

# LEGAL PRACTICE MANAGEMENT: ATP 106

## LECTURE 7

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## BASIC SUPPLIES MANAGEMENT

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### Definitions:

Supply management is the act of identifying, acquiring, and managing resources and suppliers that are essential to the operations of an organization.

Supply chain management is,

*"The process of obtaining and managing of materials, components or services needed to operate a business or other type of firm. The elements of supply management contain the actual materials / components, budgets, information, and employees. The key purpose of this procedure is to keep costs stable and use resources effectively to increase the efficiency of the business and profits"*

Khan, S.A.R.& Yu Z. (2019). Strategic Supply Chain Management.

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- Supply chain management draws heavily from:
  - operations management
  - logistics
  - procurement
  - information technology

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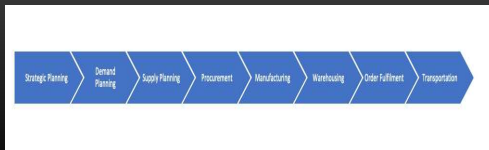
- Theories in supply chain management include: -
  - resource based view
  - transaction cost analysis
  - knowledge based view
  - strategic choice theory
  - agency theory
  - channel coordination
  - institutional theory
  - systems theory
  - network perspective
  - material logistics management
  - just-in-time
  - material requirements planning

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- Theories cont....
  - theory of constraints
  - total quality management
  - agile manufacturing
  - time based competition
  - quick response manufacturing
  - customer relationship management
  - requirements chain management
  - available to promise

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### Supply chain management process:

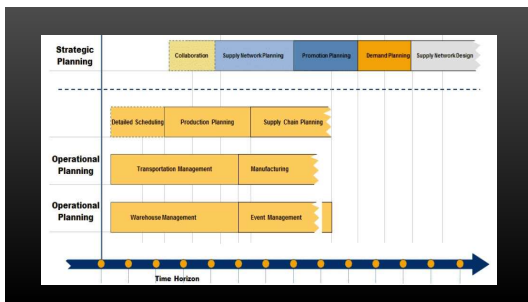


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### Supply Chain Management Rubrics:

- Strategic planning process: strategic supply chain design and strategic sourcing
- Demand planning: forecasting, lifecycle planning, promotion, planning and consensus demand planning.
- Supply planning process: safety stock planning, supply network planning, outsourcing, distribution planning, customer collaboration and supplier collaboration.
- Procurement process: purchase order processing, receipt confirmation and invoice verification.
- Manufacturing process: production planning / detailed scheduling and manufacturing execution.
- Warehousing process: inbound processing, outbound processing, cross docking, warehousing, storage and physical inventory.
- Order fulfillment: sales order processing and billing process
- Transportation business process: transportation planning, transportation execution, and freight costing process.

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# PROCUREMENT

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## DEFINITIONS

*"The process of purchasing goods and services"*

Oxford dictionary

*"The acquisition through purchase, rental, hire purchase, license, tenancy, franchise, or by any other contractual means of any type of works, assets, services and processing in the supply chain system."*

Section 2, the Public Procurement and Asset Disposal Act

*"Public procurement is the acquisition of goods, services and works by a procuring entity using public funds."*

World bank, 1995

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## PROCUREMENT METHODS

There are four main methods, namely, -

- **Quotation**
  - Normally used for credit purchases of normal situation items like pens, paper etc.
  - The purchasing manager makes a request for quotation by sending an inquiry to several suppliers.
  - The suppliers send a price list of the items quoted.
  - The buyer selects the best quotation depending on price, quality, terms of payment, discounts etc.
  - A purchase order is prepared.

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### • Tenders

- A tender is a written commitment by the supplier to provide goods and services at a specific price, quantity and quality.
- It is normally used for high value contracts worth thousands / millions of shillings.
- Tenders are opened by the tendering committee which selects the best tender according to price, quantity and quality.
- After this a purchase contract is prepared.

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### • Through salesmen

- This is where sales representatives are sent to convince buyers to purchase a product.
- It is normally used for new products or non-standardized items.
- The salesmen usually carry free sample which are given to the buyer and if it is accepted, a purchase order is made.
- Advantages
  - ✓ Free samples can be received and tested.
  - ✓ Discounts can be negotiated.
- Disadvantages
  - ✓ The actual product may be inferior to the sample.
  - ✓ Uniform stationery items are not purchased.

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• Direct procurement

- This is where items are purchased from a manufacturer or retailers.
- It is done on a cash basis and is normally for low value items or urgently required items.
- Advantages
  - ✓ There are opportunities for obtaining quantity discounts due to the bulk buying.
  - ✓ The procedure is quick and simple
- Disadvantages
  - ✓ It requires maintenance of petty cash in the office.

