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## **Assessing the Impact of Public Procurement Procedures on Collection Management in Public University Libraries in Nairobi County, Kenya**

**Doris Chelagat Chemng'orem**

Masters Student, Department of Library,  
Records Management and Information Studies, Moi University, Eldoret, Kenya

**Dr. Andrew Chege**

Lecturer, Department of Library, Records Management and Information Studies,  
School of Information Science, Moi University, Eldoret, Kenya

### **Abstract:**

*The study focussed on public procurement procedures in Public University libraries in Nairobi County. The aim of this study was to assess the impact of the Act on collection management in public university libraries and to suggest ways in which the Act can accommodate the unique needs of such libraries. The objectives of the study were to: assess the application of the Act to acquisition of information materials in public university libraries, examine how the Act has affected the collection management, establish the challenges facing public university libraries in procuring information materials, and suggest ways in which the Act can be amended to accommodate the unique needs of public university libraries. Survey research design and qualitative approach were used to carry out the study. The study population comprised of university librarians, procurement staff and the Director of the Public Procurement Oversight Authority. The study was informed by the UNCITRAL Model which sets the procedures, standards and guidelines used by the Act. Purposive sampling technique was used to collect data from the respondents. Data was collected using face-to-face interviews. Data collected was presented and analysed through the use of tables. Key findings of the study indicate that librarians were fully aware that they were required to comply and use the Act when acquiring and disposing information materials and delays in the acquisition of information materials due to the lengthy procurement procedures. Key challenges experienced in the use of the Act was language and terms of the Act and the attendant regulations, lack of proper guidance and insufficient communication from the procurement unit, and failure to involve librarians in the process and stages of procurement. The study concluded that there was need to amend the Act to accommodate the unique needs of public university libraries. Therefore, the study recommended that public university libraries be exempted from using the Act. Furthermore, user departments should be trained and manuals introduced for libraries and information centres.*

**Keywords:** Government procurement, public university libraries, public procurement, public procurement procedures, collection development

### **1. Rationale of the Study**

Public procurement was introduced in most countries to prevent fraud, waste of public resources, corruption or local protectionism. The law usually requires the procuring authority to issue public tenders if the value of the procurement exceeds a certain threshold. Government procurement is also the subject of the Agreement on Government Procurement, a plurilateral international treaty under the auspices of the World Trade Organisation (WTO). Public procurement is the acquisition of goods and/or services at the best possible cost of ownership, in the right quantity and quality, at the right place, and for the direct benefit or use of government (Uromi, 2014). The function of public procurement is to ensure government acquires required goods and services that enable performance of public duties and responsibilities in all areas. The procurement function has not been given the recognition it deserves in most public entities in developing countries regardless of the efforts by partners like the World Bank, the International Trade Organisation, the United Nations Conference on Trade and Development, the World Trade Organisation, among other bodies. (Zomer and Boer, 1997). The current study focuses on public procurement on collection management in public university libraries in Nairobi County, Kenya.

## 2. Public Procurement: Brief Introduction

The introduction of the Public Procurement and Disposal Act, 2005 affected purchase of various items in public entities, including academic libraries. According to Wind and Thomas (2001), procurement is as old as organisations, but it has evolved over time. It developed from the need for organisations to acquire those goods and services that they could not produce but needed in their operations. According to Thai (2001), the basic principles of good procurement practice include accountability, where effective mechanisms must be in place in order to enable procuring entities spend the limited resources carefully, knowing clearly that they are accountable to members of the public; competitive supply, which requires procurement to be carried out by competition unless there are convincing reasons for single sourcing; and consistency, which emphasises equal treatment of all bidders irrespective of race, nationality or political affiliation.

A procuring entity is a body that uses public funds in acquiring goods and services for use in rendering services to the public. The general principles of government procurement are that purchasing should be based on value for money and competition should be used to acquire goods and services. Kiseru (2012) states that procurement is basically about delivering value for money and reducing cost without compromising quality. Generally, the purpose of the Public Procurement and Disposal Act, 2005 is to govern public procurement to foster transparency, accountability, fairness and value for money. The Act does this by specifying offences in case of contravention of the provisions of the Act through corruption or malpractices.

