

EFFECTIVENESS OF CONTRACTS MANAGEMENT ON VALUE FOR MONEY IN PUBLIC PROCUREMENT OF GOODS IN TANZANIA: A CASE OF MINISTRY OF AGRICULTURE

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Abstract

The main objective of this study was to determine effectiveness of contracts management on attaining value for money in public procurement of goods in Tanzania at the Ministry of Agriculture as a case study. The research questions were guided by three variables; formulation of procurement contracts, contract implementation and contract administration. Related literature review was conducted based on the variables mentioned above. A cross-section survey design was employed and both qualitative and quantitative approaches were used; Results showed that 91.7% agreed that contracts were not properly formulated as a result no contracts could be implemented without adjustment/improvement. On the effectiveness of contract implementation the results revealed that 61.7% were neutral on weather contract are completed within the agreed time and 66.7% were neutral on weather contracts are completed within the agreed budget. For contract administration it was agreed by 90% of respondents that there is sufficient contracts management proceedings for goods at Ministry of Agriculture.

Keywords: Effectiveness, Contract administration, contract implementation, Contract formulation, Value for Money, Public Procurement, Goods

INTRODUCTION

Contract management in public sector is vital for all procuring entities in attainment of value for money (Trepe 2011; Kumar & Markeset, 2007). A value for Money (VfM) explains the concept efficient, effectiveness and economies in procurement of resources in achieving the intended outcome. Therefore, central to the concept of VfM in public sector organisations is the principle that public funds should be put to the best possible use and that those who conduct public business should be accountable to the economical, efficient and effective management of the resources entrusted to them (OAG, Canada). Attainment of VfM in Tanzanian organization remains to be a challenge (PPRA, 2017). Several factors were identified to contribute in attaining value for money, which among others includes; shortage of procurement staff with appropriate procurement skills, complications due to rigid procurement rules and incompetent public procurement staff (Mamiro 2010), vetting of all contracts above 50 million by Attorney General (World Bank 2017), lack of planned and coordinated training and development programmes (Köksal 2011), non adherence to the terms and conditions of the contracts, ineffective use of technology in the area of project management, lack of good project planning resulting to unnecessary changes of scope or specification and design (Hanga, 2008), and lack of carrying out post-implementation and evaluation of completed contracts (RDTL-Ministry of Finance, 2011).

Controller and Auditor General (CAG) report together with Public Procurement Regulatory Authority (PPRA) reports for the financial year ending 30th 2016, pointed out that the government of Tanzania has lost thousand of millions of money through procurement which did not considered the principles of value for money. Furthermore, value for money auditing by PPRA financial year 2015/16 shows that 8.1% of the projects worth TZS 10.72 billion were unsatisfactorily or poor (PPRA, 2017). This is the huge amount which comes from taxpayers who prefers their government to improve their social economical well being but according to non considering value for for money in procurement the money is poorly spent. Besides that findings the report did not show exactly why value for money is not attained in those identified projects. So this triggered the need to assess one area on contract management in procurement cycle on achieving value for money in the Ministry of Agriculture since this also is a Public Procurement Entities which is spending public funds. Adequate and capable expertise has been identified to contribute towards effective contract management and value for money (Hanga, 2008; Mshana, 2007). However, Wami (2009) explains expertise in contract management without timely payment and good procurement planning value for money cannot be realized. While other researcher had recognized the factors for poor performance of procurement contracts without classifying to how procurement contracts are being formulated and implemented. Contract administration has significant effect on the management of procurement

contracts for goods especially in the aspects of delay, cost and quality. Moreover, other studies have just determined on contract management alone without undertaking much on its involvement to the achievement of value for money. Thus, among other objective, the study was focused on concentrating on the identified gaps and provided more knowledge on how procurement contracts are formulated, implemented and administered in order to achieve value for money in public procurement of goods. Combined empirical and theoretical above, it gives the gap as an area of research as methodology used and geographical differs. For this research, A case of Ministry of Agriculture (MA) is an area of research, whereby the study employed both qualitative and quantitative approaches.

General Research objectives

To assess the effectiveness of contracts management on achieving value for money in public procurement of goods in Tanzania.

Specific Research Objectives

- i. To evaluate the formulation of procurement contracts in achieving value for money in public procurement of goods at the MA.
- ii. To determine effectiveness of procurement contracts of goods as per agreed terms and condition at the MA.
- iii. To examine the contribution of effectiveness contract management through procurement process of goods toward achievement of value for money at the MA.

