

THE ZAMBIA INSTITUTE OF PURCHASING & SUPPLY

Newsletter

Dec. 2009

ZIPS DOES IT AGAIN



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Quote of the Quarter

Managing inventory investment:

The effective management of inventory investment should be a primary objective when searching for ways to manage costs, improve profitability and enhance shareholder value
Jones Kalyongwe, ZIPS President

By Mwape A. Mutakila

One of the primary functions of the Institute, as enshrined in the Act, is to train and develop the skills of members in Purchasing and Supply Management in the Country.

To achieve this objective, the Institute has been running workshops in Provincial capitals for sometime now. Twice in Eastern, twice also in Northern, many times in Lusaka and one each in Copperbelt, Southern and Central Provinces.

On Thursday, 27th August, 2009, the Secretariat organized a journey to Kasama where forty five participants had confirmed attendance.

The President started off on this long journey with

three other consultants. The team comprised Mr. Jones J. Kalyongwe the President, Mr. James Njolomba, Mr. Joseph Selisho and the writer of this Article Mwape A. Mutakila as a convener.

The workshop was held at Kasama Lodge from 28th-29th August, 2009. The topics were six and were presented as follows:-

- (1) Preparation of a Convincing Tender Document by James Njolomba-B.E, MASC, FEIZ.
- (2) Risk Management by Jones J. Kalyongwe-FCIPS.FZIPS, BA in Business Administration.
- (3) Fundamentals of Stores Management by Jones J. Kalyongwe-FCIPS, FZIPS, BA in Business Administration.
- (4) Ethical Values by James Njolomba-B.E, MASC, FEIZ.

(5) Preparation of a Business Plan by Joseph Selisho-MCIPS, MZIPS, MCIM, BSc in Administration.

(6) The ZIPS ACT No. 15 Of 2003 by Mwape A. Mutakila-FCIPS.FZIPS.MZIM,MBA.

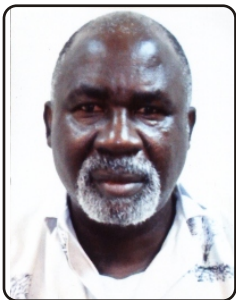
The Management of the Kasama Lodge must be commended for the nice welcome accorded to the team on arrival although, it was quite an awkward time at 22:00 hours, but still cooked for them.

The following morning the registration of participants started at exactly 08:00 hrs. Mary Kamamanyia who is our Administrative Assistant did the need. At the end of the day only twenty-one participants registered. By any standards that was not bad.

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Editorial Comment

Abraham Mwape Mutakila
Executive Director

This is the second publication of the Zambia Institute of Purchasing and Supply newsletter launched mid this year.

Many things have happened since the first publication, which was welcomed by the ZIPS membership.

The period saw Mr Misheck Kaoma being elected as a Councilor for Africa at the Chartered Institute of Purchasing and Supply (CIPS) headquarters in the United Kingdom. He will represent Africa for the next three years. Congratulations to Mr Kaoma and his family for this achievement.

The institute has also noted with concern issues pertaining to corruption, which are frequently being mentioned in the private media. We as ZIPS are following the cases at the Ministry of Health and where possible take action on our members who are believed to be involved in the scam. We will soon make public our preliminary action to them and after courts have determined the allegations, the institute will make its final decision.

We are also still waiting for facts on the sentencing of our member on the Copperbelt Province. We are contacting her employers for information so that the disciplinary committee can decide as required.

And ZIPS is happy to announce to its membership that the Zambia Public Procurement Authority (ZPPA) is About to purchase furniture for the ZIPS secretariat. The PEMFA secretariat had given a grant of US \$160,000 in 2008. The breakdown of expenditure is:-

- US \$10,000 to be spent on furniture. A consultant will be engaged by ZPPA to prepare a World Bank acceptable Business Plan for ZIPS.
- US \$150,000 to be spent on the administration of the LEPUSUMA Project.

