purchasing system ensuring active competitive operations were also assed, the data indicated that 35% of the total respondents strongly disagreed while 15% disagreed. There were 25% of the total respondents who cited neutrality that is they neither agree nor disagree that is they were undecided. On the other hand, there were only 35% of the respondents who concur with the factor that is 15% agreed and 10% strongly agreed. There were majority of the respondents that is 50% who disagreed that the current purchasing system at Kenya Pipeline Company practice professionalism and ethics, that is 32% strongly agreed and 18% just agreed. On the contrary, there were 40% who agreed that is 15% strongly agreed and 25% mildly agreed. The remaining 10% were undecided on this issue. The issue of purchasing system being characterized with incompetent personnel was also discussed. Majority of the respondents cited that they do not agree this was according to 45% strongly disagreed and 25% disagreed. On the contrary there were 20% who just agreed and 15% strongly disagreed. The remaining 20% were undecided. This issue put the purchasing function on the average on performance.

The important factors of current procurement and tendering : It was the prime role of the researcher as indicated in the objective to establish the important factors of current procurement and tendering in the organization. This was considered important as it will dictate the nature of the current procurement and tendering in the organization. The respondents cited the following as the very important factors.

- (a) Prompt
- (b) Short lead time
- (c) Procurement quality
- (d) Meeting of specification

Response on whether the lengthy procurement process is detrimental to the operations of the organization

The researcher sought to know whether procurement process in the organization is lengthy and detrimental. The researcher sought the respondents view, this is illustrated in the table below.

Table 4.7 Response on whether the lengthy procurement process is detrimental to the operations of the organization

Department	Frequency	Percentage
Strongly agree	10	30
Agree	9	27
Undecided	0	0
Disagree	6	18
Strongly disagree	5	15
Total	30	100

The researcher established from the data above that majority that is 30% of the total respondents strongly agrees that the procurement process in the organization is lengthy and detrimental. There were 27% who indicated that they agree. On the other hand there were 18% of the respondents who cited that they disagree with the issue and only 15% mildly disagreed. There were no employee who were undecided. This implies that the procurement process needs to be improved.

Response whether the supply of goods in organization is affected by the current procurement in your organization

There always exist a link between supplies and procurement functions in the organization, in most cases the success of the procurement depends on the procurement. This therefore forced the researcher to establish whether the supply of goods at the organization is affected by the procurements. The responses were tabulated below.

Table 4.8 Response whether the supply of goods in organization is affected by the current procurement in your organization.

Response	Frequency	Percentage
Yes	30	100
No	0	0
Total	30	100

4.5 Ways in which the current procurement affect the supply of goods at Kenya Pipeline Company

Since the respondents indicated that the procurement affects the supplies of goods in the organization, the researcher therefore sought to establish the various ways it affects. The results are as shown in table 4.9 below.

Table 4.9: Ways in which the current procurement affects the supply of goods at Kenya Pipeline Company

How current procurement affects supply of goods and services	SA	A	U	D	SD	Total
Purchasers does not inspect goods at the suppliers site	45	35	10	10	0	100
Tendering is long and tedious which encourage skipping of stages	50	20	10	0	20	100
Purchasers delay the delivery of goods	50	15	15	8	12	100
Sometimes they fail to meet goods specifications	70	20	0	10	0	100

The study indicated that majority of the respondents that is 80% thought that procurement affects supply goods in those purchasers does not inspect goods at the suppliers site. This was according to 45% who strongly agreed and 35% that they ordinarily agreed. There were only 10% who they were undecided which were same as the ones who disagreed.

The respondents who agreed that procurement affects supply in that tendering is long and tedious which encourage skipping of stages were 70%, further classified on the basis of agreeing there were 20% and the rest 50% were the ones who strongly agreed. On the contrary there were 20% of the total respondents who cited that they strongly disagree while the remaining 10% cited that they were undecided.

Majority of the respondents also agreed that purchasers delay the delivery of goods in the organization, this was according to 65% of the total respondents that is 50% strongly agreed and 15% just agreed. There were also those who they were undecided those were only 15%. The remaining 20% disagreed.

The issue of purchasers failing to meet goods specifications were also discussed, the majority respondents that is 90% agreed and only 10% disagreed.