LITERATURE REVIEW

Transaction Cost Analysis

Transaction cost Analysis (TCA) theory was used focusing on the assumption that Procuring entities undertake to administer effectively funds allocated by analysing costs to be involved before and after in order to administer the procurement process. Contract needs to be administered as per agreement. Effective contract management considers uncertainties that may happen and its effect on the agreement during implementation or termination of the contract (Rindfleisch & Heider, 1997). The Theory assumes also that parties involved will be concerned and expected to deliver according to the agreement between two parties (Bartle, 2002).

Contract formulation and legal framework

The aim of contract management is to enable both parties to meet the obligation set within the contract. Pre-contract procurement activities lay the foundation for effectiveness

contract management in the procurement of goods. According to section 77(1) of the Public procurement Act No 7 of 2011 as amended in 2016 explains that the drafted, signed and awarded contract to the supplier shall not be altered or amended in any way by both parties except such alteration or amendments is to the benefit of the government. Therefore, during contract formulation, the terms and conditions of the contract need to be correct with fair dealing to both parties as to guarantee the best attainable value for money. Procuring entity and economic operator if adhered with agreed terms and conditions of the contract results in most advantageous to contract performance, achievement of value for money, timely delivery of goods and cost effectiveness (RDTL-Ministry of Finance, 2011).

Contract implementation

Regulation GN No 446 of 2013 states clearly that Procuring Entity shall monitor the economic operator's performance against the specifications stated in the contract, by means of the reports from the PE's Inspection and Acceptance Committee responsible. Implementing and managing procurement contracts for goods, always the center of attention of the organization is on how to effectively administer delays, costs, quality and risks which might have impact in implementation process and to the final effect (ITC 2000). In almost all construction projects contracts are the contractual clauses allowing parties involved in the contract to freely initiate variation orders (Ndiokubwayo and Haupt, 2009). Wang and Miguel (2011) argue that, if contracts are properly designed, schedule risks, cost risks, quality risks, commercial and other risks can be mitigated. During contract implementation a quality plan has to be the prime document for managing quality that spells out how the quality performs and objectives to be achieved. Delays are effectively managed through the application of contract schedule/ time plan (Ndiokubwayo, 2008). Therefore, using that plan variation orders which occur due to reasons of finance, design, aesthetic, geological, weather conditions, feasibility of construction, statutory changes, product improvement and discrepancies between contract documents can be avoided.

Contract administration

CIPS Australia (2005) defines effectiveness as the extent to which objectives have been met. It is referred to as doing the right thing. That is, to measure effectiveness is simply to compare goals and results. This is the degree to which objectives are achieved and the extent to which targeted problems are solved. Contract administration is concerned with the mechanics of the relationship between the customer and the provider, the implementation of procedures defining the interface between them, and the smooth operation of routine administrative and clerical functions. On other side, effectiveness contract management goes much further than

ensuring that the agreed terms of the contract are being met – this is a vital step, but only the first of many (ANAO, 2007). Contracts tend not to fail due to legal, technical or business expertise, contracts fail due misunderstandings, misinterpretations, accountability, responsibility and failure to accurately describe the contract scope contract idea helps parties align goals, accountability and processes through charts, graphs, and swim lane diagrams (QLD AUDIT REPORT 2013-14). Hence, effective contract administration is defined as existing when the arrangements for service delivery continue to be satisfactory to both customer and provider, expected business benefits and value for money are being realized, the provider is co-operative and responsive, the customer knows its obligations under the contract, disputes are rare and there are no surprises for either party (ANAO, 2007).

Value for Money

Achieving value for money may be described in terms of the 'three Es' - economy, efficiency and effectiveness. Value for money can be enhanced in public procurement through encouraging competition, ensuring fairness, promoting the use of resources in an efficient, effective and ethical manner and making decisions in an accountable and transparent manner (National Audit Office, 2000). Nkinga (2003) argued that value for Money (VfM) is an essential test against which procuring entities must justify a procurement outcome. From the user or the targeted public point of view, value for money is the value (output) attached to some defined cost (input), quality, time and risk (ITC, 2000). Value for money means the best available outcomes when all relevant costs and benefits over the procurement process are taken into considerations (South Ribble Borough Council, 2007). It does not only measures the cost of goods and services, but also takes account of the mix of quality, cost, resource use, fitness for purpose, timeliness and convenience to judge whether or not, when taken together, they constitute good value. The researcher agrees with UK definition as cost, quality, risk, and time were considered while assessing the effectiveness of contract management on attaining value for money in public procurement of goods.

