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EFFECT OF DISCRIMINATORY PUBLIC PROCUREMENT PRACTICES ON ORGANIZATIONAL PERFORMANCE: A STUDY OF PUBLIC SECTOR CORPORATIONS IN KENYA

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Abstract

The purpose of this study was to investigate the effects of discriminatory public procurement practices on organizational performance in the Kenyan public sector. This study adopted both qualitative and quantitative research design. The population of interest for this study was State Corporations in Kenya. 139 procurement managers from the corporations were interviewed, out of which 100 responded. Both primary and secondary data was used for the study. Data analysis methods employed included quantitative and qualitative procedures. In addition, a multiple linear regression model was applied to examine the relationship between the variables. The study concluded that reservations, preferences and indirect practices, positively influenced the performance of State Corporations in Kenya. As part of recommendation, Kenya needs to undertake a sectoral analysis in order to determine which scheme to use for each of the different sectors, while at the same time applying additional measures to ensure the improvement of the developmental impacts of public procurement for the national economy. Such measures include making sub-contracting to Kenyan firms obligatory, downsizing contracts to volumes that local businesses can manage, addressing providers' concerns over bidding costs by reducing bureaucratic barriers, and providing better feedback to local providers and bidders.

Keywords: Discriminatory Procurement; public procurement; organizational performance

INTRODUCTION

Public procurement accounts for a significant percentage of GDP and has a direct impact on the economy. According to estimations drawing from National Accounts data, governments in OECD member countries spend on average twelve percent of their GDP on public procurement (excluding procurement by state-owned utilities). Variations reflect the different size of the state, its role in the economy and the existence of big spending projects such as infrastructure investments. For instance, the National Accounts Data for 2008 showed that, the Netherlands, the Czech Republic and Iceland spent over fifteen percent of GDP by way of public procurement transactions, the largest shares amongst OECD countries. In comparison, procurement expenditures in Mexico, Chile and Switzerland represented less than seven percent of GDP. Furthermore, public procurement is also a significant activity in the developing world with a study of 106 developing countries finding that the purchases of their governments accounted for 'approximately 5.1 percent of their combined national outputs' (Evenett and Hoekman, 2005). In Kenya it takes up about 10% of GDP (World Bank, 2012).

Discrimination refers to a government's tendency to favour its own domestic industry's supplies and disregard foreign firm supplies. If a government cares for local firms' profits but not foreign firms, it will discriminate them when competing for government procurement contracts (Vagstad 1995). Efficient resource utilisation has been a key argument against any form of protectionism in public procurement. Failure in resource utilisation by government is a blow to the welfare of the economy and tax payers, who ultimately pick the tab, would have to bring government to account for such wastage. Cox and Furlong (1995), contend that protectionism in public procurement causes government to spend more than it would and this leads to higher taxation and borrowing as government struggles to look out for resources to meet its varied and always competing national demands.

Maza and Camblor (1999), indicate that due to governments' informal and legislative policies of 'buy national' governments have generally tended to give large contracts to national firms, awarding those contracts not only on the basis of price and quality but on the grounds of nationality as well. This has resulted into inefficient and ineffectiveness in the procurement process, patterns of abuse and failure by government to obtain adequate value in return for the expenditure for public funds. In addition to this wastage, Cox and Furlong (1995) argue that protectionism perpetuates inefficiency on the supply side of procurement process. National protectionism reinforces featherbedded companies that are unable to supply at lower prices compared to their counterparts from other parts of the world. Maza and Camblor (1999) are unrelenting in their quest for opening up procurement markets. They argue that continual favouritism of domestic suppliers constitute non-tariff barriers to international trade, Elimination of these barriers will lead to a more efficient allocation of resources through increased competition, higher quality procurement and budgetary savings to government. In addition efforts in this direction translate into reduced opportunities for trade conflicts and better commercial relations among countries.

Inefficient resource utilization that arises out of discriminatory procurement ultimately creates a lot of concern among the various donors in addition to affecting government expenditure due to increasing interest rates. With global challenges such as poverty, diseases, environment degradation and lack of basic education; any resource wastage would create a grave impact. Opening up procurement markets to foreign firms in Kenya, would expose domestic firms to large foreign firms with high quality products, produced at lower prices due to their technological base and production mechanism. This would render many of them out of business leading to job losses and reduced standard of living (Odhiambo & Kamau, 2003). Due to their inability to compete with gigantic global firms in bidding for and winning procurement contracts, domestic firms may need some form of protection. Indeed, in order to guard against the negative outcomes of opening up national markets, countries have been involved in various discrimination practices, both open and tacit. However, in trying to embed social objectives in their policy framework on procurement, such countries would be encouraging protectionism and giving a blow to efficient performance of these public institutions (Musila, 2004).

There lies the challenge. Should public institutions open up their procurement market with their associated reservations or insert in the procurement framework, schemes intended to achieve social objectives. There is therefore a compelling need for especially public institutions in developing countries, like Kenya to take a pragmatic approach so as to develop a procurement strategy that is selective in choosing how, when and in which sectors and to what extent to open up their domestic economies to the global economy (Musila, 2004). This study therefore, aimed to examine the effects of discriminatory public procurement practices on organizational performance in Kenyan public sector.

