

**FACTORS INFLUENCING COMPLIANCE WITH THE PUBLIC PROCUREMENT
LEGISLATION IN KENYA**

**MBAYA PATRICIA MWENDWA
D61/63780/2011**

**SUPERVISOR
MICHAEL K. CHIRCHIR**

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DECLARATION

I declare that this research proposal is my original work and has never been submitted for the award of a degree in any other University.

Signature..... Date.....

Mbaya Patricia Mwendwa

D61/63780/2011

This proposal has been submitted with my authority as the university supervisor.

Signature.....

Date

.....

Mr. Michael K Chirchir

Lecturer,

Department of Management Science

School of Business

University of Nairobi

Moderator

Signature.....

Date

.....

Chairman

Signature.....

Date

.....

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ABSTRACT

Worldwide, public procurement has become an issue of public attention and debate, and has been subjected to reforms, restructuring, rules and regulations. Public procurement refers to the acquisition of goods, services and works by a procuring entity using public funds. This study sought to evaluate the factors influencing compliance with the public procurement legislation in Kenya. To achieve this objective, the study employed a cross sectional descriptive survey. Data was collected using a semi-structured questionnaire from government ministries and departments. A total of 36 questionnaires were administered to various government ministries and departments but the researcher managed to obtain 31 completed questionnaires representing a response rate of 86.1% .The researcher adopted a drop-and –pick-later approach where questionnaires were issued in the morning and picked in the evening to allow the respondents to complete the questionnaires.

The collected data was edited, coded and entered for analysis using the Statistical Package for Social Sciences (Version 17.0) computer package. Both descriptive and inferential statistics were used. Eight factors were considered. Factor analysis sorted the eight factors into three main factor components according to their absolute values. The higher the absolute value of the loading, the more the factor contributes to the variable. Component1 contains four factors while components two and three contain two factors each. Component 1 comprises awareness in provision of public procurement, top management support, staff training and institutional factors. Component two comprises of internal processes and ICT. Component three on the other hand comprises of accountability and procurement ethics. The variables in component 1 had more explanatory power in explaining compliance with public procurement legislation in Kenya than those in component 2 and 3. The findings of this study will be of great use to the government, lending institutions in formulating procurement policies so as to promote compliance in the public sector.

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LIST OF ACRONYMS/ABBREVIATIONS

B2B	-	Business-to-Business
B2C	-	Business-To-Consumer
EFA	-	Education for All
GDP	-	Gross Domestic Product
GoK	-	Government of Kenya
ICT	-	Information Communication and Technology
MRO	-	Maintenance, Repair, and Operations
MTC	-	Ministerial Tender Committee
MTEF	-	Medium Term Expenditure Framework
ORM	-	Operating Resource Management
PPDA	-	Public Procurement and Disposal Act
PPOA	-	Public Procurement Oversight Authority
TI	-	Transparency International
VFM	-	Value for money
KACC	-	Kenya Anti-Corruption Commission

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Public Procurement has always been a big part of the developing countries economy accounting for an estimated 9-13% of the developing nations Gross Domestic Product (GDP) and it is therefore an area that needs attention in the face of increasing non compliance (Odhiambo and Kamau, 2003). Procurement managers and stakeholders in the Public Service serve institutions created and governed by a complex array of statutes, regulations, policies, and directives. They operate in an environment of increasingly intense scrutiny and accelerated changes driven by technology, program reviews, and public and political expectations for service improvements. Some of the factors which influence compliance with public procurement legislation include: Staff training, information communication and technology, awareness in provision of public procurement laws, ethics and compliance in procurement regulations, institutional factors, accountability and internal processes. These combined result into growing institutional complexity and risks. However Ngongo (2009) observes that millions of dollars gets wasted due to inefficient and ineffective procurement structures, policies and procedures as well as failure to impose sanctions for violation of procurement rules thus resulting in poor service delivery.

Worldwide, public procurement has become an issue of public attention and debate, and has been subjected to reforms, restructuring, rules and regulations. Public procurement refers to the acquisition of goods, services and works by a procuring entity using public funds (World Bank, 2005). According to Roodhooft and Abbeele (2006), public bodies have always been big purchasers, dealing with huge budgets. Mahmood, (2010) also reiterated that public procurement represents 18.42% of the world GDP. Although several developing countries have taken steps to reform their public procurement systems, the process is still shrouded by secrecy, inefficiency, corruption and undercutting. In all these cases, huge amounts of resources are wasted, (Odhiambo and Kamau, 2003).

Public procurement is the acquisition of goods, services and works by a procuring entity using public funds (World Bank,2005). The level of compliance to procurement regulations can therefore determine whether a government meets its goals and objectives or not as well as affect

many internal and external stakeholders. In order to improve the management of public procurement, many countries have come up with procurement reforms. According to Arrowsmith and Trybus (2003) the last decade of the twentieth century has witnessed the start of the global evolution in the public procurement. Nonetheless Thai (2005) asserts that challenges in public procurement go beyond procurement regulations to include procurement process, methods, organizational structure and work force.

Public Procurement often constitutes the largest domestic market in developing countries. Depending on how it is managed, public procurement can thus contribute to the economic development of these countries (PPOA, 2012). Indeed, public procurement is the principal means through which governments meet developmental needs such as the provision of physical infrastructure and the supply of essential medicines (PPOA, 2010). Again, many governments use Public Procurement to support the development of domestic industries, overcome regional economic imbalances, and support minority or disadvantaged communities (World Bank Group, 2005).

1.1.1 Public Procurement

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. It is alternatively defined as the purchase of commodities and contracting of construction works and services if such acquisition is effected with resources from state budgets, local authority budgets, state foundation funds, domestic loans or foreign loans guaranteed by the state, foreign aid as well as revenue received from the economic activity of a state. Public procurement thus means procurement by a procuring entity using public funds (Kipchilat, 2006).

In developing countries, public procurement is increasingly recognized as an essential factor in service delivery (Basheka and Bisangabasaija, 2010), and it accounts for a high proportion of total expenditure. For example, public procurement accounts for 60% in Kenya (Akech, 2005), 58% in Angola, 40% in Malawi and 70% of Uganda's public spending (Wittig, 1999; Government of Uganda, 2006) as cited in Basheka and

Bisangabasaija (2010). This is very high when compared with a global average of 12-20 % (Frøystad et al; 2010). Due to the colossal amount of money involved in government procurement and the fact that such money comes from the public, there is need for accountability and transparency, (Hui et al; 2011). Consequently, various countries both in developed and least developed countries have instituted procurement reforms involving laws and regulations. The major obstacle however, has been inadequate regulatory compliance. De Boer and Telgen (2008) confirm that non-compliance problem affects not only the third world countries but also countries in the European Union. This position is further supported by Gelderman et al (2006) who contend that compliance in public procurement is still a major issue. Hui et al (2011) while analyzing procurement issues in Malaysia established that procurement officers were blamed for malpractice and non-compliance with the procurement policies and procedures. In the past three decades, the public procurement system in Kenya has undergone significant developments. From being a system with no regulations in the 1960s to a system regulated by Treasury Circulars in the 1970s, 1980s and 1990s, the introduction of the Procurement Regulations of 2006 brought new standards for public procurement in Kenya.

Political interference with the procurement process is also a big challenge to the implementation process and public procurement reforms (PPOA, 2007). A good number of politicians think that they have the right to intervene in the procurement procedures thereby leading to a capricious procurement decisions (World Bank, 2004b). The lack of career development path and low salaries of procurement personnel also militates against procurement reforms implementation (World Bank, 2003a). Poor records keeping (World Bank, 2003a), (ODPP, 2007) and bureaucratic delays in payment of contractors and suppliers have also been cited as some of the crucial factors that challenges the procurement reforms implementation (Azeem, 2007).

1.1.2 The Public Procurement Regulations

The Public Procurement system in Kenya has grown from a rudimentary stage during the colonial and post colonial period to a vibrant regulated system that compares well with the

international standards. In the past three decades, the public procurement system in Kenya has undergone significant developments. From being a system with no regulations in the 1960s to a system regulated by Treasury Circulars in the 1970s, 1980s and 1990s, the introduction of the Procurement Regulations of 2006 brought new standards for public procurement in Kenya. The evolution of the public procurement regulation in Kenya can be divided into the following periods: The colonial period, 1978-2001, the era of reform 2001-2010 and the era of the new constitution- 2010 to present.

Kenya was a colony state under Britain. The economy was arranged so as to serve the colonial masters where Kenya was converted into a cheap source of raw materials and manufactured goods were to be imported from Great Britain. To facilitate the process of procurement, the following structures were in place: Crown Agents handled overseas purchases on behalf of the Government. Its prominent role continued into 1970s. Central Tender Committee (CTB) was established in 1955 through a Treasury Circular. CTB was to handle all government tenders. In 1959, Procurement and Supplies Unit was established under the Ministry of Public Works to handle common-user goods and services. In 1960 it was converted to Supplies Branch which exists to date but with much reduced mandate. It should be appreciated that during this period the government organization was small and therefore Procurement and Supplies was centralized. In 1960, Supplies Branch went through further restructuring and the Chief Storekeeper became the Chairman and the Chief Purchasing Officer became its Secretary. All Government Departments were to obtain their common-user supplies from Supplies Branch. The Government Press under the office of the Governor and later the President was to provide the printing services. Kenya attained independence from the British Colonial rule in 1963 and like all other structures, supplies services continued as they were during the pre-independence period whereby Crown agents organized Procurement for the government up to 1970s. However, in 1974 there was a major shift when the CTB was placed under the Treasury from the Ministry of Public Works. Another major introduction was the Supplies Manual in 1978.