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LEGAL FRAMEWORK

- Constitution of Kenya, 2010
- The Public Procurement and Asset Disposal Act, 2015
- International Trade Treaties and Interests

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Constitution of Kenya, 2010

*"(1) When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.*

*(2) An Act of Parliament shall prescribe a framework within which policies relating to procurement and asset disposal shall be implemented and may provide for all or any of the following—*

*(a) categories of preference in the allocation of contracts;*

*(b) the protection or advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination;*

*(c) sanctions against contractors that have not performed according to professionally regulated procedures, contractual agreements or legislation; and*

*(d) sanctions against persons who have defaulted on their tax obligations, or have been guilty of corrupt practices or serious violations of fair employment laws and practices."*

Article 227

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The Public Procurement and Asset Disposal Act

- The Act applies in: -
  - procurement planning
  - procurement processing
  - inventory and asset management
  - disposal of assets and
  - contract management
- Public Procurement and Asset Disposal Regulations 2020
  - Came into effect on 2 July 2020 through Kenya Gazette Supplement No. 53 Gazette notice of 22nd April, 2020.
- **Note : Law places user department as central in procurement process**

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Role of the user department - Reg. 34

- prepare departmental procurement and asset disposal plans;
- initiating procurement and asset disposal requirements;
- participating in the evaluation committees';
  - Appointments to Committees are to the individual and cannot be delegated.
- manage and monitor contracts and report any departures from the terms and conditions to the Head of Procurement
- forwarding details of any required amendments or variations to contracts to the Head of Procurement for consideration and action;

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- preparing any reports required to the Head of Procurement for submission to the Accounting Officer;
- undertaking conformity assessments of supplied goods, works and services;
- preparing technical specifications, bill of quantities, terms of reference etc.;
- making clarifications on tenders, request for quotes and any other matter through the Head of Procurement as may be required;
- maintaining and archiving copies of records of contract management.

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### International Trade Treaties and Interests

- Procurement has to recognise bi-lateral and multi-lateral trade agreements under: -
  - World Trade Organisation (WTO)
  - Regional Trading Agreements under the Economic Partnership Agreement (EPA) between the East and Southern African (ESA) Countries and the European Union (EU)
  - Common Market for Eastern and Southern Africa (COMESA)
  - East Africa Community (EAC)

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### PROCUREMENT PRINCIPLES

- Planning enables the entity to: -
  - know when to replenish supplies
  - know how to respond to emergencies
  - organize adequately
  - develop good business relationships with suppliers
  - ✓ See section 53 of Public Procurement and Disposal Act.
- Eligibility of bids (section 55)
  - Entities should only accept bids that meet the set criteria
- Registration of suppliers
  - Head of Procurement has to ensure that he /she keeps an updated list of suppliers

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- Standard tender documents (section 70)
  - Entities are encouraged to use standard tender documents
- Tender opening and evaluation
  - Head of Procurement also has to prepare a professional opinion giving his / her independent view of the procurement which informs the Accounting Officer's decision whether to approve or reject the recommendation of the Evaluation Committee (Section 84)
- Successful bids and awards
  - Highest total score on both technical and financial requirements
- Communication
  - Bids are invited through publication in two local dailies with national coverage, websites and recommended portals.

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### PROCUREMENT PROCESS

1. **Budgeting**
  - The Head of User department should ensure that all items to be procured are captured in the budget.
2. **Procurement Planning (Reg. 40)**
  - The user shall prepare departmental procurement plan in the format provided for in the Regulations
  - Procurement plan has to be linked to budgets
  - Procurement plan has to take into account multi- year plans
  - User shall submit their plans to Head of Procurement for consolidation
  - Accounting Officers have to prepare quarterly reports on implementation of plan and submit said reports to the governing body

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- Contents of a procurement plan document include: -
  - Item description
  - Procurement method
  - Unit of issue
  - Quantity
  - Estimated total costs
  - Source of funding
  - Funds allocated
  - Time process

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**3. Requisition**

- Ensure availability of budget before raising requisition
- Ensure that the requisition is complete by including: -
  - Specifications
  - Bill of quantities
  - Statutory approvals e.g. NCA, NEMA licenses, County Government approvals, feasibility studies etc.
  - Environmental and Social Impact Assessment Reports(ESIA)
  - Evidence of completion of RAP
  - Evaluation criteria
  - Ensure the appropriate officer signs the requisition ( Head of User department and approved by the Accounting Officer)

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- Utilize the services of professionals / consultants in the development of specifications / terms of reference.
- Consultants can be obtained from Government Departments e.g. Ministry of Public Works etc.
- Private consultants can be involved by utilizing the appropriate selection methods e.g. quality and cost based selection, quality based selection, single source selection.
- User should give input in bid document preparation

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**4. Tender Opening (Sec 78)**

**Ad hoc Tender Opening Committee**

- Appointed by the Accounting Officer for the specific tender
- Shall have at least three members
  - At least one of the members shall not be directly involved in the processing / evaluation of the tenders
- Tender Opening Committee shall ensure that:
  - tender documents submitted / received are signed,
  - minutes and tender opening report is prepared.

