
CONTRACT MANAGEMENT PRACTICES AND PERFORMANCE OF COUNTY GOVERNMENTS IN KENYA

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Abstract

Procurement is a key economic activity of any government that significantly impacts how taxpayers' money is spent and is a function that remains most vulnerable to corruption. The Kenya government has lost hundreds of millions of tax payer's money through canceled contracts, unfinished projects, poor service or product delivery, corruptions and extended contract periods in the last eight years without major improvement. This study sought fill the gap by empirically investigating the influence of contract management on performance of KiambuCounty. This study was be guided by the following study objectives; to determine the influence of contract cost management on performance of Kiambu County, to establish effect of the contract relationship management on performance of KiambuCounty. The study adopt descriptive survey design and draw on a quantitative inquiry. This study picked a sample of 96 respondents. The study findings indicate that contract relationship management and contract cost management positively and significantly affect performance. As such, Kiambu County should embrace more contract relationship management.

Key words: *procurement contract management, contract cost management, Contract relationship management and performance*

Introduction

A sound public procurement system needs to have good procurement laws and regulations. In practice and theory, public procurement laws and regulations have been considered as one of the most important pillars of a sound procurement system as evidenced in past research, publications and practices. Procurement laws and regulations lead to procurement efficiency or inefficiency. There was a debate about procurement legal framework that hinders or helps procurement direction. Ideally procurement laws and regulations should be clear, consistent, comprehensive, and flexible. Clarity, which requires the primary sources be carefully drafted to ensure that basic principles are clear but do not prevent the use of more efficient procedures or new technology.

According to de Mariz, M nard and beill (2014) procurement and disposal of public assets in public entities has been characterized by corruption and bureaucracies that render the process inefficient. This has led to the loss of tremendous amounts of finances from the government coffers. It is in an effort to streamline the process of public procurement and disposal that led to the establishment of the public procurement reforms. However, de Mariz et al. (2014) notes that the implementation of these reforms has been marred with a series of challenges thus limiting the original objective of instituting the reforms. According to de Mariz et al. (2014) corruption is a major factor affecting the implementation of the public procurement reforms. De Mariz et al .(2014) asserts that corruption has been infiltrated into the public entities making the implementation of the public procurement reforms difficult due to set backs imposed by corrupt individuals.

Public procurement in Kenya is guided by the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations, 2006 as published in the Kenya Gazette Supplement No. 92 dated 29th December, 2006, Legislative Supplement No. 53, Legal Notice No. 174. The Act defines procurement as the “acquisition by purchase, lease, hire purchase, license, tenancy, franchise or by any other contractual means of any type of works, asset, services or goods including livestock or any combination.”

The role of supervision of the public procurement process is carried out by the Public Procurement Oversight Authority (PPOA). This body has also prepared and circulated other related guidelines to public procurement that define how the process needs to be carried out within various entities. Like any other developing countries, the procurement professionals in Kenya have faced many challenges. The main obstacles include: lack of support by top management in the government – political was. Inadequate capital, lack of trained personnel in the public sector and attitude of staff in public sector. Other contributory factors include lack of accountability and transparency, poor knowledge and skills amongst bidders/contractors and challenge in the implementation of PPDA act 2005. Public procurement and disposal regulation was operational zed in Jan.2007. A program was set up to tackle the above issues highlighted by the review board. The reforms undertaken so far are the following: capacity building assessment, development and implementation of E-procurement, development of certification of suppliers system, establishment of public procurement and oversight Authority, establishment of the Advisory Board and Review Board,

development and implementation of monitoring and evaluation system, reforming the public health sector system.

County governments in Kenya were established under the County Governments Act (2012). The act was legislated in line with requirements of the current constitution promulgated in the year 2010, after approval through a popular vote by the public. The act defines; county governments, county assemblies, electoral wards, county executive, decentralized units, county public service, citizen participation, public communication and access to information, civic education and county planning, and procedures in suspension of county staff. The act clearly demarcates the composition, functions, and roles of both the county executive and the county assembly which are ideally independent arms of the government with different roles.