In 1997, the World Bank conducted country wide review on Public Procurement and reported the following weaknesses: Reduced effectiveness of Public Financial Management,

government inability to deliver services effectively, obscure rules not based on fair competition and transparency rendering the system to abuse, no legal framework to enforce procurement rules. This “Golden Era” saw major reforms in Public Procurement with far reaching results.

The Public Procurement and Disposal Act, 2005 was approved and gazetted in 2005. The Act had to wait for the approval of the Public Procurement and Disposal Regulations, 2006 to be approved by the Minister for Finance then Mr. Uhuru Kenyatta in order to operationalise the Act. The Act, 2005 came into operation in 2007. Henceforth, Public Procurement and Disposal came under one legal regime. The Government found that it did not have enough financial resources to carry out projects it deemed necessary to enhance economic growth and public welfare. As a result, the above regulation was enacted to assist in mobilizing financial resources in the private sector to be used in public projects under specific conditionalities. The above Public Procurement Law & Regulations that started in 2001 have dramatically changed the landscape of Public Procurement functions hence the profession has been upgraded significantly from its obscure position in 1970s through 1980s.

The new Constitution, 2010 has outlined principles for Public Procurement and Disposal which include: Fairness; equity, transparency, competitiveness and cost-effectiveness. The Public Procurement and Disposal Regulations 2011 cover groups or regions that have been disadvantaged over time and cannot be able to compete favorably with more established firms and hence must be given preference. The target groups include: Small enterprises Micro enterprises, disadvantaged groups, citizen contractors, local contractors and citizen contractors in joint venture with foreign forms. The objective of the Regulations is to promote local firms/industries and disadvantaged groups or individuals.

The Public Procurement and Disposal (County Governments) Regulations, 2013 focus on Procurement and disposal within the newly established County Governments. The purpose of the Regulations is to operationalise the application of the Public Procurement and Disposal Act, 2005 in County Governments and promote local industries. Otherwise the

principles and tenets of Public Procurement and disposal remain the same. Regulation, 2013 marks the end of our discourse on the historical evolution of Public Procurement in Kenya starting from the colonial period to the present.

1.2 Research Problem

Compliance levels continue to be low in public entities in Kenya despite efforts by the Public Procurement Oversight Authority (PPOA) to put in place measures to improve compliance (PPOA 2007). Procurement audits carried out revealed non-compliance with procurement regulations in public entities. Procurement officers and persons involved in procurement activities use wrong methods leading to high procurement costs, poor quality purchases, late deliveries or no deliveries at all.

The aim of Public Procurement Regulations is to promote fairness, transparency and non-discrimination in procurement in public institutions with the main aim of ensuring efficient use of public funds. Akech (2011) reveals that even after the enactment of the Regulations, there are losses of public funds that can be attributed to public procurement. According to the procurement review of the Ministry of Energy (2008), on the level of compliance with the new procurement law, regulations, circulars, and directives issued by the Public Procurement Oversight Authority and generally accepted principles, lack or completeness of records, data and documentation relating to the procurement processes selected, lack of consolidated annual procurement plans, lack of authorized purchase requisitions, lack of procurement manual that sets out the procurement policies, procedures, instructions, and regulations that Ministry employees must adhere to in matters relating to procurement were some of the factors influencing compliance.

A study conducted by Eyaa and Oluka,(2011), explaining non-compliance in public procurement in Uganda, found out that lack of familiarity with procurement rules results into poor compliance levels. They also found out that in the Kenyan context, familiarity with procurement regulations significantly predicted compliance with procurement regulations. According to Kamau (2007), a research on the causes of poor performance in procurement functions focusing on public entities in the manufacturing industry found out

that inadequate skill and professionalism was a major factor affecting efficiency and effectiveness of procurement activities.

Based on the study findings above the following knowledge gaps are established: The procurement review of the Ministry of Energy (2008) did not address ICT as a factor influencing compliance with the public procurement regulations, Eyaa and Oluka (2011) study model explained only 52.4% of the variations in compliance with procurement regulations which implies that there were other factors left out which explain 49.6% of the variation and Kamau (2007) only focused on firms in the manufacturing industry. This study therefore seeks to bridge this knowledge gap by studying the factors affecting compliance with the public procurement law and their impact on procurement performance with special reference to the ministries of the Government of Kenya. The study will address the following research questions: What are the factors influencing compliance with the public procurement legislation in Kenya?

1.3 Research Objective

The objective of this study was to determine the factors influencing compliance with the public procurement legislation in Kenya.

1.4 Value of the Study

Efficiency in government procurement is of importance in ensuring that the best value for money is obtained by public entities. Efficiency in complying with the procurement regulations needs to be improved to achieve the cost saving that would free up resources that could be applied usefully to other tasks. The findings from this study will be of importance to government departments because it will give an in-depth insight on factors affecting public procurement regulations and strategies to cope with these factors.

Procurement practices also figure prominently in the way that many potential investors and civil society view a country. The public perception of public procurement shall be improved through addressing of issues hindering compliance hence attracting many potential investors with doubt on procurement transparency. Compliance of the public procurement regulations can significantly contribute to sizable economic growth as the government can use the

procurement regulations to achieve domestic policy goals, such as the promotion of specific local industry sectors or social groups. Academicians and scholars will find this research valuable to their knowledge advancement as it will improve on studies done under public procurement compliance. Future reseach can be done to improve limitations that will be documented in this study.

CHAPTER TWO LITERATURE REVIEW

2.1 Introduction

This chapter presents the past or previous studies that have been done and theories advanced on procurement process. The chapter is hence broken down into theoretical review (procurement, procurement within Kenya's public sector), conceptual review empirical review, summary and the conceptual framework.

2.2 Theoretical Review

A theoretical framework refers to how the researcher ponders and develops thoughts on what the possible answers could be, then these thoughts and theories are grouped together into themes that frame the subject. The researcher focuses on the procurement and public sector procurement in Kenya.

2.2.1 Procurement

Procurement includes all activities required in order to obtain the product from the supplier and get it to the place where it is actually needed. It encompasses the purchasing function, stores, traffic and transportation, incoming inspection and quality control and assurance (Farmer and Weele, 2000). Procurement, according to Wind and Thomas (2001), is as old as organizations but it has evolved over time. It developed from the need of organizations to acquire those goods and services that they could not produce but needed in their operations. Initially, the focus of contracting was typically on minimizing costs to the procurement entity rather than on delivering specific service quality outcomes. With time procurement has evolved to include new aspects like strategic sourcing, e-procurement and performance-based service contracting. In seeking to outsource for goods and services, good practice and business efficacy demand that the purchaser wants to find a supplier who will be both reliable and will provide products or services that are good value for money (Griffith and Griffith, 2002). Kipchilat (2006) notes that public procurement is different from private procurement because in public procurement the economic results must be measured against more complex and long-term criteria. Furthermore, public procurement must be transacted with other considerations in mind, besides the economy. These considerations include

accountability, non-discrimination among potential suppliers and respect for international obligations. For these reasons, public procurement is now subjected in all countries to enacted regulations, in order to protect public interests, especially public finance.

Baily et al (1998) note that public purchases are accountable to the public whose money is spent, including disappointed tenderers and potential suppliers. As such they must produce procedures and practices which will stand up to scrutiny during either government audits or challenge through the courts of any purchasing decision that has been made un-procedurally. The primary purpose of public accountability is to prevent abuses of taxpayer's money.

2.2.2 Public Sector Procurement in Kenya.

In Kenya, public procurement, one of the infrastructural enablers of the three “pillars” of Vision 2030, makes all the sectors and all the levels government achieve their set goals and objectives through provision of key equipment to undertake their duties. Efficient use of resources is key indicator of the degree of economic growth and development in a country. High risk exposure, poor understanding and ignorance about benefits of a standard public procurement procedure, high cost of procurement due to corruption, and low knowledge about rights to tenders from the government institutions by the public especially the youth and women are some of the hurdles in the public service procurement in Kenya. (Johnstone Njenga, 2011), maximization of benefits and reduction of costs in this sector is very important since it contributes to stability of all the other sectors of the economy. This makes the concept of a standard procurement process for all government institutions and what determines it very important since procurement decisions affect the effectiveness of the institutions in one way or another.

According to Bukhala (2003), a review of the country's public procurement systems was undertaken in 1999 and established that there was no uniform procurement system for the public sector as a whole. The system had more loopholes as it did not have sanctions or penalties against persons who breached the regulations in the Supplies Manual, other than internal disciplinary action. Consequently application of the rules was not strict and many of

the norms were not followed. Furthermore, the Supplies Manual did not cover procurement of works; the dispute settlement mechanisms relating to the award procedures as set out in the Manual were weak and unreliable for ensuring fairness and transparency. In extreme cases, records of procurement transactions were found to be inaccurate or incomplete or absent.

In view of the above shortcomings it was found necessary to have a law to govern the procurement system in the public sector and to establish the necessary institutions to ensure that all procurement entities observed the provisions of the law for the purpose of attaining the objectives of an open tender system. Consequently there was establishment of the Exchequer and Audit (Public Procurement) Regulations of 2001 which created the Public Procurement Directorate (PPD) and the Public Procurement Regulations of 2001. The scope of public entities was also broadened to include schools, colleges, universities, cooperatives and local authorities under these Regulations.

