

**DETERMINANTS OF COMPLIANCE IN PUBLIC
PROCUREMENT REGULATIONS IN THE PUBLIC SECTOR
A CASE STUDY OF KISII COUNTY, KENYA**

Nancy Nyaboke Onchweri 

MSc Student, Jomo Kenyatta University of Agriculture and Technology, Kenya
nyamshem@yahoo.com

Willy Muturi

Lecturer, Jomo Kenyatta University of Agriculture and Technology, Kenya

Abstract

Public procurement involves making sure that regulations of procurement are followed in the public sector. Studies that have been done reveal that even after enactment of regulations in procurement there are inefficiencies observed in public funds usage in procurement due to inadequate compliance that can be attributed to public procurement. Compliance levels to supplier continue to be low in Kenya despite efforts by the public procurement oversight authority (PPOA). The specific objectives of the study was to establish the extent to which ethics ,awareness levels and supplier training on compliance of public procurement regulations influence performance in the public sector. The target population which was the totality of the cases comprised of 260 respondents. The sample size was 30% of the target population which comprised of 78 respondents. The study employed a descriptive survey research design. The questionnaire was used for data collection and data was analyzed with both qualitative and quantitative methods. The findings revealed that there is significant correlation of 0.96 which implies that an increase in procurement ethics compliance increases the performance of the public sector by approximately 0.9.

Keywords: Public Procurement, Regulations, Public Sector, Procurement Ethics, Kenya

INTRODUCTION

Kipchilat (2006) quoting a Comesa report (2004) noted that procurement absorbs 60 percent of government expenditure and this means that accountability at all levels is important. These figure 60% indicate that public procurement is important in the economies of both developed and developing countries. Public procurement has become an issue of public attention and debate in both developed and developing countries, 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, 1995). According to Roodhooft and Abbeelee (2006), public bodies have always been big purchasers, dealing with huge budgets.

Mahmood, (2010) observed that public procurement represents 18.42% of the world GDP. Consequently, various countries both in developed and developing countries have instituted procurement reforms involving laws and regulations. The major obstacle however, has been inadequate regulatory compliance. De Boer and Telgen (1998) 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.

Huiet et al., (2011) while analyzing procurement issues in Malaysia established that procurement officers were blamed for malpractice and non-compliance to the procurement policies and procedures. According to Yukl (1989), Gelderman et al., (2006) stipulate that compliance occurs when the target performs a requested action, but is apathetic about it, rather than enthusiastic, and puts in only a minimal or average effort. However, as an organizational outcome, compliance has traditionally been understood as conformity or obedience to regulations and legislation (Snell, 2004) cited in Lisa, (2010). For instance in Uganda, a wave of procurement reforms that begun in 1997, culminated into the enactment of the Public Procurement and Disposal of Public Assets (PPDA) Act 2003, and regulations 2003. Unfortunately, many central government ministries and agencies have since then not followed prescribed practices (Agaba & Shipman, 2007).

Statement of the Problem

The Public Procurement Regulations of 2006 aimed at promoting fairness, transparency and non-discrimination in public procurement with the aim of ensuring efficient use of public funds. However, studies reveal that even after the enactment of the Regulations, there are inefficiencies observed in public funds usage in procurement due to inadequate compliance that can be attributed to public procurement. Compliance levels to suppliers continue to be low 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 sector, in Kisii county government, it has been noted that county tendering committees inadequately follow regulations relating to counties audit report-2013/2014. This study therefore seeks to assess the determinants of compliance in public procurement regulations on suppliers in the public sector with particular interest in Kisii county government.

General Objective

The general objective of the study was to assess the determinants compliance in public procurement regulations on the performance of the public sector a case study of Kisii County Government.

Specific Objectives

This study was guided by the following specific objectives;

1. To establish the extent to which procurement ethics on compliance of public procurement regulations influence performance of the public sector public sector.
2. To find out the extent to which awareness on compliance of public procurement regulations and procedures influence performance of the public sector.
3. To establish the extent to which supplier training on compliance of public procurement regulations influence performance of the public sector.

Research Questions

This study sought to answer the following research questions;

1. How does a procurement ethic influence compliance of public procurement regulations on performance of the public sector?
2. How does the level of awareness influence compliance of public procurement regulations and procedures on performance of the public sector?
3. What is the contribution of supplier training on compliance of public procurement on performance of the public sector?

THEORETICAL REVIEW

This study was guided by institutional theory and socio-economic theory.

The Institutional Theory

This is the traditional approach that is used to examine elements of public procurement. There is no single and universally agreed definition of “institution” or “institutional theory”. According to Scott (2004), institutions are composed of cultural-cognitive and regulative elements that, together with associated activities and resources give meaning to life. The author explains the three pillars of institutions as regulatory, normative and cultural cognitive.

