

# Are Kenyans Suffering from Procurement Nightmare Culture?

Jackson Ndolo<sup>#1</sup>, Eunice Njagi<sup>#2</sup>

<sup>#1,2</sup>*School of Business and Economics, Mount Kenya University*

*Department of Management Science - South Eastern Kenya University*

<sup>1</sup>*ndolologistics@yahoo.com*

<sup>2</sup>*eunijack@yao.com*

*Corresponding Author: Jackson Ndolo; ndolologistics@yahoo.com*

**Abstract-** The Public procurement system in Kenya has never been subjected to negative publicity as in the recent past. This has been due to over reported mega corruption related cases though in many cases no evidence has ever been produced before any of the statutory procurement bodies. This paper therefore explores the state of procurement system in the country by reviewing the views of Kenyans and media reports. The paper proposes the role of key stakeholders in changing this negative perception. Key conclusions of the paper is that despite public outcry in many cases most of the procurement corruption scandals in the Kenyan scene are sometimes media created and politically engineered as politicians and their brokers seek to outwit each other.

**Keywords-** Public procurement, nightmare culture, statutory bodies, whistleblower, PPP, Vision 2030

## 1. Introduction

The public procurement system in Kenya has never been subjected to negative publicity as in the recent past despite undergoing many changes aimed at improving efficiency and effectiveness of the processes. The objectives at the center stage for the public procurement reforms has been; to create value for money, to increase public participation, ensure transparency and accountability, ensure fair treatment of all suppliers, improve the economy

and build the capacity of local suppliers [2]. To achieve these goals the Public Procurement and Disposal Act (PPDA), 2005 and its regulations, 2006 were developed. Since then there has been improvements in the public procurement arena. However, despite the gains made there has been increased complains notably from the office of the auditor general on embezzlement of public funds through shoddy procurement dealings [4]. The media has also been at the forefront arousing mixed reactions from the citizens in some cases due to perceived conflict of interest. The people's representatives, parliament has not been left out in voicing out their concerns especially when party affiliations are involved [7]. Procurement statutory bodies have occasionally been involved in reviewing public procurement processes with some resulting in nullifications of contractual agreements. In such scenarios, who tells the citizens the truth? Is the Kenyan citizenry aware of the public procurement process? Do Kenyans take time to know the truth on most of the publicized procurement scandals?

The researchers presume many just follow the wind and hence little is done to unearth any misinterpretations. The authors guess this has been a great draw back to most of government projects. No wonder many are abandoned early, stopped through court process or mass demonstrations. For how long will this continue in the disguise of preventing procurement malpractices? Can this situation be changed? Can the procurement

professionals “the suspects” in this case help to salvage the situation? Is there need for more reforms in the public procurement legal framework?

## 2. Research Methodology

The paper explores the current Kenyan procurement scenario and reviews the roles of regulations, procurement professionals, statutory bodies and the government roles in abetting the quagmire. The paper seeks to answer the question; are Kenyans exaggerating the state of procurement malpractices in the public system? Or is it too bad to receive the much attention being witnessed? The researchers review relevant procurement related reports as well as seeking the opinions of Kenyans on the subject matter.

## 3. The Current Kenyan Procurement Scenario

The public procurement system in Kenya has been faulted for being time consuming, rogue, inflexible and not corrupt free [5]. Often the complaints emanate from disgruntled bidders and politicians who would be happy to influence the process in their favor. However, this is not always the case since sometimes raised concerns have stood to be the truth. Several developments have necessitated changes that aim at strengthening the system as well as improve service delivery; for example implementation of the new constitution which brought in the concept of county government procurement, this has been a big battlefield between the central government and the county governments. The need to offer youth and women more business opportunities in government tenders has led to the strengthening of the preference and reservation clause, the 30% rule. The emergent of Public Private Partnership (PPP) arrangements as the government seeks to tap into private resources has led to more private interest on government business. Government to government procurement has also lead to more confusion in the ever controversial issue. Citizens interest on government opportunities has also increased tremendously as

business opportunities becomes scarce and stiff competition reaching great heights. The above scenario has seen increased procurement corruption and fraud related complaints to the ethics and anticorruption commission, more procurement reviews/appeals as well as contract nullifications by the Public Procurement Administrative Review Board (PPARB) [4]. There have been increased negative media reports on government major projects even if things seem to be going right. Activists come whistle blowers have also added more fire to the ever hot issue. The international community has occasionally been accused by government officials as fueling the confusion when their firms fail to acquire major government tenders. Infact some activities are known in the Kenyan circles as “mouths for hire” or “agents of confusion” Sometimes the resulting time consuming court battles have resulted to cancellation of contracts or withdrawal of donor funds to specific projects [7]. The researchers presume though some of the corruption claims are genuine most are just from goose chasers whose major aim is to derail government projects with a sole aim that “if we cannot get the tender nobody else should get” For how long shall the government succumb to such manipulations through procurement legal framework loopholes? The researchers suggest that procurement legal framework reforms are mandatory.