2.3 Conceptual Discussion

This entails a detailed discussion of each of the factors influencing compliance with the public procurement legislation in Kenya. The factors range from staff training, use of ICT, top management support, awareness in provisions of public procurement laws, procurement ethic, technical audit factors and effectiveness of public procurement audit among others.

2.3.1 Staff Training

According to Raymond (2008), professionalism in public procurement relates not only to the levels of education and qualifications of the workforce but also to the professional approach in the conduct of business activities. If the workforce is not adequately educated in procurement matters, serious consequences; including, breaches of codes of conduct occur. According to Atkinson (2003) cited in Raymond(2008), there are approximately 500,000 professional purchasing people in the United States and only 10 per cent of these have been members of a professional body and the rest are not even aware that there are ethical and legal standards involved in procurement. He also linked lack of a high degree of professionalism in public procurement to corruption, which ultimately impedes compliance.

The procurement officers must be trained and aware about all regulations in relation to procurement and related procedures (Hui et al 2011). Rossi, (2010) asserts that ethical code is not only a deterrent of incorrect behavior but also an enabler for all members of the organisation to safeguard the ethical legacy of the firm. In Uganda, the PPDA Audit Report (2008) revealed that lack of professionalism was high amongst public procurement officers. This position is further confirmed by Basheka and Mugabira (2008) who state that the level of professionalism in public procurement in Uganda is low or non – existent. De Boer and Telgen, (1998) also attributed non-compliance in public procurement to lack of purchasing professionalism in the public sector.

De Boer and Telgen (1998) adds that another cause of non – compliance is lack of proper staff training. The PPOA Audit Report (2008) revealed that inadequate training was high amongst public procurement officers in Kenya and this can still be attributed to the fact that the profession is still young in Kenya. The requirements to educate professionals and equip them with new and higher-level skills have consequently become urgent (Sauber et al, 2008). A skill is the ability either to perform some specific behavioral task or the ability to perform some specific cognitive process that is related to some particular task (Peterson and Van Fleet, 2004).

2.3.2 Information, Communication and Technology (ICT)

The role of ICT and Management Information Systems in enhancing efficiency and transparency in public procurement cannot be underestimated (De Boer and Telgen (1998). ICT in public procurement is intended to serve a number of objectives which include: Broadening participation in public tendering, To speed up the procurement process and make it more efficient by expanding supply and demand; and to provide transparency in public procurement by reviewing established procedures and public information, and by developing an easy auditing system.

Installation of ICT in public entities procurement aims at benefiting three main stakeholders: First, there is the public at large, which demands easy access to reliable information on

public procurement. Secondly, the government purchasers that need a more efficient, faster and less bureaucratic procurement process. Besides that, public entities are keen on the use of systems to restore public trust on the part of public sector spending going to the acquisition of goods and services. According to Oliver, 2005, Business solutions like SAP-ERP help in streamlining procurement controls all across the functional lines. Public sector procurement functions should also be cross-linked with such solutions. SAP also enables all units track procurement performances across different departments in the public sector. It enhances visibility and increases inventory transactions efficiently.

2. 3.3 Top Management Support

Hui et al (2011) stipulates that efficient management is one of the most effective preventive mechanisms for it promotes transparency and accountability, facilitates oversight and provides a good basis to prevent corruption. Rossi, (2010) opines that formal controls must first be defined, agreed, and applied top-down internally within an organization if they are to be effective. An organization with a genuine commitment to legal compliance is evidenced by top management's dedication to ethical corporate behavior (Krawiec, 2003). In a related argument, Obanda, (2010) stipulated that strong institutional support at top levels of government is needed by procurement personnel in order to promote integrity, monitor the public procurement process and apply procurement law appropriately.

2.3.4 Awareness in Provisions of Public Procurement Laws

According to Rossi (2010), compliance with the formal elements gives an indication of knowledge of the rules. Gelderman et al; (2006) maintained that public purchasers will comply with the rules if they perceive them as clear. It is further argued that Lack of clarity is believed to increase the possibilities for deliberate non-compliance. Educating and training public purchasers will be an effective tool for increasing the compliance with the directives.

Eyaa and Oluka, (2011) stated that lack of familiarity with procurement rules results into poor compliance levels. They also found out that in the Kenyan context, familiarity with procurement regulations significantly predicted compliance with procurement regulations. A

study by Heneghan and O'Donnell, (2007) indicated that the high levels of non-compliance were partly attributable to the complex legislative requirements of the procurement laws. Lazarides, (2011) also adds that compulsory compliance is the result of among other factors clarity or lack of vagueness of provisions. Thus increasing knowledge of the law can possibly improve compliance. According to De Boer and Telgen (2008) one of the factors causing non – compliance with procurement regulations is the level of familiarity with the procurement regulations.

2.3.5 Ethics and Compliance in Procurement Regulations

Dobler and Burt (1996) define a profession as: “a calling requiring specialized knowledge and often long and intense preparation including instruction in skills and methods, maintaining by force of organization or concerted opinion high standards of achievement and conduct, and committing its members to continued study and to a kind of work to which has for its prime purpose the rendering of a public service” This definition is echoed by Millerson (1964) who lists the following essential features of a profession. A profession according to Millerson has the following essential features; A skill based on theoretical knowledge; A skill requiring training and education; the demonstration of competence by professional by passing a test; maintenance of integrity by adherence to a code of conduct; service provided for the public good and that the profession is organized.

Procurement professionals need to acknowledge and devise strategies for managing all these complex challenges. The professionals must be seen as champions of efficiency and effectiveness and must acknowledge the challenges and their various forms, and their sources. The requirements to educate professionals and equip them with new and higher-level skills have consequently become urgent (Sauber et al., 2008). A skill is the ability either to perform some specific behavioral task or the ability to perform some specific cognitive process that is related to some particular task (Peterson and Van Fleet, 2004). However, Lan, Riley and Cayer, (2005) report that finding, hiring and retaining dedicated, energetic, and ethical employees with special skills is always hard. While we understand that professionalism is a key mechanisms for, and primary targets of institutional change,

the precise role of professions and professional service firms in processes of institutional change remain under-theorized (Hwang & Powell, 2009; Scott, 2008).

2.3.6 Institutional Factors

According to Guy (2000), there are six dimensions through which we can judge the level of institutionalization of any structure and its ability to adapt to change, including: autonomy, complexity, coherence, congruence and exclusivity. Implementation of organizational activities depends on the relationships between and within organizations. One way to explain this relationships and its effect on implementation of organizational activities is the principal-agency theory holds that shirking is likely to occur when there is some disagreement between policy makers and the bureaucracy. Civilian political leaders (principals) delegate authority to the bureaucracy (agent) with the expectation that the agent does not move quickly enough to reflect the policy preferences of principal, the committee members could show their displeasure by cutting the funding of the organization. Leaders (the principals), through powers of appointment and the purse are in position to influence bureaucratic outputs. Guy, (2004) quoting Calvert et.al. (1989), Moe (1985) and Wood Waterman (2004) found that politicians wield considerable power in affecting bureaucratic outputs via the power of appointment. Calvert et al posits that the chief executives power of appointment and the threat of legislative sanctions influence bureaucratic output.

Moreover, they assert that there is a boundary in which agents are allowed to exercise various amounts of discretion. The amount of discretion allowed to agents is determined by the importance of a policy-the more important a policy, the lesser the amount of discretion that will be allowed to agents and conversely, the less important a policy to a principal, the more discretion that will be accorded to the agent. Political and bureaucratically motivated practices affect the institutional and legal frameworks discussed above. However some of these practices have been studied under the concept of public choice (Niskanen, 2003).

2.3.7 Accountability

Accountability is government's obligation to demonstrate effectiveness in carrying out goals and producing the types of services that the public wants and needs (Segal and Summers

2002). Lack of accountability creates opportunities for corruption. Brinkerhoff (2004) identifies three key components of accountability, including the measurement of goals and results, the justification or explanation of those results to internal or external monitors, and punishment or sanctions for non-performance or corrupt behavior. Strategies to help increase accountability include information systems which measure how inputs are used to produce outputs; watchdog organizations, health boards or other civic organizations to demand explanation of results; performance incentives to reward good performance; and sanctions for poor performance (Vian and Collins 2006).

2.3.8 Internal Processes

Public procurement has, for long, been overshadowed with inefficiency, corruption and disregard of fundamental "value for money" considerations. This has adversely impacted the rate and quality of progress in realizing the objectives of national development, especially in developing and transition countries (Tan *et al.*, 2009). Employees may neither engage in, nor give the appearance of engaging in, dishonest or unethical actions. Both are injurious to the public's perception of honest government. As a government employee, you might have access to procurement and other nonpublic information that could affect a contract bid or the award process (Wymer and Regan, 2005). Improper disclosure of such protected information could violate numerous laws, as well as ethics rules. It also could subject you to administrative actions, as well as civil or criminal penalties. Management in contracting authorities should ensure that there is an appropriate focus on good practice in purchasing and, where there is a significant procurement function that procedures are in place to ensure compliance with all relevant guidelines.

Officials involved in procurement must not make improper use of their position (Tan *et al.*, 2009). Officials may have access to very confidential and/or market sensitive information. It is unethical to use inside information provided to the agency as part of a tender process, either for the material benefit of the official or for another person. Criminal sanctions apply to such behaviour.