The journey to public procurement reforms began in 1997 after a procurements assessment review identified weaknesses in Kenya's procurement system that reduced effectiveness of financial management and the government's ability to deliver services. The review team identified the following weaknesses: reduced effectiveness of the financial management, government inability to deliver services efficiently, obscure rules, unsound and opaque legal framework, and unfair competition among tenderers. The Exchequer and Audit Regulations, promulgated by the Minister for Finance on 30th March 2001, consolidated the provisions of all circulars that governed the public procurement system, abolished the Central Tender Board and led to the establishment of independent tender committees in procuring entities. The Regulations also established two regulators within the Ministry of Finance, which are the Public Procurement Directorate and the Public Procurement Complaints Review and Appeals Board as an oversight agency and a tribunal to oversee the procurement system.

The Regulations did not solve problems such as perception of the regulators being seen as part of the Treasury which was deeply involved in most procurement processes, excessive delays in the procurement process, uncontrolled contract variations, conflict of interest among players in the procurement system, overpricing, lack of fair competition, and inappropriate application of procurement methods. These challenges necessitated the enactment of the Public Procurement and Disposal Act, 2005, which set forth the general procurement rules, internal institutional arrangements within each procuring entity and an independent regulatory system through the establishment of the Public Procurement Oversight Authority (PPOA). The Public Procurement and Disposal Act was enacted by Parliament in 2005 to establish procedures for efficient public procurement and for the disposal of unserviceable, obsolete or surplus stores, assets and equipment by public entities. The principal reason for the enactment of the Act was to have a legal regime that weeds out inefficiencies in the procurement process, and removes patterns of abuse and failure of the public purchases to obtain adequate value in return for the expenditure of public funds.

## 3. Purpose of the study

This study aims at assessing the impact of the Public Procurement Act on collection management in the context of acquisition and disposal of information materials in public university libraries in Nairobi County. The objectives of the study included:

- To assess the application of the Public Procurement Act to the acquisition and disposal of information materials in public university libraries.
- To examine how the Act has affected the acquisition and disposal of information materials in public university libraries.
- To establish the challenges facing Public University libraries in procuring information materials.
- To suggest ways in which the public procurement act can be amended to accommodate the acquisition of information materials in libraries.

## 4. Research Methodology

The research design which was adopted in this study was survey design. The study population comprised university librarians, acquisition librarians, purchasing/procurement officer and the director-general of PPOA. The sample size consisted of 13 people, 12 of which were selected from the four Nairobi-based public universities and the director-general of PPOA. The sample size was drawn from four public universities based in Nairobi County and the office of the PPOA. The respondents included university librarians, Technical librarians; procurement staff and the Director General. Non-probability sampling method was used to select the study sample. Purposive sampling was used to select the respondents from the five public universities based in Nairobi, namely, University of Nairobi, Technical University of Kenya, Kenyatta University and Multimedia University, and the director-general of PPOA according to the nature and relevance of information for the study. The researcher purposely selected four members of staff from each of the four universities. The selected staff included one university librarian, one technical service librarian and one head of procurement unit in addition the director-general of the

PPOA. Face-to-face interview was the main data collection method for the study because the study was qualitative in nature. Face-to-face interview technique was used to collect data from the respondents. The researcher used the interview schedule to interview all the respondents of the study. This was more suitable to the group of respondents because it consisted of both open-ended and close-ended questions.

## 5. Results and Discussion

This section presents and discusses the research findings.

### 5.1. Response Rate

A total of 12 respondents participated in the research, 7 University Librarians translating to 87.5%, 4 head of procurement units 100%, 1 director general 100%

### 5.2. Respondent Characteristics

Most of the university librarians interviewed have served in their positions for between five to twenty years. Three heads of technical service (87.5%) were interviewed.

#### 5.2.1. Public Procurement Act

*On the knowledge of University Librarians on public procurement Act:* All the respondents from the four universities were positive they are familiar with Act. The librarians indicated that the Act was not well defined and clear when it came to the issue of acquisition of information materials. They indicated that they require more guidelines from their procurement units so as to enable them understand the terms used by the Act when they need to purchase information materials for the library.