## 4. Procurement Professionalism

Procurement in Kenya is an area where there are all sorts of qualified specialized staff ranging from accountants, economics, management specialist, engineers, mathematics, agriculturists, techno logistics, surveyors etc. May be this is the case due to shortage of specialists since the discipline is relatively new in the Kenyan education system, though the universities and colleges are churning out a great number of graduates each year. Despite this key supply chain management skills and expertise are still lacking notably; negotiation, global logistics, port management, contracting under PPPs, green procurement, reverse logistics, supply chain reengineering, value chain analysis

and restructuring etc. Are the current crop of procurement professionals saving or worsening the situation? In the researchers' interaction with their students in several Kenyan universities, they are amazed by the level of bad influence from some of the professionals. Infact many view procurement as their gateway to instant wealth. Many procurement lectures will agree with the authors that procurement ethical issues covered in class are merely for grade purposes. Majority of the students may never intend to apply them, for they are viewed as impediments to quick cash. Can the procurement professionals redeem the situation? This is possible if they act responsibly. The strengthening of the Kenya Institute of Supplies Management (KISM) will help a great deal in enforcing the Supplier's Practitioners code of ethics. The country wide sensitization programmes on procurement challenges should also be enhanced to cover more universities within a year. Procurement professional; should also lobby for strategic positions in government key commissions. This will propel the professions as well as influence key government policy issues as well as make the profession to be appreciated by the citizens like their peers in accounts and finance, medicine, law and others.

## 5. Statutory Bodies

Three key regulatory bodies; Public Procurement Oversight Authority (PPOA), PPARB, and the ethics and anticorruption commission play key critical roles in guiding the public procurement process. PPOA monitors the system and advises the government as well as public procurement entities on procurement proceedings that are aimed at achieving the mentioned objectives. PPARB reviews procurement processes after receiving appeals from disgruntled bidders or interested parties. Their involvement has increased in the recent past with some controversial decisions being contested in the high Court. The high court is the final avenue for any procurement reviews and parties must be contented with their verdict. Are these bodies performing their duties effectively? The researchers presume yes though politicians

have occasionally accused them of being partisan. More need to be done to improve their efficiency; otherwise the sometimes witnessed delays in decisions making may hamper project implementations.

## 6. Role of Government

The government has been accused of not making the citizens fully aware of the public procurement system but on this the claims are unfound since donors have even partnered with the government to sensitize citizens on their role, opportunities and necessary reforms being undertaken. A good example is the partnership with GIZ to sensitize women and youth on the 30% procurement rule on government tenders. The adoption of E-procurement in government operations seems to be the perfect opportunity for the government to redeem its procurement system bad image. However, the emergent of use of government to government arrangement seems to send the wrong signals. Who takes care of public interests in this case? There is need for more public participation in the arrangement so as to get majority support. All procurement arrangement should be for the benefit of the citizens and should conform to the prevailing procurement laws; otherwise it may set a bad precedence. The government can redeem the procurement situation through close monitoring of all public entities and demanding total compliance and conformance with the law. The government may also enhance training of procurement staff through collaborative approach with strategic partners e.g. GIZ. The government can also assist in putting in place a robust regulatory framework in tandem with current developments.

## 7. Role of the Media

The media in Kenya has been a major player in unearthing major procurement scandals. It's the most powerful citizen tool. However on several occasions the media has made serious allegations yet it does not put corrective measures to arrest the situation. Often this has swayed public opinion on government projects, sometimes leading to demonstrations and destruction of property.

Responsible and fact based reporting can help a great deal. Though public procurement derives a lot of criticism from the media, the authors are yet to witness any media house dedicate space to sensitize the public on public procurement system. Despite its critical role in the development of the economy public procurement receives less attention from media houses other than the negative reports. Factual reporting based on investigative research driven by unearthing the truth will do the country a great deal. The media can partner with statutory bodies as well as KISM in giving public procurement the much needed redemption.

## 8. Conclusions

Despite the accusations and counter accusation among different stakeholders involved in the public procurement system in Kenya there has been a positive development as the country seeks to achieve vision 2030 goals. Some of the key government projects completed include: construction of Thika superhighway, expansion of JKIA, leasing of police vehicles etc. This is an indication that if public procurement system in Kenya is efficient and effective much more can be realized. However these can only be possible if all identified parties play a collaborative role in shaping the procurement process. Blame game cannot lead to good results.

## References

- [1] Azmi, R.A., 2006, "Business ethics as competitive advantage for companies in the globalization era", available at: [www.scribd.com/doc/30269737/Business-Ethics-as-Competitive-Advantage-for-Companies-in-the-Globalization-Era](http://www.scribd.com/doc/30269737/Business-Ethics-as-Competitive-Advantage-for-Companies-in-the-Globalization-Era).
- [2] Government of Kenya, 2005. The Public Procurement and Disposal Act 2005: Government Printer, Nairobi.
- [3] Government of Kenya, 2006. The Public Procurement Regulations. Government Printer, Nairobi.
- [4] Government of Kenya, 2013. Auditor General Report 2011-2012, Nairobi

- [5] Mokaya M., 2013. Historical evolution of public procurement in Kenya, University of Nairobi, Nairobi.
- [6] Government of Kenya, 2010. Supplies Manual: Government Printer, Nairobi
- [7] Siringi S., 2008. December 14. "Sale of Government Vehicles Raises Eyebrows" Daily Nation.