We therefore sincerely thank the donors for coming to the institute's aid in this period of need. As a secretariat, we will ensure that the money is used in a transparent manner. And regarding the website, am now happy to announce that a permanent one is www.zipszambia.com which has been revised and all members can access it without any problem. The previous Website given can still

be accessed although I urge members to use a new number.

This transaction requires money and ZIPS is doing everything possible to overcome this problem very quickly. We apologise to our members for the inconvenience this caused.

The 3rd International Conference dates are 23rd and 24th April, 2010 at Sun Hotel, in the tourist Capital of Livingstone. There are positive indications that a number of other organizations shall be involved. This is a remarkable improvements considering where we are coming from. Nominations for speakers in various topics are now being submitted to the secretariat. We have not received any feedback from CIPS UK despite having submitted a request; we are hopeful that perhaps during the promised visit by the Chief Executive Officers early next year will bear the expected result.

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We failed to publicise the second Newsletter because of circumstances beyond the institute's control. We believe, now, that copies will be read in the future. Our main circulation tool is the website and those not in possession of computers will be given copies on demand. There will be minimum physical copies in circulation.

We have devised topics for discussion at this conference and in order to have credible speakers, we have written to various co-operating partners for nominations.

Thank you for the support and enjoy reading this second edition of the ZIPS Newsletter. ■

Editorial team

Mwape A. Mutakila

Editor

Mary Kamamanya

Editorial Assistant

Jones J. Kalyongwe

Member

Lt. Col. Hamusonde

Member

Mwawi Phiri

Member

FUTURE EVENTS

- Lusaka Workshop, January 8 and 9, 2010
- Fundraising Dinner Dance, at Intercontinental Hotel, Lusaka January, 15, 2010.
- 3rd International cobference , to be held next year in Livingstone, Date and venue to be announced Later
- North-Western Province Workshop, to be held in solwezi, Date and venue to announced later.
- Luapula Province Workshop, to be held in Mansa, June, 2010 date and venue to be announced later.
- Other public forums shall be communicated in the Newsletter



From page 1



He revealed that he always worked with members of ZIPS on matters of the profession. He noted that the new ZPPA Act number 12 of 2008 brought new dimensions and challenges to the Purchasing and Supply Profession in the public sector. Issues of ethics and adherence to the rules and regulations, are now made punishable by a custodial jail term and even a fine.

The guest of honor at the workshop was the Provincial Permanent Secretary who accepted the invitation without hesitations. In his opening speech implored ZIPS to extend the training to all local authorities in Zambia as most of its staff lacked adequate skills in Purchasing and Supply Management, thereby not meeting the desired service levels to the communities they serve. This step, he said will undoubtedly, be in the right direction considering the government is about to launch the decentralization system of governing.

Finally, the guest of honor requested ZIPS to assist in recruiting five Procurement staff to fill the positions at the Provincial Procurement Unit. This news was received with an applause from the participants.

Participants are listed below :-

S/No.	FULL NAMES	ORGANISATION/ADDRESS
(1)	Mungaila Felix	District Administration - Mungwi
(2)	Simukonda Elias	Ministry of Health, PMO, P.O BOX 410026, Kasama.
(3)	Chibula Justine	MOH/Chilubi District Health Services, Chilubi.
(4)	Nsofu M. M. Cecilia	Ministry of Health, PMO, P.O BOX 410026, Kasama.
(5)	Mwaba Mwenya Christine	Ministry of Education, St. Francis Secondary School, P/Bag49, Kasama.
(6)	Mazimba Joseph	Ministry of Education, St. Francis Secondary School, P/Bag49, Kasama.
(7)	Chishimba Michael	Ministry of Local Govt, P.O BOX 410411, Kasama.
(8)	Mukungule Henry	Office of District Commissioner, BOX 440097 Isoka.
(9)	Mugala Kunda Lameck	Office of District Commissioner, BOX 440097, Isoka.
(10)	Kaonga Kondwan	District Health Office, Isoka.
(11)	Mukuka Henry	Kasama Municipal Council, Kasama,
(12)	Chilikwazi J. Geoffrey	Meteorological.
(13)	Mutale Benard	Mpulungu District Council, Mpulungu.
(14)	Wachata Mutoshi	Kasama Lodge, P.O BOX 410453, Kasama.

