

ASSESSMENT OF SUCCESS FACTORS FOR IMPLEMENTATION OF PUBLIC PROCUREMENT AND DISPOSAL ACT IN THE COUNTY GOVERNMENT OF UASIN GISHU, KENYA

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Abstract

The Public Procurement and Disposal Act (PPDA) is an act of parliament that was passed in the year 2005 to regulate public procurement functions and practices in Kenya. The adoption of the act has been faced with several challenges since its introduction, though it was presumed that there existed several success factors that have facilitated its implementation. The main objective of this study was to identify the success factors for implementation of the Act. Some of these factors which happened to be the study variables included level of awareness and ethical practices. The study adopted a descriptive research design. The study targeted 20 procurement officers working with Uasin Gishu County Government using census design. A structured questionnaire was used to collect primary data from the respondents. The instrument was pilot tested to determine its reliability and validity before it was used to collect data for the main study. The data was analyzed using descriptive and inferential statistics. The study established that level of awareness, and ethical practices significantly influenced implementation of PPDA. The study recommended that Uasin Gishu County Government should continue creating awareness on matters touching on PPDA and should uphold ethical practices.

Keywords: Ethical practices, level of awareness, PPDA, success factors, transparency

INTRODUCTION

Procurement is an important function because it enhances efficient management and supply of inputs and is critical for all levels of government. It involves the purchase of commodities and contracting of construction works and service if such acquisition is effected with resources from state budgets, local authority budgets, state foundation funds, domestic loans or foreign aid and revenue received from the economic activity of the state. Most governments all over the world are attempting to identify key functions to enhance their procurement performance. The procurement function has emerged as one of the most crucial departments because of its role of acquiring inputs to user departments. The department has been identified as a multi-disciplinary function because it touches on nearly all other departments of the government. Procurement budgets in developing countries account for about 20 per cent of government expenditure globally (Mlinga, 2009), and many governments have embarked on reforms in their procurement systems to streamline and harmonize legal and institutional framework.

According to Abebe, in sub Saharan African countries, studies have shown that out of the total public resources, procurement of goods works and services account for about 70 percent of the total public expenditures" In addition, In Ethiopia, from the total public expenditure more than 60 percent of the national budget is used for procurement of goods, works and services (Tesfahun, 2011). Improving the public procurement system will obviously impact substantially on the growing economy of Ethiopia which will result in budgetary savings and efficiency in government expenditure, thereby creating wealth and reducing poverty.

The procurement system in Kenya has evolved to an orderly and legally regulated system governed by the PPDA 2005, prior to this, Kenya's public procurement system can be traced back to 1955 during the colonial days. In central government, it was governed by treasury circulars from 1969, then the supplies manual of 1978. Prior to 1994, it was geared towards large and established contractors. This was before the promulgation of the exchequer and audit Public procurement) regulations 2001. The PPDA, effective as of 1st January 2007, applies to all procurement of goods, works and services as well as the disposal of assets by public entities. In 2003, the Government of Kenya (GOK) began to implement reforms to address inefficiency in the use of public resources and weak institutions of government of Anti-corruption strategies to facilitate the fight against corruption and the enactment of the public officers ethics Act 2003, the anti-corruption and Economic crimes Act 2003, the finance management Act 2004, and the public procurement and disposal Act 2005. The regulations implementing PPDA were gazetted by GOK in January 1, 2007(tetra tech, October 2007 – September 2009). The public procurement and Disposal Act PPDA is an act of parliament that was passed in the year 2005 to regulate public procurement function and practices in Kenya.

The main purpose of this Act is to promote fairness, accountability, transparency and to ensure that the public procurement is transacted in a non-discriminatory manner. The adoption of the Act has been faced with several challenges since its introduction and enactment, though there are several success factors that have facilitated its implementation. All public procurement processes are geared towards fostering accountability and transparency in the management of public resources (Arrow smith, & Quinot, 2013). The Public Procurement and Disposal Act 2005 requires all public procurement and disposal to be conducted in accordance with the principles of transparency, accountability and fairness and in a manner that maximizes competition and achieves value for money.