2.4 Empirical Review

Rebecca Angeles (2007) sought to pursue the understanding of current business-to-business procurement practices by describing the success factors and challenges to its implementation in the corporate setting. The study through factor analysis resulted in three procurement success factors: supplier and contract management; end-user behavior and procurement business processes; and information and e-procurement infrastructure. Three challenge-to-implementation factors also emerged: lack of system integration and standardization issues; immaturity of procurement-based market services and end-user resistance; and maverick buying and difficulty in integrating commerce with other systems.

There are reported financial benefits from outsourcing procurement in the literature. Raising purchasing process compliance from 60 per cent to 95 per cent can reduce a company's cost of goods sold by 4 per cent and procurement outsourcing across the board can reduce costs of service and materials by up to 15 per cent (Favre et al., 2004). A slow changeover may be more costly, and it is believed that a fast-track approach may ensure benefits are delivered more rapidly, but the rate at which a company is able to transition is dependent on company culture (John, 2003).

A noted benefit derived from outsourcing purchasing is the imposed behavioral and process discipline which the provider brings (John, 2003b). It may be argued that this process discipline could and should be imposed in-house, but in reality this is often very difficult to enforce. Without process discipline it is difficult to track costs. Many smaller firms run into trouble because they simply do not know their true costs (Morgan, 1995) and we believe true cost to be even more difficult to calculate for larger firms who do not have rigorous processes. Outsourcing thus provides a methodology to control and measure costs more accurately. This illustrates that great care needs to be taken when setting out the value expected to be gained from engaging a service provider and the method in which this value will be measured and communicated in terms of quantified and realized benefits.

2.5 Summary

The inefficiencies of traditional public procurement procedures include a sequence of non-value-adding clerical activities and excessive documentation. Thus there is a gap on the effect of poor staff training on compliance which in the long run gives a lee way for corruption. This can be filled by enhancing efficiency through the adoption of training that simplify the public procurement procedures and eliminate the sequence of non-value-adding clerical activities and excessive documentation.

Most organizations have recognized that huge administrative paperwork often serves merely to document a chain of events or to provide a logical trail. non compliance Leading edge purchasing organizations need to transform this administrative function into a value-added process by reducing, eliminating or combining steps whenever possible (Lysons, 2003). This can be overcome by implementing the procurement act whose implementation encounters various problems. The key enabler of e-procurement advocated in the procurement act is the ability for systems to communicate across organizational boundaries. While the technology derive from the resultant changes in business procedures, processes and perspectives. E-procurement is made possible by open standard of Extensible Mark-up Language (XML), a structured language that allows easy identification of data types in multiple formats and can be understood across all standard internet technologies. This study is expected to fill the gap between inefficiencies of traditional public procurement procedures and the aspirations of many organizations to integrate applications seamlessly and exchange information with trading partners.

2.6 Conceptual Framework.

According to Mugenda and Mugenda (2003), a conceptual framework refers to conceptualization of the relationship between variables in the study and it is shown diagrammatically. Independent variables influences the dependent variables, while a dependent variable is a criterion that can be predicted or explained. Independent variables in this study will comprise of: Staff training, information communication and technology,

awareness in provision of public procurement laws, ethics and compliance in procurement regulations, institutional factors, accountability and internal processes. On the other hand compliance with public procurement legislation will be the dependent variable. Various aspects under each of the variables will be measured on a five point likert scale to establish the extent to which they apply in the organizations under study. The extent to which each of the variables influences compliance with public procurement legislation will also be established.

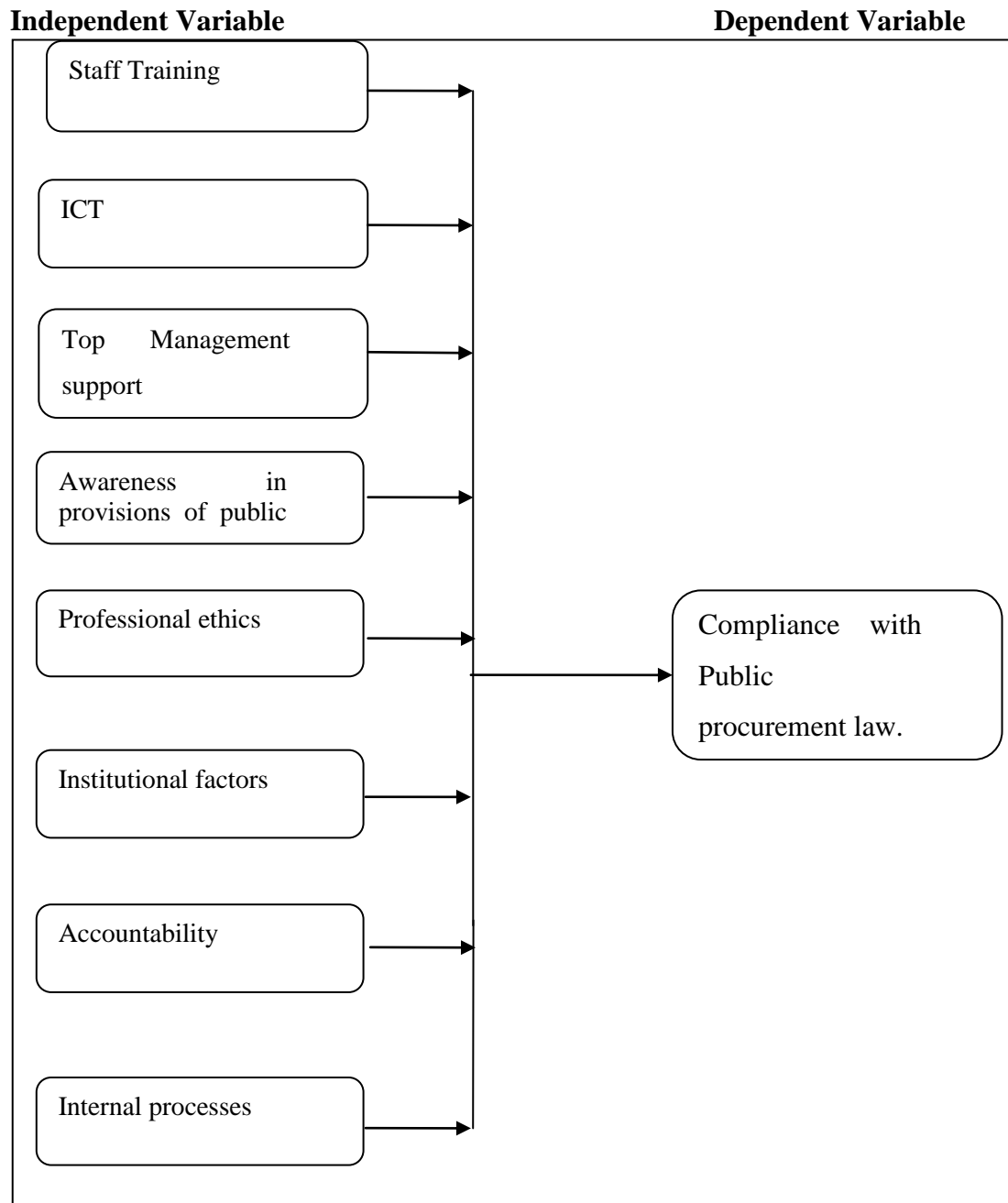


Figure 2.1: Conceptual framework

Source: Researcher (2013)

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter sets out the methodology that was followed in completing the study. Therefore in this section the researcher identifies the procedures and techniques that will be used in the collection, processing and analysis of data. Specifically the following subsections were carried out; research design, target population, data collection methods and finally data analysis.

3.2 Research Design

This study was carried out through a cross sectional descriptive survey. According to Cooper and Schindler (2003), a study design is descriptive when it is concerned with why and how a variable produces change in another, and cross sectional if it is done at only one point in time or over a short period, collecting of data pertaining to the variables in a population or sample is done at a point in time. There is also longitudinal research design whereby a group of people is studied over a period of time (Mugenda and Mugenda,2003). For this study a cross sectional descriptive design was appropriate so as to establish the factors influencing compliance with the public procurement legislation in Kenya. Cross-sectional research design is where data is collected at a particular point in time. The design has the ability to allow for data collection, analysis and reporting within the prescribed duration for academic purposes. Similar studies have successfully used this design (Keitany, 2009; Naibo 2006; Nyaga, 2007). A common goal of survey research is to collect data representative of a population. The researcher uses information gathered from the survey to generalize findings from a drawn sample back to a population, within the limits of random error.

3.3 Population and Sample

The population for this study was all the ministries in the Government of Kenya as at 30th June 2013 (Appendix 2). A census of all the ministries in the Government of Kenya was carried out hence no sampling was done.

3.5 Data Collection.

The study utilized both primary and secondary data. Primary data was gathered through semi-structured questionnaires, while secondary data was obtained from published documents or materials such as government reports and World Bank reports. These supplemented the primary data received from questionnaires answered by one respondent from procurement department and another one from finance department in all the eighteen ministries who were aware of the challenges facing public sector procurement.

The semi-structured questionnaire comprised of both open-ended and close-ended questions. The close-ended questions captured quantitative data whereas open-ended questions captured qualitative data. The questionnaire designed in this study comprised of two sections. The first part contained demographic and operational characteristics designed to determine fundamental characteristics of the respondent. The second part was devoted to the identification of the factors influencing procurement process with reference to implementation of the procurement legislations in Kenya's public sector. The questionnaires were self-administered using the drop and pick-later approach.

