

Effects of Regulatory Framework and Control Management on the Performance of Public Private Partnership Procurement Contracts In Kenya Power

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Abstract: Public sector often lacks expertise and knowledge to implement Public-Private Partnerships Procurement contracts successfully. To manage Public-Private-Partnerships Procurement efficiently, government officials need guidance on how to apply Public-Private-Partnership Procurement Contracts in different sectors of the society to ensure optimum service delivery to its citizens. The objective of the study was to evaluate the determinants of effective performance of Public-Private-Partnership Procurement Contracts in Kenya Power. The study was set to assess the effects of the legal environment as well as management control. This research study used a descriptive research design. The target population of the study was 32 staff working at the Kenya power Nakuru Kenya. The departments that were responsible for procurement activities were included in the study. They included Procurement, Finance and accounts, Project planning and Internal Audit. A questionnaire was used to collect the data. The questionnaire contained closed ended questions. The study found out that: PPPP contracts lacked properly defined regulatory framework which hindered timely competition, either by means of changing the law leading to imposition of new environmental requirements in which the company has to incur the cost of investing in new equipment or is prevented from using a well planned fuel or other raw materials. The study also revealed that vague government structures were responsible for bad PPPP contracts hence using private sector companies was essential since governments around the world exercise some form of ownership rights and control over the nature and pricing of the public services offered by these privatized companies hence a well established control management will enable a good PPPP contract since the public partner retains the liability to ensure the performance of any duty towards the community it serves, therefore PPPP arrangements must contain appropriate governance structures to ensure adequate performance and to minimize the risks associated with using private partner contractors in a public sector environment.

I. Introduction

1.1 Introduction

Public-private-partnerships procurement contracts are contractual arrangements between public sector organizations and private sector investors for joint, symbiotic and collaborative provision and financing of public projects and services. These arrangements arise out of the realization that although the public sector is responsible for the delivery of infrastructure projects, it often encounters financial, technical and institutional limitations in availing such projects hence the necessity of collaborating with the Private sector in provision of such services (Link, 2006).

The Public-Private-Partnership Procurement Contracts tool sector has been advocated for around the world in key international institutions such as World Bank, European Union and United Nations with the aim of finding a workable solution for the challenges facing the governments' provision of services to its citizens. However many public institutions often lacks expertise and knowledge to implement Public-Private Partnerships Procurement Contracts successfully especially in developing economies (Savas, 2000).

Public-Private-Partnership Procurement Contracts are relatively new in Kenya especially in the electricity sector due to huge amounts of investments involved. The government of Kenya like many other Sub-Saharan African countries is under increased pressure to accelerate the development of infrastructure and provide much needed social services to its population. Many people in Kenya do not have access to basic services, such as electricity, housing, portable water, sanitation systems and transportation. This situation is worsened by the increased rural urban migration in Kenya. Public-Private-Partnership Procurement Contracts through a mutual partnership program could be one way of accelerating the development especially in the provision of electricity to the citizens of Kenya. To manage Public-Private-Partnerships Procurement Contracts efficiently, government officials need guidance on how to apply Public-Private-Partnerships Procurement Contracts in different sectors of the society to ensure optimum service delivery to its citizens.

1.2 Problem Statement

Public-Private-Partnerships Procurement Contracts are contractual arrangements between public sector organizations and private sector investors for joint, symbiotic and collaborative provision and financing of public projects and services. They often arise out of the realization that although the public sector is responsible for the delivery of infrastructure projects, it often encounters financial, technical and institutional limitations in availing such projects. Like many other developing countries, Kenya faces significant financing gaps in infrastructure and utilities to attain country's vision 2030. The electricity and power generation vis a vis power consumption has a spare capacity of only 4%. This has forced a reduction of demand for Government resources to enable it to finance certain functions such as security among others. This study therefore sought to fill this research gap by establishing the determinants of Public-Private-Partnership Procurement Contract performances in Kenya Power since it faces some problems like poor regulatory framework, project governance, political environment and control management. Therefore since Public Private Partnership Procurement Contracts is essential in today's world for competitiveness, it is necessary to solve these problems in order to enable both Public and private partnerships to gain competitive advantage globally.

1.3 Research Objectives

The objectives of this study were:

- i.** To find out the influence of regulatory framework on the performance of Public-Private-Partnership Procurement Contracts in Kenya Power
- ii.** To establish the effect of control management on the performance of Public Private Partnership Procurement Contracts in Kenya Power

II. Methodology

2.1 Research Design

This research study used a descriptive research design. Descriptive research design was preferred as it presented an opportunity to fuse both quantitative and qualitative data. A descriptive research based study was done using a cross-sectional survey design.