The regulatory pillar emphasizes the use of rules, laws and sanctions as enforcement mechanism, with expedience as basis for compliance. The normative pillar refers to norms (how things should be done) and values (the preferred or desirable), social obligation being the basis of compliance. The cultural-cognitive pillar rests on shared understanding (common beliefs, symbols, shared understanding). In Kenya, public procurement has is guided by the PPDA Act (2007), regulations and guidelines which are from time to time issued by the PPDA Authority only and which must complied with to the latter by all PPOA and providers.

Socio-Economic Theory

Sutinen and Kuperan (1999) propounded the socio-economic theory of compliance by integrating economic theory with theories from psychology and sociology to account for moral obligation and social influence as determinants of individuals’ decisions on compliance. According to Lisa (2010) psychological perspectives provide a basis for the success or failure of organizational compliance. Wilmshurst and Frost (2000) also add that the legitimacy theory postulates that the organization is responsible to disclose its practices to the stakeholders, especially to the public and justify its existence within the boundaries of society. This theory, which focuses on the relationship and interaction between an organization and the society, provides a sufficient and superior lens for understanding government procurement system (Huiet *al.*, 2011). From this theory, the perceived legitimacy of public procurement rules has been identified as one of the antecedents of public procurement compliance behavior.

EMPIRICAL LITERATURE REVIEW

Procurement starts from the identification of needs to the end of service contract or end of useful life of an asset. Darrel (2002) says the term procurement is used to describe the purchase of goods and services which are no directly used in the main business of a company. For example a car manufacturer will procure training courses for employees to attend in order to

improve their skills. However, thinking on procurement, other writers argues that, there are two sides, the demand side (i.e. where there are users of products who have needs to procure) and the supply-side which does the production and provision of products to be supplied (Ngogo 2008).

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. Many studies were carried out on procurement before the Public procurement and Disposal Regulations of 2006 to evaluate the efficiency of the procurement process in existence at the time, (Kipchilat, 2006). The major findings of the studies were that public procurement was not operating efficiently and that the state was losing a lot of money through shoddy deals.

These regulations became effective on 1st January 2007 after the gazettelement of the Public Procurement and Disposal Regulations Act 2005. The purpose of this Act is to establish procedures for procurement and the disposal of unserviceable, obsolete or surplus stores and equipment by public entities to achieve efficient management of public funds.

The act contains eleven (11) parts. Part II of the Act deals with the establishment of bodies involved in the regulation of public procurement, namely, The Public Procurement Oversight Authority (PPOA), Public Procurement Oversight Advisory Board, and the Public Procurement Administrative Review Board. The PPOA is charged with ensuring procurement procedures are complied with, The Public Procurement Oversight Boards' functions include approving the PPOA's estimates of revenue and expenses, and recommending appointment or termination of the Director General. Part III of the Act deals with the internal organization of public entities as far as procurement is concerned, for instance, requiring all public organizations to establish.

RESEARCH DESIGN

The study employed a descriptive case study approach. According to Trochim (2006), a descriptive research design is best suited for this kind of research where studies are conducted to demonstrate relationships between things or interactions between groups of people. The relationship sought here involves the impact of compliance in public procurement regulations on the performance of the public sector.

Target Population

The accessible target population were 260 respondents who were 2014-2015, 205 prequalified suppliers of Kisii County Government, SCM Department Records,2015) and 55, county procurement staff..

Sampling Design

Rando was used in selecting the respondents. Mugenda and Mugenda (2005) acknowledge 10% to 30% of the target population to be the sample population of the study as it gives the in-depth of the study, for this study 30% was used to draw the sample size of 78 respondents to the study. Simple random sampling was used in getting the 78 respondents from the target population. Simple random sampling in selecting a sample that gave the individuals in the target population an equal chance was chosen. This sampling method was recommended because it was best suited for the kind of study with this size of population (Mugenda, 2004). The questionnaire was administered personally by the researcher to the respondents and collected after 4 days.

Data Collection Instruments

The study used self made questionnaires as the instrument to collect data. Best and Khan (1992) noted that questionnaires enable the researcher to explain the purpose of the study and give meaning of terms that may not be clear.

Data Collection Procedure

The researcher had an introductory letter from the University for legal and social reasons to use it to request for appointments with the respondents. The respondents were interviewed to provide relevant

Data Analysis Approach

Data collected was analyzed using descriptive statistics. Descriptive statistics involved the use of frequencies and percentages. Chi square was used to establish the relationship of the variables under the study as well as simple regression analysis.