3.6 Data Analysis

The study mainly relied on quantitative data. However, some qualitative approaches were also used in order to gain a better understanding and possibly enable a better and more insightful interpretation of the results from the quantitative study. Descriptive statistics such as frequency distributions and percentages were used to summarize basic features of the data in the study. Factor analysis was used to rank the factors influencing compliance with the public procurement legislation in Kenya in their order of influence (Mugenda Mugenda, 2003).

The Statistical Package for Social Sciences (SPSS) version 17.0 was used to perform the analysis of quantitative data. Qualitative data was analyzed using content analysis. Prior to processing the responses, the filled questionnaires were edited and checked for completeness. Once data analysis was done, only the relevant content was presented in form of tables and graphs. Qualitative data was presented in prose.

CHAPTER FOUR

DATA ANALYSIS AND INTERPRETATION

4.1 Introduction

This chapter presents the analysis of data collected from the administered questionnaires. 36 questionnaires in total were administered but the researchers managed to obtain 31 completed questionnaires representing an 86.1% response rate. This response rate is above 50% hence representational of the population. The questionnaire contained questions that addressed the objectives of the study.

4.2 Data Analysis and Presentation

The collected questionnaires were edited for completeness in preparation for coding. Once the questionnaires were coded, they were entered into the Statistical Package for Social Sciences (SPSS) version 17 computer package for analysis.

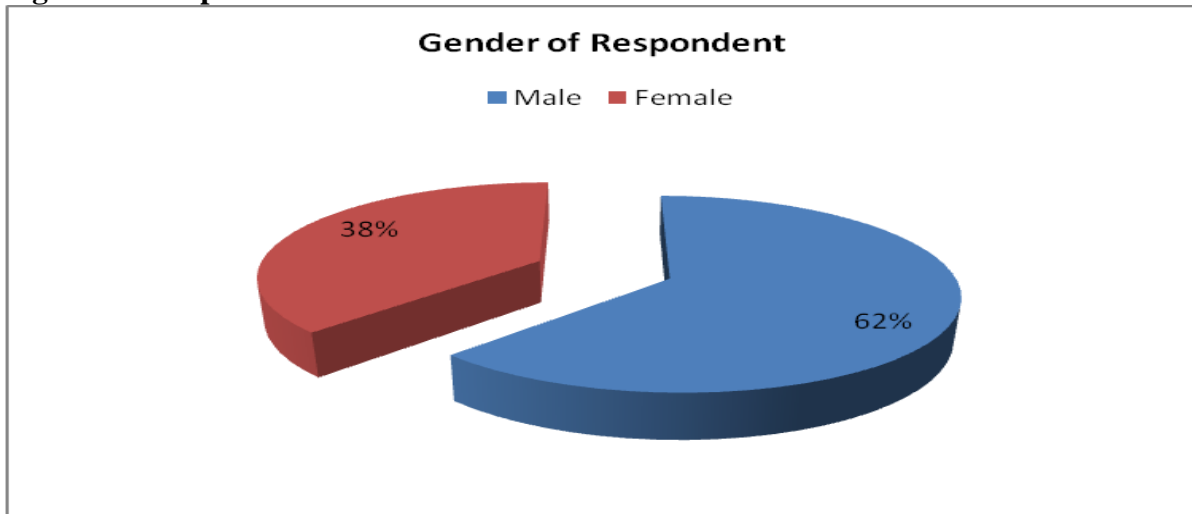
Descriptive statistics such as mean, standard deviation and frequency distribution were used to analyze data. Factor analysis was also used to sort out the factors in the order of enhancing compliance with public procurement legislation. Quantitative technique was used to analyze the closed-ended questions and qualitative technique was used to analyze the open ended questions while content analysis was used to categorize common answers according to their commonality.

4.3 General Information

4.3.1 Respondent Gender

Respondents were required to indicate their gender where 62% of them indicated that they were male and the remaining 38% of them were female. This finding reveals that the procurement department in the public sector is dominated by men. These findings are as shown in Figure 4.1.

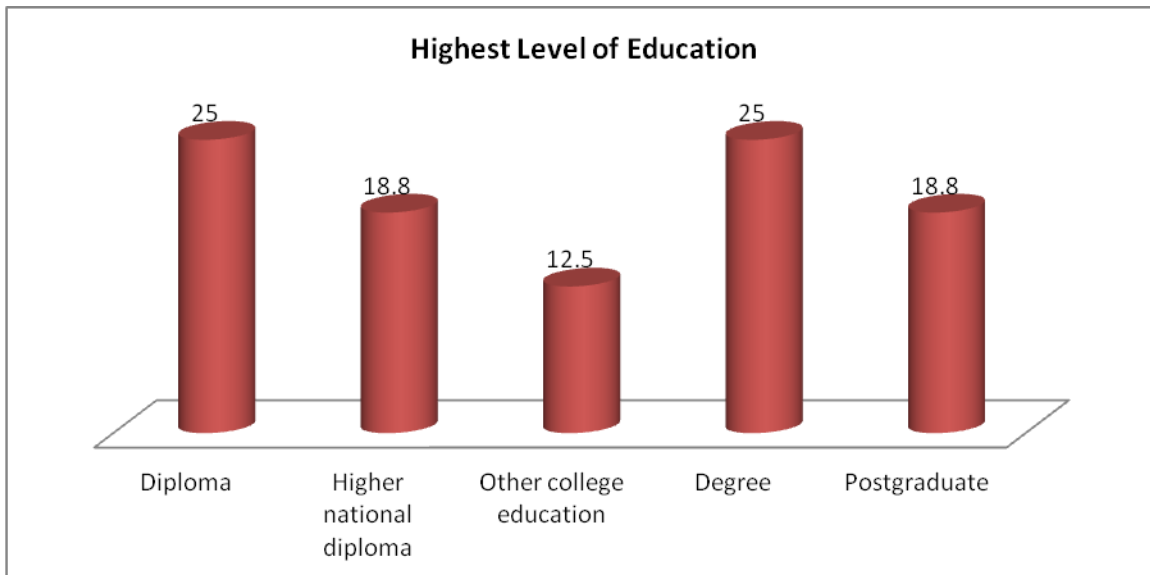
Figure 4.1 Respondent Gender



4.3.2 Highest Level of Education

Respondents were further required to indicate the highest education level they had attained. 25% of the each indicated that they had attained diploma level and degree level. Another 18.8% of them had attained postgraduate qualification and higher national diploma. The remaining 12.5% of them had attained other college education. This indicates that the respondents had the relevant knowledge to respond to the questions under study. The findings are as presented in Figure 4.2.

Figure 4.2 Highest Level of Education



4.3.3 Experience with the Organization

Respondents were further required to indicate the period they had served in their current positions. 43.8% of the respondents indicated that they had worked in their organization for a period of between 5-10 years and closely followed by those who had worked for a period five years and below. The remaining 11.1% of them had worked for a period of between 10-15 years. The findings therefore reveal that had worked in their organizations for period long enough hence could easily articulate the questions under study. The findings are as shown in Figure 4.3.

Figure 4.3 Experience with the organization



4.4 Factors Influencing Compliance with Public Procurement

4.4.1 Staff Training Influence

Respondents were required to indicate their level of agreement to various aspects on staff training and how they enhanced compliance with public sector procurement laws based on a Likert Scale of 1 to 5, where 1- Strongly Disagree and 5 – Strongly Agree. Means of between 3.3125 – 4.4375 and standard deviations of between 0.40089 - 0.94648 were registered. The study findings therefore reveal that consulting successful government department or experts in the procurement process would improve compliance with regulations and that educating the workforce adequately in procurement law reduces breach of the same law to a great extent. On the other hand a significant number of members of the

implementation committee in public the public sector are not appropriately competent to handle the compliance process. The findings are as presented in Table 4.2.1.

Table 4.2.1 Means and Standard Deviations on Staff Training

	Mean	Std. Deviation
If the workforce is not adequately educated in procurement law, serious consequences; including, breaches of the law occur.	4.3125	.60208
Consulting successful government department or experts in the procurement process would improve compliance with regulations.	4.4375	.51235
All members of the implementation committee don't have appropriate competences to handle the compliance process	3.6875	.94648
Most of the personnel who are employed in the procurement department are not properly trained and lack skills required to run the compliance processes.	3.3125	.57982
Documenting standards and best procurement practices would facilitate uniform application of procurement regulations.	3.3125	.40089

Source: Research Data (2013)

4.4.2 ICT and Information Systems

Respondents were required to indicate their level of agreement to various aspects on ICT and information systems and how they enhanced compliance with public sector procurement laws based on a Likert Scale of 1 to 5, where 1- Strongly Disagree and 5 – Strongly Agree. Means of between 3.9375 – 4.5 and standard deviations of between 0.12361 - 0.77190 were

registered. The study findings therefore reveal that majority of the respondents were of the opinion that installation of ICT in public entities procurement aims at benefiting the main stakeholders and that ICT in public procurement is intended to speed up the procurement process and make it more efficient to a great extent. However, they were also of the opinion that ICT provides transparency in public procurement by reviewing established procedures and public information, and by developing an easy auditing system to a moderate extent. The findings are as presented in Table 4.2.2.