METHODOLOGY

A case study approach was used to capture data from the respondents. The study employed both qualitative and quantitative approaches. A cross-sectional study was employed since the sample measurement was carried out at a single point in time. To ensure the wording, format and sequencing the questions were pre-tested several times. Data were collected from the population of MA staff. The selected groups were those who are directly involved with procurement proceedings and contract management activities. Samples were drawn up by

using purposive or judgmental sampling techniques and random sampling techniques throughout data collection. Sample included the heads of departments, members of the tender board, PMU staff, inspection and acceptance committee, contract management team members, and staff from user departments. Purposive sampling technique was used to select staff from Procurement Management Unit (PMU) and Contract Managers and non-sampling technique was used to select staff from other units of enquiry. The reasons for using mixed sampling technique was because the researcher targeted key informant form PMU and Contract managers due to their skills, experience and they are the one responsible in day to day activities on procurement and contract management, therefore, using random sampling technique there was a possibility that they could not be chosen(Kothari, R. 2004). Non-sampling technique was used to select sample from other units of enquiry in order to provide equal opportunities of participation as the information required could be given by any member within the department (Kothari, R. 2004). The selected sample from Ministry of Agriculture was 60 staff. In additional, the researcher selected units of enquiry by using judgment technique to simplify selection of a required sample for the purpose of obtaining information from specific target of population at the Ministry of Agriculture. The researcher evaluated reliable data and those collected data was tested to ascertain their validity. According to the environment of the study, data were evaluated quantitatively; the reliability was tested by using descriptive techniques. Percentage and tables were used where it was found useful to illustrate the facts to be obtained. Descriptive analysis was applied to test the validity and reliability of the data collected. Qualitative data analysis involved the use of "interpretive" and "reflexive" approaches as proposed by Mason (2002). On the other hand, the use of quantitative techniques involved the utilization of Statistical Package for Social Studies (SPSS) program as a tool for data analysis that assisted the researcher to run some of the analysis. Also, for the purposes of presenting the findings, tables or charts was used to illustrate the facts. Descriptive statistics and other non-parametric methods were also used to analyze and present data while determining the level of statistical significance and correlations.

FINDINGS AND DISCUSSION

General characteristics of study population

Gender of respondents

Figure 1 presents gender of respondents who were interviewed during this study. There was a slight difference in gender of respondents where male accounted for about 58% and remaining were females. This gives an implication that there was almost gender equity where male and female participated were given equal chance during the study.

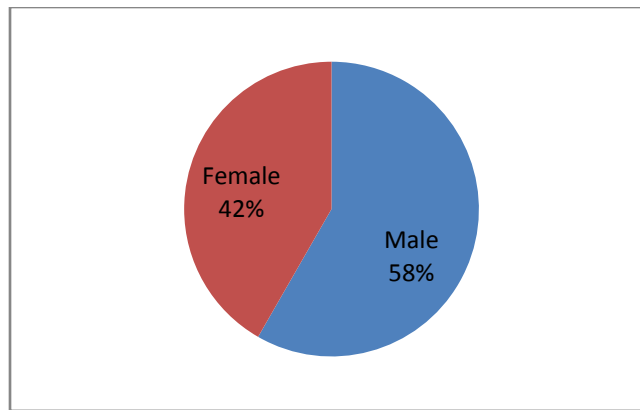


Figure 1: Proportion (%) of Gender of respondents involved in the study

Professionalism and area of specialization of respondents

Table 1 presents the working position and specialization of respondents involved in the study. Out of 60 study population 25% were from the user departments, 20% were from procurement management unit, 13.4%, 13.3%, 10.0% were from inspection, acceptance committee and head of departments and tender board respectively. Other respondents who participated in the study are as shown in Table 1. With regard to specialization, majority of respondents (21.7%) specialized in procurement and supplies and minority were from the accounting department.