Model Specification

The study will be guided by the following model

Linear Regression Model

$$Y_0 = \beta_0 + \beta_1 (X1) + \beta_2 (X2) + \beta_3 (X3) + e$$

Where the variables were defined as:

Y_0 - performance in the public sector

X_1 - Procurement ethics on performance of the public sector

X_2 - Awareness on compliance of public procurement

X_3 - supplier training on compliance of public procurement

e- Error term

ANALYSIS AND FINDINGS

Regression Analysis

The positive beta values indicate that procurement ethics on compliance of public procurement regulations has a positive influence on performance of the public sector. This implies that an increase in procurement ethics compliance increases the performance of the public sector by approximately 9.6%. The t-Value of 2.40 is higher than 2.0. This implies that the estimated results of the coefficients are both individually and statistically significant.

Table 1. Regression coefficients Analysis on procurement ethics compliance

	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%	Lower 95.0%	Upper 95.0%
Intercept	1.568014	0.763809	2.052887	0.132396	-0.86277	3.998794	-0.86277	3.998794
X1	0.096756	0.040279	2.402162	0.095688	-0.03143	0.22494	-0.03143	0.22494

The estimated equation as generated above will be: $Y = 1.5880 + 0.0968b + e$

Awareness Levels On Public Procurement

A section of the respondents were requested to indicate whether awareness level relate to compliance of public procurement regulations in the public sector. Their responses were as shown in the table 2 below. The results show that awareness levels affects compliance of public procurement regulations in the public sector the direct selling staff paid little attention to the existing customers. A further analysis to test the homogeneity of responses from the two groups of respondents using the chi-square test was carried out and the findings are as shown in the table below, where the formula for calculating the expected (E), is follows:

$$\text{Expected (E)} = \frac{(A) \times (B)}{N} = \frac{61 \times 59}{74} = 48.64$$

Table 2. Awareness strategy on procurement regulations

	Yes	No	Total
Pre-qualified suppliers	48	11	59
County procurement staff	13	2	15
Total	61	13	74

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Chi-Square Analysis For Homogeneity Of Responses

The table value for chi square for one degree of freedom (2-1) (2-1)) at 0.05 significance level is 3.841. The calculated value of chi square is 0.2362, which is less than the table value. This means that there was no significance difference on the respondents pertaining the effects of awareness levels on public procurement regulations.

Table 3. Chi-Square test for awareness compliance of procurement
of responses in public sector

Observed (O)	Expected (E)	(O-E) ²	(O-E) ² /E
48	48.64	0.4096	0.0084
13	12.36	0.4096	0.0331
11	10.36	0.4096	0.0395
2	2.64	0.4096	0.1552
$\sum \frac{(O-E)^2}{E}$			= 0.2362

Regression Analysis Coefficients Of Regulations Awareness

According to table 4 the positive beta value of 0.1108 indicates that awareness and commitment to public procurement regulations has a positive influence on performance of the public sector. This implies that an increase in awareness and commitment to public procurement regulations

increases the performance of the public sector by approximately 0.11. The t-Value of 3.33 and P-value of 0.044 are higher than 2.0 and lower than 0.005 respectively. This implies that the estimated results of the coefficients are both individually and statistically significant.

Table 4. Regression Analysis Coefficients of public regulations awareness

	Coefficients	Standard Error	t Stat	P-value
Intercept	1.581773	0.569236	2.778763	0.069062
X2	0.110799	0.033312	3.326096	0.04485

The estimated equation as generated above will be: $Y = 1.5812 + 0.1108b + e$

Where, y = Performance in the public sector

b = Supplier awareness and commitment

e = margin of error.

The positive beta value of 0.1108 indicates that awareness and commitment to public procurement regulations has a positive influence on performance of the public sector. This implies that an increase in awareness and commitment to public procurement regulations increases the performance of the public sector by approximately 11.1%. The t-Value of 3.33 and P-value of 0.044 are higher than 2.0 and lower than 0.005 respectively. This implies that the estimated results of

CONCLUSIONS

Based on the research objectives of the study, the researcher came up with the following conclusions based on the findings of the analysis of the questions in the study.

The first objective of the study was to determine the effect of procurement ethics on compliance of public procurement in the performance of the public sector from the findings the respondents agreed that procurement ethics affected performance of the public sector to a large extent. Compliance to public procurement regulations entailed following purchase requisitions and PPDA procedures. These regulations must be adhered to so as to achieve the expected public performance. Therefore, we can conclude that there is strong positive relationship between compliance to procurement ethics and the performance of the public sector. From the findings, it was discovered that a significant number of unethical procurement practices are yet to be curbed. Despite the awareness and commitment to procurement ethics, a significant number of un-ethical practices take place. The government must step up efforts to curb such

malpractices if any significant public performance is to be realized. The coefficients are both individually and statistically significant.

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