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**Tender Evaluation - Reg. 29**

- At least three members appointed on rotational basis comprising heads of user departments or their representatives; and professional or consultant, where required.
- The Accounting Officer shall designate one of the members of the Evaluation Committee as the chairperson.
- The quorum should consist of at least three persons including the chairperson.
- The person in charge of the procurement function is normally the secretary of the ad hoc evaluation committee.

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**Functions / Conduct of Members of Evaluation Committee - Reg. 30**

- Conduct technical and financial evaluation of tenders / proposals in accordance with the criteria set
- Carry out evaluation or negotiation with due diligence
- Conduct evaluation within the specified periods (30 days)
- Not to communicate directly with tenderers
- Seek clarification through the head of procurement function.
- Prepare evaluation report with ratings and make recommendations to head of procurement function

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**Independent Evaluation - Reg. 31**

- Each member to carry out an independent evaluation then share in a joint sitting.
- Upon sharing of individual evaluators ratings, the committee shall moderate the analysis to arrive at an average rating.
- In RFPs a technical report is prepared and shared with Head of Procurement to facilitate invitation of bidders for financial opening function
- The individual score sheets shall be kept as records of a procurement proceeding.

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**5. Contract Management - Reg-137**

- The Accounting Officer shall establish a Contract Implementation Team to ensure right quality and quantity of goods, works and services are delivered;
- The team shall focus on:
  - procurement function,
  - requisitioner,
  - relevant technical department and
  - consultant where applicable.
- Contract implementation shall be as per the project implementation plan agreed by the project evaluator and contractor,

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**Inspection and Acceptance Committee – Reg. 35(1)**

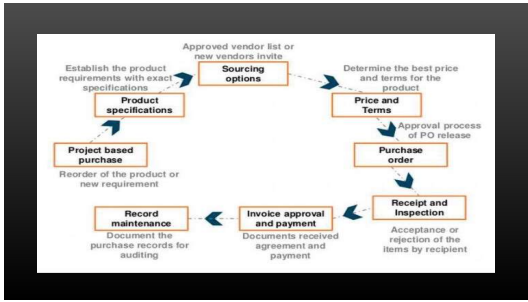
- Composition:
  - user department,
  - technical department,
  - head of procurement function
  - any other person as may be deemed fit
- Where capacity is lacking, support is obtained from another project evaluator or a consultant/professional is procured
- Technical person issues the certificate to the Accounting Officer
- I&AC issues interim or completion certificate of I&A considering prior certificates
- I&AC prepares reports to accompany interim or completion certificates, to head of procurement

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**6. Disposal**

- User shall prepare departmental disposal plan
- User shall participate in Disposal Committee - Reg. 177
- Composition:
  - a chairperson, who shall be a head of department;
  - the head of finance function;
  - at least three heads of user departments, of whom one shall be the head of the user department disposing off the stores or equipment;
  - the head of the procurement function as secretary or his / her designate.
- Quorum for the disposal committee is three members including the chairperson(Reg.178)

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### Challenges in Public Procurement in Kenya

- Ineffective implementation of the Act
- Hiring unqualified staff
- Lack of knowledge on procurement laws
- Corruption
- Expensive
- Long process cycle

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### Administration of Procurement Disputes

Public Procurement Administrative Review Board

- Request for review submitted (must be done within 14 days from the date of issuance of notification)
- Applicant completes requisite form which is accompanied by-
  - a statement citing alleged violation or breach of law or procedure
  - grounds for review
  - applicable fees
- Lodging a review serves as a stay order
- Dispute has to be determined within 21 days

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### High Court

- Applicant can challenge the decision of the Review Board here
- Completed through a judicial review process; seeking orders of certorari, mandamus and / or prohibition.
- Application has to be made within 14 days from the date of the decision of the Review Board
- Dispute has to be determined within 45 days - (conflict of implementation – Civil Procedure Rules allow for determination within 6 months)

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# STOCK CONTROL AND INVENTORY MANAGEMENT

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## INTRODUCTION

- The manager has to control the quantity of stock in the store in order to avoid overstocking or under stocking
- Maximum Level: refers to the largest quantity of stock that should be maintained in the store at any given time.
- Minimum Level: refers to the lowest quantity of stock that should be maintained in the store at any given time.
- Reorder Level: This is the level at which the store keeper should start placing an order for more stationery taking into consideration, the lead time (delay time i.e. between placing the order and the delivery time).

