



EFFECTS OF ETHICAL STANDARDS ADOPTION ON PROCUREMENT PERFORMANCE OF THE JUDICIARY, KENYA

Wanyonyi Renson Wayono

Dpt. of Management Science, Maseno University, Kenya

renson.wanyonyi@yahoo.com

Abstract

'Ethical standards' is one of the fundamental principles envisioned in the Public procurement and Asset Disposal Act (PPAD Act, 2015) meant to streamline operations in public procurement. Even though, implementation of the guide has remained only on paper as procuring entities grapple with understanding the relevance of the principle on performance. Reviewed studies tried to pin point the imminence of ethical issues in different environments. However, no study specifically dwelt on explaining the effect of adoption of ethical practices on procurement performance of the Judiciary thus information on this is scamped in jeopardy. It is from this resemblance that the current study opined to establish the effect of ethical standards adoption on procurement performance. Specifically, the study established the effect of ethical standards on performance of the procurement function in the Judiciary of Kenya. Results indicated that adopting ethical standards influences procurement performance of the Judiciary ($\beta = 0.325$, $\alpha=0.002$). Henceforth, there is no doubt that any procuring entity can be able to improve performance of its procurement function and achieve higher output in the long if it keeps a continual focus on its ethical issues. More added benefits can be achieved such as obtaining a cutting edge in the global market force can be realized, The study concluded that ethical standards adoption significantly influences procurement performance and thus recommended that the Judiciary of Kenya should have a continual focus on ethical issues in order to improve performance of its procurement function.

Keywords: Ethical standards, Procurement, Procurement Performance, Judiciary, Supply Chain performance

INTRODUCTION

Ethical standards and practices is not a new phenomenon among researchers and scholars. It has verily been fronted as a fundamental practice that imminently deciphers improvement in performance of the procurement function. The significance of adopting ethical practices to an organization's overall performance cannot be overstated. According to Kucuk (2015) ethical standards refers to the well-founded standards of right and wrong that advises what humans ought to do usually in terms of rights, obligations and benefits to society, fairness or specific virtues. He further penned that ethics is an important code in procurement performance, thus procurement professionals need to recognize and develop strategies of ensuring ideal ethical practices.

Even though the reverence of ethical issues by Kucuk is plausible, Mwaconda (2009) however looked at ethics from a different perspective. He stated that ethics has to be related with the human element of being honest and having integrity. Through a survey design, Mwaconda looked at the factors influencing ethical standards in the oil industry and Sereikiene (2008) studying the media industry established the factors influencing ethical decisions in the media industry have documented differing arguments on ethical standards, Even though, the studies have not specifically explained the influence of adopting ethical standards on procurement performance.

Objective of the study

The main objective of the study was to establish the effects of ethical standards adoption on procurement performance of the Judiciary, Kenya.

Research Hypothesis

H_0 Implementation of ethical standards has no significant effect on procurement performance of the Judiciary.

LITERATURE REVIEW

Legitimacy theory

According to Lindblom (1993) legitimacy theory posits that an organization or business entity has the consent to explain its activities to the shareholders, more expressly to the public and state the benefits the society will get from it. In return, the organization gets reward for being socially responsive in the form of achievement of its objectives. This in the long run will guarantee the organization continued existence in the society. A state is there when an organization's value system is in tandem with the value system of the society that the

organization exists (Lindblom, 1993). Legitimacy theory argues that the actions of a business establishment or organization are acceptable in the construed structure of behavior in the society that it exists in. Legitimacy theory therefore brings in good understanding in the Judiciary system of procurement, given that courts are stationed in the community throughout the country (Suchman, 1995).

The concept of legitimacy sturdily puts that the social contract which is between the government arms and the public can be eliminated. In government procurement context, there are issues such as cronyism and corruption that could endanger the legitimacy practice. In accordance to the legitimacy theory, Judiciary supply chain practitioners' choices of legitimizing implementation strategies are focused on the interpretation of the local authority or department involved, and different supply chain practitioners will be likely to have different ideas of what is expected of them from the public and whether the department or agency or local authority is viewed by the society as complying with the expectations that is expected from them. The theory argues that officers make the disclosure practice as a way of building a good reputation among the stakeholders and the society at large (Suchman, 1995; Lindblom, 1993).