Table 1: Percentage professional and area of specialization of respondents (N = 60)

Parameter	Percentage (%)
Working position	
PMU	20.0
User Department	25.0
Tender Board	10.0
Inspection and acceptance committee	13.4
Head of Department	13.3
Internal Auditor	5.0
Supplier	8.3
Legal Unit	5.0
TOTAL	100.0
Area of Specialization	
Accounting	1.7
Procurement	21.7
Legal	6.7
Economics	3.3
Cooperative	6.7
Marketing	8.3
Human Resource	11.7
Engineering	3.3
Planning	1.7
Inspection and Acceptance Committee	13.3

Head of Department	11.7	Table...
ICT	6.7	
Auditing	3.3	
TOTAL	100.0	

Education level and work experience

Majority of respondents were well educated with first degree (66%) followed by those with Masters Degree (25%), diploma holders (5%) and PhD holders who were the minority comprising about 1% of respondents (Figure 2). The big proportion (65%) of respondents had working experience between 5 – 10 years and very few had work experience between 16 – 20 years (Figure 3). This implies that the respondents involved in the study had a mix of experience ranging from less experienced to those with a wealth of working experience.

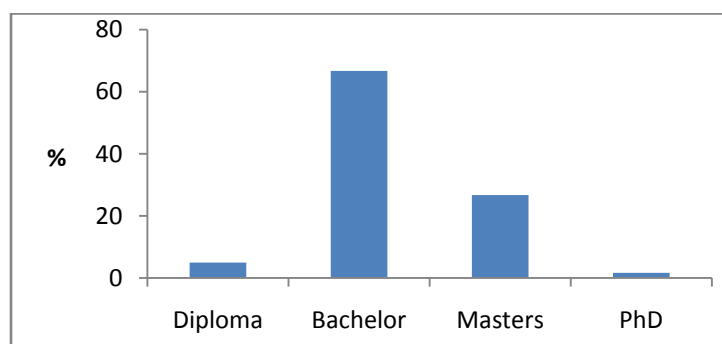


Figure 2: Percentage of respondents in relation to Education Level (N =60)

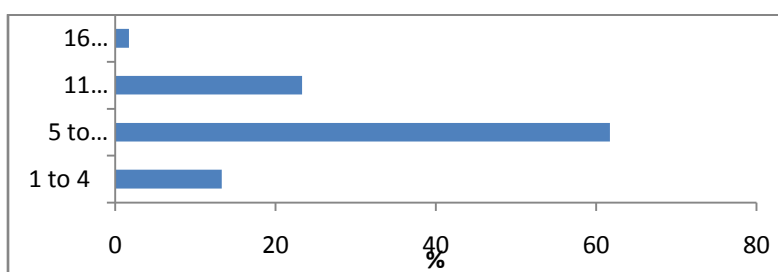


Figure 3: Percentage of respondents showing work experience in years (N = 60)

Evaluation of formulation of procurement contracts in attaining value for money in public procurement of goods at the MA

Evaluation as to whether public procurement contracts for goods are properly formulated to guarantee the attainment of value for money, various questions was responded by various staff in MA. Table 2 presents the response on the mentioned aspects that impact formulation of effective public procurement contract. High percentage (98.3%) admitted to be aware of the public procurement proceedings and indicated that contracts are effectively followed (good

35.6%, very good 30.5% and excellent 32.2%). However, on the part of sufficient formulation of the contract 96.7% reported the contract not to be sufficiently formulated and 72% ranked the contracts to be just fair. One of insufficiency of the contract is delays of contract formulation.

Table 2: Formulation of public procurement contracts for goods towards guarantee the achievement of value for money.

Parameter	Percentage%
Public procurement proceedings awareness	
Yes	98.3
No	1.7
Total	100.0
How are they effective followed	
Very poor	1.7
Good	35.6
Very good	30.5
Excellent	32.2
Total	100.0
Procurement contract are sufficiently formulated	
I don't know	1.7
Yes	1.7
No	96.7
Total	100.0
How do you rank	
Inadequately	1.7
Fairly	72.4
Adequately	25.9
Total	100.0
To what extent procurement contracts for Goods are properly formulated	
Low	5.1
High	84.7
Very high	10.2
Total	100.0
Measures recommended to improve formulation of public procurement contract	
Transparency from user department	4.9
Formulation should take time in preparing	7.4
Flexible for amendment	10.7
Assigned and train specific staff	36.9
Capacity building to PMU and Tender Board Members	9.8
Need prescription should be identified by user department to meet requirements	8.2
Procurement of goods should adhere with the requirements of the Public Procurement Act and its Regulations together with its amendments of 2016.	6.6
Procuring entity to purchase direct from manufactures	3.3
Involvement of actors and having proper auditing	4.1
Conduct performance review of past contract	3.3
Preparation of contract budget	2.5
Engagement between organization contract function and suppliers	2.5
Total	100.0

