

*Full Length Research Paper*

# **Determinants of implementation of public procurement regulations in Kenya's secondary schools**

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The enactment of Public Procurement and Disposal Act and the public procurement and Disposal Regulations in both developed and developing countries are among the 20<sup>th</sup> century institutional reforms that have been castigated by the demand for transparency and accountability in the management of public institutions. Such legislative requirements ought to be implemented in public secondary schools due to the fact they are public entities. This study sought to establish the determinants of implementation of public procurement regulations by headteachers in public secondary schools in Migwani District, Kenya. The study was conducted in 27 secondary schools. The study employed descriptive survey design and used questionnaires for 27 headteachers, 27 deputy headteachers, 27 accounts clerks, members of procurement committees and District Schools Auditors. Simple random sampling procedure was used to select the procurement committee members. Data was presented by use of frequency tables and percentages. The study established that there are key determinants that need to be put in place for effective implementation of the procurement rules and regulations. These includes; the establishment of public procurement structures, exposure of the headteacher to management training, induction of members charged with procurement roles on procurement regulations, financial standing of the school and possible intervention in the implementation of public procurement regulations. The findings also indicated low level of compliance in the implementation of public procurement regulations.

**Key words:** Determinants, public procurement, regulations, head teachers, school.

## **INTRODUCTION**

Public procurement is broadly defined as the purchasing, hiring or obtaining by any other contractual means of goods, construction works and services by the public sector (World Bank, 1995). The public procurement system is a set of rules that guide governments' purchasing of goods works and services however big or small. Arrowsmith and Trybus (2003) aver that, the last decade of the twentieth century had witnessed the start of global revolution of public procurement.

A well organised procurement system contributes to good governance by increasing confidence that public funds are well spent (Hunja, 2001). A school as a public entity draws its funds from government grants, bursaries, donations, school fees and parents' contributions (Republic of Kenya, 2006) hence effective procurement systems would enhance proper utilization of public funds.

The primary purpose of public accountability is to prevent abuse of taxpayers' money and to prevent losses (Baily, Farmer, Jessop and Jones, 1988). In addition, the purpose of public procurement in schools is to establish procedures for public procurement and for the disposal of unserviceable, obsolete or surplus stores, assets and equipment and to provide for other related matters (Republic of Kenya, 2005).

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The first public procurement laws in Central Eastern and European Countries were first enacted in mid 1990s (Baily, Farmer, Jessop, and Jones, 1988). Some Countries like Argentina, Bangladesh, Ghana, Peru, Rwanda, Sierra Leone, Uganda and Tanzania have all introduced new procurement legislation (McDonald, 2008). Public Procurement regulations in East Africa are fairly decentralised in public institutions and this gives many individuals a chance to participate in decision making as opposed to the past where procurement knowledge was confined to only a few individuals.

In the 1970s East African countries shared a common procurement manual that became outdated with the collapse of the East African Communities (EAC) in 1977. Thereafter, each country reverted back to individualised procurement systems (Odhiambo and Kamau, 2003). Between 1969 and 1978 the procurement system was regulated by Treasury circulars/ Government of Kenya (GoK). In 1998, Country Procurement Assessment Report (CPAR) by World Bank to assess the country's present procurement policies, organisations and procedures was conducted.

The Public Procurement programme in Kenya was established by creating a public procurement directorate (PPD) in the Ministry of Finance and Planning by the Exchequer and Audit Act through a Legal Notice number 51 of march 2001 and amended in 2002 (Republic of Kenya, 2002). In 2005, public procurement and disposal Bill was passed and this meant that a new procurement authority would be established. The Public Procurement Regulations 2006 came to full operation vide a Legal Notice No.174 of January 2007. Republic of Kenya (2006) postulates that the public procurement regulations in Kenya apply to all public entities including schools.

This study sought to establish factors determining the Implementation of public procurement regulations by headteachers in Migwani District which included: the establishment of public procurement structures by the headteacher, exposure of the headteacher to management training, induction of members charged with procurement roles on procurement regulations and financial standing of the schools. Hence the study was undertaken to fill a knowledge gap on determinants of implementation of public procurement regulations in the national context and in particular within the context of Migwani district.