Table 4.2.2 Means and Standard Deviations on ICT and Information Systems

	Mean	Std. Deviation
ICT in public procurement is intended to speed up the procurement process and make it more efficient.	4.5000	.51640
Installation of ICT in public entities procurement aims at benefiting the main stakeholders	4.5000	.51640
Automation of Key measurable aspects of public procurement would enforce compliance with procurement regulations as opposed to fully manual processes currently in place.	4.4375	.51235
Lack of understanding of the importance of the ICT role in procurement hinders the creation of information infrastructure in the government ministries.	4.3750	.61914
ICT and Management Information Systems play a major role in enhancing compliance with public procurement law	4.3750	.50000

Promotion of access to public procurement legislation content by use of ICT can improve the level of compliance.	4.0625	.77190
ICT provides transparency in public procurement by reviewing established procedures and public information, and by developing an easy auditing system.	3.9375	.12361

Source: Research Data (2013)

4.4.3 Top Management Support

Respondents were required to indicate their level of agreement to various aspects on top management commitment and how they enhanced compliance with public sector procurement laws based on a Likert Scale of 1 to 5, where 1- Strongly Disagree and 5 – Strongly Agree. Means of between 3.9375 – 4.4375 and standard deviations of between 0.51235 - 0.99791 were registered. The study findings therefore reveal that majority of the respondents were of the strong opinion that developing procurement strategies and formulation of timelines by top management would affect the procurement legislation compliance and that collaboration with other departmental heads and stakeholders enhanced compliance with public procurement legislation.

However, majority of the respondents were also of the opinion that top management should not spare any effort to persuade the employees to comply with the public procurement law to a moderate extent. The findings are as presented in Table 4.2.3.

Table 4.2.3 Means and Standard Deviations on Top Management Support

	Mean	Std. Deviation
Lack of collaboration with other departmental heads and stakeholders hinders compliance with public procurement legislation.	4.4375	.51235
Developing procurement strategies and formulation of timelines by top management would affect the procurement legislation compliance.	4.4375	.51235
A poor budgeting systems inhibits successful compliance	4.1875	.65511
To successfully implement a the provisions of PPDA the senior executives must take a leading role	4.1250	.80623
Top management should not spare any effort to persuade the employees to comply with the Public Procurement Law	3.9375	.99791

Source: Research Data (2013)

4.4.4 Awareness in Provisions of Public Procurement Laws

Respondents were required to indicate their level of agreement to various aspects on awareness in provisions of public procurement laws and how they enhanced compliance with public sector procurement laws based on a Likert Scale of 1 to 5, where 1- Strongly

Disagree and 5 – Strongly Agree. Means of between 3.8750 – 4.5625 and standard deviations of between 0.21106 - 0.95743 were registered. The study findings therefore reveal that majority of the respondents were of the strong opinion that they were aware of legislative requirements of the procurement laws and that public purchasers will comply with the rules if they perceive them as clear to a great extent. Further, the respondents strongly indicated that lack of clarity was believed to increase the possibilities for deliberate non-compliance. The high levels of non-compliance were partly attributable to the complex legislative requirements of the procurements to a great extent. However, majority of the respondents were also of the opinion that lack of familiarity with procurement rules results into poor compliance levels to a moderate extent. The findings are as presented in Table 4.2.4.

Table 4.2.4 Means and Standards Deviations of Awareness of Procurement Provisions

	Mean	Std. Deviation
Legislative requirements of the procurement laws.	4.5625	.51235
Public purchasers will comply with the rules if they perceive them as clear	4.5000	.51640
Lack of clarity is believed to increase the possibilities for (un)deliberate non-compliance.	4.4375	.51235
High levels of non-compliance are partly attributable to the complex legislative requirements of the procurement laws	4.3750	.71880
Majority of the employees in procurement department are not conversant with the public procurement legislation in place.	4.2500	.77460

Sensitization seminars, training and retraining of staff on the best procurement practices would help raise awareness to the procurement legislations in place.	4.0000	.21106
Familiarity with procurement regulations significantly predicted compliance with procurement regulations.	4.1875	.65511
Lack of familiarity with procurement rules results into poor compliance levels.	3.8750	.95743

Source: Research Data (2013)

4.4.5 Professional Ethics

Respondents were required to indicate their level of agreement to various aspects on professional ethics and compliance with public sector procurement laws based on a Likert Scale of 1 to 5, where 1- Strongly Disagree and 5 – Strongly Agree. Means of between 3.6875 – 4.5000 and standard deviations of between 0.19548- 0.68313 were registered. Majority of the respondents strongly agreed that trainings on ethics and integrity in public entities procurement aims at benefiting the main stakeholders. Further, maintaining high standards of professionalism in the public sector enhanced efficiency and effectiveness in complying with procurement legislation to a great extent. On the other hand lack of understanding the importance of ethics in procurement hinders compliance with public procurement to a moderate extent. The findings are as presented in Table 4.2.5.

Table 4.2.5 Means and Standard Deviations on Professional Ethics

	Mean	Std. Deviation
Trainings on ethics and integrity in public entities procurement aims at benefiting the main stakeholders	4.5000	.51640

Maintaining high standards of professionalism in the public sector enhances efficiency and effectiveness in complying with procurement legislation.	4.4375	.51235
Professional ethics play a major role in enhancing compliance with public procurement law	4.2500	.68313
Lack of understanding of the importance of the ethics in procurement hinders compliance with public procurement.	3.6875	.19548

Source: Research Data (2013)

4.4.6 Institutional Factors

Respondents were required to indicate their level of agreement to various aspects on institutional factors and how they enhanced compliance with public sector procurement laws based on a Likert Scale of 1 to 5, where 1- Strongly Disagree and 5 – Strongly Agree. Means of between 2.6875 – 4.1250 and standard deviations of between 0.09545 - 0.36473 were registered. Majority of the respondents strongly agreed that coherence and complexity were the key institutional factors influencing compliance with public sector procurement to a great extent. On the other hand exclusivity and autonomy were considered major institutional factors hindering compliance with public sector procurement. The findings are as presented in Table 4.2.6.

Table 4.2.6 Means and Standard Deviations on Institutional Factors

	Mean	Std. Deviation
Coherence	4.1250	.14746
Complexity	4.0000	.09545
Congruency	3.4375	.36473
Autonomy	3.0625	.34009
Exclusivity	2.6875	.19548

Source: Research Data (2013)

4.4.7 Accountability

Respondents were required to indicate their level of agreement to various aspects on accountability and how they enhanced compliance with public sector procurement laws based on a Likert Scale of 1 to 5, where 1- Strongly Disagree and 5 – Strongly Agree. Means of between 3.3125 – 4.0 and standard deviations of between 0.35247- 0.93095 were registered. The study findings revealed that majority of the respondents moderately agreed to all the aspects on accountability and how they related with public sector procurement legislation in Kenya. However, majority of the respondents were categorical that lack of sanctions for poor performance was believed to increase the levels of non-compliance with public procurement legislation. Further, the high levels of non-compliance were partly attributable to the lack of accountability mechanisms in public organizations. The findings are as presented in Table 4.2.7.

Table 4.2.7 Means and Standard Deviations on Accountability

	Mean	Std. Deviation
Lack of sanctions for poor performance is believed to increase the levels of non-compliance with public procurement legislation.	4.0000	.89443
High levels of non-compliance are partly attributable to the lack of accountability mechanisms in your organization.	3.8750	.88506
Lack of accountability creates opportunity for corruption.	3.7500	.93095
Lack of accountability is believed to increase the possibilities for (un)deliberate non-compliance.	3.6250	.45488
Public purchasers will comply with the rules if they perceive that the entity is accountable to the government.	3.3125	.35247

Source: Research Data (2013)

4.4.8 Internal Processes

Respondents were further required to indicate their level of agreement to various aspects on internal processes and how they enhanced compliance with public sector procurement laws based on a Likert Scale of 1 to 5, where 1- Strongly Disagree and 5 – Strongly Agree. Means of between 3.0– 4.1250 and standard deviations of between 0.08781- 0.80623 were registered. The study findings revealed that majority of the respondents moderately agreed to all the aspects on internal processes except one and how they related with public sector procurement legislation in Kenya. However, majority of the respondents were categorical that employees in their organizations did not engage in, nor did they give the appearance of engaging in dishonest or unethical actions. The findings are as presented in Table 4.2.8.

Table 4.2.8 Internal Processes

	Mean	Std. Deviation
Employees neither engage in, nor give the appearance of engaging in, dishonest or unethical actions.	4.1250	.80623
Management in contracting authorities ensure that there is an appropriate focus on good practice in purchasing	3.5000	.26491
Criminal sanctions apply to officials insider information to the benefit of their preferred bidders	3.3750	.31022
There are systems in place which regulate information flow about tender awards in your organization	3.3750	.08781
Officials who have access to very confidential and/or market sensitive information use it to the benefit of some bidders.	3.2500	.12546

There is a significant procurement function that procedures are in place to ensure compliance with all relevant guidelines	3.0000	.67332
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Source: Research Data (2013)

4.5 Factor Analysis

Further, factor analysis was applied by comparing the pattern of correlations between observed measures. Measures that are highly correlated were likely to be influenced by the same factors while those that are uncorrelated are likely to be influenced by different factors. Factor analysis produced communalities of the variables which is the proportion of the variance that each item has in common with other items. Table 4.2.9 shows the communalities of the variables with extraction method being the principal component analysis. The study findings revealed that over 89% of compliance in public procurement in the public sector is accounted for creation of awareness in provision of public procurement. This is closely followed by top management support at 84.1% and staff training on the same at 83.8%. Compliance with public procurement legislation in Kenya can be explained by institutional factors, internal processes and ICT at 82.5%, 80.7% and 80% respectively. Accountability and procurement ethics account for the compliance at 72% and 66.2% respectively.

