

## **PUBLIC PROCUREMENT LEGAL FRAMEWORK IMPLEMENTATION CHALLENGES AND ORGANIZATIONAL PERFORMANCE**

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**Public Procurement is one of the major objectives of any government striving to deliver goods and services to its people. Indeed, procurement permeates the entire spectrum of the development process since the government is a major purchaser of goods and services that entails the application of colossal amounts of money running into billions of shillings. If the procurement process is not transparent and efficient, it results in the loss of taxpayers' money which in turn reverses the gains made with the attendant consequences of poverty, insecurity, poor infrastructure, inadequate health services among others. Unfortunately the foregoing scenario has characterized public procurement in many countries over the years. In an attempt to address these weaknesses, various governments have tailor made legal framework to provide an efficient system of procurement. This paper therefore makes an attempt to look at the implication of the legal framework, implementation challenges and organisational performance. The paper is basically a conceptualization of the study variables and explores a spectrum of various studies with a view to establish knowledge gaps in compliance of public procurement of legal framework in different contexts.**

**Key Words:** Public Procurement, Legal Framework, Implementation Challenges, Organisational Performance, Enforcement

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## INTRODUCTION

### Public Procurement Legal Framework

A legal framework encompasses the laws, regulations and policies that are put in place to govern an organization or an activity. The public procurement legal framework clearly covers the whole scope of public procurement (PP), all stages of the procurement process, methods of procurement, ethics and transparency (Thai, 2009). Robert (2003), states that a good PP legal framework is based on the principles of openness and transparency, fair competition, impartiality, and integrity.

According to American Bar Association (2000), a sound PP system needs to have good procurement laws and regulations. In practice and theory, PP laws and rules have been considered as one of the most important pillars of a sound procurement system (Thai, 2009). Procurement laws and rules lead to procurement efficiency or inefficiency depending on the type of government and environment within which the system is operated. In a country where no government democracy exists, the procurement system cannot be transparent and integral (OECD, 2006).

### Enforcement of Public Procurement Legal Framework

Enforcement is viewed as any actions taken by regulators to ensure compliance (Zubic & Sims, 2011). There are mixed opinions regarding the effect of enforcement on compliance. Sparrow (2000), argues that enforcement may make violators more sophisticated in how to prevent, and conceal detection by the authorities. However, Imperato (2005) agrees that enforcement improves compliance. According to Zubic and

Sims (2011), enforcement action and increased penalties lead to greater levels of compliance with laws. Corruption among government procurement officials in developing countries has been linked to a weak enforcement of the rule of law (Raymond, 2008). In countries with complaint and review mechanisms, bidders are allowed to verify whether the procurement processes conform to the prescribed procedures. The possibility of review is also a strong incentive for procurement officials to abide by the rules (Hui et al., 2011).

Public entities might choose to implement ineffective compliance systems if legal violations may be profitable in cases where the legal system under-enforces, either because penalties are set too low or because detection is imperfect or ineffective. Gunningham and Kagan, (2005) argue that the threat of legal sanctions is essential to regulatory compliance and that enforcement action has a cumulative effect on the consciousness of regulated organizations, and it reminds PEs and individuals that violators will be punished and to check their own compliance programs.

### Organizational Performance

The fundamental purpose of any organization is to consistently outperform the competition and deliver sustained, superior returns to the owners while satisfying other stakeholders. The measurement of how successful enterprises are at achieving this purpose has become a key element in modern public sector governance (Verbeeten & Bonns, 2009). Many developing countries have introduced performance management as a means to measure organizational and individual efficiency in order to ensure

that public sector organizations meet the needs of the public (Ohemeng, 2009). Measuring performance is a graceful way of calling an organization to account (Bruijn, 2007) and in public sector performance measurement; accountability is the central concern (Heinrich, 2007). Performance measurement is viewed as a warning, diagnosis and control system that is used to keep track of economy, efficiency, effectiveness and efficacy (Teelken & Smeenk, 2003). Measurement of organizational performance is not easy for business organizations with multiple objectives of profitability, employee satisfaction, productivity, growth, social responsibility and ability to adapt to the ever changing environment among other objectives (Waiganjo, Mukuru & Kahiri 2012). Although performance has been traditionally conceptualized in terms of financial measures, some scholars have proposed a broader performance construct that incorporates non-financial measures including among others market share, product quality, and company image (Obong'o 2009).