#### **The following were the objectives of the study**

- i. To determine the extent to which headteachers in public secondary schools had established the stipulated public procurement structures.
- ii. To determine the extent to which implementation of public procurement regulations was influenced by exposure of the headteacher to management training.

- iii. To determine the effect of induction of members of different committees in public procurement procedures on implementation of public procurement regulations.

- iv. To determine the extent to which schools' financial standing influences the implementation of public procurement regulations.

#### **Literature review**

Most developing countries are facing a problem of rapid changes in procurements which are imparting pressure on how the procurement function performs its internal and external processes in order to achieve its objectives (Wambui, 2013). Its implementation is perhaps driven by development partners who have focussed on getting countries to introduce a standard law developed by the United Nations Commission on international trade law (MacDonald, 2008). The public procurement reforms currently focus on getting countries to implement a standard procurement law and system. This is a challenge that countries ought to cope up with as pointed out by Thai (2001) that public practitioners may have to put up with contradictory and contrasting procurement requirements and objectives imposed by policies and trade agreements. Such challenges in procurement reforms are beyond procurement regulations and include processes, methods, procurement organizational structures and workforce. Public procurement regulations are based on agreed upon donor requirements and the procedures should be consistent with international standards (MoE, 2007).

The implementation of stipulated public procurement structures could determine implementation or non implementation of public procurement regulations. Failure to implement the regulations could result to single sourcing of goods and services in public secondary schools in Kenya. The procurement structures charged with procurement roles include; a procurement unit and committees charged with different procurement roles which include; a tender committee, a procurement committee, Technical and Evaluation committee, inspection and acceptance committee, and the Disposal committee (Republic of Kenya, 2007). Public procurement entails confirming the availability of funds and ensuring that the estimates are realistic. Technical advice should also be sought where required and the estimate is based on up-to- date information (Republic of Kenya, 2006).

The implementation of public procurement regulations in public secondary schools may be determined by the exposure of the headteacher to management training. Eshiwani (1987) avers that headteachers of schools are appointed without any form of training. This concurs with Kamunge Report (1988) in that heads of institutions are

appointed from among serving teachers most of whom have had no prior training in institutional management. Mcleary and Hencley (1970) cited in Kalai, 1998) observed that many administrative failures in secondary schools result from inadequate understanding of the nature of administration and lack of technical knowledge coupled with essential skills. Olivero (1982) cited in morubasi (1992) notes that headteachers need self renewal as well as sound managerial skills to help them to be more active in their duties. If provided with the relevant skills, such training in procurement will however ensure adherence to procurement procedures (Wambui, 2013) hence a realization of proper implementation of public procurement regulations. Lack of training may lead to malpractices in the implementation of public procurement regulations in schools.

Induction of members of different committees may determine implementation of public procurement regulations in schools. Republic of Kenya (1988) stipulates that in-service training and support services in Kenya are offered by Kenya Education Staff institute (KESI) presently Kenya Education Management Institute (KEMI). Eshiwani (1993) observes that lack of induction affects performance of headteachers in school administration and management. Induction provides training that facilitates effective management of educational institutions.

This agrees with Mullins (2008) who says that training is a major influence on the success of any institution. Makori (2008) observed that training and retraining are important aspects of implementation when an organization shifts to a strategy requiring different skills, managerial approaches and operating methods. Thus, proper induction and training of committee members on public procurement regulations is likely to enhance implementation of public procurement regulations hence, lack of induction of committee members may adversely influence implementation of public procurement regulations.

The implementation of public procurement regulations could be influenced by the financial standing of a school. According to Wambui (2013) the ability to realise procurement goals is influenced by both internal and external forces. Jansen and Walker (1989) notes that important internal forces were the leader's value systems, how strongly they feel that individuals should have a share in decision making which affect them. If a school has huge fees balances or arrears, the school could be operating on a deficit budget and may be forced to prioritise what to procure. If schools have enough funds, they could be able to operate on break even budgets hence they would be able to purchase what is required. Operating on an excess budget for a school may mean that the school has more than it could spend. The sources of income whether diversified or single sourced

could also dictate the quantity and quality of goods and services to be procured in the long run.

## METHODOLOGY

This study adopted a descriptive survey design which according to Orodho (2003) is a method of collecting information by interviewing or administering questionnaires to a sample of individuals. The target population for the study was twenty nine (29) public secondary schools which included headteachers, deputy headteachers, bursars/accounts clerks, members of the procurement committees and district school auditors.