Table 4.2.9: Communalities- Compliance with Public Procurement Law

Component	Factor	Initial	Extraction
1	Staff training	1.000	.838
2	Information, Communication Technology	1.000	.800
1	Top management support	1.000	.841
1	Awareness in provision of public procurement	1.000	.892
3	Procurement ethics	1.000	.662
1	Institutional factors	1.000	.825
3	Accountability	1.000	.720

2	Internal processes	1.000	.807
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Source: Research Data (2013)

Table 4.2.10 shows all the factors extracted from the analysis along with their eigen values, the percent of variance attributable to each factor, and the cumulative variance of the factor and the previous factors. The study findings reveal that the first component (awareness in provision of public procurement, top management support, staff training and institutional factors) of factors account for 42.8% of the variance and the second component (internal processes and Information, Communication and Technology) of factors account for 19.2% of the variance. On the other hand the third (accountability and procurement ethics) component of factors account for 17.9%. Cumulatively the three component of factors account for 79.8% of the variance with regard to compliance with public procurement legislation in Kenya.

Table 4.2.10: Total Variance Explained- Public Procurement Compliance

Component	Initial Eigen values			Extraction Sums of Squared Loadings			Rotation Sums of Squared Loadings
	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %	Total
	1	3.421	42.767	42.767	3.421	42.767	42.767
1	1.535	19.185	61.953	1.535	19.185	61.953	2.667
1	1.429	17.866	79.818	1.429	17.866	79.818	1.438
1	.765	9.565	89.383				
2	.343	4.285	93.668				
2	.251	3.136	96.804				
3	.145	1.818	98.622				
3	.110	1.378	100.000				

Source: Research Data 2013

Table 4.2.11 shows the loadings of the eight variables on the three main component factors extracted. The higher the absolute value of the loading, the more the factor contributes to the variable. Component1 contains four factors while components two and three contain two factors each. Component 1 comprises of awareness in provision of public procurement, top management support, staff training and institutional factors. Component two comprised of internal processes and ICT. Component three on the other hand comprised of accountability and procurement ethics as shown in Table 4.2.11. This implies that variables in component 1 have more explanatory power in explaining compliance with public procurement legislation in Kenya than those in component 2 and component 3.

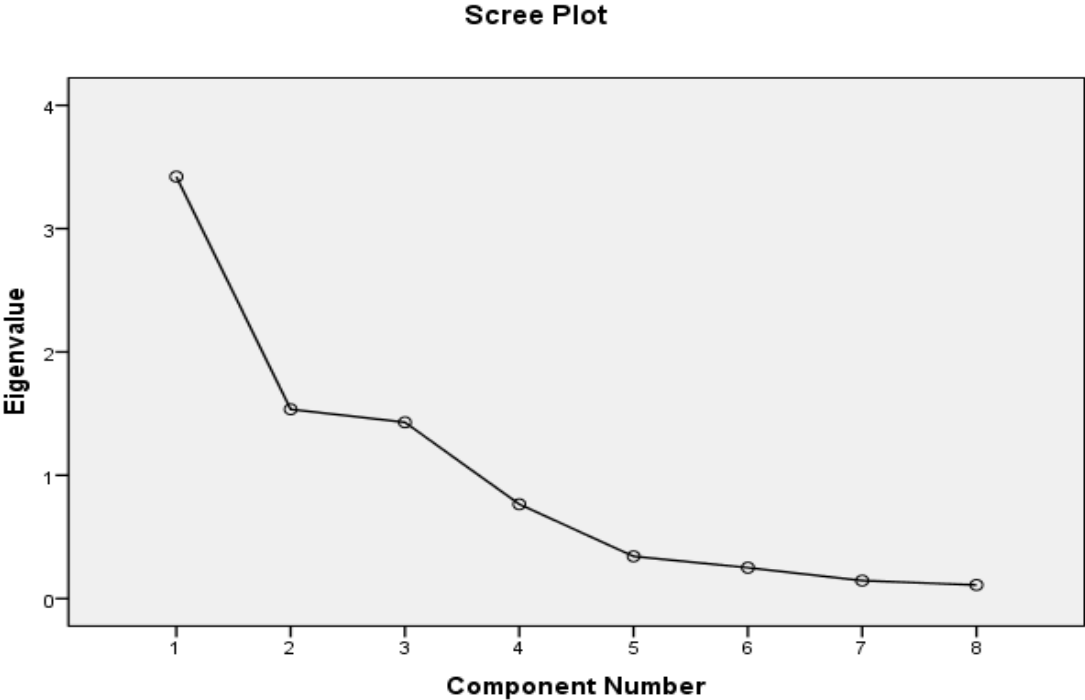
Table4.2.6: Component Matrix- Public Procurement Compliance

	Component		
	1	2	3
Awareness in provision of public procurement	.863		
Top management support	.812		
Staff training	.709		
Institutional factors	.660		
Internal processes		.671	
Information, Communication Technology		.663	
Accountability			.540
Procurement ethics			.525

Source: Research Data (2013)

Figure 4.4 shows the Scree plot on the factors explaining compliance with public sector procurement legislation in Kenya. According to the Scree plot only five factors (awareness in provision of public procurement, top management support, staff training, institutional factors and internal processes) were considered as key in explaining compliance with public sector procurement legislation in Kenya. This is because the curve tends to flatten from the fifth component onwards, due to relatively low factor Eigen values thereafter.

Figure 4.4: Scree Plot on Compliance with Public Procurement Legislation



Source: Research Data (2013)

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter provides a summary of the study, discussions and conclusions. The researchers then present the major limitations of the study and the recommendations for both the research and for the policy and practice.

5.2 Summary and Discussions

The researcher administered 36 questionnaires in total but the researchers managed to obtain 31 completed questionnaires representing 86.1% response rate. The questionnaires contained questions that addressed the objectives of the study. The research sought to establish the factors influencing compliance with public procurement legislation in Kenya.

This study sought to establish the factors influencing compliance with public procurement in Kenya with specific reference to the existing eighteen government ministries. Eight main factors were considered ranging from staff training; ICT systems, top management support, awareness in provisions of public procurement, professional ethics, institutional factors, accountability and internal processes.

Pertaining to staff training the study findings revealed that consulting successful government department or experts in the procurement process would improve compliance with regulations and that educating the workforce adequately in procurement law reduces breach of the same law to a great extent. On the other hand a significant number of members of the implementation committee in public the public sector are not appropriately competent to handle the compliance process. The study findings are supported by Raymond (2008) who argues that professionalism in public procurement relates not only to the levels of education and qualifications of the workforce but also to the professional approach in the conduct of business activities. He further contends that if the workforce is not adequately educated in procurement matters, serious consequences; including, breaches of codes of conduct occur.

With regards to ICT systems in place, majority of the respondents were of the opinion that installation of ICT in public entities procurement aims at benefiting the main stakeholders

and that ICT in public procurement is intended to speed up the procurement process and make it more efficient to a great extent. However, they were also of the opinion that ICT provides transparency in public procurement by reviewing established procedures and public information, and by developing an easy auditing system to a moderate extent. The study findings complement the findings of (De Boer and Telgen, 1998) who argues that the role of ICT and Management Information Systems in enhancing efficiency and transparency in public procurement cannot be underestimated.

Top management support is also critical in enhancing compliance with public procurement law in Kenya. Majority of the respondents were of the strong opinion that developing procurement strategies and formulation of timelines by top management would affect the procurement legislation compliance and that collaboration with other departmental heads and stakeholders enhanced compliance with public procurement legislation. However, a significant number of respondents were also of the opinion that top management should not spare any effort to persuade the employees to comply with the public procurement law to a moderate extent. Obanda, (2010) stipulated that strong institutional support at top levels of government is needed by procurement personnel in order to promote integrity, monitor the public procurement process and apply procurement law appropriately.

Majority of the respondents were categorical that awareness in the provisions of public procurement legislation enabled purchasers comply with the rules if they perceived them as clear to a great extent. Further, the respondents strongly indicated that lack of clarity was believed to increase the possibilities for deliberate non-compliance. The high levels of non-compliance were partly attributable to the complex legislative requirements of the procurements to a great extent.

Further, respondents were categorical that training on ethics and integrity in public entities procurement were aimed at benefiting the main stakeholders. Further, maintaining high standards of professionalism in the public sector enhanced efficiency and effectiveness in complying with procurement legislation to a great extent. These findings are similar to those

of (Rossi,2010) who contends that compliance with the formal elements gives an indication of knowledge of the rules.

Coherence and complexity were rated the key institutional factors influencing compliance with public sector procurement to a great extent. On the other hand exclusivity and autonomy were considered major institutional factors hindering compliance with public sector procurement legislation in Kenya. With regard to accountability, majority of the respondents were categorical that lack of sanctions for poor performance was believed to increase the levels of non-compliance with public procurement legislation. Internal processes aspects were moderately rated by a majority of the respondents. However, majority of the respondents were categorical that employees in their organizations did not engage in, nor did they give the appearance of engaging in dishonest or unethical actions. Lack of accountability creates opportunities for corruption. Brinkerhoff (2004) identifies three key components of accountability, including the measurement of goals and results, the justification or explanation of those results to internal or external monitors, and punishment or sanctions for non-performance or corrupt behavior.

Factor analysis further revealed that the eight factors were sorted into three main factor components according to their absolute values. The higher the absolute value of the loading, the more the factor contributes to the variable. Component1 contains four factors while components two and three contain two factors each. Component 1 comprises awareness in provision of public procurement, top management support, staff training and institutional factors. Component two comprises of internal processes and ICT. Component three on the other hand comprises of accountability and procurement ethics. The variables in component 1 had more explanatory power in explaining compliance with public procurement legislation in Kenya than those in component 2 and 3.