The Act provides for delineation of roles and separation of power between; user departments, which initiate the procurement process and evaluate bids, procurement and disposal units comprising of procurement professionals who manage the procurement process, contract committee which approve each stage of the procurement or disposal process and decide on the best evaluated bidder and contract award and finally the accounting officer who is the senior most official in the ministry or agency, and who is also responsible for ensuring the proper functioning of the system. The Act sets detailed procedural rules, whose provisions include the advertising and public display of bid opportunities, notices of best evaluated bidder and contract award. The required procedures are supported by an enforcement system that allows dissatisfied suppliers to seek administrative review and provides for suspension of providers for offences and disciplinary measures to be taken against public officers who commit malpractices.

Statement of the Problem

All procurement and disposals of public assets are supposed to be effected following the stipulations of the Public Procurement and Disposal Act (PPDA). However, there have been conspicuous challenges in County Governments regarding lack of adherence to this Act particularly when procuring goods and services. This is authenticated by the Auditor General's project on County Governments' expenditures. Failure to follow the Act has resulted in massive loss of public resources. In turn, the development projects have stalled in several Counties and several public employees have failed to be paid at the right time since due to inadequacy of funds. It was, therefore, necessary to study the success factors that influence implementation of the Act in Uasin Gishu County Government which is one of the 47 County Governments in Kenya.

General Research Objective

To assess the success factors influencing implementation of the Public Procurement and Disposal Act in the County Government of Uasin Gishu

Specific Research Objectives

- i. To assess how level of awareness affects implementation of the PPDA in the County Government of Uasin Gishu
- ii. To assess the effect of ethical practices on the implementation of the PPDA in the County Government of Uasin Gishu

Research Questions

- i. What is the effect of level of awareness on implementation of the PPDA in the County Government of Uasin Gishu?
- ii. How do ethical practices affect implementation of the PPDA in the County Government of Uasin Gishu?

THEORETICAL REVIEW

Agency Theory

This theory was advanced by Jensen and Meckling (1976) and later expounded on by Sarens and Abdolmohammadi (2010). The principal agent theory is an agency model developed by economists that deals with situation to induce the agent to perform some tasks in the principal's interest but not necessarily the agent's (Health & Normal, 2004). Donahuc (1989) explains that procurement managers including all civil servants concerned with public procurement implementation must play the agent role for elected representatives. The agency theory helps establish how the success factors for implementation of PPDA is carried out in the county government of Uasin Gishu (the principal) through PPOA and The National Treasury and the procurement officers (the agents) who implement the PPDA through the PPOA and The National Treasury in the county government of Uasin Gishu.

General Systems Theory

The most widely employed theoretical framework in the social science is the systems model (Dye 1966), which may be seen as an application of general systems theory (Von Bertalanffy, 1968) to public policy for many social science applications, this model is referred to as an "Open Systems" model which reflects the idea that all elements of the model are open to influence from the external environment, but of other environmental factors as well. In this study, the

success factors for the implementation of the Public Procurement and Disposal Act is the input to the implementation of the Act whereas the environment in which they are implemented makes up the output process of the implementation of the Act in the county government of Uasin Gishu.

CONCEPTUAL REVIEW

This section reviews relevant empirical studies on success factors for effective implementation of PPDA. The studies reviewed touch on level of awareness and ethical practices.

Level of Awareness and Implementation of PPDA

When implementing the Act, the procurement officer becomes responsible for managing the procurement function both at the county government's site and at the supplier's and contractor's site. In order for the procurement officer to be able to manage this function, knowledge, skills and experience about the function should be adequate. Lack of adequate; knowledge, skills and experience lead to increased cost in the execution of implementation of the Act. A study conducted on public policies on corporate social responsibility (CSR) in European Union (EU) member states examined selected cases of awareness and sustainable public procurement (Steurer, Matgula & Berger, 2008). Though the study put into perspective the importance of public procurement in the European economy, it failed to directly address the aspect of awareness. Indeed, the awareness theme in this study was on CSR.

A final report on innovation and public procurement was compiled by Edler, Tsipouri, Hommen and Rigby (2005). The report noted that when the buyer possessed a considerably high level of technological competence and prior experience, it was quite possible a large-scale and complex procurement project as a one-package-delivery. Nevertheless, it was lamented that when the foregoing condition failed to be met and procurers were insufficiently aware of the technical challenge, then the approach was bound to result in partial failure. It was further observed that in Germany, the central governmental level had worked towards new recommendations for innovative procurement. This constituted considerations that would support lead markets through public procurement and having a procurement award for agencies having procured innovation. This was anticipated to raise awareness at all levels. Yet, an implementation strategy of the aforesaid guidelines to enhance compliance was not foreseen (Edler et al., 2005).