Research Objectives

The general objective of this study was to examine the effects of discriminatory public procurement practices on organizational performance in Kenya's State Corporations. The following specific objectives guided the study;

a) To evaluate the effect of reservation practices on the performance of State Corporations in Kenya
b) To determine the effect of preferencing practices on the performance of State Corporations in Kenya
c) To ascertain the effect of indirect practices on the performance of State Corporations in Kenya

d) To assess the effect of supply side practices on the performance of State Corporations in Kenya

e) To come up with recommendations for improving performance in public sector organizations

Hypotheses

The study tested the following null hypotheses;

a) Reservation practices have no effect on organizational performance of State Corporations in Kenya

b) Preferencing practices have no effect on organizational performance of State Corporations in Kenya

c) Indirect practices have no effect on organizational performance of State Corporations in Kenya

d) Supply side practices have no effect on organizational performance of State Corporations in Kenya

LITERATURE REVIEW

Reservation Practices

Reservation schemes/ contracts or portions thereof are reserved for contractors who satisfy certain prescribed criteria for example, contractors who: are owned, managed and controlled by a target population group; are classified as being a small business enterprise; have equity ownership by companies with prescribed characteristics; or are joint ventures between non-targeted and targeted joint ventures (McCrudden, 2007). Set asides schemes are part of reservation practices where all firms from other countries are shut out from bidding for part/whole of a particular contract by clearly and unambiguously setting criteria that favours only local firms. The request for proposal will therefore include: contractors which are owned, managed or controlled by local firms, classified as small business enterprises or a joint venture with local firms. Fenster (2003) argues that set asides are easy for officials to understand and introduce, simple to explain to tenderers and transparent but they may be the least cost effective, the least competitive and the least equitable. For a country determined to discriminate in favour of local firms directly regardless of additional cost, set asides may present the best option, he concludes.

Kenya, just like many other developing countries is dominated by small and medium sized businesses. These SMEs lack the capacity to compete favourably in highly competitive public procurement markets due to high costs of production arising out of poor production techniques and lack of expertise. There are structural and behavioural factors affecting firm's competitiveness. These structural and behavioural aspects include firm size, operating efficiency, product development capability, knowledge of government requirements, personnel knowledge and training, quality control processes plus production methods and technology. There need to protect them from excessive competition from large foreign firms through set asides (Musila, 2004).

Preferencing Practices

Although all contractors who are qualified to undertake the contract are eligible to tender, tender evaluation points are granted to those contractors who satisfy prescribed criteria or who undertake to attain specific goals in the performance of the contract. This is called preferencing. Preferences at Short listing Stage are one of the practices in preferenceing schemes (Martin *et al,* 1999). Among the nine different methods for using public procurement to promote non-commercial objectives, preferencing schemes are the most practiced. Arrowsmith (2000) gives two categorizations in which preference schemes can be applied. Under preferences at short listing stage a number of suppliers / service providers who are invited to tender are limited on the basis of qualification. Weighting is given to policy objectives along with the usual commercial criteria, such as quality, at the short listing stage.

In Kenya, a procuring and disposing entity is empowered under Section 50 of the Public Procurement and Disposal of Public Assets Act (No. 1 of 2005) (PPDA Act), with the prior written approval of the Public Procurement and Disposal of Public Assets Authority (PPDA), to limit the participation in the procuring process on the basis of nationality. Regulations 28-33 of the Public Procurement and Disposal of Public Assets Regulations (No. 70 of 2003) (PPDA Regulations) prescribe the use of preference and reservation schemes by central government Procuring and Disposing Entities (PDE) and Regulations 52-53 of the Local Governments (Public Procurement and Disposal of Public Assets) Regulations (No. 39 of 2006) (Local Government Regulations) make similar prescriptions for local authorities. It is stated in Regulation 28(2) of the PPDA Regulations and Regulation 52(2) of the Local Government Regulations that a preference scheme shall have as its objective the development of local businesses, by giving local businesses a competitive advantage when competing for public procurement contracts (GOK, 2006).

Indirect Practices

Arrowsmith describes them as indirect schemes to achieve social economic benefits but most scholars prefer to call the offsets (Ssennoga, 2006). Offsets require the seller to transfer extra, economic benefit to the buyer as a condition for country to buy goods and services from that firm. Instead of bargaining for price discounts, governments prefer to realise in-kind transfer that spill over to the whole economy (Taylor, 2002). Offsets often appear under the guises of: Industrial benefits; Compensation packages; Cooperative agreements; and Counter-trade policies.

Under product/service specification for offsets, a purchasing government obliges a foreign seller to include extra benefits with the sale of the basic goods. These foreign firms may then sign individual offset contracts with local firms in the purchasing government economy. In a technologically deficient economy that many developing countries are, there is usually enormous public expenditure on foreign goods without any visible impact on the economy since much of the expenditure leaks out of the economy. This is especially true for defence expenditure and other high technology goods. Countries would need to introduce compensatory mechanisms in order to ensure part of the money return to the economy (Trionfetti, 2000).

Supply Side Practices

Supply side measures are provided to targeted enterprises to overcome barriers to competing for tenders or for participating in procurements within the supply chain, for example, access to bridging finance and / or securities, mentorship and capacitation workshops. A country would undertake to empower its national firms to become competitive in bidding for tenders. Effort would be undertaken by government to eliminate all supply side constraints. The government would therefore provide access to finance, undertake mentorship, capability workshops or even direct subsidies. Once this is done, firms are allowed to fairly compete with international firms at equal footing (Watermeyer, 2004).

One persistent issue in the discriminatory procurement and performance literature is the absence of empirical assessments of its impact. However, through a review of related literature, critical issues have emerged on discriminatory public procurement and performance. First it has argued that opening up public procurement markets plays a crucial role in enabling public authorities to purchase goods and services at the lowest cost hence giving taxpayers value for money, improving the quality of government service delivery and permitting better allocation of resources. Opening up competition to foreign providers can also stimulate domestic industry, promote innovation and contribute to good governance. On balance, discriminatory policies shift profits to domestic firms, but these benefits are ultimately offset by increasing procurement costs.

Governments must determine whether procurement choices are based on narrow attributes of price, delivery and performance or arebased on national economic benefits in terms of jobs created, technology acquired and level of exports involved. In order to justify government continuous discriminatory purchasing, the first criteria isthat the price they offer should be less than that offered by the domestic firms assuming equal quality levels and efficiency in service delivery.