Effectiveness of procurement contracts of goods as per agreed terms and condition at the MA

Table 3 presents the response on effectiveness of procurement contract implementation per terms and conditions. When respondents were asked whether contracts are completed within the required time, majority (61.7%) were neutral whereas 8.3% of respondents disagreed. The neutrality and disagreement on the component of completion of contract in time exhibits some problem on this aspect.

Table 3: Effectiveness of procurement contract implementation as per terms and conditions

	Disagree	Neutral	Agree	Strongly agree	Total
Contract are completed within the required time	8.3	61.7	21.7	8.3	100.0
Liquidated damages are charged for delayed goods	30.0	50.0	16.7	3.3	100.0
Delivered good conform to the quality standard as specified.	1.7	3.3	85.0	10.0	100.0
Penalties are charged for goods with poor quality	66.7	18.3	6.7	8.3	100.0
Detected goods are rectified during defect liability period	1.7	18.3	76.7	3.3	100.0
Contract are completed within required budget	10.0	66.7	15.0	8.3	100.0

Similar scenario was observed when respondents were asked on liquidated damages is charged for delayed good where 50% of respondents were neutral and 30% disagreed with the aspect. However, majority of respondents (85%) agreed and 10% strongly agreed that delivered goods conform to the quality standard as specified. It was evident that penalties are not charged for goods with poor quality delivered to MA. Probably this could be due to the fact that detected goods with poor quality are rectified during defect liability period as about 80% of respondents agreed rectification of poor quality goods to be done. Majority (66.7%) of respondents were neutral when asked whether contracts are completed within required budget and 10% disagreed that contract are completed within the contract budget. The delays in completion of contract budget could be due to lack of cash flow as planned or budgeted. In most cases the Government disburses fewer amounts of budgeted funds and sometimes the funds are not received in time.

Challenges hindering effectiveness of contract management and proposed solutions

Challenges as reported by correspondents are presented in Figure 4 and Table 4 presents the proposed solutions to the listed challenges.

Challenges

Various challenges were reported that includes delay in completion of the contracts, weak inspection and acceptance committee, budget fall ups, specialization of work, awareness of stakeholders on procurement process. Other challenge includes language barrier, conflict of interest, insufficiency funds disbursement and incapable PMU staff (Figure 4). Furthermore, Lack of smooth cash flow as per budget/ Annual Procurement Plan were reported by top management level. Other challenges includes Lack of procurement contracts knowledge to some suppliers, Users are not aware or lack of knowledge on their obligation, Lack of compliances and ethical to small percentages, Wrong perception on procurement management unit, too general specifications from the user department and scanty management support to procurement proceedings.