It is argued that in the United States, in spite of there being over half a million professional purchase people, only 10 per cent of them were members of a professional body while the rest are not even aware that there exist ethical and legal standards involved in

procurement (Raymond, 2008). In Uganda, a study was conducted on antecedents and consequences of public procurement non-compliance behaviour (Takamuhabwa, 2012). When citing Zubcic and Sims (2011), the author noted that the media played a critical role corporate compliance by raising the awareness of the regulatory outcomes. In the same perspective, Borden (2007) had earlier posited that media exposure minimizes the rate of wrongdoing through press coverage that highlights such instances. In their study, Eyaa and Oluka (2011) postulated that in Uganda, familiarity with procurement regulations significantly predicted compliance with such regulations.

Ethical Practices and Implementation of PPDA

According to Burt et al (2003), ethics are guidelines or rules of conduct by which organizations aim to live by. Organizations have ethical standards and frequently ethics codes. The ethical standards of an organization are judged by its actions and the actions of its employees, not by pious statements of intent put in its name. The character of an organization is a matter of importance to the employees and managers, those who do business with it as customers and suppliers, and those who are considering joining in any of these capacities.

A study by Akaninyene and Mark (2014) analyzed the effect of ethics and integrity on good public procurement system in Nigeria. The study findings established that ethics, accountability, and transparency of public procurement system in the country were elements of a good public procurement system. In view of the foregoing, it was recommended that fairness and impartiality ought to be enshrined in public procurement in Nigeria. It is posited that hitherto empirical studies in public procurement from sub-Saharan Africa ignore to a significant extent ethical work climate (Ntayi et al., 2010). In Uganda, Mutebi, Kakwezi and Ntayi (2012) examined ethical work climate in procuring and disposing entities (PDE) in that country and their implications on leadership. The study revealed that Uganda's PDE's ethical work climate was a multidimensional, composed of caring, rules, efficiency, service and independence climate.

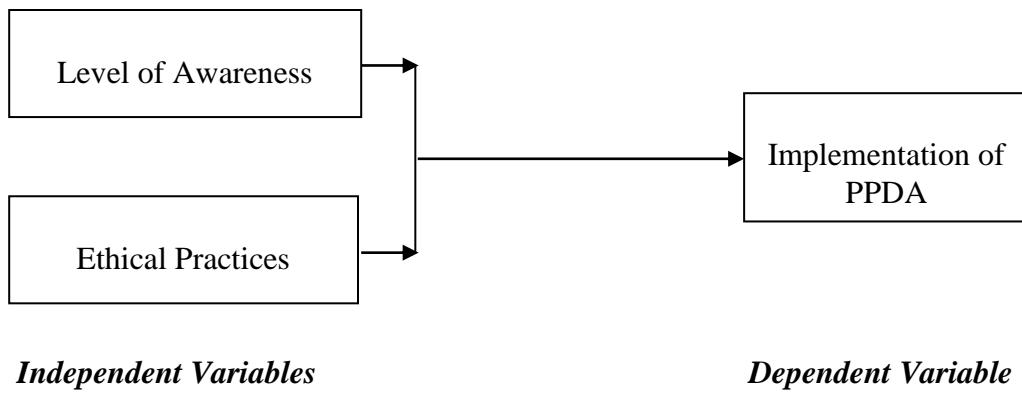
In Kenyan perspective, the role of ethics in procurement process effectiveness in the water sector was studied (Ndolo & Njagi, 2014). The study focused on Embu Water and Sanitation Company (EWASCO) based in Embu County. The study primarily sought to establish factors that affect effectiveness of the procurement process in water companies. Procurement ethics were part of the factors that were found to influence effectiveness of the procurement process in the aforementioned firms. In this respect, the study recommended that an ethical based and effective procurement process could be built on the regulatory, corporate and functional legal framework in the interest of all stakeholders in the water sector.

In the same line, Ayoyi and Mukoswa (2015) analyzed ethical issues in public procurement in Kenya. The study acknowledged that the rise of supply chain management and

procurement in the country was linked to several unethical business practices that violated codes of conduct. They gave an example of tendering processes which are not executed in transparent manner, and lead to offering suppliers potential chances and vantages to solicit for consideration by advancing bribes and other forms of corruption. They observed that transparency, fair treatment in bidding and award of tenders, accountability and responsible purchasing and supply had a positive implication on procurement processes in any organization.