In Kenya, no known study has been carried out on discriminatory public procurement practices and their influence on organizational performance but other studies have been carried out on performance of public procurement. For instance, Wanjiru (2008) documented that the area where public audits are needed most was in the procurement of state resources since public resources are scarce and the process is political, technical and highly imperative. She concluded that an open, transparent and non-discriminatory procurement process was the best tool to achieve value for money as it optimized competition among suppliers.

Measure of Organizational Performance

There are various definitions of performance measurement such as: The ongoing monitoring and reporting of program accomplishments, particularly progress towards target goals which is conducted by program or agency management (GAO, 1998). Parker (1993) defines it as a systematic attempt to lean how responsive a government's service is to the need of the state and the state's ability to pay; and the public sector's way of determining whether it is providing a quality product at a reasonable cost. Holzer & Callahan (1998) define it as a set of tools that are developed for making better decisions within public organization.

There are some differences in performance measurement between the public and private sectors. Blank (2000) points out that it is according to some special characteristics of the public sector such as: it is large and growing; its entities are owned by public; it seeks to maximize service provision from given resource; the resource (budget) constraints and limitations lead the public sector to be utility-seeking, budget maximizing and satisfying self serving objectives.

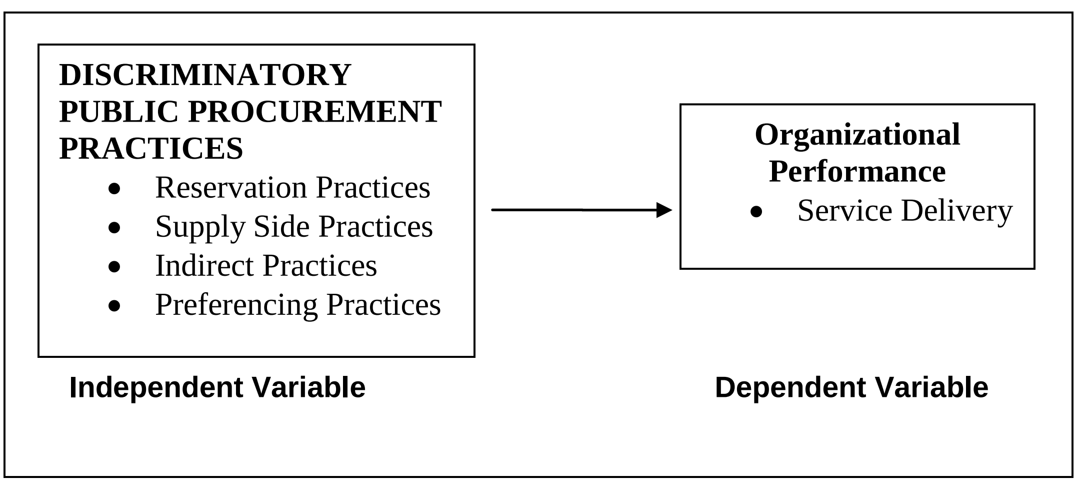
Because of the growing emphasis on controlling cost, maintaining accountability, and reducing the size of government, performance measurement has become a priority in many state and local agencies (Holzer & Callahan, 1998). Rosen (1993) points out that without performance measurement, it is impossible to ascertain to know how an agency is doing. Performance measurement is essential in targeting productivity problems, identifying models of good performance, spotting trends, and judging the success of initiatives to improve productivity. Osbome & Gaebler (1993) describe the rationale for performance measurement in the government as simply as: "what gets measured gets done”.

For this study, performance was measured through service delivery which included three perspectives. These included the customer, financial and service perspectives. Under customer perspective, quality of procurement services within the corporations was examined through indicators such as competitive procedures, such as the open and restricted procedures; Non-competitive procedures, such as the negotiated procedure without prior publication of a contract notice; The average participation rate in connection with open invitations during a calendar year; number of complaints during a calendar year and composite index on Supplier and customer Satisfaction. Financial perspective was tested through transaction costs with such indicators such as the average cost for the planning and preparation of tenders, while the service perspective was measured through timeliness and tested through indicators such as the average period for planning and preparation for tenders (Deltas & Simon, 1997).

Within the framework of a conceptual analytical approach, an examination of relevant literature and public procurement practices, challenges faced by the Kenyan public sector is discussed in this article. Public procurement is increasingly recognised as a key concept that plays a significant role in the successful management of public resources. For this reason, several countries have become more aware of the importance of procurement as an area vulnerable to mismanagement and corruption, and have thus instituted efforts to integrate procurement in a strategic position of government efforts.

As part of the need to adopt a long-term and strategic view of their procurement and management, most countries have resorted to turning to their annual procurement plans as a possible 'problem-solver'. Public procurement primarily aims to be fair, equitable, transparent and cost-effective. Because of its importance, it can also be used at a secondary level as a problem solver. Due to the huge problems faced in Kenya, especially because of the country's inequality in the past, public procurement is of particular significance and has been granted constitutional status. In this regard, there are categories of preference in the allocation of contracts as well as the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

Conceptual Framework



METHODOLOGY

The mixed research design for this study included qualitative and quantitative research design. A cross sectional survey of various procurement entities from the demand side (State Corporations) together with a qualitative case study research. This research design, combining survey methodology and qualitative case study was used due to the argument that multi-method approach enables triangulation to take place.

The population of interest for this study was the State Corporations in Kenya. According to Ministry of Planning statistics, there were 139 State Corporations in Kenya. The researcher was interested with the procurement managers from the procurement entities of all the 139 State Corporations. The study carried out a census of all the 139 corporations. One procurement manager was picked through simple random sampling from each corporation to give a sample size of 139. The research study used a questionnaire as a key instrument for primary data collection. There is limited academic research, previously conducted, for the topic of discriminatory public procurement practices. It was therefore difficult to find relevant secondary data to use in this thesis.