More succinctly, legitimacy theory is very ideal in the study of the effect of public procurement and disposal principles on procurement performance. The judiciary, as a Procuring entity, PE, is answerable to the shareholders, the society in which it exists being a no exception. It is a general expectation that the judiciary, being the custodian of laws of the land has to maintain high levels of ethical standards, transparency & accountability as well as adeptly planning for its procurement and asset disposal. In essence, these are conjectured as the fundamental principles of the public procurement system in Kenya. In the sense that these principles are not upheld, then serious consequences, including loss of confidence in the judiciary may abound.

Ethical standards adoption and procurement performance

Procurement performance in the public sector, more so government arms is more complex due to the size of its spending, According to Mentzer *et al.* (2008) public procurement is regarded as a policy tool used to address social issues, economic development (local preferences), and environment protection (green procurement). These policy concerns have made procurement practices more complicated. Even though, Odhiambo & Kamau (2013) argue that procurement performance can be improved by a continual focus on raising levels of ethical standards.

Measurement of procurement performance is not easy for public organizations given the multiplicity of objectives they need to achieve. For instance, employee satisfaction, productivity,

growth, social responsibility and ability to adapt to the ever changing environment are among important goals that a procurement function needs to achieve. Even though, Mahmood (2010) established that this cannot be achieved if resources are not optimized. Therefore, it can widely be put that performance of the procurement process can be gauged on its ability to utilize available resources and offer customer satisfactions (Mahmood, 2010).

Adoption of ethical standards in procurement practices is significant in bringing clarity in public procurement in government arms such as the Judiciary. Without a clear focus on ethical behavior, there is no doubt that the procurement process will be riddled in corruption which results to loss of citizen resources (Mahmood, 2010). The procurement structure in government arms need to be objective in ensuring that supply chain officers observe ethical issues. Observation of loyalty and respect to procurement regulations, ensuring integrity, harnessing impartiality and fairness, ensuring confidentiality, evading impropriety and harnessing due diligence when carrying out procurement and supply chain functions are vital ethical standards that need to be considered in order to improve performance of the procurement process. It is espoused in a study by Prajogo, McDermott and Goh (2008) that ethical levels is a significant phenomenon in that it's moral and ethical concern recognize that administrative action is allowed by moral choices and are therefore models of not only technical and professional competencies but also of moral behavior.

A number of myriad studies have been conducted on ethical standards, though modest has been documented. Mwaponda (2009) undertook a study on the factors influencing ethical standards in the oil industry. He asserted that for an efficient system of procurement, procurement managers ought to behave in such a manner as to maintain trust and confidence in the integrity standards of ethical conduct. These professional standards include conduct of acquisition process as well as the ability to uphold the organizations standards and policies and relevant legislation. It is espoused that when this is actualized, then the efficiency of the procurement process will be achieved (Mwaponda, 2009).

Employing a cross section survey design and targeting managers at different levels, he further penned that confidentiality, transparency, integrity, due diligence, avoidance of appearance of impropriety, impartiality and fairness as well as loyalty and respect for the rules and regulations are important ethical concepts that affect procurement performance. For procurement principles and regulations to be implemented successfully, it should take a collective responsibility of the procurement officers, stakeholders, suppliers as well as procurement practitioners in the field. Mwaponda thus concluded that ethical standards strongly enable efficiency of the procurement process to be realized.

The Chartered Institute of Purchasing and Supplies (CIPS, 2014) focuses on accountability as an important element of ethics in enhancing efficiency of the procurement process. Procurement professionals have the obligation of ensuring that procurement transactions and decisions in all aspects are fair, equitable and ensure value for money. Moreover, transparency in procurement must be exhibited through accuracy of procurement records. For instance, accurate written records (including computer records) are essential in demonstrating observation of ethical standards by providing audit trail of the reasons for making a particular procurement decision. While it is plausible to achieve this accuracy, it is in itself an important aspect of an efficient procurement process (CIPS, 2014).

Sereikiene (2008) additionally undertook a study on factors influencing ethical decisions in the media industry. He posited that procurement staff may have access to confidential information that may affect a contract bid or the award of business process such as selection plans, ranking of bids, proposals competitors involved and competitive range determinations. He cautioned that procurement staffs need to avoid sharing sensitive and confidential information with suppliers or any third party at any time to avoid leakage of crucial information as any attempt would impede a sound procurement process.