Ethical issues in public procurement are a mark and distinction features of professionalism. In any procurement process, the budget holder and the purchasing authority should not be performed by the same individual .The budget holder has the authority to commission goods, services or works and to provide financial authority on expenditure. The purchaser has the authority to commit the procuring entity to a contract for the purchase of goods, services or works. Separation of these roles within a procurement process provides the necessary safeguards against wrong doing or unethical practice. Under the Public Officers and Ethics Act (2003), it is an offence for those employed by contracting authorities in their official capacity to accept any gift or consideration as an incentive or reward for acting in a manner likely to suggest favor or disfavor for any person or entity.

Figure 1. Conceptual Framework



METHODOLOGY

Research Design

Research design is essentially the blue print of conducting the entire study (Ngechu, 2006). This study adopted a descriptive research design in examining the success factors for implementation of Public Procurement and Disposal Act in the County Government of Uasin Gishu. The descriptive design was appropriate and useful in looking into how the success factors affect implementation of the said Act in the County Government of Uasin Gishu. This research design was used because it enabled respondents to respond to requisite questions

which the study sought to address and also describe the relationship existing between the variables.

Target Population

The target population is the population to which the study findings are generalized according to Kothari (2008). The target population of the study comprised of the employees attached to the procurement unit of the County Government of Uasin Gishu. The procurement officers targeted totaled 20.

Census Design

The target population of 20 procurement officers was too small to be sampled. Therefore, all members of this population participated in the study. As argued by Kothari (2008), census approach enhances the generalizability of the research findings. This is due to the fact that it eliminates both the sampling error and sampling bias.

Research Instrument

A structured questionnaire was used to collect data from respondents. The questionnaire enabled collection of data pertinent to both the independent and dependent variables. The data tallying with the study variables was on a five-point Likert scale.

Reliability of the Research Instrument

Reliability describes the consistency of the research results, that is, if it is repeated at different times the same results are obtained (Kothari, 2008). When reliability is upheld, then the research instrument should collect similar results when administered to different sampled populations exhibiting related characteristics. The Cronbach alpha was employed to test the instrument's reliability as shown in Table 1.

Table 1: Reliability Test

Variable	No. of Items	Alpha Values
Level of awareness	7	0.73
Ethical practices	6	0.76
PPDA implementation	5	0.77

As indicated in Table 1 all the study variables were reliable in that they returned alpha values greater than 0.7.

Validity of the Research Instrument

Validity defines the extent to which a concept, conclusions or measurement is well found and clearly corresponds precisely to the real world that is the validity of a measurement tool is said to be the degree to which it measures what it claims to measure (Mugenda & Mugenda, 2009). The study determined the content validity of the research instrument seeking expert opinion from the university supervisor for relevant details.

Data Processing and Analytical Approach

The data collected will was processed and analyzed with the help of the Statistical Packages for Social Sciences (SPSS) version 21 program. The data was analyzed using both descriptive and inferential statistics. Descriptive statistics were in form frequencies, percentages, means, and standard deviations. On the other hand, inferential analysis was in form of Pearson's correlation coefficient. The study findings were later presented in form of tables.

ANALYSIS AND FINDINGS

Descriptive findings

Level of Awareness of PPDA

The study sought to analyze the opinions of the respondents in respect to the level of awareness of PPDA in their County. Their responses are presented in Table 2.

Table 2: Descriptive Statistics for Level of awareness of PPDA

	n	Min	Max	Mean	Std. Dev
Our county government has adopted and implemented the Public Procurement and Disposal Act(PPDA)	20	4	4	4.00	.000
I am aware of the PPDA and how its related to procurement statutes	20	4	5	4.40	.503
I am familiar with the implementation of PPDA in our county government	20	4	5	4.30	.470
There is a relationship between awareness level and compliance to PPDA.	20	2	4	3.80	.616
There are guidelines that support the procurement process from the Ministry of Devolution.	20	1	4	2.90	1.294
Knowledge on procurement rules and regulations contribute to compliance with PPDA in our county government	20	3	5	4.25	.639
The members of staff in our department are familiar with the procurement and PPDA.	20	4	5	4.40	.503

Respondents agreed (mean ≈ 4.00; std dev < 1.00) to the view that their county government had adopted and implemented the Public Procurement and Disposal Act (PPDA);they were

aware of the PPDA and how its related to procurement statutes; they were familiar with the implementation of PPDA in their county government; there was a relationship between awareness level and compliance to PPDA; knowledge on procurement rules and regulations contributed to compliance with PPDA in their county government and that the members of staff in their department were familiar with the procurement and PPDA. However, respondents were unsure (mean = 2.90; std dev = 1.294) of the notion that there were guidelines that supported the procurement process from the Ministry of Devolution.

