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TENDERPRENEURSHIP: UNINTENDED CONSEQUENCES IN THE KENYAN PUBLIC PROCUREMENT MARKET

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Abstract

Procurement management entails upholding ethical procedures and maintaining a correct procedural approach that aims at ensuring the best quality and value for money. The use of Supplier connected bidders poses significant professional challenges necessitating the penetration of unethical activities. This strategy supports tenders award to tenders who cannot deliver value hence causing systematic failure. Using regional, local research literature and greasing the wheel hypothesis factors promoting tenderpreneurship have been identified. Seven counties with high levels of corruption in Western Kenya, generated a sample size of 300 individuals from 15 sub counties with 180 positive responses. The results show that tenderpreneurship significantly lowers value for money in public procurement. The study proposes 12 strategies that could be used to significantly reduce the negative effects of tenderpreneurship.

Keywords: Tenderpreneurship; Bid Rigging; Value for money

1.0 Introduction

Bid rigging, tenderpreneurism, political arm twisting, fraud, corruption, fronting and insider deals are regularly cited as catalyzing the erosion of value in the Kenyan public procurement system (The global competitive report, 2013-14). Against this procurement market failure, ethical procurement is key to sustaining competition through the bidding process (Andreka, 2017). Professionalism in bidding defines all tasks involved from need identification to contract monitoring (Glas, Schaupp&Essig, 2017). A range of benefits are attributed to tenders offered professionally. This include reduced costs, increased quality and timely delivery value for money (Ameyah, Mensah & Osei-Tutu, 2018). However, evidence suggests that this could be a mirage rather than a procurement reality. Given the current unethical trend in most public procurement, where common items are procured at 60% above market prices, the practice of 'tenderpreneurship' remains a contributor to government failure and a hindrance to attainment of value for money in public procurement. The term tenderpreneurship describes a new class of insiders who use contacts to corruptly benefit from the public procurement process. The term tenderpreneur first popped up during the rule of Thabo Mbeki in South Africa (1999-2008). Initially, the term had ambivalent connotation harboring positive and negative undertones (Dlamini, 2010). According to Ochieng (2018) tenderpreneurs are neither entrepreneur, project managers nor development specialists per se. Nevertheless, tenderpreneurship poses serious

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threats to ethics in public sector procurement functions. Though not highly tackled in academic researches, it raises relative prices above 20% (Mallik & Saha, 2016). Moreover, the problem with tenders launched under such dubious circumstances is that they run high risks of failure. Relating to tenderpreneurship, Mironov and Zhuravskaya, (2016), illustrate that unethical practice accounts for 50 percent of the cases in commercial courts globally. In most countries, potential tenderpreneurs are promoted to agree on beforehand bid winning formula and price based on insider information relations or political conspiracy. The undue influence increases the supplier value for money while the procuring entity's decline. For this to happen, most public officials are involved in the reward system promoting symbiotic relationships between political and business actors (Cheung, Rau & Stouvaltis, 2016).

In Kenya, the public procurement is highly vulnerable to fraud and corruption. According to transparent International Corruption Perspective (ICP), Kenya is ranked as number 136 out of 175 of the most corrupt and countries prone to tenderpreneurship (GCR, 2015-16). Consequently, bribery, bid rigging and assisted tender winning in government have raised the number of cases handled by the ethics and anti-corruption watchdog (PWC, 2016). This study examines the influence of tenderpreneurship on value for money in public procurement performance in Kenya.

1.2 Statement of the problem

The World Bank estimated the volume of bribes in public sector procurement to approximate 200 billion dollars per year (Republic of Kenya, 2014). The problem is more acute in developing countries but also relevant in economic advanced countries. Among other collusive practices, bid rigging of goods and works has emerged as a key vice for national and international competition watchdogs (PWC, 2016). Tenderpreneurship has become synonymous with tender manipulation and corruption in state procurement and large value contract in supply South African state owned companies (Southall, 2011). In South African law, corruption means the private use of public funds, bribery of public officials and improper favouritism by government officials (PRECCA, 2004). In 2016, transparency International (2016) ranked South Africa 64 out of 167 countries in the world. It received the score of 45 out of 100. Ray (2018) show that a saving of 25% could be derived from competitive bidding and prices across 18 tenders could decline by around 20% with competitive bidding. Although this is the case, studies by Lennersfors (2017) show that there is no direct relationship between tender assisted bidding and value for money