Research problem

The Kenya government has lost hundreds of millions of tax payer's money through canceled contracts, unfinished projects, poor service or product delivery, corruptions and extended contract periods in the last eight years without major improvement (Transparency international, 2009). Out of this 5% goes to waste due to lack of proper management of the contracts (Gordon, 2009). (Maria, 2013) study established that, in contract management, the contract supply chain relationship provides high level framework to approach contracting as a business process. Organizations need to invest in developing the functional and interpersonal skills of the staff. Transformation index – kenya (2014) reveals, Kenya loses a lot of taxpayers' money to improper contract practices specifically because of poor contract management practices. Data shows that the government of Kenya spends between 10 percent -30 percent of Gross Domestic Product on procurement alone (Maria, 2013). out of that 15% goes to waste due to lack of proper management of the contracts (Pyke, 2006).

Taking the case of procurement audit conducted by PPOA in 2007, it was attested the procurement contracts in 33% of the audited procurement (in 30 public Entities) were not implemented as per the terms of contract, including in Kiambu County. Poor contract management was contributed by inadequate and financial resources, weak contract terms, poor supervision and quality control, inadequate contract management skills and corruption (PPOA, 2007) (R.o.K, 2010) confirmed the importance of contract administration to the success of the contract and for the relationship between customer and provider should not be underestimated. However, despite all the above findings, little study has been done in public contracting and more so in County more particularly Kiambu County in confirmation of the facts mentioned above.

The price water coopers (2010) for the financial year 2008/09 revealed that procurement amounting kshs. 145,018,075 were misappropriated as a result of weakness in contracting and contract management which in return hindered the achievement of value for money in such public county government. This study therefore, seeks to fill the gap by empirically investigating the influence of contract management on performance of .Kiambu County.

Objectives

The main objective of the study is to investigate the influence of procurement contract management on performance of County Government In Kenya. The guiding specific objectives were;

- To determine the influence of contract cost management on performance of Kiambu County.
- To establish the relationship management on performance of County Government In Kenya

Theoretical Framework

Resource Based Theory

Resource Based View Theory was linked to resource mobilization variable. Resource mobilization is the maximizing on the use of the existing funds. Werner and Rum established Resource based view theory in 1984. The resource based view of the firm (RBV) explains that each institution or organization has unique resources and capabilities that make them different hence becomes competitive advantage (Muthuri, 2014). Initiated in the mid-1980s, the resource-based view (RBV) has since become one of the leading modern methods to the analysis of sustained competitive advantage (Tan & Meyer, 2010).

The theory on RBV offers a good explanation on how constituencies can make good use of their financial resources provided by the government in implementing the various projects in the constituency. Resource based view theory is of importance in ensuring NG-CDF is maximizing on use of existing funds. RBV is of importance in ensuring that other sources of funds are available and accounted for. This theoretical framework helps us to be able to understand the style of management employed in dealing with allocation of contracts and how responsibilities and tasks are divided among each staff member with respect to their capabilities and ability to deliver. Therefore the framework employed by the procurement management can either be efficient or inefficient with regards to the procurement contract management process.