Since the population was minimum 27 schools were used in the study. A sample of twenty seven 27 headteachers, 27 deputy headteachers, 27 bursars or accounts clerks, two members of tender committees who were randomly selected from the list given by the headteacher and District schools Auditor also participated in the study. The total respondents were 137.

The study used questionnaires as a tool for data collection. Expert judgement, literature searches and pre-testing of open ended questions helped to establish the content validity (Wilnikson, 1991; Best and Kahn, 1993). The researchers' supervisors as experts helped to assess the validity of the instruments. To increase the face validity, Pilot study was carried out in two public secondary schools in Migwani district that were not included in the study. In this research, the results of the pilot study were compiled and correlation calculated after piloting. The researcher used test-retest technique to ascertain the instrument reliability. The pilot study scores from both testing periods were then correlated. If the correlation is high, the instrument will have high test-retest reliability (Mugenda and Mugenda, 2003). A reliability coefficient, of 0.81 was obtained after computation. Mugenda and Mugenda (2003) assert that a coefficient of zero point eight zero (0.80) or more implies that there is high degree of reliability of data.

## Research Findings

Out of the 137 questionnaires that were administered to all the respondents, 23 headteachers, 78 committee members and the District School Auditors responded successfully. Questionnaire completion is the proportion of the sample that participated as intended in all the research procedures. The returned questionnaires were from (78) that is (72.2%) out of (108) deputy headteachers, teachers, bursars, accounts clerks and committee members (respondents) and (23) that is (85.5%) out of twenty seven (27) headteachers who were key informants. Analysis and data interpretation was based

**Table 1.** Existence of procurement units in secondary schools.

	Frequency	percent
Yes	63	80.8
No	15	19.2
Total	78	100.0

**Table 2.** Person in charge of procurement in public secondary schools.

	Frequency	percent
Deputy head teacher	52	66.7
Head teacher	11	14.1
No response	15	19.2
Total	78	100.0

on these returns. Mugenda and Mugenda (2003) stated that fifty percent return rate was adequate, sixty percent good, and seventy percent very good. Hence the return rate was considered good and would provide the required information for purposes of data analysis.

Research objective 1 (one) sought to determine the extent to which headteachers in public secondary schools had established the stipulated public procurement structures. Thus, the study sought to establish whether there were procurement structures in the schools. The results were as shown in

From Table 1, majority of the respondents indicated that there was a procurement unit in their schools while 19.2 percent indicated that there was no procurement unit in their schools. About 91.3 percent of the headteachers said that their schools had a procurement unit and only 8.7 percent of them said that they had not established a procurement unit in their schools. It is observed that headteachers who had not established procurement structures in their schools lacked enough teachers to constitute all the procurement committees. Another reason was that they had not been sufficiently inducted on how to implement Public Procurement Regulations while others said that the content contained in the public procurement regulations was difficult to interpret hence this shows lack of basic knowledge in public procurement regulations

The study also sought to establish the person in charge of procurement in the respective schools. The results are as shown in Table 2

Based on the findings, about 66.7 percent of the respondents indicated that the deputy headteacher was in charge of procurement in their schools and 14.1 percent indicated that it was the mandate of the head teacher. The headteachers were also asked to indicate

who was in charge of procurement within their schools. Majority of the headteachers (78.3) concurred with the other respondents that the person in charge of procurement in their schools was the deputy headteachers. Only 21.7 percent of them indicated that the principal was in charge of procurement in their schools. Those who did not have the procurement structures still did not indicate the person in-charge of procurement in their schools. The role of the headteachers is to execute what has been deliberated on by various committees in acquiring goods and services.

The head of procurement in a well established organization is a procurement officer yet no single school indicated such an officer to be in-charge of procurement. In some public secondary schools, the headteacher assumes the role of a procurement officer. From the responses, this indicates that there is a knowledge gap or lack of basic knowledge of public procurement regulations by some of those who are required to implement them. Some respondents did not answer since in their schools they were not aware of who was the head of procurement.

