

**FACTORS INHIBITING IMPLEMENTATION OF PUBLIC  
PROCUREMENT ACT (2005) AND ITS REGULATIONS IN KENYA:**

**A CASE STUDY OF KAJIADO NORTH DISTRICT**

**BY**

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
**A RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILMENT  
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**OCTOBER, 2012**

## DECLARATION

I hereby declare that this research project is my original work and it has not been presented to any other institution of higher learning for academic purposes.

Signed .....  .....

Date ..... 7 11 2012 .....

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This project has been submitted for examination with my approval as the university supervisor.

Signed .....  .....

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To all I say thank you and God bless you.

## **DEDICATION**

To my family and friends for their love, understanding, encouragement and for all the support they gave me during the entire MBA program.

## ABSTRACT

Management in many organizations is focused on identifying and streamlining key business process to reduce costs, grow revenues and manage assets. Business processes include procurement process, marketing process, accounts payable process and research and development process. In the public sector, increasing the rate of internal compliance with the procurement process is a continuing challenge. The management executive team must get to the root causes of circumventing supply and develop strategies to eliminate or reduce these causes.

The study aimed at establishing the factors inhibiting implementation of the public procurement and disposal act (2005) and its regulations in Kajiado North District. Towards the realization of this objective, a case study research design was used and the researcher interviewed seven members of the district tender committee with different background of professional line and various years of experience in the district. The data was collected through the use of interview guides that had been prepared to guide the researcher in establishing the factors inhibiting implementation of the public procurement and disposal act (2005) and its regulations.

The findings from the study indicated that the district faces a number factors that inhibit implementation of PPDA ranging from budgetary restrictions, outside pressures, project approval, professionalism, record keeping, donor conditions and procurement planning.

Due to time and financial constraints, this study considered Kajiado North District tender committee members and did not consider views from other people within the district. All the seven respondents targeted were available for the interview and this contributed

positively to the success of this study. the research recommended that the PPDA be revised to address challenges that are making it difficult to implement. It also recommends that procurement professionals should be engaged early in the project concept development to ensure success when it comes to implementation.

The study has suggested further research including carrying out a similar research in other districts and other government agencies and also repeating the research after some time to find out if the factors will have changed.

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## **ABBREVIATION AND ACRONYMS**

|              |   |
|--------------|---|
| <b>PPOA</b>  | <b>Public Procurement Oversight Authority</b>                         |
| <b>PPDA</b>  | <b>Public Procurement and Disposal Act</b>                            |
| <b>IFPSM</b> | <b>International Federation of Purchasing and Supplies Management</b> |
| <b>MoD</b>   | <b>Ministry of Defence</b>  |

# CHAPTER ONE: INTRODUCTION

## 1.1 Background of the study

Public procurement covers the management of supply in public institutions and agencies as well as publicly owned entities. The objectives of sound supply management in the public sector are basically the same as for supply in the private sector: effective contribution to organizational goals and assurance of value for money spent. In every country, the public buyer is subjected to special laws, rules, and regulations and is ever mindful of the politically dictated targets while open to continuous public scrutiny. The wise and effective spending of taxpayers' dollars ensures that government services benefit those for whom they are intended but also helps build taxpayer confidence and trust in government (Leenders et al., 2010).

Public procurement is an important function of government for several reasons. The sheer magnitude of procurement outlays has a great impact on the economy and needs to be well managed. Indeed, in all countries in the world, estimates of the financial activities of the government procurement managers are believed to be in the order of 10% - 30% of the gross national product (Callendar and Mathews, 2000). According to Hawking et al. (2004), the procurement of goods and services represents the single largest cost item for any given enterprise since each dollar a company earns on the sale of a product; it spends about \$0.5 – 0.6 on goods and services. More capital is spent on the procurement of materials and services to support the business operations than on all other expense items combined (Hawking et al., 2004).

Public procurement laws provides in a formal way how to relate with suppliers when awarding public contracts. The objective of procurement laws is to make market for government assignments accessible to all providers and suppliers regardless of their nationality. Many European countries have since 2004 brought European procurement directives into force in national legislation. European procurement directives and national legislation have provided the legal framework, upon which national contracting authorities should act (Weele, 2010).

All procurement communications, agreements, and understandings internally and externally have ethical and legal implications. A professional in procurement does not require the training of a lawyer but should understand the basic principles of commercial law and ethics. As a strategic player in the organization, the procurement professional should always be looking to maximize opportunities and maximize risks for the organization (Leenders et al., 2010).

The government of Kenya is currently implementing a number of reforms aimed at re-engineering the public sector to improve productivity, attain efficiency and increase its service delivery levels to Kenyans. Public procurement, hitherto a problem area has been targeted for improvement. Among the milestone to this end is enactment of the laws to regulate the management of the public procurement system in Kenya (Kenya procurement journal, issue no 1).

Public sector workers are accountable to the public whose money is being spent, including disappointed tenderers' and potential suppliers. They are required to produce procedures and practices which will stand up either to scrutiny during government audits or to challenge through the courts of any procurement decisions that have been made. A primary purpose of public accountability is to prevent abuses

of tax payers money. A secondary purpose is to let it be seen that any such abuses have been prevented (Baily, 2008).

The public procurement system in Kenya has evolved to an orderly and legally regulated system governed by the public procurement and disposal Act, 2005. The purpose of the Act is to establish procedures for procurement and disposal of unserviceable, obsolete or surplus stores and equipment by public entities to achieve the following objectives; to maximize economy and efficiency, to promote competition and ensure that competitors are treated fairly, to promote the integrity and fairness of those procedures, to increase transparency and accountability in those procedures, to increase public confidence in those procedures and to facilitate the promotion of local industry and economic development (Public Procurement and Disposal Act, 2005).

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 the procurement be carried out by competition unless there are convincing reasons for single sourcing; and consistency, which emphasizes the equal treatment of all bidders irrespective of race, nationality or political affiliation.

Government expenditure on non pay related areas covers a vast range of equipment, goods and services. This requires an insight into the background and context of government procurement and the changing and challenging nature of such procurement in the light of commercial best practice (Baily, 2008).

### **1.1.1 Public Procurement Act and its Regulations**

The public procurement system in Kenya has evolved to an orderly and legally regulated system governed by the Public Procurement and Disposal Act, 2005. Prior to this, during the pre-independence set up, procurement was done through the central tender board (CTB) in 1955 and supplies branch in 1960. During the 1960s and 1970s which was the post independence situation, the system was governed by treasury circulars as well as a continuation of the pre-independence systems. In 1978, the supplies manual was issued which was followed by the district focus for rural development strategy commonly known as the blue book. The strategy made districts to be centers for planning, implementation and management of rural development and sets thresholds for procurements by districts, ministries and the CTB.