In Kenya 80% of all procurement related corruption cases are still about assisted bid rigging. The Kenyan system has produced case studies of Anglo leasing, the National Hospital Insurance Fund, Biometric Voter Registration, cemetery land in Nairobi, Ministry of Education Laptop project, Tassia estate and the standard gauge railway procurement. Similarly, the Kenyan public procurement administration review board has witnessed an increase of such cases from 12 to 62 in 2017. With the devolution spirit most of this malpractices have been devolved to the counties. According to the county survey analysis assisted bid rigging is prevalent in Narok, Kisii, Homa Bay, Bomet, Embu, Bungoma, Kirinyaga,

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Kakamega, Vihiga, Mombasa, Migori and Nairobi. This paper intends to analyse the influence of tenderpreneurs on value for money in Western Kenya.

1.3 Literature background

Based on the analysis of government policy documents, reports and statistical data on anticorruption measures in China, Songfeng and Guo (2015) study on deterrence of corruption found that the ability of increasing the prosecution ability improved the style of work of officials and prohibited them from enjoying special privileges to exert pressure on juniors in corrupt activities. Applying the Chinese government top-down approach to analyze the characteristics and trends of corruption the authors illustrated that these were the most effective styles in reducing tenderpreneurship related tendencies.

Batalla, (2015) examined the anti-corruption performance of the Philippine government using the principal, agent, rationalization, institutionalization and psycho-analysis. The research found that the Aquino government exercised remarkable political will in acting on high-profile cases of former government officials. However, the study found that the government's overall anti-corruption performance was hampered by outdated, conflicting laws, lack of compliance with anti-corruption laws, lack of procurement plans, judicial inefficiency, deficient organizational systems and change-resistant public agencies.

Jones (2017) considered the factors that contribute to the success of the Botswana government in combating corruption. The study found that the role of the anti-corruption body, the Directorate of Corruption and Economic Crime (DCEC) were crucial in investigative and enforcement work. The study also found that the progress in combating corruption could also be attributed to procurement reform, collusion, negative tenderpreneurship and bribery.

Oyamada (2017) study on combating corruption in Rwanda found that formulation and implementation of anti-corruption efforts among donors' support and homegrown initiatives minimized corruption and misconduct in political related procurement. Using materials obtained from the Rwandan government websites, research reports, press articles and publications the study further illustrate that corruption in Rwanda has been minimized through focus on governance reforms and maintenance of a zero-tolerance policy against corruption.

Lennerfors, (2017), investigated the corruption-growth relationship in a sample of 146 countries for the period – 1984-2009. *Ceteris paribus* the researcher employed the hierarchical polynomial regression to evaluate the relationship. Using panel generalized methods of moments, the findings reflect that tenderpreneurship related corruption is not always growth-inhibitory. Though the study controlled economic and institutional factors, the findings appear to support the "greasing-the-wheels" hypothesis.

Campbell (2017), carried out a study on public procurement process in South Korea. The study concentrated on the implementation of the country's e-procurement system. The study

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identified that public procurement was vulnerable to stakeholder instituted corruption. Their study proposed that the use of e-procurement system reduced corruption in the procurement process. The author argues that the system increased transparence and the probability of irregularities reduction.

Mahamadu *et al* (2018) carried out a study to ascertain the critical skills development need of the procurement personnel in Nigeria. Based on a quantitative research strategy, the study found that among the procurement skill there was need for further development in ICT; communication; decision-making; quality management; relationship management; team building; project monitoring, evaluation and procurement planning to mitigate the effects of negative tenderpreneurship.

1.4 Methodology

The Triangulation approach was employed. Both quantitative (validation) and qualitative (inquiry) approaches were employed. A combination of data sources was used to examine the influence of tenderpreneurship on value for money in Kisii, Bomet, Bungoma, Kakamega, Vihiga, Migori and Homabay Counties. Purposive sampling was used to generate a sample of 180 respondents from 15 sub counties using the Krejcie (1970) model formula as employed by Jones (2017).