First, a pilot study was done by selecting five respondents from the target population and issuing them with the questionnaire. The data obtained was evaluated to ensure that questions were properly answered. Cronbach's alpha was used to test reliability of the answered questionnaires. From the results, all the items on effects of reservation practices on the performance of State Corporations in Kenya ranged from 0.846 to 0.884 an indication that they are above the value of 0.8 and as such no question was deleted in section “B” of the questionnaire. In addition the items on effects of preferencing practices on the performance of State Corporations in Kenya ranged from 0.868 to 0.880 an indication that they are above the value of 0.8 and as such no question was deleted in section “C” of the questionnaire. The results also indicated that items on indirect practices on the performance of State Corporations in Kenya indicates that the values of two items constituted 0.756 and 0.798 respectively and they are below the value of 0.8. However, when rounded to the nearest number they are both valued 0.8 each and as such the items were not deleted from the questionnaire in section “D”. Finally the items on effect of supply side practices on the performance of State Corporations in Kenya ranged from 0.401 to 0.425 an indication that they were below the value of 0.8 and as such the independent variable supply side practices was omitted.

During main study, the field responses were that out of the 139 respondents surveyed, 100 questionnaires administered were filled and returned giving a response rate of 72%. This good response rate can be attributed to the data collection procedure, where the researcher personally administered questionnaires and waited for the respondents to fill, and picked the filled questionnaires

Quantitative data was analysed using descriptive statistical methods. The study adopted a descriptive analysis by use of descriptive statistics such as the measure of central tendency. Qualitative data was analysed using content analysis. Further, a linear regression model on the effects of discriminatory public procurement practices versus organizational performance was applied to examine the relationship between the variables. The relationship equation is as represented in the linear equation;

$Y = \beta_0 + \beta_1 \chi_1 + \beta_2 \chi_2 + \beta_3 \chi_3 + \beta_4 \chi_4 + \epsilon$

Where: Y = Dependent Variable (organizational performance)

$\chi_{1\text{-}n}$ = Independent variables which include

χ_1 is Reservation Practices,

χ_2 is preference,

χ_3 is indirect practices and

χ_4 is supply side practices)

$\beta_0 =$ the constant

$\beta_{1\text{-}n} =$ the regression coefficient or change included in Y by each χ

ϵ = stochastic term

ANALYSIS & RESULTS

Descriptive Statistics on State Corporations Performance

Table 1 Descriptive Statistics of State Corporations Performance

N	Range	Min	Max	Mean		Std. Deviation	Variance	Skewness		Kurtosis	
Statistic	Statistic	Statistic	Statistic	Statistic	Std. Error	Statistic	Statistic	Statistic	Std. Error	Statistic	Std. Error
100	24.82	1.14	25.96	15.94	1.45	6.32	40.03	-.346	.524	.265	1.01

In Table 1, majority of State Corporations are below par in their performance. This could be as a result of the environment within which these corporations are operating; both external and internal environment. In this analysis the researcher therefore assumes that the environment in which the organization operates in affects several aspects of their performance. External environment here include public attitudes, stakeholders and regulations (for example Discriminatory procurement policies among others), while internal environment means for example available resources, attitudes among staff and organizational policies.

Reservation Practices

Table 2 Descriptive statistics on Reservation Practices

N	Range	Min	Max	Mean		Std. Deviation	Variance	Skewness		Kurtosis	
Statistic	Statistic	Statistic	Statistic	Statistic	Std. Error	Statistic	Statistic	Statistic	Std. Error	Statistic	Std. Error
100	46.27	25.69	71.96	47.75	2.22	9.70	94.14	.227	.524	1.95	1.01

The quantiles indicated that 25% of the State Corporations had a score of less than 42.6686, 50% of the State Corporations had a score of less than 46.3064 and 75% of the State Corporations had a score of less than 54.7434 in Table 2. It was found out that there is a weak positive skewness of Reservation practices scores implying that there was more on the upper scores of Reservation practices. This indicates that most of the State Corporations in Kenya had realized the potential of their organizations' Reservation practices in order to establish a strong market orientation for their customers and hence this would result to better performance of organization. Inferential statistics showed that here was a positive significant linear relationship between preservation practices and State Corporations performance in Kenya.

This relationship had been illustrated by the correlation coefficient of 0.686 at 0.01 significance level as seen in table 3. This implied that there was a strong positive relationship between preservation practices and State Corporations performance in Kenya.

Table 3 Correlations between Preservation practices and State Corporations performance

Preservation practices	Pearson Correlation	1	.686**
	Sig. (2-tailed)		.001
Corporate performance	Pearson Correlation	.686**	1
	Sig. (2-tailed)	.001	

Preferencing Practices

Table 4 Descriptive statistics of Preferencing Practices

N	Range	Min	Max	Mean		Std. Deviation	Variance	Skewness		Kurtosis	
Statistic	Statistic	Statistic	Statistic	Statistic	Std. Error	Statistic	Statistic	Statistic	Std. Error	Statistic	Std. Error
100	61.49	12.38	73.88	52.03	3.06	13.36	178.58	-1.39	.524	3.41	1.01

The percentiles in Table 4 indicate that 25% of the corporations had a score of below 47, 50% of the State Corporations had a score of 54.9266 and 75% of the State Corporations had a score of 61.2415. These results indicated that State Corporations in Kenya need to transform individual employee knowledge into non-procurement knowledge. Preferencing practices had the following confidence interval at 95%.

Results showed that preferencing practices had a positive significant linear relationship with State Corporations' performance with a Pearson correlation coefficient of 0.585 and P-value of 0.009. This implied that there was fairly positive correlation between Preferencing practices and State Corporations performance, although the results indicate that Preferencing practices had a positive correlation coefficient of 0.585 as seen in table 5. The study rejected the null hypothesis and accepted the alternative hypothesis that $\beta_1 \neq 0$ which implied that preferencing practices had a significant effect on State Corporations' performance in Kenya.