Using comparative literature and dispensed questioning, Sereikiene also argues that procurement professionals should be able to perform procurement responsibilities effectively and efficiently and abide by pertinent procurement rules and regulations so as to enhance ethical professionalism and respect for principles pertaining to the procurement profession and organization and know why the rules and regulations are necessary. They should uphold and respect the need for the formality of the principles. Conflict of interest among procurement professionals can be a major blow in the effort to implement procurement rules and regulations. Conflict of interest is a direct or mutually exclusive clash between the interest of a procurement officer and the organization in multiple interests, financial or otherwise; which could possibly corrupt the motivation or decision making of that procurement officer or that organization. This in turn would impede his ethical standards.

Studies by Mwaponda (2009) through a survey design looked at the factors influencing ethical standards in the oil industry and Sereikiene (2008) studying the media industry established the factors influencing ethical decisions in the media industry have documented different arguments on ethical standards, Even though, the studies have not specifically explained the influence of ethical standards on procurement performance. The current study sought to write about the influence of ethical standards on procurement performance of the Judiciary in Kenya.

RESEARCH METHODOLOGY

Research methodology refers to the overall strategy for data collection and analysis that provide the best means for answering questions (Saunders *et al.*, 2015). The study adopted both qualitative and quantitative methodologies and designs. The basic use of a research design is to give the glue that holds a research study together (Hofmann & Patel, 2014). Correlation research design was adopted assess the effects of ethical standards adoption on procurement performance in the Judiciary of Kenya. The Judiciary formed the study area for the research. Data was obtained from participants at the Supply Chain Management directorate as well as suppliers of the entity.

A sample of 50 respondents from a target participant population of 100 was selected. In choosing the sample, Taro Yamane's 1971 formula was adopted. Participants were segmented in four strata, i.e. supply chain officers, senior managers, suppliers and departmental heads. Stratified random sampling was used to select the sample.

Both primary and secondary data was used in the study. Primary data was collected through questionnaires. In analyzing the collected data, multiple regression was adopted to analyze the primary data.

RESULTS AND DISCUSSIONS

Extent of Ethical standards adoption

The study envisioned to establish the extent of adopting ethical standards on procurement performance of the Judiciary of Kenya. Participants were asked to respond to a set of statements on a five point scale. The first statement inquired whether observing ethical standards in procurement and asset disposal proceedings by procurement and Supply Chain practitioners improves procurement performance. From the results in table 1, the mean score for the response was 3.612 indicating that majority of the participants were in agreement. These results are in conformance with those of Mahmood (2010) who posited that observing ethical standards by procurement practitioners greatly improves performance of a procurement function in an organization.

The second statement sought to determine whether having adequate knowledge of ethical standards by procurement and supply chain practitioners improves performance of the procurement process in the organization. A mean of 3.810 of the responses indicates that the participants were fully in agreement. The third statement established whether observing ethical standards ensures an efficient and effective procurement function which minimizes costs and utilizes resources e.g. time by supply chain practitioners. The respondents were in agreement as shown by a mean of 3.801. About whether ensuring a competitive acquisition process by

supply chain practitioners influences procurement performance in the Judiciary's Supreme Court, the mean score for the responses was 3.414 implying that the respondents were impartial as regard to the statement.

The study established whether observing ethical standards by supply chain practitioners enhances service delivery by the procurement function. With a mean of 3.667, it was clear that the respondents were in agreement with the statement. The researcher also wanted to establish whether avoiding collusion practices by procurement and supply chain practitioners improves performance of the procurement process. The respondents were in agreement (3.744) and this proved that avoiding collusion improves procurement performance. It was studied whether avoidance of conflict of interest by procurement practitioners improves procurement performance. The participants were in agreement as shown by a mean of 3.800. The study also stated that ensuring equal opportunity in procurement proceeding improves procurement performance. It was clearly shown that participants at a mean score of 3.467 were neutral as regard to the statement. The researcher wanted to find out from the respondents whether ensuring confidentiality of information in procurement and supply chain improves performance of the procurement process. As proved in the results in table 1, a mean of 3.984 showed that the respondents were in agreement with the statement.

The study inquired from the participants whether avoidance of corrupt practices in procurement improves procurement performance. With a mean score of 3.280, it was showed that the respondents were neutral to the statement. The researcher postulated that avoidance of fraudulent practices by procurement practitioners may improve procurement performance. The participants were neutral with the statement as shown by a mean of 3.337. Further, participants were asked whether avoiding obstruction & undue delay in procurement proceedings improves procurement performance. The participants were in agreement as shown by a 3.632 mean score in the table as follows.