1.5 Results

Tenderpreneurship:

1.5.1 Factor Analysis of Tenderpreneurship:

Tenderpreneurship had a total of nine (9) items. All of them were confirmed since their factor loads were more than 0.4.

1.5.2 Descriptive Analysis for Tenderpreneurship:

The respondents were asked to provide objective opinions best describing responses. The results of the findings are presented in Table 1.

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Statement	Strongly disagree	Disagree	Not Sure	Agree	Strongly agree
Senior public officers exert pressure to the junior officers in your organization	2.6%	4.5%	6.0%	56.4%	30.5%
Officers collude in the preparation of tender documents to favor some firms	0.0%	5.9%	4.9%	65.1%	24.0%
To what extent do procurement system use other methods of procurement apart from open tendering	1.1%	4.8%	13.1%	68.9%	12.0%
To what extent does a general procurement framework cover only a part of the country's purchases of goods, works, and services	0.5%	3.1%	6.0%	77.2%	13.1%
To what extend does procurement professionals in your firm stage tender failing	1.5%	2.2%	10.9%	69.5%	15.8%
To what extent do negotiations during and after tender award take place?	0.5%	4.2%	3.8%	74.0%	17.5%
Corrupt bidders are debarred from future business with the firm	21.9%	70.5%	6.6%	1.1%	0.0%
Tenderpreneurship has a big influence in the provision of value for money in public procurement	4.5%	0.5%	4.9%	68.7%	21.3%

Table: 1 Descriptive Analysis for Tenderpreneurship

The study sought to establish the extent to which senior public officers exert pressure on junior officers in their organizations. Fifty-six point four percent (56.4%) of the respondents agreed. Thirty point five percent (30.5%) strongly agreed, 4.5% disagreed while 2.6% strongly disagreed. The results corroborate studies by Jeanette (2008). According to these studies, tenderpreneurship is distinguishable from other forms of procurement system manipulation by senior public officers coercing junior officers to be involved in economic theft. The studies show that political connections are important in explaining the skewed allocation of public procurement contracts. The studies provide that the selection of the winning offer in procurement through tendering, the evaluation and selection of the winning offer could be manipulated for corrupt ends of public officers. Supporting the findings, the World Bank and the Kenyan government conducted a procurement assessment and discovered many shortcomings in the Kenyan procurement system. These which included the absence of sound regulatory framework, lack of competition, widespread abuses and fraud initiated by senior officer using juniors. The

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results proposed the use of oversight mechanisms to curb such shortcomings (Ochieng & Mathias, 2012).

The study further sought to establish the extent to which officers collude in the preparation of tender documents. Sixty-five point one percent (65.1%) respondents indicated that procurement officers colluded in preparation to favor particular bidders. Twenty-four percent (24.0%) respondents strongly agreed while 5.9% of the respondents disagreed. In some of the most celebrated cases of tenderpreneurs relationships sought with politicians for symbiotic relationship. The study cites the case of Zuma and the Gupta family where political proximity was used to award. Using variations, Per Molander (2014) measured corruption across different localities within regions and showed that in more corrupt environments, public procurement contracts were allocated to less productive firms through tender documents inclination favor specific tenderpreneurs. To curb collusion, debarment was found to deter corruption in markets with sharp competition (Sijaona, 2010).

The study further sought to establish whether public procurements systems in Kenya used other methods of procurement other than open tendering. Sixty eight point nine percent (68.9%) respondents were in agreement. Twelve percent (12.0%) strongly agreed, 13.1% were ambivalent, 4.8% disagreed while 1.1% highly disagreed. Studies contradicting the current study are Hayden (2007) that provide that in most public procurement open tendering took the largest share of corruption. In effect the author identifies restricted tendering, request for proposals, canvassing, reverse auction, group decisions and single-source procurement as better methods to expediate procurement. Moreover, as provided in Eitan, Rochoil and So (2011) some countries (Australia; Bangladesh; China; Hong Kong, China; India; Indonesia; Korea and Pakistan) do not use open tendering if the value of the procured products were below a certain threshold. Contrary, to protect suppliers against abuse, adequate thresholds must be set and the arbitrary splitting of the purchase into smaller contracts prohibited (Saad, 2011).