5.3 Conclusion and Recommendations

Based on the study findings we can conclude that the factors under study explained compliance with public procurement legislation in Kenya significantly as revealed by the study findings. However, awareness in provision of public procurement legislation, top

management support, staff training and institutional factors were rated as the key factor explaining compliance with public procurement legislation in Kenya to a great extent. This conclusion is supported by both the descriptive and inferential statistics as indicated.

With due regard to the ever increasing desire to have high compliance with public procurement legislation in Kenya, there is need to invest in various strategies. This therefore calls upon the management of various government ministries to come up with a procurement policy which outlines the strategies and guidelines of applying the same effectively in the organizations. This should be done in a manner in which all the stakeholders are happy. This ensures that they are acceptable, accessible, ethically sound, have a positive perceived impact, relevant, appropriate, innovative, efficient, sustainable and replicable.

5.4 Limitations of the Study and Suggestions for Further Research

The researchers encountered quite a number of challenges related to the research and most particularly during the process of data collection. Due to inadequate resources, the researchers conducted this research under constraints of finances and therefore collected data from key government departments within the ministries. Some respondents may have been unable to give information due to reasons such as privacy, fear of unknown and busy schedules at their places of work. The study findings were also limited to the research approach used.

Arising from this study, the following directions for future research in procurement are as follows: First, this study focused on government ministries and therefore, generalizations cannot adequately extend to other firms in the private sector. Future research could therefore focus on the entire sector in Kenya. A broad based study on the effect of compliance with procurement legislation and performance of organizations should also be carried out.

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5. What is your level of agreement with the following statements that relate to the effect of staff Training compliance with the public procurement laws and regulations?

Use a scale of 1-5 (1- Strongly Disagree; 2-Disagree; 3-Neutral; 4- Agree;5- Strongly Agree)

	1	2	3	4	5
If the workforce is not adequately educated in procurement law, serious consequences; including, breaches of the law occur.					
All members of the implementation committee don't have appropriate competences to handle the compliance process					
Most of the personnel who are employed in the procurement department are not properly trained and lack skills required to run the compliance processes.					
Documenting standards and best procurement practices would facilitate uniform application of procurement regulations.					
Consulting successful government department or experts in the procurement process would improve compliance with regulations.					

ICT and Information Systems

7. To what extent does ICT and Information Systems influence compliance with the public procurement legislation in the public sector?

Very great extent []

Great extent []

Moderate extent []

Little extent []

Not at all []

8. What is your level of agreement with the following statements that relate to the effect of ICT and Information Systems to compliance with the Public Procurement legislation in the public sector?

Use a scale of 1-5 (1- Strongly Disagree; 2-Disagree; 3-Neutral; 4- Agree;5- Strongly Agree)

	1	2	3	4	5
ICT and Management Information Systems play a major role in enhancing compliance with public procurement law					
ICT in public procurement is intended to speed up the procurement process and make it more efficient.					
ICT provides transparency in public procurement by reviewing established procedures and public information, and by developing an easy auditing system.					
Installation of ICT in public entities procurement aims at benefiting the main stakeholders					
Lack of understanding of the importance of the ICT role in procurement hinders the creation of information infrastructure in the government ministries.					
Promotion of access to public procurement legislation content by use of ICT can improve the level of compliance.					
Automation of Key measurable aspects of public procurement would enforce compliance with procurement regulations as opposed to fully manual processes currently in place.					

Top Management Support

9. To what extent does Commitment of top management affect the level of compliance with Public Procurement legislation in the public sector?

- Very great extent []
- Great extent []
- Moderate extent []
- Little extent []
- Not at all []

10. In your own opinion, how would you rate the following statements on the commitment of top management?

Use a scale of 1-5 (1- Strongly Disagree; 2-Disagree; 3-Neutral; 4- Agree;5- Strongly Agree)

Statements top management level	1	2	3	4	5
Top management should not spare any effort to persuade the employees to comply with the Public Procurement Law					
To successfully implement a the provisions of PPDA the senior executives must take a leading role					
A poor budgeting systems inhibits successful compliance					
Lack of collaboration with other departmental heads and stakeholders hinders compliance with public procurement legislation.					
Developing procurement strategies and formulation of timelines by top management would affect the procurement legislation compliance.					

Level of Awareness

11. To what extent does Level of Awareness influence the level of compliance with Public Procurement legislations?

- Very great extent []
- Great extent []
- Moderate extent []
- Little extent []
- Not at all []

12. In your own opinion, how would you rate the following statements on the Level of Awareness?

Use a scale of 1-5 (1- Strongly Disagree; 2-Disagree; 3-Neutral; 4- Agree;5- Strongly Agree)

Statements on commitment of Level of Awareness	1	2	3	4	5
High levels of non-compliance are partly attributable to the complex legislative requirements of the procurement laws.					
Public purchasers will comply with the rules if they perceive them as clear					
Lack of clarity is believed to increase the possibilities for (un)deliberate non-compliance.					
Familiarity with procurement regulations significantly predicted compliance with procurement regulations.					
Lack of familiarity with procurement rules results into poor compliance levels.					
Majority of the employees in procurement department are not conversant with the public					

procurement legislation in place.					
Sensitization seminars, training and retraining of staff on the best procurement practices would help raise awareness to the procurement legislations in place.					

Ethics

13. To what extent does professional ethics influence compliance with the public procurement legislation in the public sector?

- Very great extent []
- Great extent []
- Moderate extent []
- Little extent []
- Not at all []

14. What is your level of agreement with the following statements that relate to professional ethics and compliance with the Public Procurement legislation in the public sector?

Use a scale of 1-5 (1- Strongly Disagree; 2-Disagree; 3-Neutral; 4- Agree;5- Strongly Agree)

	1	2	3	4	5
Professional ethics play a major role in enhancing compliance with public procurement law					
Maintaining high standards of professionalism in the public sector enhances efficiency and effectiveness in complying with procurement legislation.					
Trainings on ethics and integrity in public entities procurement aims at benefiting the main stakeholders					
Lack of understanding of the importance of the					

ethics in procurement hinders compliance with public procurement.					
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Institutional Factors

15. To what extent do institutional factors affect the level of compliance with Public Procurement legislation in the public sector?

- Very great extent []
- Great extent []
- Moderate extent []
- Little extent []
- Not at all []

16. In your own opinion, how would you rate the following statements on institutional factors influence compliance with public procurement legislation in your institutional?

Use a scale of 1-5 (1- Strongly Disagree; 2-Disagree; 3-Neutral; 4- Agree;5- Strongly Agree)

Statements top management level	1	2	3	4	5
Autonomy					
Complexity					
Coherence					
Congruency					
Exclusivity					

Accountability

17. To what extent does accountability affect the level of compliance with Public Procurement legislations?

- Very great extent []
- Great extent []
- Moderate extent []
- Little extent []
- Not at all []

18. In your own opinion, how would you rate the following statements on accountability?

Use a scale of 1-5 (1- Strongly Disagree; 2-Disagree; 3-Neutral; 4- Agree;5- Strongly Agree)

Statements on commitment of Level of Awareness	1	2	3	4	5
High levels of non-compliance are partly attributable to the lack of accountability mechanisms in your organization.					
Public purchasers will comply with the rules if they perceive that the entity is accountable to the government.					
Lack of accountability is believed to increase the possibilities for (un)deliberate non-compliance.					
Lack of accountability creates opportunity for corruption.					
Lack of sanctions for poor performance is believed to increase the levels of non-compliance with public procurement legislation.					

Internal Processes

19. To what extent do internal processes affect the level of compliance with Public Procurement legislations?

- Very great extent []
- Great extent []
- Moderate extent []
- Little extent []
- Not at all []

20. In your own opinion, how would you rate the following statements on internal processes influence compliance with public procurement legislation?

Use a scale of 1-5 (1- Strongly Disagree; 2-Disagree; 3-Neutral; 4- Agree;5- Strongly Agree)

Statements on commitment of Level of Awareness	1	2	3	4	5
There are systems in place which regulate information flow about tender awards in your organization.					
Employees neither engage in, nor give the appearance of engaging in, dishonest or unethical actions.					
Management in contracting authorities ensure that there is an appropriate focus on good practice in purchasing					
There is a significant procurement function that procedures are in place to ensure compliance with all relevant guidelines					
Officials who have access to very confidential and/or market sensitive information use it to the benefit of some bidders.					
Criminal sanctions apply to officials insider information to the benefit of their preferred bidders					

21. Suggest ways of improving compliance with public procurement laws in Kenya’s public sector, as well as possible reform initiatives centered on making the public procurement process within the public sector more efficient

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Thank you for your kind co-operation.

Appendix II: List of Government of Kenya Ministries.

1. Mining.
2. Ministry of Interior and Coordination of National Government
3. Ministry of Devolution and Planning.
4. Defence
5. Foreign Affairs
6. Education
7. The National Treasury
8. Health,
9. Transport and Infrastructure
10. Environment, Water and Natural Resource
11. Land, Housing and Urban Development Information
12. Information, Communication and Technology (ICT)
13. Sports, Culture and the Arts
14. Labour, Social Security and Services,
15. Energy and Petroleum.
16. Agriculture, Livestock and Fisheries
17. Industrialization and Enterprise Development,
18. Commerce and Tourism and EAC