(15) Kabaghe Felix
Mungwi.

(16) Misapa Hillary
Mungwi.

(17) Simukonde Elias
Kasama.

(18) Siame Bernard

(19) Syakango Mutembo

(20) Silishebo Susan

(21) Namwawa Janet

Ministry of Agriculture, P.O BOX 98,

Ministry of Agriculture, P.O BOX 98,

Provincial Administration Office,

PS -Northern Province, Kasama.

Civil Aviation,

Civil Aviation.

Kasama General Hospital, Kasama.

The workshop programme was followed and presenters were on time. They did 45 minutes presenting and 15 minutes answering questions and answers, where there was a case study more time was provided for group work. The overall assessment by participants was overwhelming and presenters were highly rated. This is good for ZIPS.

ZIPS decided to officially launch the Northern Province ZIPS Chapter. Mr. Elias Simukonde organized a live programme at Radio Mano. Three officials were interviewed on this programme.

The writer of this article accompanied by Mr. James Njolomba and the Northern Province Chapter Chairman Mr. Elias Simukonde were on the programme.

After the programme, the team returned to the Lodge and Mr. James Njolomba closed the workshop by thanking sponsors of the participants and the Management of the Lodge for looking after the workshop participants and the ZIPS officials well. He advised participants to use the newly acquired skills properly and make a change in their working environment. He further advised them to pass the knowledge to others in the departments where they come from. Above all they should learn to consult among themselves if they have to succeed in their operations. Everybody is a student until death knocks at the door.

The workshop ended at 15:30 hours and the team was on its way to Lusaka. A four hour stop at Kapiri Mposhi made the team to arrive in Lusaka around 07:30 hours on 30th August, 2009.

In conclusion, 21 attendant Certificates were issued. An affiliation Certificate for the Chapter was issued. The challenges are that only 3% human resource power is available in the Northern Province. This is the General trend in all Provinces. The only answer is for ZIPS to quickly establish affordable local education in Zambia. ■

Mwaka Namwila



Mwaka in her office.

By Mbawemi Muloboka

Pursuing purchasing and supply was challenging but well worth the effort, says Mwaka Namwila, an enterprising independent procurement consultant who is doing everything possible to have the purchasing and supply profession appreciated by all in Zambia.

According to Mwaka, words such as “transparency” and “accountability” will remain void of any meaning if the novice is not taught that providing information on the procurement process is very much their responsibility as is it to withhold information that is commercial in confidence.

She further advises people to set objectives early on for their career path because other than offering an easy progression into other business fields, procurement also offers a variety of options that make it an exciting profession, adding that appreciating how versatile the

profession is has a motivational effect.

Here is Mwaka's interest story of how she ended up becoming a well-recognised independent procurement consultant, based in Lusaka:

“I stumbled into the field of procurement some thirteen years ago when I first ventured onto the labour market straight out of university. I had been diligently searching for a job with development agencies when a recruitment agent friend convinced me that I should then be interested in a position as project coordinator with an international development company. And because I knew nothing about the potential employer, my friend had to reassure me that I would indeed be operating in the development arena.