The study further sought to establish the extent to which general procurement frameworks covered part of the purchases of goods, works and services. Majority of the respondents (77.2%) were in agreement that procurement framework covered part of the purchases, 13.1% strongly agreed while 3.1% disagreed while 0.5% strongly disagreed. Studies by Mironov and Zhuravskaya, (2016) corroborate current studies through the assertion that procurement frameworks in most countries only cover parts. Mironov and Zhuravskaya (2016) study in USA found that some regulations did not apply to certain procuring entities, goods, works and services for specific uses. The authors argue that limited coverage could jeopardize the effectiveness of corruption prevention through reform of purchasing entities procurement frameworks.

On whether procurement officers collude to stage tender failing, 69.5% of the respondents were in agreement while 15.8% strongly disagreed. In total 3.7% of the respondents were in disagreement. Supporting the findings studies by Kamil, Othman, Adnan and Zaki (2018) illustrate that curbing corruption in the context of tender failure entails proper management of a failed tender. Carrying a study on tender controls relating to women in Nakuru, Korir and

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Wanambiro (2017) found that regulations provided for the possibility of tender failure and control against risks of corruption in individual procurement projects. The authors stress on tender preparation and supplier debriefing during bidding.

On whether negotiations were required in the implementation of contracts, seventy-two point seven percent (74.0%) of the respondents were in agreement, twenty-one point three percent (17.5%) strongly agreed while 4.7% of the respondents disagreed. Contradicting the results Przmyslaw, Siderius, Eric and Raaij (2017) argue that unlike negotiations that may be required in the implementation of the procurement contract, negotiations during the awarding of the contract could be avoided to reduce bribe extortion opportunities. The study proposes the rotation of supply officials in procurement.

The study further sought to establish whether corrupt bidders were debarred from future businesses. Seventy point five percent (76%) of the respondents disagreed, 21.9% in strong disagreement while 7.1% agreed. Dimitri (2013) and Khan (2013) argue that debarment was double edged during corruption detention, it could also be used as part of corrupt schemes to extort bribes or to eliminate honest competitors. The author warns that if the conditions for debarment are not clearly specified then debarment should not be used.

On whether tenderpreneurship had a big influence in the provision of value for money in public procurement, 68.7% were in agreement while 21.3% strongly agreed, 4.5% strongly disagreed and 0.5% disagreed. According to Bjorva and Sorcide (2013) there is lack of evidence that bribes are observable. The author argues that corruption is difficult to estimate. Based on procurement and bid preparation theories (Flynn & Davis, 2017). Bribery, extortion, embezzlement, nepotism, patronage systems, fraud, kickback schemes, false invoices, overpaying, fronting encouraging ghost suppliers, assisted suppliers, preferred suppliers, use of shell companies and facilitation fees were cited to significantly reduce value for money (Mantzaris, 2014).

1.5.5 Tenderpreneurship Pearson Correlation

The Pearson correlation of linear association between two variables was employed. The P value was compared to 0.05. The results are shown in Table 2.

		value for money	Tenderpreneurship
Value for money	Pearson Correlation	1	.568**
	Sig. (2-tailed)		.000
	N	180	180
Tenderpreneurship	Pearson Correlation	.568**	1
	Sig. (2-tailed)	.000	
	N	180	180

^{**.} Correlation is significant at the 0.01 level (2-tailed).

Table 2: Tenderpreneurship influence on value for money Pearson Correlations

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The Pearson correlation coefficient was found to be 0.568 at P value of 0.00. These results indicate that according to the study there is high significant linear correlation between the two variables. This results support the findings of Tanaka and Hayashi (2016) which illustrated the high significant relationship between tenderpreneurship and value for money. According to Klay (2015) the major obstacle in achieving effective public procurement in South East Asia is public procurement legislative inertia that encourage growth of tenderpreneurs. The author illustrate this using the case of Malaysia which has various fragmented instruments governing public procurement, but such instruments are far from transparency and accountability.