Exchequer and Audit (Public Procurement) Regulations were issued in 2001 then later replaced by The Public Procurement and Disposal Act enacted by parliament in October 2005. Currently, public procurement has now been constitutionalized. The constitution of Kenya, 2010 under part XII public finance, article 227 deals with public procurement and clearly stipulates that the system must be governed by an act of parliament. It is evident that legal anchorage of the public procurement and disposal system has progressively deepened with time.

Taxpayers were increasingly restive to the significant losses that were inevitably arising from unregulated and poorly monitored public procurement process whose hallmark was wastage, patronage and corruption resulting in sub-standard goods and services in the country. Due to this, the government through the Public Procurement

Act 2005 introduced new measures to regulate public procurement that would ensure that funds are used well. (Kenya Procurement Journal, Issue no. 1)

Adherence to procurement laws and regulations will improve transparency, competitiveness, value for money and increase efficiency. (Kenya procurement journal, issue no 3)

The Public Procurement and Disposal Act, 2005 is an act of parliament to establish procedures for efficient public procurement and for the disposal of unserviceable, obsolete or surplus stores, assets and equipment by public entities and to provide for other related matters. The Act lays down the conditions and regulates methods and proceedings for the purchase of goods and services and the contracting of construction works and services, in cases where the client is a body that uses public assets (PPDA, 2005). The Act regulates the establishment of bodies involved in the regulation of public procurement as organizations responsible for performing professional activities concerning the public procurement.

Section 140 of the Act provides that the minister makes regulations generally for the better carrying out of the provisions of the Act. The regulations are cited as the public procurement and disposal regulations, 2006 and came into operation on the 1<sup>st</sup> of January, 2007. The minister for finance through legal notice number 58 of 8<sup>th</sup> June 2011 has also produced the public procurement and disposal, preference and reservations regulations, 2011.

Public sector is the part of the economy concerned with providing basic government services. The composition of the public sector varies by country, but in most countries the public sector includes such services as the police, military, public roads, public



transit, primary education and healthcare for the poor. The public sector might provide services that non-payer cannot be excluded from such as street lighting, services which benefit the whole society rather than just the individual who uses the service such as public education, and services that encourage equal opportunity.

### **1.1.2 Kajiado North District**

It is one of the five districts in Kajiado County and was established through a gazette notice number 11696 of 8<sup>th</sup> December, 2008 as an administrative area. It borders Machakos County to the East, Nairobi County to the North East, Kiambu County to the North and Narok County to the west. (Kenya gazette, no 1196). The district has a population of 300,529 people according to the latest census done in the year 2009 (Kenya National Bureau of Statistics, 2010). Administratively, it has four divisions and an area of 6,344.9 square kilometres.

Public procurement entities have been classified into three categories with the districts falling under category B. The Act recognises districts as procurement entities whereby they make the decisions concerning what they intend to procure through their district procurement committees and enter into contracts on behalf of the government. The functions of the ministries are performed in the district through the respective departments. They carry out their mandate in accordance with the mandate of their ministries and have the required personnel. Information gathered from these sources will aid in forming a credible opinion on what factors inhibit effective implementation of the public procurement Act and its regulations.

Public procurement in central government is currently estimated at 10% of the Gross Domestic Product (GDP). It is therefore argued that a 10% savings due to

improvements in procurement practises and controls would mean yearly a gain to the exchequer. The gains accrued will allow the government to invest more resources in other needy areas such as health and education and improve the quality of life of the citizens of this country (Kenya procurement journal, issue no 5).

Infrastructural development, construction, equipment and other critical projects have huge procurement content and dependence. The skills and tools needed to deliver such projects in both programme and project management and procurement are highly valued and sought after (Kenya procurement journal, issue no 6).

## **1.2 Statement of the Problem**

Public procurement management strives to support effectively the goals of its public entity while assuring value for money spent. There are significant challenges in public procurement, not only because taxpayers funds are spent and political agendas count, but also because the public sector challenges have not fully been addressed (Leenders et al., 2010).

A possible reason for this knowledge gap is that procurement reforms have often been triggered by external pressures or corruption scandals, leading to hasty and piecemeal reforms that focus on adding controls and legislation rather than developing a thorough understanding of the underlying causes of the problems and feasible options to address them.

Since the early 2000s the Kenyan government has taken a close interest in their ability to maximize resources. Amongst other initiatives this has led to a plethora of appointments in government procurement units of procurement staff, many, but not

all, at director level. Clearly the rationale for such appointments is based on either improving or introducing procurement professionalism within institutions of disparate cultures.

A number of studies conducted have revealed serious weaknesses in record keeping, particularly in regard to procurement records management including failure to comply with procurement law, fragmentation of procurement files, maintenance of informal and at times makeshift filing systems and negligent keeping of closed procurement records (Kenya procurement journal, no. 4).

The public procurement oversight authority has developed initiatives to assess the levels of compliance with the public procurement and disposal act 2005. The initiatives include, procurement reviews, procurement assessments and attending to complaints received almost on a daily basis through letters sent to PPOA by stakeholders such as suppliers and the Kenya Anti Corruption Commission (KACC) and other interested groups (Kenya procurement journal, issue no 3).

Despite government concentrated efforts in reforming procurement systems, there is still a problem attributable to huge losses in improper procurement to the tune of 30 billion shillings. Public procurement requires a tight or waterproof system to be followed and adopted. This however is not true in most instances like the Goldenberg and Anglo leasing. Since public resources are scarce, the efficiency of the procurement process is a primary consideration of every procurement regime. Therefore, open, transparent and non-discriminatory procurement is the best tool to achieve value for money as it optimizes competition among suppliers (Petrie, 2001).

Daily Nation, (Monday, September 26, 2011) indicated that government officials would be charged over tenders, (page 52). Public officials and officials from private companies were taken to court and charged with conspiracy to defraud the government, violation of procurement regulations and fraudulent acquisition of public property. Reports given by KACC also indicate that the ongoing investigations point to the possibility of more officials to be charged with violating procurement laws thus making the study more significant in recommending how to avoid or reduce such occurrences in future.

Omosa (2005) studied procurement performance measurement systems using the survey design on large manufacturing companies in Nairobi and recommended further research on procurement in public service organizations. Kiburi (2008), studied factors influencing the implementation e-procurement among firms listed in Nairobi stock exchange and recommended that the research be extended to other companies not listed in Nairobi Stock Exchange. Kiplagat (2010) studied the impact of strategic procurement in Communications Commission of Kenya and recommended a review of the public procurement and disposal Act and also recommended that it should be strongly enforced. From the literature review, there is lack of information on the factors limiting implementation of the public procurement Act and its regulations in various government agencies in Kenya.

The purpose of this research will therefore be to answer the following question.

What are the factors inhibiting implementation of public procurement Act and its regulations in Kenya.

### **1.3 Research Objective**

To find out the factors inhibiting implementation of PPDA and its regulations in Kajiado North District.