Table 5 Correlation between Preferencing practices and State Corporations performance

		Preferencing Practices	State corporate
Preferencing practices	Pearson Correlation	1	.585**
	Sig. (2-tailed)		.009
State Corporations performance	Pearson Correlation	.585**	1
	Sig. (2-tailed)	.009	

Indirect Practices

Table 6 Descriptive statistics of Indirect Practices

N	Range	Min	Max	Mean		Std. Deviation	Variance	Skewness		Kurtosis	
Statistic	Statistic	Statistic	Statistic	Statistic	Std. Error	Statistic	Statistic	Statistic	Std. Error	Statistic	Std. Error
100	39.11	24.78	63.88	47.75	2.35	10.27	105.63	-.763	.524	-.005	1.01

The percentiles in Table 6 indicated that 25% of the State Corporations had a score of 39.10, 50% of the State Corporations had a score of 49.7491 and 75% of the State Corporations had a score of 55.1976. Results showed that there was a positive relationship between indirect practices and State Corporations' performance in Kenya.

There was a positive linear relationship between indirect practices and State Corporations' performance. It was indicative that indirect practices had a positive significant linear relationship with State Corporations performance, with a Pearson correlation coefficient of 0.673 and a p-value of 0.002. This implied that there was fairly strong positive correlation between indirect practices and State Corporations performance. The regression line had a positive gradient (0.337) indicating that an increase in indirect practices led to increase in State Corporations' performance as seen in Table 7. Therefore, in this case the study rejected the null hypothesis and failed to reject the alternative hypothesis that, $H_1 : \beta_1 \neq 0$ implied that indirect practices had a significant effect on Performance of State Corporations in Kenya.

Table 1.7 Correlation between Indirect practices and State Corporations performance

		Organizational Performance	Indirect Practices
Organizational performance	Pearson Correlation	1	.673**
	Sig. (2-tailed)		.002
Indirect practices	Pearson Correlation	.673**	1
	Sig. (2-tailed)	.002	

Hypothesis Tesing

The study sought to test three hypotheses. Table 8 indicated the results of the hypotheses, the variables that were tested, the results of the hypotheses and the explanation of the results.

Table 8 Results of Hypothesis Testing

Hypothesis Number	**Variables**	**Hypotheses Results**	**Explanation**
H1	Reservation practices (RP)	Accepted	RP significantly and positively Influences organizational Performance of State Corporations in Kenya
H_2	Preferencing practices (PP)	Accepted	PP significantly and positively Influence organizational Performance Of State Corporations in Kenya
H_3	Indirect practices (IP)	Accepted	IP significantly and positively Influence organizational Performance of State Corporations in Kenya

Note: RP= Reservation practices, PP= Preferencing practices, IP= Indirect practices

Correlation between Variables

Correlation analysis was used to examine the association among variables. Correlation coefficient is a measure of linear association between two variables. Values of the correlation coefficient are always between -1 and +1. A correlation coefficient of +1 indicates that two variables are perfectly related in a positive linear sense; a correlation coefficient of -1 indicates that two variables are perfectly related in a negative linear sense, and a correlation coefficient of 0 indicates that there is no linear relationship between the two variables (GraphPad, 2011; Indiana, 2011). The correlations between State Corporations performance and preservation practices, preferencing practices and indirect practices are indicated by Table 9.

Table 9 Correlations between Dependent and Independent Variables

		Organizational performance	Reservation practices	preferencing practices	Indirect Practices
Organizational Performance	Pearson Correlation	1			
	Sig. (2-tailed)				
Reservation practices	Pearson Correlation	.686**	1		
	Sig. (2-tailed)	.001			
Preferencing Practices	Pearson Correlation	.585**	.534*	1	
	Sig. (2-tailed)	.009	.019		
Indirect Practices	Pearson Correlation	.673**	.740**	.583**	1
	Sig. (2-tailed)	.002	.000	.009	

Table 9, indicated that all the variables were highly significant and all of them were positively correlated. From the Table 9 the ranking of the independent variables with indirect practices to their contribution to State Corporations' performance was; preservation practices contributed more to State Corporations performance of State Corporations in Kenya with a Pearson correlation of 0.686, followed by indirect practices with a pearson correlation of 0.673 and thirdly by preferencing practices with a pearson product moment correlation of 0.585.

These results indicated that State Corporations' performance was positive and was significantly influenced by preservation practices with ($r = 0.686$, $p = 0.001$) preferencing practices with ($r = 0.585$, $p = 0.009$) indirect practices with ($r = 0.673$, $p = 0.002$). The findings showed that preservation practices appeared as the most important component of discriminatory procurement practices in influencing State Corporations performance. Preservation practices were primary and very critical components of discriminatory procurement practices because they were very important sources of procurement process. On the other hand preferencing practices were ranked third. Preferencing practices tended to have lower influence on the performance of the State Corporations than that of preservation practices. Therefore the results revealed support for the hypothesis that preferencing practices positively influenced State Corporations performance in Kenya.

However, the results of this study ranked indirect practices as a second contributor to State Corporations' performance in Kenya. Overall, the results illustrated that the three components of discriminatory procurement practices had positive relations with State Corporations' performance. Preservation practices were major contributors towards the State Corporations' performance. The results also revealed that the indirect practices and preferencing practices had a positive relationship with State Corporations' performance and based on the value of the correlation coefficients, these variables appeared as second and third contributor respectively.

The findings also demonstrated that discriminatory procurement practices could be used to mobilize, assemble and manage all intangible resources in order to enhance State Corporations performance. Undoubtedly, discriminatory procurement practices had contributions towards the State Corporations' performance. Moreover, this finding enhanced the discriminatory procurement practices theory by demonstrating that discriminatory procurement practices had significant positive relationship on State Corporations performance. This emphasizes the importance of the components of discriminatory procurement practices which comprise of preservation practices, preferencing practices and indirect practices, in influencing performance of an organization.