Contract Theory

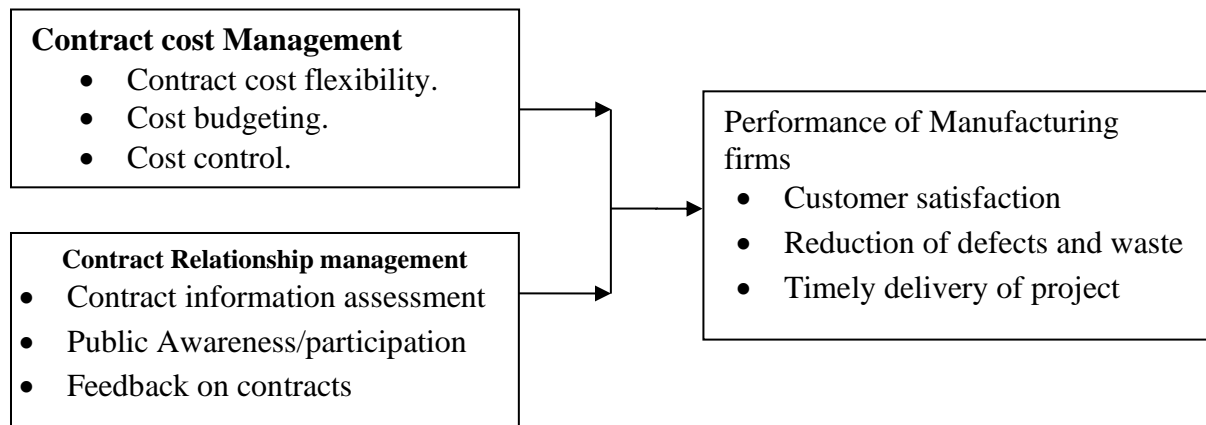
In economics, contract theory studies how economics actors can and do construct contractual arrangement, generally in the presence of asymmetric information. Because of its connections with both agency and incentives, contract theory is categorized within a field known as law and economics. One prominent application is the design of optimal schemes of managerial compensation (Laffont & Martimort, 2012)

This theory has been the object of theoretical research in common law Jurisprudence. It contrasts legal formalism to a certain extent and is based on the assumption that all the contracts can fall along a relational range from discrete-mere transaction-to highly relational. Although no relation can be totally separate from relational elements, the isolation of the contract from a relational

context and the complete and exact planning of the relationship presentation, although having a great importance for contracts law, cannot explain totally modern contractual relationships. Highly relational contracts are these, the effect of which is strongly based on a specific social and economic context, on an on-going relation usually of trust between the parties, which influences the scope and content of the contract (Diathesopoulos, 2010).

The main result achieved through this family of models involves: mathematical properties of the utility structure of the principal and the agent relation of assumptions and variations of the time structure of the contract relationship, among others. It is customary to model people as maximizes of some utility functions, as stated by expected utility theory (Lyson, 2010).

Conceptual framework



Independent variables

Dependent variable

Contract Cost Management

Cleland and Bidanda (2009) have stated that in a highly connected and competitive world, most projects must function in an environment that interacts with joint ventures, alliances, multinational sourcing, sub-contractors, and intricate vendor relations. Relationships with external organisations are managed through contracts. In general, companies provide services or products based on the results of direct contract negotiations with the client. One of the most important factors in preparing a proposal and estimating the cost and profit of a project is the type of contract expected

The confidence by which a bid is prepared is usually dependent on how much risk the contractor was incur through the contract. Certain types of contracts provide relief for the contractor since onerous risks exist (Kerzner, 2009). He further states that the size and experience of staff, urgency of completion, availability of qualified contractors, and other factors must be evaluated carefully during contract negotiations. There is a third hybrid type commonly in use called time and materials contract. The fixed-price contract type is recommended, although some projects also

prepare team contracts to define ground rules for the project. However, in practice it is not unusual to combine one or more types into a single contract document. Once the contract has been signed, both parties must meet their obligations under the contract.

Contract relationship management

Contract Relationship Management is an all-inclusive method to managing firm's interactions with its Contractor. It plays a vital role in saving costs and increasing of procurement performance in organizations. This part gives a broad insight into the SRM strategies that organizations should practice to reduce costs, avoid supply delays and improve overall procurement performance. To manage supplier relations organizations can employ a variety of strategies such as, Contractor segmentation, governance, contractor performance management, and contractor development (Zimmermann, et al 2015; Chopra and Meindl 2013; Lysons and Farrington 2006).