2.2 Target Population

The target population of this study was 32 staff working at the Kenya Power Nakuru Kenya. The departments that are responsible for responding to the questionnaire were included; Procurement, Finance and accounts, Project planning and Internal Audit. Kenya Power was selected from other companies due to its status of having the highest concentration of PPP involvement (Republic of Kenya, 2014). This study used census technique to reach the respondents. This was because the target population was small in number and easily reached.

2.3 Data Collection Instrument

Questionnaires were used to collect data from the staff. The questionnaires consisted of closed ended questions and they were administered on a drop and pick up later basis where respondents were given 4 days to respond to the questions at their own pace. The research instrument was pre-tested. The pilot testing formed the basis of modifying the instrument for subsequent full-scale survey. This was done by identifying misunderstanding, ambiguities and inadequate items in the instruments. In this study, during the questionnaires construction, validity was ensured through: Construct validity that was maintained through restricting the questions to conceptualization of the variables and ensuring that the indicators of a particular variable fall within the same construct. Face validity, where the instrument was subjected to the people with experience in the field to check whether it measured what it was intended to measure or whether the measures was getting at the content. It ensured that each question was appropriate for a particular variable construct.

2.4 Data Processing and Analysis

Data collected was analyzed by means of Statistical Package for the Social Sciences (SPSS), and presented through percentages and frequencies. The information was displayed by use of frequency tables. To help establish the relationship between the variables, a correlation analysis was undertaken

III. Findings

The first objective of the study was to determine how regulatory framework towards enhancing the performance of public private partnership.

3.1 Regulatory Framework in PPP

In the first question, the study sought to find out if lack of properly defined management role in PPP contracts hinder timely completion. 46.9% of the respondents agreed that there is lack of properly defined management role in PPP contracts hinder timely completion. 3.1% of the respondents strongly agreed that there is lack of properly defined management role in PPP contracts hinder timely completion, 31.1% of the

respondents were neutral and 18.8% disagreed that lack of properly defined management role in PPP contracts does not hinder timely completion .This findings shows that majority PPP contracts lacks properly defined management role which hinders timely competition,either by means of changing the law leading to imposition of new environmental requirements in which the company has to incur the cost of investing in new equipment or is prevented from using a well planned fuel or other raw materials. It cluster at a mean of 2.22 with a standard deviation of 1.27, indicating a high range of value. Based on the above findings, majority of the respondents believed that there is lack of properly defined management role in PPP contracts hinder timely completion . It is illustrated in the table below.

Table 1: Lack of properly defined management role in PPP contracts hinder timely completion

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	15	46.9	46.9	46.9	2.22	1.237
	Strongly Agree	1	3.1	3.1	50.0	2.22	1.237
	Neutral	10	31.3	31.3	81.3	2.22	1.237
	Disagree	6	18.8	18.8	100.0	2.22	1.237
	Total	32	100.0	100.0			

The study also sought to find out if Interest over the management of PPP contracts results to substandard products and services .9.4% of the respondents agreed that Interest over the management of PPP contracts results to substandard products and services. 3.1% of the respondent said that Interest over the management of PPP contracts results to substandard products and services,21.1% were neutral,56.3% disagreed thatInterest over the management of PPP contracts does not result to substandard products and services while 3% strongly disagreed. It cluster at a mean of 3.53 with a standard deviation of 1.047, indicating a high range of value. From the above findings, larger percent of respondent rate disagreed that Interest over the management of PPP contracts results to substandard products and services which means that despite PPPs having some challenges it also have some benefits. It is illustrated in the table below.

Table 2: Interest over the management of PPP contracts results to substandard products and services

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	3	9.4	9.4	9.4	3.53	1.04
	Strongly Agree	1	3.1	3.1	12.5	3.53	1.04
	Neutral	7	21.9	21.9	34.4	3.53	1.04
	Disagree	18	56.3	56.3	90.6	3.53	1.04
	Strongly Disagree	3	9.4	9.4	100.0	3.53	1.04
	Total	32	100.0	100.0			

The study also sought to know if the Majority of PPP contracts meet the original design after contract completion.46.9% respondents agreed,28.1% of respondents strongly agreed,15.6% were neutral and 9.4% respondents disagreed, this was due to lack of proper specification of PPP contracts and also lack of consideration of international standardization, it therefore cluster at a mean of 1.88 with a standard deviation of 1.008,giving a high range of value .It is illustrated in the table below.

Table 3: Majority of PPP contracts do not meet the original design

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	15	46.9	46.9	46.9	1.88	1.008
	Strongly Agree	9	28.1	28.1	75.0	1.88	1.008
	Neutral	5	15.6	15.6	90.6	1.88	1.008
	Disagree	3	9.4	9.4	100.0	1.88	1.008
	Total	32	100.0	100.0			

The study further sought to find out if PPPP contracts which are funded by both parties suffer from managerial conflict. 34.4 % of the respondents agreed, 21.9% strongly disagreed, 21.9% were neutral, 12.5% disagreed and 9.4% strongly disagreed that PPPP contracts which are funded by both parties suffer from managerial conflict. This implied that imposition of import controls on equipment for the project during construction, or on fuel or raw materials required during operation; increases in general corporate or other tax rates; imposition of special taxes or levies on the Project Company or the industry in which it operates; and imposition of withholding taxes increases on dividend payments to Investors which reduces their return, or interest payments to lenders. It clusters at a mean of 2.41 with a standard deviation of 1.285 predicting a high range of value. It is illustrated in the table below.