ANOVA Results

The ANOVA results indicated that the model of State Corporations performance with preservation practices, preferencing practices and indirect practices was significant ($p<0.05$) and explained the variance in State Corporations performance among State Corporations in Kenya. The results of the analysis of variance (ANOVA) for the full model are presented in Table 10.

Table 10 ANOVA

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	5190.585	3	1730.195	76.143	.000
	Residual	363.568	16	22.723		
	Total	5554.152	19			

a. Predictors: Preservation practices, Preferencing practices, Indirect practices

$Y=\beta_{0} + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \varepsilon$

The assumption in this case when using analysis of variance was that;

$H_0: \beta_1=\beta_2=\beta_3= 0$

H_1: At least one of the β is not equal to zero

The P-value =0.00 implied that reject the null hypothesis and accept at least one of the β≠0. This implied and concluded that reservation practices, preferencing practices and indirect practices had significant combined effect on State Corporations' performance. The F-ratio, which explained whether the results of the regression model could have occurred by chance (error) had a value of 76.143, p =0.00 and was considered significant.

Regression of Log Preservation practices, Log Preferencing practices, Log Organization Performance

Indirect practices were dropped from the other independent variable since there was multicolliniarity between preservation practices and indirect practices. Log of preferencing practices and Log of preservation practices against the log of State Corporations performance were regressed so as to get the best model of this study. The following were the results;

Table 11 Regression Model Summary

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.885	.784	.757	.33865

Predictors: (Constant), log preferencing practices, log preservation practices

In Table 11, result showed that a combination of preservation practices and preferencing practices explained 75.7% of variation in State Corporations performance.

Table 12 Model ANOVA

Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	6.649	2	3.325	28.989	.000
	Residual	1.835	16	.115		
	Total	8.484	18			

a. Predictors: (Constant), log preferencing practices, log preservation practices

b. Dependent Variable: log State Corporations performance

The ANOVA results indicated that the model of State Corporations performance with reservation practices and preferencing practices was significant (F=28.989 at P- value <0.05) and explained the variance in State Corporations performance among State Corporations in Kenya. The results of the analysis of variance (ANOVA) for the model are presented in Table 12. This implied and concluded that preferencing and reservation practices had significant combined effect on State Corporations performance.

Table 13 Model Regression Coefficients

Model			Unstandardized Coefficients		Standardized Coefficients	t	Sig.
			B	Std. Error	Beta		
1	(Constant)		-6.255	1.456		-4.297	.001
	Log Practices	Reprehensive	1.296	.520	.405	2.491	.024
	Log Practices	prehensive	1.000	.293	.554	3.409	.004

a. Dependent Variable: log State Corporations performance

Therefore the best model for the study was a multiple log linear regression model and not a multiple linear regression model that had been tested earlier. Therefore the study concluded that best model of the study was ;

LogY=$\beta_{01+\beta}$l1og*RP* + *β2*log*IP*

Where Y= State Corporations performance

The findings of the study showed in Table 11 (model summary), Table 12 (ANOVAs) and Table 13 (regression coefficients) that only two variables namely preservation practices and preferencing practices appeared as positively significant contributors towards State Corporations performance in the overall regression model with unstandardized beta coefficient of 1.000 and t- value 3.409 with a p value of 0.004 and 1.296 and t- value with a p value of 0.024 respectively. However indirect practices showed insignificant influence on the State Corporations performance of State Corporations in Kenya at 95% confidence level with unstandardized beta coefficient of 0.015 and t- value 1.006 with a p value of 0.05. Moreover, the overall regression model was found to be significant at 95% confidence level.

$Y^* = \beta 1 + \beta_2 RP^* + \beta_3 PP^* + \varepsilon$

Where Y^*= log (State Corporations performance)

RP^*= Log (Preservation practices)

PP^*= Log (Preferencing practices)

Therefore, *Log* (*Organization Performance*) = -6.255 + 1.296log (*RP*) + log (*PP*)

DISCCUSSION & CONCLUSION

The research results showed that reservation practices are the most important component of discriminatory public procurement in influencing organization performance of State Corporations in Kenya. The results indicated that preservation practices explain 92.4 % of the variance of State Corporations performance of State Corporations in Kenya.

Correlation analysis results between preservation practices and organization performance indicated that there was a strong positive linear correlation between preservation practices and organization performance. The regression analysis was significant since the alternative hypothesis was true that $\beta_1 \neq 0$ Implying that preservation practices has a significant effect on performance of State Corporations. Reservation practices enhance organizational performance by: Allowing only enterprises that have prescribed characteristics to compete for the contracts or portions thereof, which have been reserved for their exclusive execution; Excluding firms that cannot meet a specified requirement, or norm, relating to the policy objective from participation in contracts other than those provided for in the law; Making policy objectives a contractual condition, e.g. a fixed percentage of work must be subcontracted out to enterprises that have prescribed characteristics or a joint venture must be entered into; and offering tenderers that satisfy criteria relating to policy objectives an opportunity to undertake the whole or part of the contract if that tenderer is prepared to match the price and quality of the best tender received.