Launching effective supply governance is vital to unraveling contractor relationship value, particularly for partner contractors (Anderson, 2002). To achieve this, the internal governance processes must be aligned to the organizational structure and assigned teams ownership (Shin, Collier & Wilson, 2000). It is essential to encompass the right stakeholders from the business in the process of as well as ownership from procurement department in contractor relationships (Archer, 2003). These stakeholders are part of a recognized contractor governance committee for each category of contractors. A governance committee describes and pushes the strategic roadmap together with the contractor (Choy, Lee & Lo, 2002). These committees are indispensable for a steady and reliable interface with contractors to identify and sustain long-term value, for example, IBM has sourcing committees especially liable for the strategic contractor relationships for each category of spend (Li, Ragu-Nathan, Ragu-Nathan & Rao, 2006). The committees devote time developing, mentoring and working with contractors to increase their business so firms can in return gain some benefit (Shin, Collier & Wilson, 2000). Sourcing committees proactively engage with contractors in discovery of the best value in terms of quality, pricing and overall relationship at all levels within the supply network (Li, Ragu-Nathan, Ragu-Nathan & Rao, 2006).

Research Methodology

The study adopted descriptive survey design. According to Mugenda and Mugenda, (2003) descriptive research design is a scientific method that involves observation and description of behavior of a subject without influencing it in any way. The descriptive research design is the most suitable research design for this study because, it accurately describes an association between variables minimizing bias and maximizing the reliability of the data Kothari, (2004). The study populations for this study were 395 procurement professionals and accounting officers of Kiambu county. The study used the Yamane (1967) formula to arrive at the sample size. The selection formula is as follows: $n = \frac{N}{1 + N(e)^2}$

Where n= the required sample size

N = is the Target Population (395 employees)

e = accuracy level required. Standard error = 5%

Sample calculation

$$n = \frac{395}{1 + 395(0.05)^2}$$

$$n = \frac{2}{1.9875}$$

$$n = 198$$

n=198 Respondents

Therefore, using Yamane (1967) formula, the sample size was 198 out of 395 targeted staff, which was represent 50% of the target respondents. The study used stratified random sampling in selection of 198 employees, Random sampling frequently minimizes the sampling error in the population. Questionnaire was used to collect required data for this study; the questioners used for the study composed of open and closed ended questions. Pilot study was conducted by issuing questionnaires to 10% of the target population in Kiambu County. Qualitative data analysis was used because it helped the researcher to gain in-depth understanding of the research findings. The quantitative data to be collected was analyzed using the Statistical Package for social Sciences (SPSS) Version 22. Multiple regression model was used to show the relationship between dependent and independent variable.

Results and Discussion

The study sampled 198 respondents from which 112 filled in and returned the questionnaires making a response rate of 56.6 % as presented in table 4.1. This response rate was adequate to make conclusions on the effects of contract management practices on performance of Kiambu county in Kenya. According to Mugenda and Mugenda (2008), a response rate of 50% is adequate for analysis and reporting; a rate of 60% is good and a response of 70% and above is excellent.

Contract Relationship Management

Table 1 Effect of Relationship management on Kiambu performance

Statements	Mean	Std. Deviation
The organization use a criterion in categorizing suppliers	3.77	0.181
The organization chooses contractors who have capacity to deliver	3.70	0.139
The organization ranks contractor relationships by competency	3.58	0.189
The organization allocate resources and efforts on strategic suppliers.	3.18	0.175

The organization has transactional suppliers for basic supplies and continuing basis	3.64	0.162
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From the findings, majority of the respondents agreed that the organization use a criterion in categorizing suppliers as shown by mean of 3.77. Majority of the respondents agreed that the organization chooses contractors who have capacity to deliver as shown by mean of 3.70. Respondents agreed that the organization ranks contractor relationships by competency as shown by mean of 3.58. Concisely, Majority of the respondent were in agreement that the organization allocate resources efforts on strategic suppliers and the organization has transactional suppliers for basic supplies and continuing basis. as shown by mean of 3.18 and 3.64 respectively. From the findings it's clear that mutual processes between suppliers and buyers are important in determining the supplier defect rate which affect the performance. As such, relationship management is strongly affected by mutual processes which in turns affect the performance in terms of achieving their objectives especially on reduction of supplier defect rate. The findings are in tandem with Oyugiet *al*(2015) who concluded that proper relationship with suppliers would significantly improve performance in his study on contract relationship management and performance hence supplier development programs, strategic management of supply base and increased information sharing impact performance.