Table 4: PPPP contracts which are funded by both parties suffer from managerial conflict

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	11	34.4	34.4	34.4	2.41	1.285
	Strongly Agree	7	21.9	21.9	56.3	2.41	1.285
	Neutral	7	21.9	21.9	78.1	2.41	1.285
	Disagree	4	12.5	12.5	90.6	2.41	1.285
	Strongly Disagree	3	9.4	9.4	100.0	2.41	1.285
	Total	32	100.0	100.0			

3.2 Control Management

The second objective sought to determine whether control management affected the performance of PPPs. To achieve this, the study first sought to know if many projects under PPP have always ended in court battle. 3.1% of the respondents agreed, 12.5% of the respondents were neutral, 53.1% disagreed and 31.3% of the respondents strongly disagreed. From this findings, majority of the respondents disagreed that many projects under PPPP contracts always ended up in court battle. It clusters at a mean of 4.09 with a standard deviation of 0.856, this gives a low range of values. It is illustrated on the table below;

Table 5: Many projects under PPP have always ended in court battle

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	1	3.1	3.1	3.1	4.09	0.856
	Neutral	4	12.5	12.5	15.6	4.09	0.856
	Disagree	17	53.1	53.1	68.8	4.09	0.856
	Strongly Disagree	10	31.3	31.3	100.0	4.09	0.856
	Total	32	100.0	100.0			

The researcher further sought an opinion from Kenya Power regarding whether vague government structures were responsible for bad PPPP contracts. 12.5% of the respondents agreed, 3.1% of the respondents strongly agreed and 9.4% of the respondents were neutral, 50.0% disagreed and 25.0% strongly disagreed. From this findings, half of the respondents disagreed that vague government structures is responsible for bad PPPP contracts hence using private sector companies is essential since governments around the world exercise some form of ownership rights and control over the nature and pricing of the public services offered by these privatized companies. It clusters at a mean of 3.72 with a standard deviation of 1.250, this gives a high range of values. It is illustrated on the table below;

Table 6: Many projects under PPP have always ended in court battle

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	4	12.5	12.5	12.5	3.72	1.250
	Strongly Agree	1	3.1	3.1	15.6	3.72	1.250
	Neutral	3	9.4	9.4	25.0	3.72	1.250
	Disagree	16	50.0	50.0	75.0	3.72	1.250
	Strongly Disagree	8	25.0	25.0	100.0	3.72	1.250
Total		32	100.0	100.0			

The study also sought to know whether a well established control management would enable a good PPP contract .78.1% of the respondents agreed,18.8% of the respondents strongly agreed and 3.1% of the respondents were neutral .From this findings,96.9% of the respondents indicated that a well established control management will enable a good PPP contract since the public partner retains the liability to ensure the performance of any duty towards the community it serves, therefore PPP arrangements must contain appropriate governance structures to ensure adequate performance and to minimize the risks associated with using private partner contractors in a public sector environment.It clusters at a mean of 1.25 with a standard deviation of 0.508, this gives a low range of values. It is illustrated on the table below.

Table 7: A well established management control will enable a good PPP contract

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	25	78.1	78.1	78.1	1.25	0.508
	Strongly Agree	6	18.8	18.8	96.9	1.25	0.508
	Neutral	1	3.1	3.1	100.0	1.25	0.508
Total		32	100.0	100.0			

3.3 Performance of PPP in Kenya Power

The study’s dependent variable was performance of PPP at Kenya Power. This was assessed by determining whether PPP was instrumental in reducing the cost of procurement and increasing its efficiency, radical increase in efficiency of the resources as well as ensuring timely finishing of projects. The first the study sought to determine from Kenya Power if PPP has managed to reduce the cost of procurement and increase its efficiency.34.4% of the respondents agreed,6.3% of the respondents strongly agreed and 28.1% of the respondents were neutral,25.0% disagreed and 6.3% strongly disagreed.From this findings, majority of the respondents indicated that PPP has managed to reduce the cost of procurement and increase its efficiency since PPP arrangements cover a variety of transactions, they are generally defined as cooperative arrangements between the public and private sectors that involve the sharing of resources, risks, responsibilities, and rewards with others for the achievement of joint objectives. It clusters at a mean of 2.63 with a standard deviation of 1.365, this gives a high range of values. It is illustrated on the table below