“So it was with little preparation but with lots of confidence backing from friends that I attended the interview. I walked out confused and wondering whether I had done well because the interview had turned out to be a full hour session on the activities of the company in Zambia. It

was intimidating for the fresh graduate that I then was to learn about this multi disciplinary approach that required that I very quickly learn to interact at different levels with various projects. This of course turned out to be fertile ground to learn and discover the many facets of development programming in Zambia. But five years into the job, I had to make a stance on which way I wanted to pursue my career. After all my studies had been in psychology but here I was, clearly headed for a career in the hard corporate world I had so successfully managed to elude by staying in development work. I had to take control of my career but since I was not ready to make any serious changes (other than give it a go at being a gym instructor!), I decided to formalize my experience in procurement before I made any major career changes; I figured that a CIPS qualification would be proof enough to show that I had once been in the profession once I'd have eventually moved on.

Mwaka Namwila *continues*

"I will confess that although I had undergone a lot of on-the-job training and other relevant short courses, procurement only became serious business for me once I started to read on the subject. From that point on I was able to appreciate the valuable contribution the profession can have in both the public and private institution. I also started to wonder how effective the theories I was being introduced to could be applied in our national context. I conferred with colleagues and avidly read the professional magazine that gave me useful hints as to current topics that were bound to be the subject of one exam or another. I had to make the most of my study time because my young toddler son rightfully made serious demands for attention during his waking hours; this is how I discovered that I did better at studying in the wee hours of the morning rather than late in the night when I was drained from the day's activities. The working-studying mothers out there will relate when I say: "it was challenging but it was well worth the effort".

"The day came when I finally had to make those career changes I had been postponing for so long. However, my career did not take any serious turn but instead I was led into the world of consultancy, procurement consultancy as a matter of fact. It was time to apply the theories and practice in the real world. I have been consulting independently for three

years now and I'm not so proud to say that most of my work has been done abroad. I sometimes feel disillusioned by the reticence with which our market approaches national consultants. On the other hand, I am grateful for the opportunities to be part of the international best practice we are often confronted with as if it were unattainable.

"Airing my views on this forum is overwhelming but I will do my best as my heart's interests still lie with the young graduate I once was. Sure the seasoned professionals will sometimes need tips and most of all they will need to stay abreast of the latest developments but they will know where to turn when in need of inspiration.

"My focus will therefore be on the new comer who after making it through those dreadful hours of lone study, group study, disappointments and motivational talks finally fulfils their goal only to discover that the world is still a cruel place. I have heard numerous excuses made for us such as we are only now being recognized because until not long ago, the function was taken up by clerks. Or that we have not yet made it to the decision making levels of management and can therefore not have much to contribute if treated only as a support function." Mwaka further hints that the procurement profession has not yet fully evolved.

"It seems we are mid way to the top and some see it as the glass

half full while others see it as the glass half empty. My proposition is that we forge ahead thus focusing our efforts on progress rather than on solely evaluating how far we've come. I would want to see a profession where the seniors are available to mentor the new comers. Where a practicing license means you are recognized as a person of high integrity and an agent of change in the organization and society at large," Mwaka says. "After all, procurement comes in contact with just about all the departments of the organization and all the suppliers on the market. What better place to be, to be that agent of change. Words such as "transparency" and "accountability" will remain void of any meaning if the novice is not taught that providing information on the procurement process is very much their responsibility as is it to withhold information that is commercial in confidence. In all fairness, there should be a clearly laid out framework within which they will be made to know the level of their responsibility and the extent of the accountability for their actions.

"So to the new professional, I would suggest the following: stay in tune with business trends and get interested in what other business units are up to because we are but a part of a bigger equation. It is only when we can interact with other professionals that we will be considered as such.

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Student's Corner

By Mwaka Namwila

In line with the spirit of this column, which is to consider ourselves perpetual students, we will continue to address the challenges that were tabulated in the previous issue, namely "What is the essence of a Procurement Department in an organization?" and "What is the Standard Procurement Procedure?"

What is the essence of the Procurement Department in an organization? The question is fundamental considering that purchasing professionals should be the first to know and understand the role they are to play in an organization.