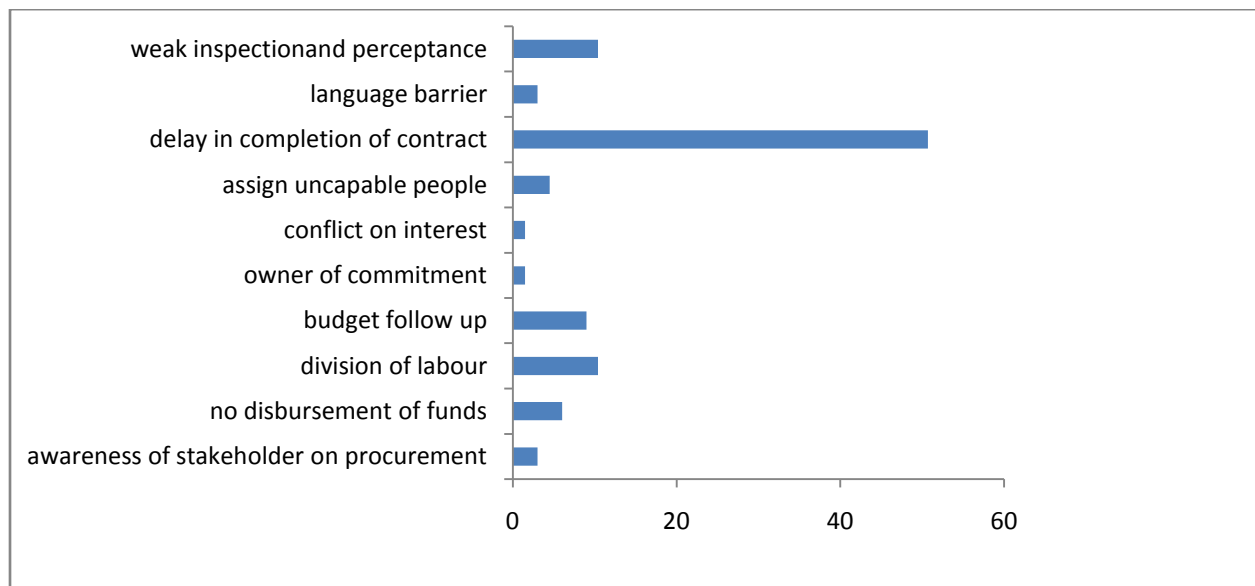


Figure 4: Percentage Showing Challenges Hindering Effectiveness of Contract Management

Proposed solutions

Several solutions to do away with the challenges that are hindering effective procurement contract management are presented in Table 4. Generally, funds for procurement to be available in time was reported by majority (29.3%), followed by professional involvement in preparation of bid document and contract (12.0%), penalties charged for goods with poor quality should be awarded immediately (10.9%), proper assessment and execution of the contract (10.9%), capacity building (9.8%), stakeholder should be well equipped with procurement proceedings (7.6%). Other proposed solutions are as presented in Table 4.

Table 4: Proposed solutions for the challenges that are hindering effective procurement contract management

Proposed solution	Percentage
Capacity building	9.8
Assigning qualified employee	5.4
Efficient and competent PMU to execute contract	6.5
Proper assessment and execution of the contract	10.9
Professional involvement in preparation of bid document and contract	12.0
Authorization should not be done with one person in PMU department	4.3
Penalties charged for goods with poor quality should be awarded immediately	10.9
Good price forecast should be inconsideration	2.2
Strengthen ethics	1.1
Stakeholder should be well equipped with procurement proceedings	7.6
Funds for procurement should be available in time	29.3
Total	100.0

Examination of the contribution of effectiveness contract management through procurement process of goods toward attaining of value for money at the MA

Parameters showing Contribution of effective procurement contract administration on attainment of value for money are presented in Table 5. It was agreed by 90% of respondents that there is sufficient contracts management proceedings for goods at MA. About 96% of the study population agreed that members of contract management team, PMU or tender boards awareness on the attainment of value for money in procurement contracts management and 89% agreed the grounds for approving such value for money is identified. Further, respondents admitted to have experience in contract as they have participated as either contract management team, PMU or Tender board members and often value for money in procurement of goods have been approved; more than 10 times (42.3%), 5 – 10 times (34.6%) and less than 5 times 23.1% (Table 5). It was reported basing on the experience of respondents where disapproval of value for money had never happened (28.6%) or happened less frequently (66.6%). It was also reported that suppliers had never delayed deliveries (84.6). However, when delays happened liquidated damage charges were not applied (66.7%) instead agreement of suppliers to cover extra cost was applied Tender board frequently review ongoing contracts for improvement (81.8%). For the case of defect goods that occurred were corrected by suppliers during liability period (76.2%) and the supplier covered the cost for repairs/maintenance (100%). However, it was reported (91.7%) that contracts were not properly formulated in a way that could not be implemented without adjustment/improvement. Various measures were proposed

to be taken so as to enhance contribution of effectiveness of contract management that includes:

- i) Ensuring funds availability (42.3%)
- ii) Contract obligations to be fulfilled by both parties (26.9%).
- iii) Capacity building on contract management to be undertaken (11.5%).
- iv) Other measures are as presented in Table 5.