### **1.4 Value of the Study**

The staff in Kajiado North District will be able to use this study as a reference to the challenges facing them in the implementation of the public procurement and disposal Procurement Act 2005. This will enable the district to put measures that will ensure efficient and effective procurement function and sealing of loopholes in the implementation of PPDA 2005.

The findings and recommendations of the study will also be of importance to other districts with similar operations to identify factors that will enhance effective implementation of 2005 procurement laws. It will provide them with an opportunity to compare how much they have achieved in implementation of the Act as compared to Kajiado North District.

By identifying the factors inhibiting implementation of PPDA 2005, the district will recommend amendments to the public procurement oversight authority during the stakeholders meeting that will enable procurement function play a strategic role in enhancing government competitiveness in provision of services to the citizenry. The information will benefit policy makers and government regulatory machineries in the realization of both short term and long term goals by focusing on issues raised by the stakeholders and other concerned parties. The understanding is intended to provide background information which may help to develop appropriate procurement

strategies that can be adopted for circumstances suitable for the current challenges prevailing in public procurement entities.

The findings of the research will provide scholars and academicians with additional knowledge on factors inhibiting implementation of the PPDA and its regulations by government agencies. The findings of the study can be used by students and the academic fraternity in training about the factors inhibiting implementation of PPDA. The limitations from the study can be worked on by future studies to make information from the future studies more valid and reliable.



## CHAPTER TWO: LITERATURE REVIEW

### 2.1 Defining Public Procurement

A feature that is sometimes introduced into the public sector-private sector debate concerns the basic mode of operation and the key financial implication associated with it. Organizations operating in a non-market mode provide goods and services without receiving payment from the direct recipients. Funding for supplies is allocated ultimately from taxation for public sector organizations and from donations in the case of charities. Clearly, profit is a concept which is not applicable in the non-market mode (Saunders, 1997). Gadde and Hankanson (2001) assert that procurement has become more significant activity in today's organization and contributes to overall turnover and has gradually become more involved in larger parts of company's total activity and due to this; procurement department's capacity and competence have great consequences for the efficiency of the company.

Government expenditure on non pay related areas covers a vast range of equipment, goods and services: weapons systems, stationery, furniture, uniforms, food, capital projects, including consultancy services, banking services, information systems and services, the management of facilities, as well as medical services, road building and maintenance and utilities. This requires an insight into the background and context of government procurement in the light of commercial best practice. (Baily et al., 2008)

Public procurement refers to the integration of related functions to provide effective and efficient materials and services to the organization (Leenders et al., 2010). Procurement includes all activities required in order to get the product from the supplier to its final destination. It encompasses the purchasing function, stores, traffic

and transportation, incoming inspection and quality control and assurance, allowing companies to make supplier selection decisions based on total cost of ownership rather than price (Weele, 2010).

Public procurement means the acquisition by purchase, rental, lease, hire purchase, licence, tenancy, franchise, or by any other contractual means of any type of works, assets, services or goods including livestock or any combination for the direct benefit or use in corporations, individuals or any other public institution (Public Procurement and Disposal Act, 2005).

## **2.2 Role of Public Procurement**

Public sector organizations need inputs of goods and services from external suppliers or providers. A procurement function traditionally involves determining purchasing needs, selecting the supplier, arriving at a proper price, specifying terms and conditions, issuing the contract or order and following up to ensure proper delivery and payment (Weele, 2010).

Winds of change have also hit both the service sector and non-market operations in the public sector. Different managerial practices and different forms of accountability are making inroads in these spheres as well. Lean supply performance, to complement and support lean operations is a desirable goal (Saunders, 1997). An effectively and efficiently operating purchasing and supply function can make an important contribution to company results.

Today, procurement is becoming strategically involved in giving organizations a strategic advantage. Many successful organizations have well developed, strategically



proactive procurement departments that are capable of making major contributions to their organizations and the supply chains they are involved with, while other organizations procurement is underdeveloped and reactive with all the characteristics of procurement activities of 30 years ago (Baily, 2008). Nzabuzor, (2005, as cited in Kiplagat, 2010) argues that any organization requires the parts to add value to the overall organization. Value based-management requires that procurement individuals perform processes that go beyond traditional buying processes. It requires that they obtain relevant information from the external environment or their customers and transmit it to the appropriate individuals. It also requires that they perform both tactical and strategic processes to enable the firm to maximize its opportunities. Unfortunately, procurement individuals currently perform routine, short-term activities rather than strategic ones, are not focused on the performance of major processes, and are restricted in terms of interaction with others on non-routine activities. Consequently, job responsibilities, performance measurement and education and training need to be rethought.

Successful implementation of value-based management in this complex procurement function requires well trained and educated employees. Unfortunately, the level of education and training of procurement individuals has been decreasing rapidly, as has the number of certifications. One study indicates that formal training programme exist for procurement individuals only within 44 percent of the firms surveyed and only 26 percent of the firms have a formal career development programme in place for procurement professionals (Atkinson, 2003).

## 2.3 Public Procurement Law

Initiatives and policies such as market testing, contracting out, private finance initiative, competing for quality, facilities management and partnering all affect how equipment, goods and services are procured within government and public sector. They help to shape the approach to the market, the preparation of the specification and evaluation of the most economically advantageous tender followed by pertinent relationships in order to meet the requirement (Baily, 2008).

There are at least three good reasons for all procurement professionals to have a working knowledge of commercial law. First, the principle of *ignorantia juris non excusat* (ignorance of law does not excuse). This means that an organization and its servant are presumed to know the law. Second, all procurement staff should have an awareness of the possible legal consequences of their actions and the third is that a little knowledge is a dangerous thing and a knowledge of the law should indicate when it is advisable for buyers to seek professional advice ( Lyson and Farrington, 2006). Global business environment has made it more important than ever for purchasing managers to understand the changing nature of law at the international, federal, state and regional levels (Handfield, 2009).

Savings on procurement related expenditure may lead to an improvement of the return on net assets. Due to lack of a well defined procurement policy and a lack of structure in the procurement process, the resulting lack of control on purchasing costs may lead to an unforeseen financial loss (Weele, 2010). New European Union procurement directives that came into force on 31<sup>st</sup> January 2006 provides a framework within

which public procurement must be conducted. It consolidates separate directives into one and removes many inconsistencies (Baily et al. 2008).

## **2.4 General Principles of Public Procurement**

Procurement policies should be based on a sound business orientation, reflect a cross-functional approach and be directed at improving the company's bottom and top-line (Weele, 2010). The approach that has been taken in public sector for many years can be summarized as follows;

Procurement decisions must be made on the basis of best value for money criteria. This requires a consideration of many factors including cost over the lifetime of the goods or services, operating costs, extent of support through life among others (Baily, 2008). Behan (1994, as cited in Baily et al, 2008) has indicated that the real value for money question is how much will the item or service purchased cost to own and use. Targeting optimum value in public sector is best achieved through best value focused contractor selection. The best value concept is ambiguous and there may not be a commonly agreed definition for best value (Palaneeswaran et al., 2003). Public clients should carefully balance the procurement objectives and value for money within the constraints of public procurement principles and governing rules and regulations in a public accountability framework.