The research results showed that preferencing practices positively influences organizational performance of State Corporations in Kenya. The results indicated that preferencing practices explain 90.9% of the variance of organizational performance of State Corporations in Kenya. Correlation results indicated that preferencing practices had a fairly positive significant relationship with organizational performance. The regression analysis results also indicated that the alternative hypothesis that $\beta_1 \neq 0$ was supported by the objective implying that the regression was significant and therefore the objective was right. Preferencing practices enhance organizational performance by: Limiting the number of suppliers/service providers who are invited to tender on the basis of qualifications and give a weighting to policy objectives along with the usual commercial criteria, such as quality, at the short listing stage; Giving a weighting to policy objectives along with the usual commercial criteria, such as price and quality, at the award stage**.**

The research findings indicate that indirect practices influences organizational of State Corporations in Kenya. The results indicated that indirect practices explain 92.3% of the variance of organizational performance of State Corporations in Kenya. Correlation results indicated that indirect practices have a positive significant relationship with organizational performance. The regression was significant since the objective supported the hypothesis that

$\beta_1 \neq 0$. This was an indication that the indirect practices influence organizational performance of State Corporations in Kenya. Indirect practices enhance organizational performance by: State requirements in product or service specifications, e.g. by specifying labour-based construction methods and; design specifications and/or set contract terms to facilitate participation by targeted groups of suppliers.

The results from this study indicate that the model for public sector procurement can be broadly categorized as falling into one of three generic schemes indicated in Table 14, which are in turn subdivided into eight implementation methods to promote non-commercial objectives.

Table 14 Description of the Variables

Variables	**Sub Variable**	**Variable Description**
1. Reservation	Set aside	Allow only enterprises that have prescribed characteristics to compete for the contracts or portions thereof, which have been reserved for their exclusive execution.
	Qualification criteria	Exclude firms that cannot meet a specified requirement, or norm, relating to the policy objective from participation in contracts other than those provided for in the law.
	Contractual condition	Make policy objectives a contractual condition, e.g. a fixed percentage of work must be subcontracted out to enterprises that have prescribed characteristics or a joint venture must be entered into.
	Offering back	Offer tenderers that satisfy criteria relating to policy objectives an opportunity to undertake the whole or part of the contract if that tenderer is prepared to match the price and quality of the best tender received.
2.Preferencing	Preferences at the short listing stage	Limit the number of suppliers/service providers who are invited to tender on the basis of qualifications and give a weighting to policy objectives along with the usual commercial criteria, such as quality, at the short listing stage.
	Award criteria (tender evaluation criteria)	Give a weighting to policy objectives along with the usual commercial criteria, such as price and quality, at the award stage.
3. Indirect	Product/ service specification	State requirements in product or service specifications, e.g. by specifying labour-based construction methods.
	Design of specifications, contract conditions and procurement processes to benefit particular contractor	Design specifications and/or set contract terms to facilitate participation by targeted groups of suppliers.

The General Agreement on Procurement (GPA) was established with a view of achieving greater liberalisation and expansion of world trade (Arrowsmith 2000). It is based on the argument that increased liberalisation will create higher level of trust, thus lower level of risk;

higher level of competition, thus lower level of prices; more efficient utilisation of funds via savings on individual procurements; restriction of unfair and corrupt practices; convergence of international practices, thus lower costs of access to information and cheaper introduction of new procurement techniques; speeding up the process that domestic suppliers should undertake for becoming more competitive; and attraction of foreign capital(Giraldo 2005).

To achieve the said benefits, Article III of the GPA prohibits any form of discrimination in public procurement. Specifically, it provides that government cannot exclude non domestic firms (or products and services) any form of preferences such as price preferences. Government cannot insist that foreign providers form joint ventures with local undertaking. Government cannot prescribe offsets within their procurement framework that require successful foreign bidders to use local materials, local labour or local subcontractors.

In spite the well stipulated intentions of GPA, different countries still want to operate in a discriminatory manner as a way of achieving social objectives through public procurement. Giraldo (2005) puts this argument clearer when he says that measures taken to liberalise public procurement substantially restrict the possibilities for using procurement as a policy tool. In spheres of industry, government has traditionally been concerned with national welfare and inevitably many policies designed to promote this have involved discrimination in favour of home industry, whether concerned simply to protect uncompetitive industries or directed at other goals such as restructuring, fostering new competitive industries, or regional development.

The key question then becomes, which side should be adopted. Should developing countries throw away the whole concept of GPA to achieve their social concerns or should they jump on the GPA bandwagon in order to achieve its prescribed well intended objectives. This research's core analysis is that it is not a question of either/or. Simply opening up the procurement market the way GPA advocates may adversely affect local firms who may be faced with fierce competition from gigantic international firms and given their sizes and production capabilities will be edged out of the market! On the other hand closing out international firms perpetuates complacency and breeds inefficiency.

As Ssennoga, (2006) concluded, there is therefore need for a flexible agreement that indicates an open window through which developing countries can be allowed to negotiate their specific cases in view of the circumstances pertaining to their countries. All the countries may not need the same type of discriminatory schemes so a blanket 'one for all' prescription might not be the best options hence the need for assessing the prevailing circumstances per country. This study concluded that specific discriminatory procurement schemes have a positive relationship with performance of public sector institutions in Kenya. Once some form of discrimination is introduced along-side competition, some local firms will start winning public contracts and this will motivate them to work harder to brace up with competition. They will innovate and restructure their production processes to be able to compete and win more domestic contracts. This discrimination is positive for it assists local firms to play hard and win. So, in the short run, discrimination schemes are justifiable for they assist local firms to grow and once they grow and enlarge issues like wage income would increase hence enabling government to achieve its social objectives of improvement in welfare.

RECOMMENDATIONS

The researcher has argued in this research that interventions in public procurement have a justifiable course. Economic and social objectives should be interlaced for a country to achieve economic development and transformation. Given the amount of resources expended by various government agencies and corporations through public procurement, it should be put at the centre of this economic development and transformation. Given the inadequate capacity in many corporations in various sectors in Kenya, economic development and transformation cannot be attained without interventions. This is where the argument for discriminatory schemes in public procurement comes in. However, to efficiently implement the discriminatory procurement schemes, Kenya needs to undertake a sectoral analysis in order to determine which scheme to use for each of the different sectors.

In addition, discriminatory schemes should be applied as stop gaps and not used in perpetuity. Constant evaluation of institutional performance arising from discriminatory schemes should be introduced and time frames for their applicability drawn. If this is not done, complacency sets in and the intended objective of improving their competitiveness is never attained.