Table 1: Adoption of ethical standards

Statements	N	Mean
Procurement and Supply Chain practitioners need to observe ethical standards in procurement and asset disposal proceedings	41	3.612
Procurement and supply chain practitioners need to have adequate knowledge of supply chain ethical Standards	41	3.81

Observing ethical standards by supply chain practitioners improves efficiency and effectiveness of the procurement function	41	3.801
Competitive acquisition process in the supply chain is achieved through observing ethical standards by supply chain practitioners	41	3.413
Observing ethical standards by supply chain practitioners enhances service delivery by the procurement function	41	3.677
Avoidance of collusion by procurement practitioners improves procurement performance	41	3.744
Avoidance of conflict of interest by procurement practitioners	41	3.876
Ensuring equal opportunity improves procurement performance	41	3.467
Ensuring confidentiality of information which do not require public knowledge improves procurement performance	41	3.984
Avoidance of corrupt practices in procurement improves procurement performance	41	3.287
Avoidance of fraudulent practices by procurement practitioners improves procurement performance	41	3.337
Avoidance of obstruction & undue delay in procurement proceedings improves procurement performance	41	3.632
Avoidance of inappropriate influence on acquisition process improves procurement performance	41	3.453
Ensuring loyalty and respect to Public Procurement rules & regulations	41	3.526

Ensuring integrity and professionalism improves procurement	41	3.302
Ensuring impartiality and fairness improves procurement performance	41	3.404
Acting without consideration of personal gain by procurement practitioners improves procurement performance	41	3.232
Having an ethical performance review improves performance of the procurement function	41	3.684
Composite Mean		3.564

The study asked respondents whether avoidance of inappropriate influence on the procurement process improves performance of the procurement function. The respondents were neutral as depicted by a mean score of 3.453. Additionally, it was stated that ensuring loyalty and respect to public procurement rules & regulations may improve performance of the procurement function. Respondents at a mean of 3.526 and proved that they were in agreement with the statement.

Participants were further asked whether ensuring integrity and professionalism improves performance of the procurement function. Results from the table above indicates that the participants were neutral (3.302 mean score) with the statement. On whether maintaining impartiality and fairness improves procurement performance, the participants were neutral as shown by a mean of 3.404. The study also found out whether acting without consideration of personal gain by procurement practitioners improves procurement performance. A mean of 3.232 indicated that the respondents were neutral. The last statement inquired whether existence of an ethical performance review improves performance of the procurement function. The respondents agreed as proved by 3.684 mean score.

Table 2: Regression Coefficients

Model		Unstandardized Coefficients		Standardized Coefficients	
1	B	Beta	Std. Error	Beta	Sig
	(Constant)	0.511	0.096	0.625	0.000
	Adoption of ethical Standards	0.396	0.123	0.325	0.002

a. Dependent variable - Procurement Performance

It is not astounding that adoption of ethical standards has a significant effect on performance of the procurement function (Mahmood, 2010). Adoption of ethical standards, as according to the regression model has a significant effect on procurement performance ($\beta=0.325$, $p=0.002<0.05$). This implies that an increase in adoption of ethical standards would lead to a 0.325 increase in procurement performance. Practically if the judiciary has a continual focus on adopting ethical standards then there would be a positive increase in their performance. The hypothesis that ethical standard have no significant effect on the procurement performance of the judiciary is therefore rejected.

These results are congruent to those of Mwaponda (2009), who in his study on the factors influencing ethical decisions in the oil industry, noted that observing ethical issues is the fundamental principle which guides an efficient performance of the procurement process. In his study through a descriptive research design and targeting managers at different levels as the population, Mwaponda singled out the need for procurement managers and senior officers to put a clear focus on ethical issue in order to realize an efficient procurement system. He also reasoned that internal legislations, ensuring integrity, conducting a competitive acquisition process and ensuring confidentiality of information which does not require civic education are fundamental ethical aspects which ensure an efficient procurement process.

The findings of the study further resonates the findings of Sereikiene (2008) who undertook a study on factors influencing ethical decisions in the media industry. Sereikiene argued that the principle measure of efficient ethical practices is ensuring confidentiality of information. Using comparative literature and dispensed questioning scheme, he argues that procurement practitioners and suppliers may have confidential information as concerned to business bids, supplier ranking and optimization, aspects of cutting edge determination which has to be kept confidential, failure to which serious consequences may germinate, including loss of resources through the procurement process. Conflict of interests among suppliers and procurement practitioners is a major blow towards implementation of procurement principles and disclosure of the interest can be a milestone in realizing an efficient procurement function.