Procurement in government is generally complex and it causes tensions. On one hand there is need to ensure best value for money on behalf of tax payer, and the need to ensure that the process to achieve this are fair and open to scrutiny. On the other hand there is considerable pressure to make savings and to utilize some or all of the best

practice philosophies mentioned earlier. This has led to challenges for those undertaking procurement (Baily, 2008).

Another important characteristic of public procurement policy is its public accountability. This holds that companies may sue the government for not being compliant with the public procurement directives. Therefore, a prime consideration of executing procurement decisions is their legitimacy. Since governmental institutions can be sued publicly, the legitimacy of procurement decisions often overrides their efficacy. This explains why contracting authorities are procedure driven result or performance driven (Weele, 2010). Public sector buyers are accountable to the public whose money is being spent, including the disappointed tenderers and potential suppliers. They must produce procedures and practices which will stand up to scrutiny during government audits or to the challenge through the courts of any procurement decision (Baily, 2010).

To ensure accountability and gain optimum impact through the use of commercial best practice, there is a need for professional training and education of those personnel responsible for the strategic direction and practical application of procurement action. Professionalism can only come from a full understanding of all the issues involved, a sound knowledge of the legal and commercial aspects and the confidence to make decisions that effectively balance these tensions (Baily, 2008). In the United Kingdom, ministry of defense (MoD) introduced a cultural change, indeed a new mind set (Moore and Antill, 2011) that has been identified as a key to developing personnel and bringing about performance enhancements.

## 2.5 Importance of Procurement in Public Sector

Porter states that the activities of a business can be classified into five primary and four support activities, each of which will potentially contribute to competitive advantage and cited procurement as one of the support activities (Lysons & Farrinton, 2006). Procurement is seen by many of today's successful organizations as an activity of considerable strategic importance. The fact that the strategic role and contribution of procurement is well recognized in many leading commercial concerns has meant that the strategic procurement decisions may be taken by procurement involvement at board level, rather than by a departmental manager (Baily et al., 2008).

The beneficial effects of just in time, total quality management, the recognition of the importance of customer supplier relationships, the increasing supplier relationships, the increasing strategic significance of supply chain management and the adoption and adaptation of lean and agile concepts within the public sector could not be ignored and government departments have been keen to utilize these (Baily, 2010).

Gershon echoed the previous reviews, particularly regarding the primary objective of government procurement being the achievement of value for money. Delivering value for money is accepted as the primary objective of United Kingdom public sector procurement. Telgen and stir (2001) concluded that it is possible to generalize for every type of organization that value can be added by the procurement department through better contracts, improved efficiency, customer satisfaction, closer relationships with suppliers and reduced costs, improved quality and time to market. Saunders (1997) argues that procurement offers opportunities for significant leverage on profitability and any reduction in the cost of bought items could be seen to go

straight to the bottom line. Managing the added value at each stage, as well as reducing wasteful activities, contributes to the meeting or exceeding of customer expectations in the end product market place.

## **2.6 Factors Inhibiting Public Procurement**

Procurement and supply represents a business area which is being confronted with many changes and challenges. Most of the problems require intensive interaction, communication and co-operation with other disciplines in the organization. Procurement and supply is developing increasingly as a business function which cuts across other disciplines. Managing purchasing and supply function require a thorough understanding of the procurement processes that take place within the organization. Only then can these challenges be dealt with effectively (Weele, 2010). Failures of MoD procurement system in United Kingdom which was caused by effectively braking up into a number of linked but separate phases managed separately within the MoD, made an effective through-life management approach impossible (Baily, 2010).

European directives on public procurement have met great resistance, as much in the public procurement community, as in the circle of government managers and politicians. This resistance is caused by relentless complaints concerning the complexity of directives themselves, their lack of flexibility, the terms that need to be adhered to for publication and answering questions, the fact that the directives do not stimulate supply chain collaboration and innovation sufficiently, and the complex (project) administration that is required for the application of these directives (Weele, 2010).

Insufficient resources being made available in the early stages of the procurement project meaning that important decisions had to be made with inadequate information and understanding of the risks involved, often resulting in a need for greater expenditure at a later stage. Procurement organizational structure such as the issue of centralization and decentralization and delegation of authority that is inadequate at all levels and stages of the life cycle (Thai, 2001)

The process of approval of project expenditure inherently cumbersome causing delay and inefficiencies. Procurement decision making in the government suffers from a lack of rationality and a fact-based mentality (Weele, 2010). Incentives available to the stakeholders were ineffective and innovative contracting solutions that could have led to improvements were discouraged as they fell outside bureaucratic rigidity of procedural guidelines.

Lack of a professional culture change poses a considerable challenge to the successful and sustained development of the procurement system. Many civil servant personnel are brought up in a culture that emphasized compliance with procedure rather than the conviction that the customers need come first, while others have a culture of hierarchy and acceptance of orders rather than questioning of activities or reasoning of decisions. Many of the challenges and concerns relate to the fact that government institutions have not professionalized their procurement organization, systems and staff (Weele, 2010).

Record keeping is a very important element of any procurement process (Atkinson, 2003). A good procurement process should take particular note of the availability, quality, security and completeness of procurement records and files. In addition to

overall data on numbers, types, values and dates of contracts awarded and names of awardees, procuring organizations should maintain for all contracts, a record which includes; inter alia: public notices of bidding opportunities, bidding documents and addenda, bid opening information and bid evaluation reports. Further, any good procurement record keeping practice should include formal appeals by bidders and outcomes, signed contract documents and addenda and amendments, records on claims and dispute resolutions, records of time taken to complete key steps in the process and comprehensive disbursement data (as required by the country financial management system) (Arrowsmith, 2003).

Development projects under donor funded projects contain a large volume of procurement for implementation of the project. Procurement of all these components usually face severe setback in the public sector impeding the desired and planned pace of implementation (Knight, Harland, Telgen and Caldwell, 2007). The ultimate result shows up in non-utilisation or under utilization of the hard to obtain foreign exchange components of the project fund and/or abnormal increase in the total project cost both in local and foreign currencies. This occurrence can be seen as a composite formation of two components: a) increase in the cost of the project itself, and b) deficit to the national economy in term of negative impact on monetary income, creation of employment opportunities, growth of savings, growth of national production range or national income, rise in the volume and speed of economic activities. If we consider in an objective way, delay in project implementation by a single day ultimately results into huge loss to the national economy in term of one or more of the above effects acting simultaneously.