Contract Cost Management

Table 2 Statement relating to the effect of Contract Cost Management on performance of Kiambu county.

Statements	Mean	Std. Deviation
Compliance with the contract conditions by the supplier/service provider enhance procurement contract management	3.87	0.216
The organization comply with the contract conditions by awarding the contract to the most suitable party	3.81	0.188
Compliance with the general contract's conditions	4.10	0.257
Compliance with the specific contract's conditions.	3.18	0.214
Understanding of contract document is very relevant and important in order to sustain the desired cost, time and quality	4.37	0.264

The study sought to determine the effect of contract cost management on performance on manufacturing firm in Kenya. Majority of the respondents agreed that contract cost management affect performance in the organization shown by a mean of 3.87. Respondents agreed that Compliance with the contract conditions by the supplier/service provider enhance procurement

contract management showed by a mean of 3.87. Majority of the respondents strongly agreed that the organization comply with the contract conditions by awarding the contract to the most suitable party shown by a mean of 3.81. Respondents agreed that Compliance with the general contract's conditions and Understanding of contract document is very relevant and important in order to sustain the desired cost, time and quality shown by a mean of 4.10 and 4.37 respectively. From the findings, it was clear that contract cost management affects performance with more emphasis on contract planning, contract monitoring and contract control. It's clear from the findings that proper contract planning affects performance and is important in reduction of procurement cycle times. The findings concur with Njeru, (2013) who concluded that there existed a strong relationship between contract planning and performance, hence study concludes that the presence of procurement portfolio, efficient logistics management and adherence to procurement plans affects performance. In addition, the findings agree with Kabega (2016) who concluded that proper contract cost management improves performance in terms of short-time delivery and customer satisfaction on his study on construction projects and contract management. The purpose of contract cost management therefore is to enable the firm to utilize the available resources fully to achieve the overall procurement objectives.

Performance

The study sought to examine the respondent's percentage measurement of procurement function in relation to contract management practices within the firm over a period of five years with the variable concerning contract management and performance in the firms. It was clear that in the years and contract success rates are fluctuating and improving which shows a positive improvement. The year 2017 had the highest rates 74% of customer satisfaction due to contract management practices while the year 2014 had the least rate 36% of customers were satisfied due to contract management practices. This implies that rate of successful contracts fluctuates depending on the factors affecting the performance of both the suppliers and the buyers, a number of complaints are received in the procurement department annually in relation to failed contracts and customer satisfaction varies depending on performance of each contract and therefore contract management practices affects customer satisfaction. The findings concur with Gupta (2008) who revealed that poor contract management causes substantial loss of savings and customer dissatisfaction.

The study found out that 2013 had the most rejects due to poor contract delivery at 27% while 2017 had the lowest at 9%. Contract management practices has led to a reduction in supplier defect rates as shown in the figure above. In 2013, contract management practices contributed to 27% reduction in supplier defects, 2014 was 28%, 2015 was 22%, 2016 was 15% and finally 2017 at 9% reduction in supplier defects rates. From the findings, it is clear that contract management practices has been leading in reduction of supplier defects rate. This findings is tandem with Rotich, (2012) that effective contract management improves supplier performance, in the aspect of compliance and meeting specifications in state cooperation's in Kenya.

The study findings revealed that contract delivery has been improving. The number of contracts delivered within thirty days after the request has been raised has improved as the years progressed. The respondents indicated that percentage reduction in procurement cycle times has been increasing within the years, in 2017, the reduction in cycle times was the highest with 46%, in 2016 there was a 38% reduction in cycle times, 2015 was 27%, 2014 was 25% and finally 2013 at 12%. This implies that contract management has reduced procurement cycle times as the years progressed. The findings concurs with Kakwezi (2012) that contract management practices in public procurement has significant implications for service delivery, that is proper contract management procurement cycle time is reduced significantly.