SUMMARY AND RECOMMENDATIONS

The study sought to unravel the effects of ethical standards adoption on procurement performance of the Judiciary, Kenya. The hypothesis that ethical standards had no significant influence on procurement performance was formulated. Even though ethical standards and practices have been documented in a number of research studies, no study had however looked at the relationship between adoption of ethical standards and procurement performance in the Judiciary. From the study it was established that adoption of ethical standards significantly

influences performance of the procurement function. The null hypothesis that ethical standards had no significant influence on procurement performance was thus rejected.

Based on this objective, the study revealed whether performance of the procurement function at the Judiciary of Kenya may be significantly influenced by adoption of ethical standards by both the organization's supply chain practitioners and suppliers. It was discovered that observing ethical standards in practices and more particular, having knowledge of ethical aspects, ensuring efficiency and effectiveness, enhancing service delivery, ensuring a competitive acquisition process, avoiding collusive practices, avoiding conflict of interests, ensuring equal opportunity, confidentiality, avoiding corrupt practices, avoiding fraudulent practices, avoiding obstruction and undue delay, avoiding inappropriate influence, having loyalty and respect to procurement act and regulations, ensuring integrity, avoiding impartiality and fairness, acting without consideration of personal gain and hearkening to an ethical performance review are among the most fundamental ethical aspects that the Judiciary and her suppliers need to put into consideration in order to improve performance of the procurement function. It is therefore concluded that an increase in adoption of ethical standards significantly increases performance of the procurement function.

From the above finding, the study recommended that the Judiciary of Kenya should consider having a continual focus on adopting ethical standards at all levels in the procurement process in order to improve performance of the procurement function. Also, the Judiciary should consider adopting ethical sourcing in order to improve performance of the procurement function.

The study focused on explaining the effect of adoption of ethical standards as the main element that influences procurement performance. Further research should be carried out in order to establish other factors which influence procurement performance. Specifically, given that ethical buying has been documented in a number of studies, the study recommends that research studies should be undertaken in order to establish the relationship as well as the impact of ethical standards, institutional image and performance of the procurement function.

REFERENCES

- Chartered Institute of Purchasing and Supplies (2014). Tendering and post-tendering negotiation.
- Hofmann, W. and Patel, P. (2014). Survey Signal: A Convenient Solution for Experience Sampling Research Using Participants' Own Smartphone's, *Social Science Computer Review*.4(12).123-167.
- Kucuk, A. (2015). *The ethics of social media. Ethics*.
- Lindblom, C.K. (1993). The implications of organizational legitimacy for corporate social performance and disclosure. *Paper presented at the Critical Perspectives on Accounting Conference, New York, NY*.
- Mahmood, S. A. I. (2010). *Public procurement and corruption in Bangladesh. Confronting the challenges and opportunities. Journal of public administration and policy research*.

Mentzer, J.T., Stank, T.P., & Esper, T.L. (2008). Supply chain Management and its relationship to logistics, marketing production & operations management. *Journal of Business logistics*, 29(1).

Mwaiponda, P.W. (2009). Factors influencing ethical standards of managers within the Kenyan Oil industry. *MBA project, University of Nairobi-Kenya*.

Nyaboke, B. & Muturi, W. (2017). Factors affecting implementation of public procurement and disposal act 2015 in county governments: A case of Nyamira County, Kenya. *International Journal of Social Sciences and Information Technology*.

Odhiambo, W., and Kamau, P. (2013). The integration of developing countries into the world trading system. Public procurement lessons from Kenya, Tanzania and Uganda, available on <http://www.oecd.org>, on 8th Dec. 2017.

Prajogo, D.I., McDermott, P. and Goh, M. (2008), "Impact of value chain activities on quality and innovation", *International Journal of Operations & Production Management*, Vol. 28.

Saunders, M., Lewis, P. and Thornhill, A. (2015) *Research methods for business students*. (7th ed.), New York: Pearson.

Sereikiene, A.L. (2008). Factors Influencing Ethics of Marketing Decisions in Lithuania Media. *Engineering Economics*, ISSN 1392-2785. No 1 (56).

Suchman, M.C. (1995), "Managing legitimacy: strategic and institutional approaches", *Academy of Management Review*, Vol. 20 No. 3, pp. 571-610.