Delay in project implementation (delay in procurement processing) also has an indirect negative impact on the increase of purchasing power of the working population both at the micro and macro levels by way of risk money circulation through economic activities expected out of the implementation process and after-effects (Linthorst and Telgen, 2007). Just in time implementation would have all positive effects on the consequential sequence of economic activities, so would the untimely implementation have on the negative side (Nollet and Beaulieu, 2005). Delays in procurement are costly and can have disastrous consequences on the ultimate objective of the process under consideration. Most delays stem from poor planning and failure to engage procurement professionals early enough in the project concept development and appraisal phases to determine procurement methods and corresponding lead-times in line with the overall needs of the project. Procedures that are not inherently flexible enough to cater for the fact that they had different tasks to carry out or lack sufficient flexibility in complex projects procurement such as those involving complicated and structured financing where the financial and legal make-up cannot be defined in advance has made the process difficult (Baily et al. 2008).

Kiplagat (2010) concluded that the challenges facing communication commission of Kenya include unprecedented changes and volatility in the technological environment, lack of requisite skills in employees, lack of management commitment and inadequate adherence to formulated procurement strategies. Lack of cooperation and team work during implementation was another hindrance, misalignment of procurement plans with the company culture and non-alignment of the leadership plans.

## 2.7 Best Practices in Public Procurement

A practice may refer to a conventional, traditional, or otherwise standardized method of doing things. Best practices are generally-accepted, informally-standardized techniques, methods or processes that have proven themselves over time to accomplish given tasks. The idea is that with proper processes, checks and testing, a desired outcome can be delivered more effectively with fewer problems and unforeseen complications (Nash & Ehrenfeld, 1997). They are used to maintain quality as an alternative to mandatory legislated standards and can be based on self-assessment or benchmarking.

One of the best practices in procurement is adoption of the e-procurement. According to Baily (2008), the savings on adoption of e-procurement is estimated at 40% of the overall procurement costs. Rationalization of procurement routines, procedures and policies which includes involvement in the selection of appropriate supply chain packages and reduction of purchasing costs via e-procurement, design of the supply chain structure, appropriate training of staff, monitoring of ethical aspects of procurement and measuring all aspects of supply chain performance (Lyson and Farrington, 2006).

Good procurement means getting value for money. That is, buying a product that is fit for purpose, taking account of the whole-life cost. A good procurement process should also be delivered efficiently, to limit the time and expense for the parties involved. Successful procurement is good for the taxpayer and good for businesses supplying the government (weele, 2010). Public sector purchasers in Ireland are being encouraged to buy greener, with the creation of an environmental buying action plan.

The Irish government launched its Green Tenders plan, last month to drive PPOA is currently working on guidelines for green procurement to guide procuring entities on how to conduct procurement and disposals that are sensitive to the environmental concerns and that integrate best practices in environmental conservation (Daily Nation, Wednesday, March 28, 2012)

The period between March and June each year is characterized by numerous advertisements by procuring entities as they source for suppliers/contractors for their next financial year. Majority of the advertisements for pre-qualification of suppliers are for common user items whose specifications are standard across most procuring entities. A lot of time and resources are expended by procuring entities in evaluating prospective suppliers. PPOA is exploring various options that could be harnessed to reduce the financial and labor costs expended in the exercise (Daily Nation, Wednesday, March 28, 2012). Aggregating and advertising common requirements for all procurement entities would realize some savings from the reduction in advertising costs that can be channeled to other priority service delivery areas.

Monitoring compliance to the law by procuring entities through an assessment designed to evaluate procuring entity's compliance with identified indicators can enhance compliance.

## **CHAPTER THREE: RESEARCH METHODOLOGY**

### **3.1 Research Design**

This research design was a case study. A case study involves in-depth investigation into one case or a small set of cases. The aim is to gain a rich, detailed understanding of the case by examining aspects of it in detail (Gary, 2011). Young and Kothari (1990) concur that a case study often provides focused and valuable insights to a phenomena that may be vaguely known and less understood. This was considered appropriate since the study involved an in-depth investigation of the phenomenon under study. It was preferred because it will enable an empirical description of the factors inhibiting implementation of the PPDA and its regulations as perceived in Kajiado North District.

The case study design gave interviewees an opportunity to give the various reasons for the situation in depth. Flexibility of the case study approach was to lay emphasis on understanding the context of the subject being studied and results in richness of understanding.

### **3.2 Data Collection**

The study used primary data and secondary data with emphasis on the primary data. Primary data was collected using a semi-structured interview guide with open ended questions from seven members of the district tender committee who are based at Kajiado North District headquarters. Secondary data was collected from previous research as well as other literature from government offices. These were the people

with in-depth knowledge about the procurement practices in the district and would therefore provide the required information to facilitate a comprehensive study.

The persons interviewed were the Development Officer, Water Officer, Agricultural Officer, Livestock Development Officer, Education Officer, Accountant and Works Officer.

### **3.3 Data Analysis**

Considering the kind of data envisaged as per the questionnaire, a conceptual and qualitative, content analysis was used to analyze it. The qualitative analysis was adopted in this study because the researcher would be able to describe, interpret and at the same time criticize the subject matter of the research since it is difficult to do so numerically. Content analysis is a systematic qualitative description of the composition of the objects or material of study. It involves observation and detailed description of objects, items or things that comprise the study (Mugenda, 1999). The qualitative method was used to uncover and understand what lies behind the phenomenon under study. Mbogo (2003) who employed this kind of research argued that it is useful in gaining fresh material in even what was thought to be unknown. After collecting data, the interview guides were checked for accuracy, consistency with facts gathered and uniformity entered. They were edited where necessary to facilitate qualitative data analysis. The researcher made meanings from interviewee's responses through conceptualization and explanation building.

# **CHAPTER FOUR: DATA ANALYSIS, RESULTS AND DISCUSSION**

## **4.1 Introduction**

The objective of the study was to find out factors inhibiting implementation of the PPDA and its regulations in Kajiado North District. This chapter presents data analysis, interpretations and discussion with regard to the objective of the study. The data was collected using interview guides and analyzed using content analysis. The respondents comprised members of the district tender committee. The researcher interviewed all the respondents who were intended for the study. To achieve the objective of the study, the interview guide was divided into two sections; general information and specific information. General information sought to find out the interviewees background while specific information sought to find data on factors inhibiting implementation of PPDA and its regulations in Kenya.

## **4.2 Respondents background**

The study in an effort to establish the interviewees' competence and conversance sought data on the respondents' respective departments and the years of service as well as their experience of Kajiado North District operations. Seeking such information was considered necessary in laying the basis of obtaining pertinent information on factors inhibiting implementation of the PPDA and its regulations in Kenya.

The respondents were responsible senior government officials working in Kajiado North District as heads of departments. The researcher wanted to find out the names

of the departments heads in the tender committee to understand the representation at the committee level. Generally, persons with more years of experience were considered more knowledgeable about the public procurement process. The results obtained were tabulated below.