Besides ensuring that preferences and reservations for local firms are adhered to, there are additional measures that could be applied to ensure the improvement of the developmental impacts of public procurement for the national economy. Such measures include making sub-contracting to Kenyan firms obligatory, downsizing contracts to volumes that local businesses can manage, addressing providers' concerns over bidding costs by reducing bureaucratic barriers, and providing better feedback to local providers and bidders. These are to be closely studied with the intent of applying them to the system

SCOPE FOR FURTHER RESEARCH

First, future studies may be conducted to determine the potential monetary gain of an open competitive public procurement market in Kenya. Secondly, future studies may look into Kenyan firms' supply capabilities so as to understand the effectiveness of discriminatory schemes. Thirdly future studies may also undertake a comparative study using a different research methodology and model to see whether the results would be any different.

REFERENCES

Arrowsmith, S & Kunzlik, P., eds. (2009). *Social and Environmental Policies in EC Procurement Law.* Cambridge: Cambridge University Press.

Arrowsmith, S, Linarelli, J., & Wallace, D. (2000). *Regulating Public Procurement: National and International Perspectives*. The Hague Netherlands: Kluwer Law international. ISBN 9041106367

Cox A, & Furlong P.(1997) Cross-border Trade and Contract Awards. The Intellectual Myopia at the Heart of the EU Procurement Rules. *European Journal of Purchasing and Supply management* Vol. 3 No. 1 pp 9-20 1997 Elsevier Science Ltd

Darlington, R.B (1990). *Regression and Linear models.* New York: Mcgr.aw-hill

Delta G, & Evenett S. (1997). *Quantitative Estimates of the effects of preference policies, law and policy in public purchasing. The WTO Agreement on Government Procurement* – University of Michigan Press(Ann Arbor) ISBN 0- 472-10829-8.

Deltas G, & Simon J. E. (1997). "Quantitative Estimates of the Effects of Preference Policies." In *Law and Policy in Public Purchasing: The WTO Agreement on Government Procurement,* ed. Bernard M. Hoekman and Petros C. Mavroidis. Ann Arbor, MI: University of Michigan Press

Evenett S.J, & Hoekman B.M (2005) Government Procurement: Market Access, Transparency and multilateral Trade rules, *European Journal of Political* Vol 21(1) pp 163-183

Evenett, S. J., & Hoekman, B. M. (2004). *"International discipline on government Procurement: A Review of Economic Analysis and their Implications*." (Unpublished Paper)

Fenster, G. (2003). "Multilateral Talks on Transparency in Government Procurement: Concerns for Developing Countries." *IDS Bulletin, 34* (2): 65-81.

Ford D, Gadde LE, Hakansson H, Lundgren A, Snehota I, Turnbull P, Wilson D (1998). *Managing Business Relationships*, John Wiley & Sons, London.

Government of South Africa (2000), *Preferential Procurement Policy Framework Act*. Government Printers, Nairobi

Graphpad , 2011. *Normality tests; use with caution"* retrieved on 10th June 2014 from www.praphpad.com/library/biostasticsspecial/article/197.htm

Hakansson H, & Prenkert F (2004*). Exploring the exchange concept in marketing*, John Wiley and Sons Ltd. London

Kenya Gazette Supplement No. 77(Acts No. 3)

Martin S., Hartley K. & Cox A.(1999) Public Procurement Directive in the European Union: A Study of Local Authority purchasing. *Public Administration* Vol. 77 No 2.

Maza J.C., & Camblor, R. (1999). *"Government Procurement and Free Trade in the Americas.*" (Occasional Paper 3). Institute of the Integration of Latin America and the Caribbean IDB-INTAL, Buenos Aires, Argentina

McCrudden C (2004) Using Puvlic Procurement to achieve Social outcomes, *Natural Resource Forum* 28(2004) pp 257-267

McCrudden C (2007) *Buying Social Justice; Equality, Government Procurement and Legal Practice,* Oxford University Press, ISBN 978-0-19-923243-7

Musila, J. W. (2004). "The Common Market for Eastern and Southern Africa and Kenya's Export Trade." *International Journal of Social Economics, 3* (1): 67-77.

Odhiambo, W., & Kamau, P. (2003). "*Public Procurement: Lessons from Kenya, Tanzania and Uganda."* (Working Paper No 208, DEV/DOC(2003)06). Paris, France: OECD Development Centre.

PPOA. (2007). *Assessment of the Procurement System in Kenya Report*. A report by Public Procurement Oversight Authority, Nairobi.

Preferential Procurement Policy Framework Act (Act 5 of 2000).

Republic of Botswana. Public Procurement and Asset Disposal Act, 2001.

Republic of Kenya (20012) “Statistical Abstracts”, Government Printers, Nairobi

Republic of Kenya (2001d), “The Public Procurement Bill 2001”, Government Printers, Nairobi

Republic of Kenya (2005) The Public Procurement and Disposal Act No. 3 of 2005. Government Printers, Nairobi

Ssennoga F. (2006). Examining Discriminating Practices in Public Procurement in Developing Countries, *Journal of Public Procurement* 2006, Vol. 6(2)

Taylor T.K. (2002) . Using offsets in procurement as an economic development strategy- International conference on offsets and Economic development Pp1-41 *working paper*, College of Business, Alfred University New York.

Trionfetti, F. (2000). Discriminatory Public Procurement and International Trade, *The world Economy* 23(1) 57-79

Wanjiru, G. (2008), *The CDF Social Audit Guide: A Guide Handbook for Communities.* Nairobi: Open Society Initiative of E. Africa.

Watermeyer, R. (2004). U*npacking Transparency in Government Procurement: Rethinking WTO Government Procurement Agreements* (Project Synthesis Report). (IWOGDA II Project). Jaipur South Africa: Cuts International