The headteachers were asked to indicate whether they had put in place all the committees that undertook different procurement roles in their schools. The results are as shown in Table 3

Majority of the headteachers (65.2 %) had put in place all the committees that undertook different procurement roles in their schools as per the (Republic of Kenya, 2007) which stipulate that the headteacher shall appoint various procurement committees in writing. Other headteachers had not put in place all the committees that undertook different roles in procurement in their schools. It was observed that, schools with no procurement structures accounted for 34.8 percent. Those without pro-

**Table 3.** Establishment of committees for different procurement roles.

	<b>Frequency</b>	<b>percentage</b>
Yes	15	65.2
No	8	34.8
Total	23	100

**Table 4.** Status of head teachers' induction in public procurement regulations.

	<b>Frequency</b>	<b>Percentage</b>
Yes	15	65.2
No	8	34.8
Total	23	100

curement structures were asked to indicate who procured goods and services in their schools. They all agreed that the headteacher is the one who procured goods and services.

The headteachers were asked to indicate the appropriate committees that were charged with different procurement roles that had been put in place in their schools. Majority of the headteachers indicated that the school tender committee had been put in place while 13.0 percent indicated that they had put in place the school tendering, procurement, evaluation, disposal, inspection and acceptance committees. According to the Republic of Kenya (2006) the headteacher as the accounting officer is responsible for ensuring the establishment of a procurement unit which shall estimate the value of works or supplies required by confirming the availability of funds.

The Republic of Kenya (2007) stipulates that the headteacher shall appoint members of the following committees in writing; a tender committee, a procurement committee, Evaluation Committee, Inspection and Acceptance committee and the Disposal Committee in accordance to the Public Procurement Regulations.

Research objective number 2(two) sought to determine the influence of management training on headteachers implementation of public procurement regulations. Kalai (1998) noted that continuous professional training is prerequisite in order to keep educational administrators abreast with emerging changes and trends in education coupled with induction courses and constant refresher mandatory courses in order to improve the professional proficiency of secondary school headteachers. These findings concur with Eshiwani (1993) who indicates that training provides knowledge, skills and attitudes necessary for effective performance of one's roles and responsibilities to accomplish the tasks. The skills include

technical skills, human skills and conceptual skills. This study sought to find out the status of induction of headteachers in public procurement regulations. The results are as indicated in Table 4.

From the respondents, majority of the headteachers (65.2%) had been inducted on the implementation of public procurement regulations while (34.8 %) of them had not been inducted. Lack of induction could be explained in terms of lacking prior preparation for the post of headship. It was thus observed that, although some headteachers had been inducted on the implementation of public procurement regulations, there was need for all of them to be inducted when appointed to headship of a school. They also need to be provided with enough information on emerging trends in education. This could be a boost on the information gained during induction for them to be able to implement public procurement regulations effectively. This means that since the main purpose for public procurement regulations is to promote economy and efficiency in public procurements (Republic of Kenya, 2007) inadequate induction could affect aspects such as fairness, transparency and non-discriminatory manner hence there would be lack of sound business climate in the school.

The adverse effects of non exposure to training on public procurement regulations were cited as; non implementation of public procurement regulations which included lack of establishment of a procurement unit, the headteacher may not appoint members charged with different procurement roles in writing hence lack of a procurement structure in the school. The school is also likely to lack a procurement plan, may not advertise tenders at all, market surveys may not be undertaken hence this may translate to single sourcing for goods and services; thus compromising the credibility of public procurement regulations.

**Table 5.** Induction of different committee members at school level.

	Frequency	percent
Yes	40	51.3
No	23	29.5
No response	15	19.2
Total	78	100.0

Research objective number three (3) sought to determine the effect of induction of members of different committees in public procurement procedures on implementation of public procurement regulations. The study sought to establish the level of induction of different committee members as indicated in table 5.

Most respondents indicated that they had been inducted by their headteachers on procurement regulations while slightly above half of them had not been inducted. The reasons for non induction of (29.5%) could have been because even the headteachers themselves were not adequately inducted on the same. The no response meant that, there was non-existence of procurement structures in their schools. Where the induction had taken place, they were asked whether they had attended in-service courses. Only 37.2 percent of them indicated that they had attended an in-service course and 62.8 percent of them indicated that they had not attended an in-service course. Those committee members who had been inducted were able to implement the public procurement regulations effectively whereas those who had not been inducted could not implement them effectively or they could not implement them at all. Therefore, training and induction should occur regularly to the headteachers and those charged with different procurement roles as this would help them in the implementation of public procurement regulations effectively in their schools.