Table 5: Contribution of effective procurement contract administration on the achievement of value for money

Parameters	Percentage
There is sufficient Procurement contracts management proceedings for goods at the MA	
Neutral	10.0
Agree	85.0
Strongly agree	5.0
Total	100.0
Evaluation team, Inspection and Acceptance Committee, PMU and Tender Board Members awareness of the value for money in procurement contract management	
Yes	96.2
No	3.8
Total	100.0
If you are aware, have you ever participated in a meeting that reviewed or approved value for money on goods	
Yes	23.1
No	57.7
Not sure	19.2
Total	100.0
If yes above, were the grounds for approving such value for money identified?	
Yes	88.9
No	11.1
Total	100.0
Elaboration concerning value for money	
Decision on goals and objectives are decided by management	38.9
Procurement budget are prepared	5.6
Inspection of goods are carried out and report prepared	5.6
Evaluation team and Inspection and Acceptance Committee appointed by Accounting Officer	11.1
Generally goods are procured from the right source, right quality, right time, right price, right quantity and delivered at the right place	33.3
Procurement process adhered to	5.6
Total	100.0

If no, does it mean that value for money in a procurement of goods have never occurred in the implementation of contract?	Table.....
Yes	7.7
No	76.9
Not so sure	15.4
Total	100.0
Experience in Evaluation team, Inspection and Acceptance Committee, PMU and Tender Board Members how often value for money in procurement of goods have been approved?	
Less than 5 times	23.1
5-10 Times	34.6
More than 10 times	42.3
Total	100.0
Value for money have been disapproved	
Never happened	28.6
Less frequently	66.6
Frequently	4.8
Total	100.0
Suppliers ever delayed goods delivery	
Yes	84.6
Not sure	15.4
Total	100.0
If yes, were liquidated damages charged?	
Yes	33.3
No	66.7
Total	100.0
If Liquidated damages were not charged, why?	
Lack of knowledge	33.3
Agreement of supplier to cover extra cost	66.7
Total	100.0
If yes, who covered the Cost for repairs/maintenance	
Supplier	100.0
Total	100.0
Basing on experience in tender board, how often has the board reviewed ongoing contracts for improvements	
Never occurred	4.5
Not sure	13.6
Frequently	81.8
Total	100.0
Contracts were properly formulated and implemented without need for adjustment /improvements	
Disagree	91.7
Agree	8.3
Total	100.0

Based on experience, who manage contract after entered into force with MA	Table.....
PMU	19.2
PMU and user department	38.5
PMU, User department and suppliers	7.7
Inspection and Acceptance committee, PMU, Supplier and User department	34.6
Total	100.0
Measures undertaken to enhance contribution of effectiveness of contract management	
Funds should be available in time	42.3
Disbursement of committed funds toward contract in time	3.8
Capacity building	7.7
Capacity building on contract management	11.5
Contract obligation should effectively fulfilled by both parties	26.9
Avoidance of personal interest in the procuring entity	7.7
Total	100.0

IMPLICATIONS FOR RESEARCH AND PRACTICE

For the purposes of effectiveness of contracts management as to achieve value for money in public procurement of goods, policy makers should provide practical capacity building to contract management actors. Furthermore, policy makers need to address to the procurement processes actors be equipped and adhered to the procurement act and its regulations, financial act as well as to the PPRA and Procurement and Supplies Professionals and Technicians Board (PSPTB) guidelines as to make sure that value for money be achieved throughout procurement of goods. As far as this study is concerned, there is a need for the decision marker to use this report as a tool and part of their guidance for the purpose of guarantee effectiveness contract management on achieving value for money throughout the procurement of goods while using tax payer's money.

CONCLUSION

Contracts can be more effective if sufficiently formulated through capacity building by offering specific training especially in use of technology so as to achieve value for money. Specifically for MA flexibility of contracts to accommodate amendments and incorporating new developments in procurement contracts was seen to be a snag towards developing effective public procurement contracts. Effectiveness in implementation of procurement contracts for is essential the research conducted at MA was determined to be fair; however, there are reported delays in goods delivery. Examination of the contribution of effectiveness contract management through procurement process of goods toward achievement of value for money at the MA exhibited sufficient contracts management proceedings for goods and members of contract

management team, PMU or tender boards are aware of the value for money in procurement contract management and grounds for approving such value for money.

FURTHER RESEARCH

For betterment success with less limitation as shown above, Furthermore, the use of electronic data collection from respondents can reduce cost and time only if CEO of the organization receives an introduction letter and knows the importance of it and gives directives to subordinate. Also, choosing a good topic relating to my professional as well as to my working environment could be the best way to strengthen the organization objectives.

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