Ways in which procurement of goods and services can be improved at Kenya Pipeline Company

The study also sought to establish some of the ways in which procurement of goods and services can be improved in the organization. The respondents responses are as below:

Table 4.10 Ways in which procurement of goods and services can be improved at Kenya Pipeline Company

Ways of improving procurement	SA	A	U	D	SD	Total
Changing rigid organizational policy	30	25	0	25	20	100
Outsourcing goods and services	45	30	15	10	0	100
Sticking to public procurement acts	80	20	0	0	0	100
Avoiding single sourcing	90	10	0	0	0	100
Being strict to supplies	30	40	20	0	10	100

There were 65% of the total respondents who totally agreed that changing the rigid organizational policy on procurement could improve procurement in the organization, this can be further simplified as 30% having strongly agreeing and 35% who they just agreed. On the contrary, there were 45% of the total respondents who disagreed, having 20% whom they strongly disagreeing and 25% just citing disagreement. There were no employee who were undecided.

The factor of outsourcing goods and services by the organization was also agreed by majority of the respondents as a major way of improving procurement this was according to 45% of the total respondents strongly agreeing and 30% who they ordinarily agreed. There were only 10% of the total respondents who disagreed, that the issue of outsourcing improves procurement. There were also 15% of the respondents who they did not take sides that is they were undecided.

It was established that sticking to public procurement acts could improve the procurement of goods and services at the organization, this was according to a total of 80% of the respondents who strongly agreed and only 20% who ordinary agreed. There were no employees who were undecided, disagree or strongly disagree.

Challenges facing Kenya Pipeline Company in procuring and supply of goods

Challenges	SA	A	U	D	SD	Total
Corruption	70	30	0	0	0	100
Delays in delivery	60	30	0	10	0	100
Incompetent personnel	15	25	10	10	40	100
Government interference	10	20	20	15	35	100
Procurement bureaucracy	60	10	30	0	0	100

The study data cited corruption as a major challenges that the organization face in the management of procurement and supplies in the organization, this was according to the entire group of the respondents who agreed. When further indicated in details, there were 70% who strongly agreed and 30% who ordinarily agreed.

Delays in delivery were also another challenge this was according to 90% of the total respondents who agreed, that is 60% who strongly agreed and 30% who typically agreed. There were 10% of the respondents who typically disagreed. There were no respondents who neither strongly disagreed nor were undecided.

In competency of personnel were disagreed by the majority of the respondents that is 40% strongly disagreed and 10% typically disagreed. On the other hand there were 40% who agreed that in competency stands as a challenge, this were 15% who strongly agreed and 35% who ordinarily agreed. There were 10% of the respondents who were undecided.

Government interferences were the least challenge as 50% disagreed, that is 35% strongly disagreeing and 15% mildly disagreed. On the contrary there were only 30% who agreed, that is 10% strongly agreeing and 20% just agreeing. There were also other employees who were undecided; these were only 20% of the total respondents.

The possible ways of alleviating the mentioned challenges

The researcher sought to know the various and possible ways of alleviating the mentioned challenges. The researcher listed the following as the ways;

- (a) Training employees in the procurement and supplies function
- (b) Passing strict rules to curb corruption
- (c) Motivating employees
- (d) Developing good relationship with supplies
- (e) Outsourcing some services

V. CONCLUSIONS

After a thorough data analysis by the researcher it was realized that the following conclusion should be put forward:

The researcher found out from the study that the current purchasing system that is in place at Kenya Pipeline Company is in a position to sustain in the organizational operations; it can also ensure active competitive operations but not practice professionalism and ethics. The study revealed following as the very important factors, prompt, short lead time, procurement quality and meeting of specification. It was also realized from the study that procurement affects supply of goods in that purchasers does not inspect goods at the suppliers site, tendering is long and tedious which encourage skipping of stages, purchasers delay the delivery of goods in the organization and also purchasers failing to met goods specifications. The study revealed that changing the rigid organizational policy on procurement could improve procurement in the organization. Other ways include outsourcing goods and services by the organization, sticking to public procurement acts, being strict to the supplies. The findings of the study revealed corruption as a major challenge that the organization face in the management of procurement and supplies in the organization. The other challenges are delays in delivery, employee in competency and government interferences. The various ways of dealing with these challenges are, training employees in the procurement and supplies function, passing strict rules to curb corruption, motivating employees, developing good relationship with supplies and outsourcing some services.

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