A Procurement Department exists to concentrate the function of managing and overseeing the acquisition of goods, services and works within a specific unit or specific

individuals of the organization so that the function is well coordinated. In addition to smooth coordination, there can also be clearly set responsibility and accountability for acquisitions. Among the many advantages of a fully operational Procurement Department are the benefits that can be accrued in terms of savings in cost and time and increased efficiency in the system. So if the essence of a procurement department is obvious to the purchasing professionals out there but the organizations they operate in are not fully realizing the benefits, it is very much in our interest to remind the organization why we exist as departments.

To adequately address the second issue regarding which Procurement Procedure is standard, we are assuming that the reader was referring to "procurement procedure"

as "procurement method". If that is the case then let us refer to the Zambia Public Procurement Authority Act 2008, the reference document for procurement undertaken using public funds. According the Act, open bidding is the default procurement method with all other methods to be used as the exception. Open bidding is the preferred method because it promotes value for money and competition by attracting the most competition by the private sector.

So what then is the case in the private sector? Here each organization would set their default or preferred procurement method. Since there is more flexibility in the choice of methods, each organization may define their standard method and communicate it through set procurement procedures.



Mwaka Namwila *continues*

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"Set objectives early on for your career path because other than offering an easy progression into other business fields, procurement also offers a variety of options that make it an exciting profession. Logistics, supply chain management, category management, the formulation and management of contracts, the development of procedures and monitoring the compliance thereof or the implementation of the now popular private public partnerships (PPPs) are some areas of specialization to be considered. Appreciating how

versatile the profession is has a motivational effect. Find your niche by discussing the options with peers and supervisors; or in your particular case, it might be that you discovered a natural affinity for one area during your studies. Once your goals have been set, you will have to regularly evaluate your course, keeping in mind that your skills and experience must remain relevant.

"Short of offering a long list of impractical suggestions, let me summarise my advice with that expression "Information is power". And although you might be ready to do away with the books after graduating, I would still urge you to

maintain a healthy reading regimen because that remains a reliable means of gathering information. Read about the profession but most all about the economy and our business environment. Also make the most of the network of professionals that can be accessed through the ZIPS Secretariat and by all means, identify a mentor to guide you in your pursuit. I only recently found one and even after so many years in the profession, it makes a huge difference to have an independent and senior colleague advising me on my progress."

PULLING YOUR WEIGHT

I must admit there were no reactions to my article whatsoever. In fact, I was looking forward to statements like *"in my organization procurement competence has been acknowledged by positioning the Top Job at the level of Director or Manager which is at level 2,3 or 4 in the hierarchy"*. However, silence is said to be golden, how golden that is in terms of plus or minus, I am still figuring that out.

May I start by reminding all professions that one of the key aspects to good performance is the ability to analyse and react to issues that may affect the efficient and effective conduct of your job. Analysing and reacting should include making an opinion on the issues that are happening around us. Of course, it is important to weigh your opinions carefully before you communicate them, after all unplanned unemployment can be detrimental to good health but keeping quiet just doesn't cut it, because you might just keep quiet when your employers are discussing that you are overpaid.

A quick look at some of the most published stories show that procurement has been at the core of activities.

It is evident that in some organizations, the profession is very well placed, while in others they are yet to catch on.

One possible area of concern for all of us, which may be related to business competence, is how others around keep pulling their weight as if the organization would not operate without them.

Nevertheless, this does suggest that ensuring that procurement is well placed in our organizations is an area where we should particularly invest hard Work. The ideal situation for us is to expect things to happen on their own. However, things don't always happen that way and the challenge is to achieve the appropriate positioning in our organizations, i.e devise ways and means to eradicate isolating mechanisms towards our profession.

KASAMA WORKSHOP IN PICTURES



Damage Limitation

By Gilbert Zulu

Procurement Officers should be aware of the differences between a clause covering liquidated damages and one that acts as a penalty clause.

A clause in a contract providing for the payment of pre-determined amount for one party's breach of contract can have three purposes.