Those who attended an in-service course were asked to indicate whether the course was for a target group. Majority of the respondents (80.8 %) indicated that it was for the bursars and accounts clerks, deputy headteachers and for the procurement committees. The study sought to know whether this in-service training really covered anything on procurement. According to the respondents, the topics covered included administrative issues, financial management, book keeping, planning, auditing, procurement of goods and services, store management, public relations, HIV Aids, communication skills. Other topics discussed were on examination cheating and change of attitude and team work. Only 23.1 of the respondents indicated that the topics covered were relevant on Public Procurement Regulations.

From these findings, it is important to note that training

programmes comprise both short and long term courses for specific professionals that are intended to impart required knowledge, skills and attitudes to enhance staff performance. Wambui (2013) found that skills of trained procurement personnel will ensure adherence to procedures, taking lesser time and saving on cost. This may avoid a lot of time wastage while making reference to the procurement manual availed by the MOE. Thus, headteachers and members of various procurement committees require training on public procurement regulations in order to enhance their performance. Mullins (2002) avers that training is a major influence on the success of any organization. It ensures sustainable economic returns and effective performance for achievement of aims and objectives of the organization.

Research objective number four sought to determine the extent to which schools' financial standing influences the implementation of public procurement regulations. The respondents were asked to indicate how school fees payment influenced the procurement process. The response from the headteachers was as indicated in figure 1.

### Fees Payment in the school

Most of the headteachers 43.5 percent indicated that school fees payment was irregular, 43.5 percent also indicated that fees payment was on piece- meal, and only 13 percent indicated that fees payment was regular. When asked whether there were fees defaulters in their schools, all the respondents said that there were fees defaulters. The respondents further indicated outstanding fees balances as shown in table 6.

This implies that, with irregular and piece- meal fees payment, coupled with fees defaulters, goods and services could not be procured as required by the procurement unit since when there are no funds, it is only the essential prioritised goods and services that could be procured and other goods could probably have to wait until funds were sourced from other sources of funding as indicated by the respondents such as Constituency Development Fund (CDF), Local Authority Transfer Funds (LATF), bursaries, government grants and well wishers.

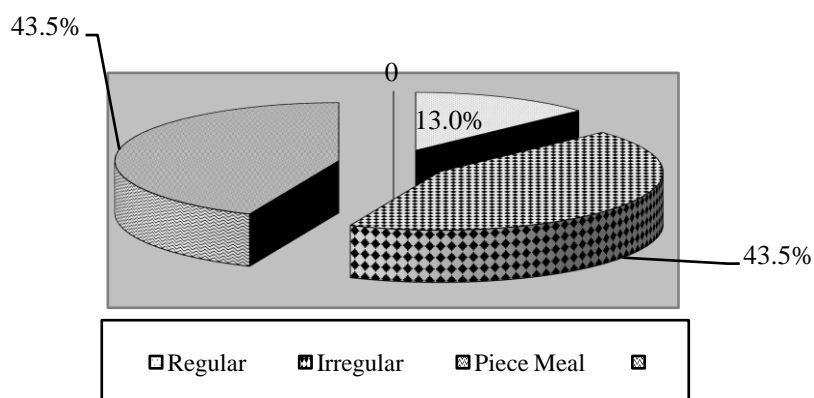


Figure 1

**Table 6.** Comparison of schools by outstanding fees balances annually.

Percentage of outstanding fees balance	Frequency	Percentage
10%	6	26.1
25%	12	52.2
50%	2	8.7
75%	3	13.0
Total	23	100.0

According to the respondents, when there were no funds in the school, the headteacher could only borrow from suppliers of goods and services. This influenced the implementation of public procurement regulations in that schools could face challenges like lack of suppliers of goods and services, quality of goods and services supplied could be compromised, there could be delays in payment, price fluctuations, lack of trust from suppliers and this could prompt some suppliers to sue the school. When funds were insufficient, the purchase of essential items like teaching learning materials could also be difficult hence quality grades could not be realised. This could result to single sourcing by the headteacher with people who offer credit facilities to the schools.