Ethical Practices

In addition, the study assessed the respondents views concerning the ethical practices observed in their county. Their responses regarding the subject are illustrated in Table 3.

Table 3: Descriptive statistics for Ethical practices

	n	Min	Max	Mean	Std. Dev
The county government has means of checking unethical practices of employees that may lead to procurement malpractices	20	3	5	4.00	.649
The strong enforcement measures of Procurement Act in contributing to ethical practice by suppliers.	20	1	5	4.05	.887
The moral degradation and corruption in the county government is the cause of unethical conduct by procurement officials.	20	2	5	3.90	1.071
Inadequate/low pay has contributed to unethical practices and non-compliance in procurement regulations in our county government.	20	2	5	3.80	1.105
The unethical practices of bidders and tenderers contribute to non-compliance to procurement regulations in our county government.	20	2	5	3.75	1.020
County government has handled cases of unethical practice in procurement of goods and services.	20	2	4	3.10	1.021

It was found that respondents admitted (mean ≈ 4.00) to the views that the county government had means of checking unethical practices of employees that could lead to procurement malpractices; the strong enforcement measures of Procurement Act contributed to ethical practice by suppliers; the moral degradation and corruption in the county government was the cause of unethical conduct by procurement officials; inadequate/low pay had contributed to unethical practices and non-compliance in procurement regulations in their county government and that the unethical practices of bidders and tenderers contributed to non-compliance to procurement regulations in their county government. The respondent nevertheless were indifferent (mean = 3.10; std dev = 1.021) to the argument that county government had handled cases of unethical practice in procurement of goods and services.

Implementation of PPDA

Lastly, the study analyzed the respondents' views in regards to the implementation of the Public Procurement and Disposal Act in their county. Their views on the same are outlined in Table 4.

Table 4: Descriptive statistics for Implementation of PPDA

		n	Min	Max	Mean	Std. Dev
i.	PPDA implementation is satisfactory.	20	2	5	3.85	.671
ii.	PPDA is implemented by the County Government of Uasin Gishu.	20	4	4	4.00	.000
iii.	The management of the county government ensures that suppliers abide by the PPOA regulations.	20	1	5	2.75	1.517
iv.	Implementation of PPDA is reflected by effective procurement process in our county government.	20	2	5	3.20	1.196
v.	All concerned stakeholders embrace the PPDA implementation in our county government.	20	2	5	3.75	.967

Respondents admitted (mean \approx 4.00) to the proposition that PPDA implementation was satisfactory; PPDA was implemented by the County Government of Uasin Gishu and that all concerned stakeholders embraced the PPDA implementation in their county government. The view that the management of the county government ensured that suppliers abided by the PPOA regulations and that implementation of PPDA was reflected by effective procurement process in their county government however remained unclear (mean 3.00).

Inferential Findings

Relationship between Level of awareness and Implementation of PPDA

The study examined the relationship between the level of awareness of PPDA and its implementation. The relationship established is illustrated in Table 5.

Table 5: Relationship between Level of awareness of PPDA and its Implementation

Level of awareness of PPDA	Implementation of PPDA	
	Pearson Correlation	.755**
Sig. (2-tailed)		.000
N		20

**. Correlation is significant at the 0.01 level (2-tailed).

It was found that there existed a strong positive and statistically significant relationship($r = 0.755$; $p < 0.01$) between the level of awareness and implementation of PPDA. This meant that

the level of awareness of PPDA had a positive effect on its implementation. It further implied that due to the staffs' awareness of the PPDA and its association with procurement statutes, coupled with the knowledge on procurement rules and regulations, implementation of PPDA was therefore enhanced. This further suggested that the level of awareness of PPDA among the procurement officers in the county largely determined its implementation. It was therefore deduced that the more aware the staff were of the Act then the more its implementation would be enhanced.

Relationship between Ethical practices and Implementation of PPDA

In addition, the study further looked into the relationship that existed between the ethical practices and the implementation of the Act. Table 6 illustrates the established relationship between the two constructs.