Table 4.1 Respondents profile

| Position held  | Years in the position |
|--|-----------------------|
| Head of planning, national development and vision 2030 | 6 years               |
| Head of water and irrigation department                | 5 years               |
| Head of agriculture department                         | 3 years               |
| Head of finance department                             | 3 years               |
| Head of public works department                        | 4 years               |
| Head of livestock development department               | 3 years               |
| Head of education department                           | 5 years               |

From the table, fifty seven percent of the interviewees had been in the their respective positions for three years while the district had been there for three and a half years since it was created. The other forty three percent had served in other districts at

similar capacity before being transferred to the district. Thus it was reasonable to conclude that the respondents had good knowledge of the district. It also proved that the respondents were conversant with procurement practices in Kajiado North District and this came out clearly as they proved to be knowledgeable about the PPDA and its regulations. They were helpful in answering all the questions that were put across.

It emerged that the interviewed were four male and three female respondents; a very good representation in terms of gender since it reflects the one third representation. All the respondents indicated that they would prefer to continue serving in the district tender committee since their contribution would impact directly towards attaining the government goals in the district. The chairman highlighted his leadership characteristics in terms of influencing the opinions, attitudes and behavior of others as one that has ensured that PPDA and its regulations are applied while creating a conducive environment for open and active deliberations by the members. The members were also free to criticize any process that they felt could not withstand thorough scrutiny while at the same time giving their advice on the best way forward.

The deputy chairman indicated the essential contribution in leadership that led to fruitful deliberations which was guided by her attitude, motivation and personality. The District Works Officer indicated the contribution in technical matters to do with building and construction which were critical in enabling the committee reach a conclusion in line with the requirements by the ministry and other professional bodies. The Accountant indicated that she advised the committee on financial matters that enabled the members make decisions that do not contravene the government financial regulations. The other members also played critical roles in ensuring that the PPDA and its regulations were followed.



### **4.3 Factors inhibiting implementation of the PPDA and its regulations in Kajiado North District.**

Respondents in the interview indicated that in the wider public sector, relevant reforms include introduction of performance contracts, embracing the results based management (RBM), rapid results initiative (RRI), e-government, E-commerce, integrated financial management information system (IFMIS) and reforms in the public procurement system that necessitated the enactment of the PPDA and its regulations by parliament.

#### **4.3.1 Insufficient resources**

From the respondents the Kenyan economy had experienced shocks from both internally generated sources and externally generated sources. This affected the disbursement of funds to projects that had already been budgeted for. Inter ethnic conflicts and war against illegal militia groups that threaten the country's security was cited as having forced the government to shelve its development projects and support the military action on the militia group.

The country also experiences periodical drought seasons that are not foreseen due to the unpredictable weather pattern hence forcing some departments development budget to be reduced and the funds reallocated to other departments that deal with drought like the ministry of water, ministry of agriculture and the department of arid and semi arid lands. At the same time, due to humanitarian condition and the need to alleviate suffering, the government is forced to urgently undertake certain projects that need some emergency measures.

The management of finances within the government had affected the availability of resources. Ministries were expected to spend the budget within the year in which it was allocated to them. Those that spent the money wisely and were able to save lost the money to the central government. This has been detrimental to the departments involved since they receive a lower budget in the next year.

The respondents also indicated that lack of adequate resources led to stoppage of some projects since the government policy is against making commitments for work to be done without commensurate funds hence avoiding pending bills. Thus, projects would normally be stopped or be done in phases in accordance with availability of funds. This led to delay in the planned completion time hence denying the public the benefits that would have been achieved had the project been completed. During emergency cases where the service providers are requested to provide services and wait for funding at a later date, the bills were abnormally exaggerated making the government to pay higher rates than the market rates. Delayed payment in cases where work had been done led to lack of confidence with the government by its suppliers.

#### **4.3.2 Resistance to PPDA and its regulations**

According to the respondents, the PPDA does occasionally face resistance from government officials because of differences in the members' understanding and interpretation of the PPDA. It is also caused by relentless complaints concerning the directives themselves, their lack of flexibility, terms that need to be adhered to and answering questions. However, a few people who worked in the old dispensation before the PPDA was enacted appear to have not fully changed their mindset thus

affecting implementation. They pointed out that the political class has in the recent past not interfered with the implementation of the PPDA and only in few occasions where they wanted to hasten the process without considering the implications of the PPDA.

It was also noted that the PPDA was enacted in 2005 with the government set up that was there at that time. In the latter years, they experienced government re-organization where ministries were divided into two or more, some merged and others transformed into autonomous bodies. This leaves some decisions in the hands of the concerned officers hence not creating uniformity that would be required to achieve standard results.

The PPDA and its regulations do not have adequate options in regards to methods of procurement. It does not cater for circumstances where funding is received late in a financial year and some methods of procurement are not practical. This has forced most departments to return funds that are much needed to improve the livelihood of Kenyans within Kajiado North District whenever the financial year is closing and there is no adequate time to start a procurement process. In cases where the project stalls because of various reasons, the procurement process has to be started again and that takes more time.

According to the respondents, the requirement for publication of procurement opportunities does not affect the procurement process in a negative way. It makes the process more competitive and more transparent thus providing the government with a variety of service providers at a competitive price. The PPDA and its regulations does not provide room for innovation hence the implementers are supposed to follow it as

it is. This is seen as too restricting to creative ideas that would see things done in a simpler way. It has made members to feel tied too much to the procedures while there are other more practical ways of doing things.

The procurement decision is made by the committee and not an individual something which has made a few people who want to have their way unhappy. The decisions are also binding on all the committee members including those who have expressed their reservations on certain matters.

#### **4.3.3 Project Approval**

As to the question posed to the respondents on how delay in project approval affects implementation of PPDA and its regulations, the respondents gave various opinions. It was indicated that it affects the procurement planning process including implementation schedule, leads to a compromised process and quick decision making when trying to compensate for the lost time. In some occasions, it has led to use of wrong procurement procedures which could make the whole process questionable or the integrity of the committee to be questioned.

Respondents also indicated that decision making suffers from lack of rationality and fact based mentality occasionally due to lack of adequate information. However, respondents felt that the delegated authority at different levels of procurement were adequate to handle effectively the work intended.

#### **4.3.4 Professionalism**

The findings on the question as to whether lack of professional culture change affected the implementation of PPDA and its regulations were by a majority response

positive. Some respondents felt that some people use the PPDA for their own benefits while others have not accepted it positively. This has slowed down the implementation process hence not achieving the intended benefits of its full implementation.

The culture of hierarchy and acceptance of orders has affected implementation of PPDA and its regulations according to the respondents as it is not possible to question your senior even if they may appear to be wrong for fear of being reprimanded. Orders from the seniors are also not challenged hence the powers are abused. Since the overall senior officer is always answerable for the department or organizations activities, those below him/her will always do as their senior directs without thinking of the consequences of that decision.