Table 8: PPP has managed to reduce the cost of procurement and increase its efficiency

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	11	34.4	34.4	34.4	2.63	1.365
	Strongly Agree	2	6.3	6.3	40.6	2.63	1.365
	Neutral	9	28.1	28.1	68.8	2.63	1.365
	Disagree	8	25.0	25.0	93.8	2.63	1.365
	Strongly Disagree	2	6.3	6.3	100.0	2.63	1.365
Total		32	100.0	100.0			

Secondly, the study sought an opinion from Kenya Power if timely finishing of projects has been made possible by the use of PPPP contracts. 62.5% of the respondents agreed, 18.8% of the respondents strongly agreed, 12.5% were neutral and 6.3% of the respondents disagreed. From these findings, 81.3% agreed that timely finishing of projects has been made possible by the use of PPPP contracts. It clusters at a mean of 1.63 with a standard deviation of 0.942, this gives a low range of values. It is illustrated on the table below

Table 9: Timely finishing of projects has been made possible by the use of PPPP contracts

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	20	62.5	62.5	62.5	1.63	.942
	Strongly Agree	6	18.8	18.8	81.3	1.63	.942
	Neutral	4	12.5	12.5	93.8	1.63	.942
	Disagree	2	6.3	6.3	100.0	1.63	.942
Total		32	100.0	100.0			

Moreover, the study sought an opinion from Kenya Power whether, conducting PPPP contracts there has been a radical increase in efficiency of the resources. 37.5% of the respondents agreed, 3.1% of the respondents strongly agreed, 25.0% were neutral, 31.3% disagreed and 3.1% of the respondents strongly disagreed. From these findings, It clusters at a mean of 2.59 with a standard deviation of 1.365, this gives a high range of values. It is illustrated on the table below

Table 10: When we are conducting PPPP contracts there has been a radical increase in efficiency of the resources

		Freq.	Percent	Valid Percent	Cum. Percent	Mean	SD
Valid	Agree	12	37.5	37.5	37.5	2.52	1.365
	Strongly Agree	1	3.1	3.1	40.6	2.52	1.365
	Neutral	8	25.0	25.0	65.6	2.52	1.365
	Disagree	10	31.3	31.3	96.9	2.52	1.365
	Strongly Disagree	1	3.1	3.1	100.0	2.52	1.365
Total		32	100.0	100.0			

3.4 Pearson's Correlation Coefficient

The study used Pearson's correlation coefficient (r) technique to analyze the degree of relationship between two variables (independent and dependent). The independent variables of this study; regulatory framework, and control management; the performance of public private partnership procurement contract performances was the dependent variable in this study. The results of correlation analysis are presented on the table below.

Table 11: Pearson's Correlation Coefficient

		Regulatory Framework	Control Management	Performances of PPPP Contract in Kenya Power
Regulatory Framework	Pearson Correlation	1	-.016*	.217**
	Sig. (2-tailed)		.001	.000
	N	32	32	32
Control Management	Pearson Correlation	-.016*	1	-.039*
	Sig. (2-tailed)	.001		.001
	N	32	32	32
Performances of PPPP Contract in Kenya Power	Pearson Correlation	.217**	-.039*	1
	Sig. (2-tailed)	.000	.001	
	N	32	32	32

* Correlation is significant at the 0.01 level (2-tailed). ** Correlation is significant at the 0.05 level (2-tailed).

The correlation results above illustrate that the Pearson's coefficient correlation (r), analysis from the study. As shown in the table, regulatory framework positively correlated with performance of PPPP contracts in Kenya Power ($r = .217$, $p < 0.05 = 0.000$). This is significant at $\alpha = 0.05$ confidence level. Control management was found to have a negative correlation with performance of PPPP contracts in Kenya Power ($r = -.039$, $p < 0.05 = 0.001$). Thus, from the table above, regulatory framework is positively correlated with performance of PPPP contracts while control management is negatively correlated with the performance.

IV. Conclusions

PPPP contracts lacks properly defined regulatory framework which hinders timely competition, either by means of changing the law leading to imposition of new environmental requirements in which the company has to incur the cost of investing in new equipment or is prevented from using a well planned fuel or other raw materials. This is due to lack of proper specification of PPPP contracts and also lack of consideration of international standardization, hence projects in general and PPPP in specific require the existence of a stable legal environment in order to be capable to operate the facility easily.

Vague government structures is responsible for bad PPPP contracts hence using private sector companies is essential since governments around the world exercise some form of ownership rights and control over the nature and pricing of the public services offered by these privatized companies hence a well established control management will enable a good PPPP contract since the public partner retains the liability to ensure the performance of any duty towards the community it serves, therefore PPPP arrangements must contain appropriate governance structures to ensure adequate performance and to minimize the risks associated with using private partner contractors in a public sector environment.

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