All the respondents from the four public university libraries indicated that they use the Act when procuring print and non-print materials. On the issue of procuring electronic resources, all the respondents indicated that they use single sourcing to procure electronic resources.

#### 5.2.2. Challenges Faced by Public University Libraries in Acquisition of Information Materials

One of the objectives of the study was to find out the challenges facing public university libraries in procuring information materials. According to the findings the following were the challenges encountered in procuring information resources in public universities.

#### 5.2.3. Use of Technical Terms

The findings revealed that 33% of the university librarians interviewed indicated that the language used in the Act is very technical thus very difficult to understand. The librarians felt that the terms used in the Act are not very clear thus making it difficult to apply when procuring information materials for their libraries.

#### 5.2.4. Delays in Procuring Information Materials on Time

The university librarians 33.3% who participated in the current study felt that the methods used for procurement make it difficult for libraries to acquire information materials on time. The librarians indicated that the procedures used by the procurement units are lengthy and take between four to six months before the information materials are received in the library. The respondents also said the delay in approval of requisitions lead to procurement of the information materials when prices have increased while some information materials are declared out of stock or out of print.

#### 5.2.5. Quality of Information Materials Procured for the Libraries

The findings revealed that 16.7% of the respondents indicated that some of the materials procured were of poor quality. The reason is that when evaluation is done by the procurement unit, the supplier with the lowest bid is usually picked irrespective of the quality of supplies.

#### 5.2.6. Poor Relationship between Librarians and Procurement Staff

According to the findings 16.7% of librarians cited poor working relationship and there was no good cooperation between the libraries and the procurement units. One respondent indicated that the staff handling the library issues are hostile thus it becomes difficult to enquire about the status of the information materials to be procured for the library.

#### 5.2.7. According to the Research Findings the following Challenges were faced by User Departments

The heads of procurement units identified various challenges they face when dealing with user departments. Some of the challenges are:

*Delay in submission of procurement plans:* Section 26(3) of the Act and Regulations 20 and 21 make procurement planning mandatory. The procurement plans are prepared as part of the annual budget preparation process which inform the

cash flow preparation. All the heads of procurement units interviewed indicated that the university librarians delay in submitting their procurement plans thus making it difficult to procure information materials for the libraries on time.

*Lack of proper preparation of specifications:* The heads of procurement units interviewed said that the librarians in charge of acquisitions do not give proper and clear specifications. This forces the procurement units to return the documents to the librarians for amendment, a process which sometimes causes delays in procurement of information materials for the user department.

*Preferred procurement method:* All the respondents interviewed said that they use open tender and request for quotation (RFQ) when procuring information materials. The respondents indicated that the librarians preferred direct procurement to the other alternative methods.

*Financial constraints:* 25% of the respondents indicated that financial constraints affected their operations thus making it difficult to procure what is indicated in the procurement plans of various departments within the institutions. Due to financial constraints, priorities are given to more urgent items thus leaving out the requests made by the libraries.

#### 5.2.8. According to the Research Findings the following are Challenges Facing the Implementation of the Act as Outlined by Public Procurement Oversight Authority through the Interviews Carried Out

*Lack of awareness among the public on the existence and role of PPOA:* The Public Procurement Oversight Authority has been in existence since 2007 to oversee the public procurement and disposal system in Kenya. However, most members of the public are not aware of its existence and role.

*Poor linkages with key stakeholders:* Key stakeholders such as the State Law Office, Kenya National Audit Office (KENAO) and the Ethics and Anti-Corruption Commission (EACC) were established as implementing authorities in the fight against graft. The research revealed that there are no clear boundaries and frameworks for collaboration between these agencies. Though these agencies perform different functions, sometimes their functions overlap.

*Low level of professionalism in public procurement:* The current study revealed that some procurement officers are sometimes forced by circumstances such as low pay to compromise their integrity by trying to make quick money by engaging in corrupt deals with some suppliers. The procurement officers go against their professional ethics by breaking the procurement rules to favour their friends thus impeding compliance with the Act.