The respondents indicated that various efforts had been undertaken by the government in enhancing professionalism in procurement. Ensuring that the staffs undertaking procurement are professionally qualified was a major step in realization of this goal. There has been continuous recruitment of the qualified personnel in all cadres to ensure that the function is undertaken by professionals at all levels. There has also been sensitization programs that are organized from time to time that include workshops and seminars which respondents felt that should be increased. Managerial training courses have included public procurement as a mandatory unit to enhance understanding of the PPDA. Formation of the PPOA was also identified as a major effort to give the function the importance it deserves.

On the question of how else professionalism can be improved, the respondents had divergent views. Some preferred increasing seminars which should be more practical

than theoretical for the committee members and be conducted more often to address the dynamics experienced from time to time. It was also proposed that effective periodical monitoring be enhanced and should be more objective to avoid biasness.

#### **4.3.5 Record Keeping**

The researcher also sought to identify if there were proper systems of keeping procurement records ensuring availability when needed. To this extent, all the respondents were of the opinion that the systems were good enough even though there was a constraint of space particularly in the new district which was perceived as short term problem. They also indicated that the PPDA was clear on which records to be kept and the duration hence it was not difficult to sort the records.

Kajiado North District has its own mechanisms of ensuring that the records are in place. This is done by ensuring that the committee scrutinizes all the documentation at the committee stage and the minutes are confirmed by the committee. However, some difficulties encountered in record keeping include information kept differently relating to the same subject, or the period under which a certain process was undertaken. The respondents gave their opinion on other ways of keeping the records which include electronic storage which is the current trend globally in a central system. This makes access easier by various stakeholders which could save on the costs associated with looking for information.

#### **4.3.6 Donor Conditions**

The respondents indicated that the district has donor funded projects which were selected and funded by various donors in respect to their areas of interest. They were procured in accordance with the respective donor conditions. According to the



respondents, the volume of procurement under donor funds did not affect implementation of PPDA and its regulations. However, their procedures are too lengthy and it is felt that the donors must have coerced the government into coming up with the time consuming procedures. The donors should be made to follow government laws on procurement to stop confusing those implementing them and also making procurement under donor funds achievable in a shorter period.

#### **4.3.7 Procurement Planning**

The researcher also wished to identify from the respondents whether the district had a procurement plan. To this extent all the respondents were of the opinion that there was a plan which guided the procurement process in the district. They went further to indicate that the various departments had other project plans which are not necessarily determined by at the district level while others are handled both from the headquarters and the district level. The district tender committee gives direction on the district procurement plan and all the departments are informed while the supply chain department, accounts and internal audit are tasked with ensuring that the plan is adhered to. This has made it largely successful since the monitoring is enhanced and guidance is given promptly where necessary.

Procurement plan enhanced efficiency in the procurement process by prioritizing and consolidating certain activities similar in nature that were achievable within a similar time frame. It had also ensured that duplication of duties was minimized or eliminated at all levels. In responding to the question of other ways that the district can improve its procurement planning, the respondents had various opinions. Some of the opinions include building consensus among stake holders through effective consultation before

finalizing on the procurement plan and ensuring that funds are received in a timely manner.



## CHAPTER FIVE

### SUMMARY, CONCLUSION AND RECOMMENDATION

#### 5.1 Summary of Findings

In summary, the study shows that the interviewees understand the factors inhibiting implementation of the PPDA and its regulations in Kajiado North District. The knowledge about the operations in the district was exhibited by the respondents by the fact that all of them have worked in the district for a minimum period of three years. In addition the respondents were found to be well versed with the subject matter of the study due to the fact that they were members of the district tender committee. As a result, the researcher felt that the results obtained from the respondents reflects the true position of the district.

The budgets are very essential documents in the public sector since they are used for planning and control. In the district, budgets are affected by change in conditions under which a budget was made. Often, changes in the budget are approved by parliament on a line item basis in advance of expenditure. The conditions necessitating the changes include, conflict, war, drought, diseases and strikes. This has forced the district to abandon its procurement plans due to lack of the budgetary support that was initially factored in. the members of the committee have been advised against endorsing a procurement process when the required funds have not been received. Thus, the procurement process has to wait until the funds are received for it to commence.

Resistance to the PPDA is from misunderstanding, resistance to change, political interests and conflict of interest. Other causes of resistance include instances where the PPDA is not in line with the current government structure thus leaving the interpretation and justification to individual members. Open and competitive bidding was a way of ensuring that all qualified suppliers, who are taxpayers or who employ personnel who are taxpayers, have an equal opportunity to compete for the sale of products and services needed in the operation of government. However, the PPDA was criticized for lack of room for creativity even where members felt that there was a better way of doing things. Project approval was noted as having affected the procurement planning process and later its implementation.

There are a few cases where unprofessional conduct has been noted in implementation of the act. This has denied the public the benefits that should be derived from the full implementation of the law. The culture of hierarchy in government system was also noted as factor that inhibits implementation. Junior officers who are given orders by their senior's will end up implementing the orders even if they are aware that such orders might be wrong. However, the government has taken up measures to enhance professionalism in the procurement system. Competent and qualified people have been recruited at all levels in the procurement cadre. In addition, there have been several programs intended to improve the skills of those in implementation as a way forward to ensure that the challenges are overcome.

The district has its ways of ensuring that the records are well kept as per the guidelines from PPOA. This ensures that the records can be retrieved when needed and all the requisite information is available. Donor conditions were viewed to be more time consuming than the government laws making it take too long to achieve

similar project or service despite being undertaken by the same officers. Procurement planning should be done at the district level for all the projects done within the districts. The plans should include all the stakeholders to make the process more consultative and comprehensive.

## **5.2 Conclusion**

The study had one objective of finding factors inhibiting implementation of PPDA and its regulations in Kenya. From the research findings and the answers to the research questions, the study has revealed that there are many factors inhibiting implementation of the PPDA in Kajiado North District. They include lack of adequate resources, resistance to the PPDA and its regulations, professionalism and procurement planning. Lack of adequate resources emerged to be the leading factor since funds were a key requirement in procurement. The district tender committee is required to verify whether there are enough funds before commencing a procurement process. The study has also established the flow of funds from the ministries headquarters to the district has not been smooth thus affecting procurement activities in the district. It has caused abandonment of key projects and services which at times have severe consequences to the people. Within the health sector, many service seekers would be left unattended which leads to immense sufferings.

The unique environment in which public sector procurement operates presents special challenges. The public buyer is subjected to special laws, rules and regulations and is ever mindful of the politically dictated targets while open to continuous public scrutiny. Some people who have not accepted change that has enabled the public to continuously seek clarification on how their taxes are being spent do not accept the

laws positively. The reorganization of government departments and ministries without considering the implication to the PPDA has left the implementers not clear in terms of how to go about their procurement while some essential goods and services have to be procured. Lack of flexibility in the procurement procedures which leads to departments returning funds that are received towards the closure of the financial year has made people develop a negative attitude towards the PPDA and its regulations.