Inferential statistics

Table 3 Model Summary

Model	R	R square	Adjusted R Square	Standard Error of the Estimate
1	.813 ^a	.660	.648	.13747

a.Predictors: (Constant), Relationship management, Contract cost management,

Adjusted R squared is coefficient of determination which tells us variation in the dependent variable due to changes in the independent variables. The value of adjusted R squared was 0.648 an indication that there was variation of 64.8 percent on performance due to changes in contract relationship management and Contract cost management. The R Square in this case is 0.660 which clearly suggest that there is a strong relationship between contract relationship management, Contract cost management and performance.

Table 4 ANOVA^a

Model	Sum of Squares	Df	Mean Square	F	Sig.
Regression	47.672	2	23.836	13.678	.013 ^b
Residual	189.938	109	1.7426		
Total	237.61	111			

a. Dependent variable: performance

b. Predictors: (Constant), Contract Relationship management, contract cost management

Since the tabulated F (critical) (2,109) at $\alpha = 0.05$ was 3.08 which is less than F computed (13.678) hence there is a significant effect of the independent variables and thus the overall model is significant.

Coefficients

Table 5 Coefficients

Model	Unstandardized coefficients		Beta	T	Sig.
	B	Std Error			
Constant	.159	.046		3.475	.001
Contract Relationship management	.297	.040	.463	7.415	.000
Contract Cost management	.295	.064	.429	4.609	.000

A simple regression model was used in determining the level of effect the independent variable have on dependent variable as shown below

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \varepsilon$$

$$Y = 0.159 + 0.297X_1 + 0.295X_2 + e$$

Contract Relationship management was found to have positive significant effect on performance of Kiambu county ($X_1 = 0.297$, $P = 0.000 < 0.05$). This shows that one-unit change in relationship management results in 0.297 unit increase in performance of manufacturing firm other factors held constant.

Contract cost management was found to have positive significant effect on performance of Kiambu county ($X_1 = 0.295$, $P = 0.000 < 0.05$). This shows that one-unit change in Contract cost management results in 0.295 unit increase in performance of manufacturing's firm other factors held constant.

Conclusions

From the findings it's clear that Contract relationship management affects performance, more specifically mutual processes between suppliers and buyers. Relationship management is strongly affected by mutual processes which in turns affects performance in terms of achieving their objectives especially on reduction of supplier defect rate.

Contract cost management affects performance with more emphasis on contract planning and contract monitoring. It's clear from the findings that proper contract planning affects performance and is important is reduction of procurement cycle times

The study concluded that all the variables significantly and positively affects performance. Contract Relationship management is the most important in performance followed by contract administration then post contract appraisal and the least is contract closure.

The study further concludes that proper contract management is essential in ensuring that all parties to the contract fully meet their respective obligations as efficiently and effectively as possible, delivering the business and operational outputs required from the contract and providing value for money, customer satisfaction and reducing cycle time.

Recommendations

The study recommends that Kiambu County should maintain the spirit of good relationship. Good attitude between the suppliers and buyers is essential in enhancing performance of a firm. Mutual process should also be created between the parties in the organization to enhance smoothness of the operational activities and entire performance of a procurement function.

Kiambu county needs proper outline procedures for contract administration. The study found out that most of these institutions do not bother following up with the contractors to ensure that the contract is fulfilling its mandate. To them, once a contractor is awarded then it is left as the contractor's obligation to ensure the contract is fulfilled. This practice needs urgent attention to save most contracts that are failing to mature within these firms.

Areas for Further Research

Further research should include other sectors to ascertain the effects of contract management practices on performance. Additionally, contract management practices should be compared in different sectors such as public, non-profit and profit-making organizations.

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