*Negative perception about public procurement:* it was revealed that some stakeholders have no confidence in public procurement because of the way it is carried out. They view the procedures as lacking in accountability, transparency and fairness. The negative perception makes stakeholders to lack confidence in the Act.

The research findings revealed that political interference is also a major hindrance to the implementation of the Act. Political leaders and senior government officers use their offices for private gain. This affects the strict adherence to and implementation of the Act.

*Procurement malpractices:* One of the malpractices covered under Section 43 of the Act is conflict of interest. Conflict of interest occurs when in the execution of official duties as public officers, one uses their positions to be influenced or appear to be influenced by a private or personal interest that may lead one to try to gain a personal advantage or to avoid a personal disadvantage. This contravenes the principles of public procurement which are transparency and accountability, fairness, competitiveness and integrity. An example of conflict of interest is whereby a tender is awarded to a relative or to a company affiliated to a member of staff in the procurement unit of a public entity.

## **6. Conclusions and Recommendations**

With reference to the study findings derived from the analysis of data collected, it can be concluded that staff working in libraries and information centres especially in the public sector need to be trained on the application and implications of the Act so as to improve their knowledge and understanding of the Act and its regulations to enhance transparency and accountability in public procurement.

The four public university libraries sampled are greatly affected by the Act. It is difficult for the libraries to acquire information materials on time because of the lengthy procurement procedures. The tendering committees should include a member of staff from the libraries to enable them appreciate and participate fully in the tendering process. From the above findings, it is clear that there is need to amend the Act to accommodate the unique needs of libraries.

## **7. Recommendations**

Based on the research findings the following short term and long-term recommendations are proposed:

- The Act should be amended to take care of the unique needs of public university libraries in the acquisition of information materials.
- Application of the Act has caused a lot of delays in the acquisition of information materials because of the lengthy procedures used in the Act. Exempting public libraries from using the Act would enable the libraries to procure information materials for their users within the shortest time possible.
- In order to enable public libraries, acquire information materials on time, the Act should be amended to allow libraries use direct procurement. This will reduce the time taken to order for information materials because the libraries will use a supplier for all orders thus enabling libraries to be efficient and deliver timely information in order

to meet the information needs of their users. This method will also allow libraries to develop their collections in direct support of the course curricula of various universities. The libraries can use of the two methods of procurement below:

- The Act should be amended to allow libraries and information centres to procure information materials from one supplier after signing a contract for a certain period. Such arrangement would make it easier for libraries and information centres to acquire information materials on time and without any delay.
- Considering that information materials are sourced from the international markets at a reasonable price, it should be recommended that libraries and information centres be allowed to select a reputable bookseller from abroad to supply them with information materials. By so doing, the libraries and information centres would save money which would be spent on advertising tenders.
- The terminologies used in the Act are very confusing and have different meanings to different users. A term such as 'direct procurement' is used in the Act as a method of procurement which may be used when there is only one supplier or there is an emergency. Terms like goods and assets have different meanings and interpretations to different users of the Act. Such terms should be explained further and their meanings made clearer
- The Act should be amended to cater for the disposal of various types and forms of information materials. The Act should guide on how to dispose of these materials and to provide for proper descriptions for the disposition of information materials.
- The Public Procurement Oversight Authority should come up with a user manual specifically for libraries and information centres. The manual would serve as a guide to the implementation of the Act and the Regulations thus promoting effective and efficient performance of the procurement function.
- The Kenya Library Association (KLA), which is a professional organisation responsible for developing libraries and information centres, should be included in the Public Procurement Oversight Advisory Board. Having KLA as a member of the Board would help articulate problems faced by libraries and information centres. The KLA representative may also offer advice and suggestions on how the Act can best accommodate libraries and information centres to acquire information materials within the shortest time possible. Lack of such representation impedes implementation of the Act.
- The Act should compel all procurement units to train user departments to ensure that the law is enforced in their various institutions. There is need to include a section in the Act to provide that it is mandatory for all procurement units to train all users on the provisions and implications of the Act.

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