## DISCUSSION

Majority of the respondents (80.8%) indicated that there was a procurement unit in their schools. Majority of the headteachers (91.3%) indicated that their schools had procurement units. These findings concur with Mc Cleary and Hencley (1970) cited in Kalai (1998) who observed that, many administrative failures in secondary schools result from inadequate understanding of the nature of administration and lack of technical knowledge coupled

with essential skills. Makori (2008) also observed that training and retraining are important aspects of implementation when an organization shifts to a strategy requiring different skills, managerial approaches and operating methods. The shift to public procurement reforms in all public entities definitely requires that new tasks and challenges be matched with new skills. In addition, about (66.7%) of the respondents indicated that the deputy headteacher was in charge of procurement. The researcher observes that the deputy is appointed in writing by the headteacher to chair a tender committee as stipulated in (Republic of Kenya, 2007). In this study, majority of the respondents believed that the deputy was in charge of procurement in their schools. On the contrary, this is not the case since the headteacher is in charge as the accounting officer. Republic of Kenya (2007) stipulates that the deputy principal is a chairman of a tender committee appointed in writing by the headteacher and should report all deliberations made to the headteacher. The mandate of the headteacher as the accounting officer is to ensure full implementation of public procurement regulations through involvement of various committees that are charged with various procurement roles.

Majority of the headteachers (65.2%) had been inducted on the implementation of public procurement regul-

ations. In addition, the induction courses offered did not give sufficient information. The researcher observes that although the headteachers had been inducted on the implementation of public procurement regulations, there is need for all headteachers to be inducted when appointed to head schools and provided with enough information on emerging trends in education. This agrees with Eshiwani (1993) who observed that lack of induction affects the performance of headteachers in school administration and management.

Majority of the headteachers (78.3%) indicated that they had attended an in-service course on the implementation of public procurement regulations and the course took two weeks at KESI. These findings concur with Kalai (1998) who noted that continuous professional training is prerequisite in order to keep educational administrators abreast with emerging changes and trends in education coupled with induction courses and constant refresher mandatory courses in order to improve the professional proficiency of secondary school headteachers.

Prager (1993) avers that leaders perceive their leadership problems in a unique way on the basis of their background. The headteacher needs not only cognitive ability but also readiness to accept information from others and to rely on the qualified expertise of others in particular areas. The headteacher is therefore required to execute the procurement of goods and services based on deliberations made by the tender and procurement committees on tender awards by using the appropriate financial accounting documents and following the appropriate procedures.

All the headteachers and committee members indicated that fees defaulters and irregular school fees payment influenced the implementation of public procurement regulations in that it was not easy to procure essential goods and services for the school due to lack of sufficient funds. Slightly above half of the headteachers indicated that 25 percent was the percentage of fees arrears in their schools at the end of the year. This was also supported by the committee members. This there posed a challenge in the implementation of public procurement regulations as noted by Thai (2005) that public procurement practitioners who manage the procurement function usually face many challenges which they could be helped to cope with by increased efforts in research, knowledge advancement and experiences. According to the respondents, other sources of funds for schools included: CDF, government grants, Bursaries, PTA funds and LATFS. With limited funds, there was a challenge in procurement of goods and services and absenteeism of learners was high especially when sent to go home for school fees. Other studies have noted that personal characteristics of individual procurement practitioners

have a challenge on adherence to best practices in procurement performance (Migosi, Ombuki, Ombuki, and Evusa, 2013; Obanda, 2010).

## CONCLUSIONS

This study established that some schools had firmly established the public procurement structures while other schools had not. Inadequate staff to constitute the various procurement structures accounts for some of the reasons for failure to establish the procurement structures. Awareness to public procurement regulations is created through induction courses for both headteachers and those involved in procurement roles. Lack of awareness on public procurement regulations and lack of induction on public procurement regulations may have been a determinant for non implementation of public procurement regulations in public secondary schools. In-service training that was offered had relevant materials on the implementation of public procurement regulations. Lack of training on public procurement procedures by some headteachers accounted for ineffective implementation of public procurement regulations in their schools. The financial standing of a school influenced the implementation of public procurement regulations. This was caused by fees defaulters especially when parents failed to pay all the outstanding fees balances. Lack of funds to procure goods and services could lead to; delays in payment of suppliers, mistrust by suppliers who could sue the school, lack of suppliers of goods and services, negotiation with suppliers who could offer credit to the school among others.

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