1.5.6 Results of Regression Analysis on Tenderpreneurship:

R	R Square	Adjusted R Square	Std. Error of the Estimate
.568 ^a	.353	.350	1.51489

Table 3: Model summary for Regression between tenderpreneurship and value for money

The model equation $Y=\beta_2X_2+\epsilon$ explain that 34.0% change in value for money is caused by tenderpreneurship.

1.5.7 Results of Analysis of Variance on value for money

The study tested the overall significance of the model using an F test.

The results are presented in Table 4.

Model	Sum of Squares	df	Mean Square	F	Sig.
Regression	224.896	1	223.895	93.461	.000a
Residual	430.316	179	2.276		
Total	654.212	181			

Table 4: ANOVA Results of tenderpreneurship and value for money

The results indicate that the model of value for money at F value 93.461 and P=0.00 indicate that tenderpreneurship is statistically significant in predicting value for money. The results indicate that tenderpreneurship is likely to have a meaningful addition to the model since the P (0.00) is less than 0.05.

1.5.8 Results of the Coefficients for Regression between tenderpreneurship and value for money

Coefficients for regression between tenderpreneurship and value for money were sought. The results as shown in table 5.

Model	Unstandardized		Standardized Coefficients		
	Coefficients				
	β	Std. Error	Beta	t	Sig.
(Constant)	10.606	.603		17.743	.000
Tenderpreneurship	.260	.026	.586	9.724	.000

Table 5: Results of the Coefficients for Regression between tenderpreneurship and value for money

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According to the results of regression, tenderpreneurship significance value is less than 0.05. This can be inferred that the null hypothesis could be rejected and a conclusion made that tenderpreneurship is meaningful addition to the model. This means that tenderpreneurship positively influences value for money at a 5% level of significance.

1.6 Tenderpreneurship:

1.6.1 Hypothesis Results

There is no significant linear relationship between tenderpreneurship and value for money The hypothesis was stated as;

 H_0 : $\beta_2 = 0$

 $H_{A:}$ $\beta_2 \neq 0$

It was tested by comparing the calculated t value with the critical value employing a two tailed test.

Model	β	t-cal	t-critical
constant	10.606	17.748	
Tenderpreneurship	260	9.724	1.96

Table 6: Hypothesis Testing for Coefficient of Regression between tenderpreneurship and value for money

The t calculated value (9.724) is greater than the t critical value (1.96). The study failed to reject the alternative hypothesis of significant linear relationship between tenderpreneurship and value for money.

1.7 Managerial implications

Literature review provides that public procurement accounts for around 12%-18% of GDP and 29%-35% of government expenditure in Kenya. This huge proportion means that stakeholders should ensure that it is carried out efficiently to ensure quality of service delivery. Procurement involves decision making highly influenced by bias encouraging corruption. To reduce the negative effect of tenderpreneurship on value for money in Kenyan counties, the following strategies are proposed:

- Reduction of bid preparation period.
- Institutional level control and oversight mechanisms
- Group decisions made while evaluating bids.
- Adoption of procurement plans and bidder disqualifications approved by superior level bodies.
- Debarment of corrupt suppliers.
- Discouragement of post-tender negotiations unless it's the lowest price bidder or for ad hoc purchases.
- Job rotation of procurement positions in sensitive areas.
- Development of standard-forms to guide procurement.
- Discourage alteration of the procurement methods

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- Encourage criteria based strategy for non-competitive tenders.
- Encourage debriefing of suppliers failing at the pre-qualification stage.
- Application of scoring averages during tender award.
- Specifications of products guided by market research.

1.8 Conclusion

Public procurement involves the use of tax payer's resources. This means that regulatory, ethical and professional care must be adhered to mitigate the effects of unfair practices. Utmost, professional conduct should discourage the negative effects of tenderpreneurship as this leads to systematic failures.

1.9 Areas for further research

The study suggests that future researchers should carry out research to establish the positive effect of tenderpreneurs on value for money. Further studies could also be extended to identify the challenges that the demand side experience in evaluation of tenders that are politically inclined.

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