The culture of hierarchy and acceptance of orders in the public sector has affected implementation of PPDA and its regulations. Professionals cannot be able to question their seniors even when they feel that some decisions could not be right. Though the government has done a lot in enhancing professionalism in the public sector, there is still a lot that needs to be done. Technology has changed the way things are done in most organization, and public procurement should also change to reflect the modern trend globally. The study also established that procurement planning in the public sector was critical for the success of public procurement. However, plans made at the ministry level and others at the district level are never harmonized to reap the benefits of planning.

### **5.3 Recommendation**

The study recommends that the government comes up with a clear directive on how the funding at the district level should be streamlined. This can be done by ensuring that funds are received in good time to enable procurement process to be done as required by PPDA. Funds that are received towards the closure of the financial year should not be returned to the ministries since they expect the district to undertake their procurement as per the PPDA. The PPDA should also be revised to include adequate

options that would enable the districts undertake their procurement even when funds are received towards the closure of financial year. Government should also prioritize its activities to ensure that funds are available for projects that have been started and that they continue to a logical conclusion for the benefit of the public.

The PPDA should be revised regularly to take into consideration the changes in government set up that has affected the tender committees. There should also be a mechanism of ensuring that people entrusted in implementing the PPDA are champions of change. Government should ensure that people with the right expertise are involved in project approval to ensure rational and fact based decision making. Continuous training of personnel should be prioritized to give them the necessary skills that reflect the changing business conditions. They should also come up with policies that would prevent the senior officers from interfering with decision making process. Best practices in the public procurement such as e-procurement should be adopted and rationalize procurement procedures, routines and policies.

Procurement professionals should be engaged early enough in the project concept development and appraisal phases to determine procurement methods in line with overall needs of the project.

#### **5.4 Recommendations for Further Research**

This research is not an end in itself. There are a number of research gaps that need to be filled in the same field. The following include some of the research gaps that may need to be filled.

The study confined itself to Kajiado North District. This research should therefore be replicated in other districts, ministries and other government agencies within the

country to find out if they have similar factors inhibiting implementation of PPDA.

Future research may also consider how to overcome factors that inhibit implementation of the PPDA.

The study can be replicated after some time to determine whether there are any changes that have taken place as far as the topic under investigation is concerned.

There is a possibility that the factors studied could change after some time.

### **5.5 Limitations of the Study**

This was a case study and therefore may not be used for generalization purposes. The culture of staff in Kajjido North District may not be the same with other districts in the country. This is due to the understanding that people have different values and resource capabilities. They also have different leadership styles and therefore are likely to respond differently to similar conditions and situations when making decisions.

The study may also have some weaknesses inherent in using interview guide for data collection purposes. First is the misrepresentation of words by respondents. This could result in some answers which reflect an ideal situation rather than the actual occurrence. Some respondents may also withhold some information which is important for the study. There is also likelihood of bias as some respondents may not be willing to disclose information which might give a negative impression of the district to the public.

The respondents were not willing to disclose some information which they termed as confidential based on government secret Act. The researcher had to be cautious not to appear to be investigating the committee members or the procurement entity with a

view of reporting their operations by making the respondents understand that it was academic research project.

Time constraint was another problem since all the interviewees are departmental heads who are very busy and not willing to give the research enough time to probe further in order to get in-depth information. Some respondents postponed the researcher till when they were available for the interview to be carried out. The researcher was also limited to the time allocated to complete the project.

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## APPENDICES

### Annex I: Research Instruments

#### INTRODUCTION LETTER

Dear sir/Madam,

#### **REF: RESEARCH PROJECT**

I am a post graduate student at the University of Nairobi pursuing a Master of Business Administration degree (MBA). In partial fulfillment of the course requirements, I am undertaking a research on factors inhibiting successful implementation of public procurement act of 2005 and its regulations in Kenya. A case study of Kajiado North District.

You have been selected as one of the respondents in this study. I therefore request you to kindly give the most appropriate responses to the questionnaire based on your experience and knowledge.

Please note that the information sought is purely for academic purposes and will be treated with utmost confidentiality. A copy of the findings may be sent to you on request.

Thanking you in advance.

Sincerely,

**Job Mburu**

**Student**

**Mr. Tom Kongere**

**Supervisor**

## APPENDIX II: INTERVIEW GUIDE

### SECTION A: GENERAL INFORMATION

1. What is the name of your department?
2. What is your job title?
3. How long have you been in that position?
4. Are you conversant with the procurement practices in Kajiado North District?  
Yes [ ]                      No [ ]
5. Would you opt to discontinue as a member of the district tender committee if given a chance?  
Yes [ ]                      No [ ]
6. What contributions have you made positively as a person to bring Kajiado North District where it is as a procurement entity today?

### SECTION B: INSUFFICIENT RESOURCES

1. Are the procurements in the district budgeted for?  
Yes [ ]                      No [ ]
2. Are there adequate resources at the beginning of a procurement process?
3. How does lack of or inadequate resources affect the procurement process?

### SECTION C: RESISTANCE TO PPDA AND ITS REGULATIONS

1. Does the PPDA and its regulations face resistance from the government officers within the departments?

2. Does the PPDA and its regulations face resistance from the politicians?
3. Does the PPDA and its regulations have complexities in its directives?
4. Is the PPDA and its regulations flexible with adequate options in methods of procurement to suit different circumstances?
5. Does the requirement for publication of procurement opportunities affect the process?
6. Does the PPDA and its regulations create room for innovation? Elaborate.
7. How does the complex project administration affect implementation of the PPDA and its regulations?
8. Which other form of resistance does the PPDA and its regulation face?

#### **SECTION D: PROJECT APPROVAL**

1. How does delay in project approval affect implementation of PPDA and its regulations?
2. Does decision making suffer from lack of rationality and fact based mentality?
3. Is the delegated authority at all levels and stages of procurement process adequate?

#### **SECTION E: PROFESSIONALISM**

1. How has lack of a professional culture change affected the implementation of PPDA and its regulations?
2. How has the culture of hierarchy and acceptance of orders affected implementation of PPDA and its regulations?
3. Explain the efforts done to professionalize the system and the organization?

4. In your opinion, how else can professionalism be improved in the procurement process?

## **SECTION F: RECORD KEEPING**

1. Do you have proper system of keeping procurement records ensuring availability when needed?
2. How well are the documents safe guarded?
3. Does the district have mechanism to ensure completeness of procurement records?
4. What other difficulties do you encounter in record keeping?
5. Which other method would you recommend for handling and keeping procurement records?

## **SECTION G: DONOR CONDITIONS**

1. Does the district have donor funded projects?
2. Does the volume of procurement under donor funds affect implementation of the PPDA and its regulations?

## **SECTION H: PROCUREMENT PLANNING**

1. Does the district have a procurement plan?
2. How does the district ensure that the procurement plan is implemented?
3. How does the procurement plan enhance efficiency in the procurement process?
4. In which other way do you think the district can improve procurement planning?

Thank you for participating