1. It may be included to terrorise the party concerned with the intention of forcing them into performing their contractual obligations.

2. It may be a genuine attempt by the parties to estimate the loss which would incur as a result of the other's breach of contract.

3. It may be intended as a limitation of the liability for damages which the defaulting would otherwise incur, while providing the injured party with some compensation for their loss.

Penalty

If the intention of the clause is to terrorise a party into performing their contract, then it is classified in English law as a penalty and is unenforceable. Therefore, the injured party cannot recover the amount of the penalty. However, since the defaulting party is still in breach of contract, the injured party can recover the damages under normal common law rules- as they would have been entitled had there had been no penalty clause.

Liquidated damages

Alternatively, if the amount in the contract represents either a genuine estimate in advance of the loss which the injured party expects to suffer- or some lesser sum, then it is classified as liquidated damages. When a breach of contract occurs, the injured party is entitled to recover the amount specified in the contract without proof of loss. Indeed, they can still recover the specified sum whether they have incurred any loss or not. However, they cannot recover more than the specified sum, no matter what amount they have actually incurred.

The deciding factor

It is important to decide whether the

clause is a penalty or liquidated damages. This depends on the construction of the contract and the circumstances at the time when the parties entered into the contract not at the time of breach. In a decided case in the United Kingdom, the House of Lords, in Dunlop Pneumatic Tyre Co v New Garage and Motor Co, formulated certain rules of which the most relevant today are:

□ The clause will be held to be a penalty if the sum specified is extravagant and unconscionable in comparison with the greatest loss which could reasonably be proved to have followed from the breach of the contract;

There is a presumption, but not more, that the clause is a penalty when a single sum is made payable on the occurrence of one or all of several events, some of which may cause serious and others trifling damages;

It is no obstacle to the sum specified being a genuine pre-estimate of the damages that the nature of the breach is such as to make precise estimation impossible.

The first two of these rules were applied in Deffen v FRA BO Spa. The contract was for the appointment of a commercial agent which was later terminated. The agent sought to recover damages under a clause of the contract which provided that:

"Upon termination of this agreement the principal shall become liable to the agent for, and shall pay the agent forthwith, the sum of £1,000 by way of liquidated damages which sum is agreed by the parties to be a reasonable pre-estimate of the loss and damage which the agent will suffer on termination of this agreement."

How the parties describe the clause is decisive, although the court may take it into account. There have been cases where a clause described as one for liquidated damages has been held a penalty and vice versa. In this instance, the court paid little attention to the description of the clause. This is in line with the general practice of the courts to

look at the situation and not be bound by the words used by the parties.

The court concluded that the clause was not a genuine attempt to estimate the agent's loss should the agreement be terminated. The sum payable was not graduated. The £1000 was payable irrespective of the duration of the unexpired term even if termination occurred in the last month of the contract's life, and if that happened the agent would receive a substantial windfall. The court concluded that this would be both "extravagant and unconscionable". The sum payable did not necessarily bear any reasonable relationship to the loss that the agent would suffer from the termination.

The clause was therefore a penalty and not recoverable. However, the agent was entitled to common law damages and compensation.

Points to include

The courts decision emphasizes two points.

1. The importance of graduating damages so that there is a pre determined sum relating, say to each week of delay or each percentage point by which the performance falls below the guaranteed level.

2. If the clause can operate in two different situations, but the buyer's loss is different depending on the situation, then the liquidated damages must be calculated separately. An example would be a production plant constructed in sections, each of which had an individual completion date and was capable of separate commercial operation. Liquidated damages for delay would then need to be related to each section and to the plant as a whole.

Liquidated damages, either for delay or performance, are useful provision for buyers to put in contracts. However, they must be drafted carefully to be effective. Drafting hint: Use liquidated damages clauses but ensure that single ungraduated sums are restricted to payments for serious breaches. ➡➡