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## Factors Affecting Stock Level / Quantity

- User Demand / consumption rate
- Cost of storage
- Cost of items
- Nature of items
- Lead time
- Distance between supplier and the company
- Availability of items in the market
- Budget
- Safety and security for the items in the store
- Availability of space
- Company policy regarding stock levels.

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## STOCK PROCEDURES

- This refers to the procedures involved in the purchase, receiving, storage and issue of stock to promote economy in the use of stock.
- Stock procedures involve: -
  - Purchasing
  - Receiving
  - Storing
  - Issuing

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## Purchasing Procedure

- Purchase budget: each department should have a budget of the items to be purchased for the year.
- Centralized purchasing: there should be a centralized department for purchasing stationery in order to get quantity discounts for bulk purchases.
- Purchase requisition: this is a written request from user departments asking the purchasing department to buy more stationery. It is a document which authorizes a purchase.
- Inquiry: the purchasing manager makes an inquiry for quotations from several suppliers.
- Quotations: these are received from suppliers stating the current prices
- Selection: the best quotation is selected depending on the price, quality, terms of payment, discounts etc.
- Purchase order: this is an official document requesting the supplier to deliver specific goods at a specific price.

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• Advantages of Centralised Purchasing

- Quantity discounts can be obtained due to bulk buying.
- Efficient purchasing methods as purchasing manager is a qualified professional.
- Specialization is enhanced because qualified purchasing clerks are employed.
- Uniformity of purchasing procedures and uniform items can be obtained.
- Accountability for purchasing decisions as the purchasing manager is in full control of his / her department.
- Savings in terms of labour because few purchasing clerks are required.
- Better supervision of the purchasing and store staff.
- Avoids duplication of purchasing work as only one department is responsible.
- Better control of stationery because it is purchased in a central department.
- Flexibility in job rotation; workers can rotate between receiving and purchasing.
- There is better training of new staff because they can learn from skilled workers.

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• Disadvantages of centralised purchasing

- Boredom and monotony of work.
- High risk of losses in the event of a disaster.
- Lack of flexibility because uniform procedures are used.
- Delays in obtaining stationery items from a centralized department.
- Inconvenient for user departments because their special needs are not met.
- Lack of contact with senior executives.
- No opportunities to exploit new talents because employees are specialized in one skill.
- Too much movement from one office to another.
- High cost of messengers to distribute stationery and documents.
- Misplacement of records due to the large number of records in a centralized office.

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Receiving Procedures

- Centralized receiving: there should be a central place for receiving of stationery
- Responsibility: one receiving clerk should be in charge of the receipt of stationery
- Inspection: incoming goods should be inspected for quality, quantity and position.
- Delivery note: the supplier delivers goods using a delivery note which is signed in acceptance of the goods.
- Returns: items which are defective or in excess should be returned to the supplier accompanied by a goods returned note. The buyer should then await a credit note.
- Goods received note: all goods received are recorded using a goods received note and the bin card is updated.
- Invoice: the supplier sends an invoice requesting for payment.

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• Steps that a purchasing manager should undertake before paying an invoice

- Check goods received note to ensure that goods were actually received in the store
- Confirm that the purchase was done by checking the purchase order.
- Check that correct quantity and quality were received by checking the goods received note.
- Verify that the invoice is correct by comparing it with the purchase order.
- Confirm by checking payment record to avoid double paying an invoice.
- Check budget allocation to see if there are enough funds to pay the invoice.
- Prepare a payment voucher and have it approved before paying the cheque.
- Stamp 'PAID' on the invoice once payment has been done.

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Storage of Stationery

- There should be a central store for effective control and protection of stationery.
- One storekeeper should be in charge of stationery store.
- Accurate records should be kept.
- Stationery should be protected against fire, floods and other hazards.
- Proper arrangement should be done for easy issuing
- Heavy items should be placed on pallets on the floor for ease of movement.
- Labeling should be done correctly
- Cleanliness and sanitation is paramount
- Ensure the layout utilized is correct
- Isolate hazardous items
- Utilize space economically
- The store should be kept locked when not in use and no unauthorized person should be allowed entry.

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### Issuance of Stationery

- There should be a central place that can be utilized for issuing stationery to the user departments.
- One person should be in charge of issuing stationery.
- There should be a specific time for issuing stationery to the user department. It gives the storekeeper time to do other work.
- All issued stock should be recorded in the bin card.
- First in first out method of issue should be utilize in order to avoid deterioration of stationery.
- User departments should be encouraged to recycle stationery.
- Standard units of issue should be used e.g. boxes, dozens etc.
- Store requisition: this is a demand note from the user department requesting for stationery

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