Table 6: Relationship between Ethical practices and Implementation of PPDA

		Implementation of PPDA
Ethical Practices	Pearson Correlation	.614**
	Sig. (2-tailed)	.004
	n	20

**. Correlation is significant at the 0.01 level (2-tailed).

It was discovered that the relationship between ethical practices and the implementation of PPDA was strong, positive and statistically significant ($r = 0.614$; $p < 0.01$) at 0.01 significance level. The ethical practices employed by the county government had a positive influence on the implementation of PPDA. In other words, the existence of ethical practices in the county government ensured that procurement malpractices from all the stakeholders such as the suppliers, bidders and tenderers and procurement officers were mitigated and thereby positively and to a great extent influenced that implementation of PPDA.

SUMMARY

It was agreed that their county government had adopted and implemented the Public Procurement and Disposal Act (PPDA) and that they were aware of the PPDA and how it's related to procurement statutes. In addition, respondents were in agreement that they were familiar with the implementation of PPDA in their county government and that there was a relationship between awareness level and compliance to PPDA. Further, it was noted that knowledge on procurement rules and regulations contributed to compliance with PPDA in the

county government and that the members of staff in their department were familiar with the procurement and PPDA. However, it remained unclear that there were guidelines that supported the procurement process from the Ministry of Devolution. Correlation analysis indicated a strong positive and statistically significant relationship($r = 0.755; p < 0.01$) between the level of awareness and implementation of PPDA.

It was admitted that the county government had means of checking unethical practices of employees that could lead to procurement malpractices and their strong enforcement measures of Procurement Act contributed to ethical practice by suppliers. It was further agreed that the moral degradation and corruption in the county government was the cause of unethical conduct by procurement officials. In addition, inadequate/low pay had contributed to unethical practices and non-compliance in procurement regulations in their county government and that the unethical practices of bidders and tenderers further contributed to non-compliance to procurement regulations in their county government. However, it remained unclear that county government had handled cases of unethical practice in procurement of goods and services. Further, analysis revealed a strong, positive and statistically significant ($r = 0.614; p < 0.01$) relationship between ethical practices and implementation of PPDA.

It was admitted that the county government of Uasin Gishu had implemented PPDA and that its implementation was satisfactory. It was further agreed that all the procurement officers embraced the PPDA implementation in their county government. However, the view that the management of the county government ensured that suppliers abided by the PPOA regulations and that implementation of PPDA was reflected by effective procurement process in the county government remained unclear.

CONCLUSIONS

The study concluded that the county government had adopted and implemented the Public Procurement and Disposal Act (PPDA) and that there was awareness of PPDA and how it related to procurement statutes, additionally, the members of staff in their department were noted to be familiar with the procurement and PPDA. It was further inferred that there was a relationship between awareness level and compliance to PPDA. The level of awareness of PPDA was noted crucially important in its implementation. The study inferred that the county government had means of checking unethical practices of employees that could lead to procurement malpractices and their strong enforcement measures of Procurement Act contributed to ethical practice by suppliers. In addition, the study concluded that the moral degradation and corruption in the county government was the cause of unethical conduct and non-compliance by procurement officials coupled with the inadequate pay to the employees.

The unethical practices of bidders and tenderers further contributed to non-compliance to procurement regulations in their county government. The existence of ethical practices in line with the PPDA was noted critical in the implementation of PPDA.

RECOMMENDATIONS

It is recommended that the county government should continue creating awareness on matters PPDA and its implementation to all the staff. This is to ensure their commitment and full support. In addition, the county government should also incorporate the guidelines on procurement process provided by the Ministry of Devolution in conjunction with the PPOA in their procurement activities in the County Government. The study recommends that the County Government should uphold the ethical practices it employed in its administration. In addition, the county government should enforce the measures provided in the procurement Act in order to mitigate unethical practices of bidders and tenderers and procurement officials. Further, the county government should look into the remuneration of its staff members to avoid unethical conduct by its procurement officials.

LIMITATIONS AND FURTHER RESEARCH

It was quite difficult to access the procurement officers working with the County Government because some were busy working while there were those who were attending seminars outside the County. In order to access them, the researcher had to pay several visits to their offices. Some respondents were not willing to cooperate by providing the data requested due to fear of being victimized. To counter this challenge, they were reassured that their identities were to remain confidential.

The study suggests areas that ought to be researched in Kenya pertaining to the implementation of PPDA. The suggested areas of further scrutiny are;

- i. The effect of management support in implementation of PPDA in state parastatals
- ii. The role of procurement function on the performance of selected County Governments

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