### **Theoretical Foundation of the Study**

Several theories are considered to be anchored in this study. Key amongst them are Principal Agent theory, Stakeholders Theory, The four pillars Model, Institutional Theory, Legitimacy Theory, Public Value Theory, Organisational Performance Theory and Resource based View Theory

#### **Principal Agent Theory**

Agency theory was expounded by Alchian and Demsetz (1972) and further developed by Jensen and Meckling (1976). The theory defines the relationship between the

principals, such as shareholders and agents or company executives and managers. In this theory, shareholders who are the owners of the company, hire the agents to perform work. Principals delegate the running of business to the managers, who are the shareholders' agents (Clarke, 2004).

According to Rungtusanatham et al., (2007), two parties have an agency relationship when they cooperate and engage in an association wherein one party delegates decisions or work to another to act on its behalf. The important assumptions underlying agency theory are that: potential goal conflicts exist between principals and agents; each party acts in its own self-interest; information asymmetry frequently exists between principals and agents; agents are more risk averse than the principals; and efficiency is the effectiveness criterion (Xingxing & Kaynak, 2012).

The theory deals with situations in which the principal is in a position to induce the agent, to perform some task in the principal's interest, but not necessarily the agent's (Health & Norman, 2004). Accounting officers and procurement managers in state corporations play the agent role for the government and the organization stakeholders. Compliance with procurement rules and regulations may be as result of principal-agent problem (Langevoort, 2002). The PPDA, (2005) bestows the responsibility of compliance with PP legal framework on the Accounting Officers of the PEs. Theory will be useful in explaining the relationship between the government and the state corporations in compliance to the legal framework. Theory will explain how the actions of the agent affect the principal

and other stakeholders for example making non optimal decisions as far as the utilization of financial resources and non financial resources are concerned (Muranda, 2006).

### **Stakeholders Theory**

Stakeholder theory originated by Freeman (1984) is defined as “any group or individual who can affect or is affected by the achievement of the organization’s objectives”. Unlike agency theory in which the managers are working and serving for the stakeholders, stakeholder theorists suggest that managers in organizations have a network of relationships to serve that include the suppliers, employees and business partners. According to Freeman (2002), each stakeholder is given an important say in making important decisions. Business and executives who manage them, should create value for customers, suppliers, employees, communities and financiers (Stieb, 2008)

The stakeholder theory argues about the importance of a firm paying special attention to the various stakeholder groups that are deemed to have a stake in the operations of a firm. The representation of all stakeholder groups on boards is therefore necessary for effective corporate governance (Gibson, 2000).

The model depicts the stakeholders in a typical large corporation. The stakes of each are reciprocal, since each can affect the other in terms of harms and benefits as well as rights and duties (Freeman, 2002). Owners have financial stake in the corporation and expect returns. Employees have their jobs and usually their livelihood at stake. They have socialized skills and in return for their labour, expect security, wages and benefits and meaningful work

(Frey & Nickerman, 2009). They are in return expected to follow the instructions of management, and be responsible citizens in the local community in which the corporation operates.

The stakeholders theory will be used to establish how different stakeholders such as the general public, the government, civil society, suppliers and various procurement professional organizations influence effective implementation of the public procurement rules and regulations and how this affects organizational performance.

### **The Four pillars Model**

This model was developed by the World Bank, Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD) and a number of developing countries for assessing the quality and effectiveness of national public procurement systems (OECD, 2005).

The legislative and regulatory framework pillar is based on the existence, availability, quality and use of the legal and regulatory framework from the highest level (Act and Regulations) down to the more detailed operational procedures, guidelines, model tender documents, and standard conditions of contract (PPRA, 2007). According to OECD (2007), the institutional framework and management capacity pillar is based on the procurement system as defined by the legal and regulatory framework in a country and operates through the institutions and management systems and practices that

form part of the overall public sector governance.

Procurement operations and market practices pillar is based on the operation of the systems at the level of the implementing PEs as well as on the procurement market (PPOA, 2007). Integrity and transparency pillar is based on the public procurement system that rely on a number of control mechanisms, including an effective control and audit system, an efficient appeals mechanism, a comprehensive information sharing system enabling civil society and interested stakeholders to conduct social audit, and effective ethics and anti-corruption measures. Without such control mechanisms, flaws in the procurement system may not be detected and addressed.

### **Institutional Theory**

Institutional theory adopts a sociological perspective to explain organizational structures and behavior (Dunn, 2010). It draws attention to the social and cultural factors that influence organizational decision-making and in particular how rationalized activities are adopted by organizations (Scott, 2001). The institutional theory is the traditional approach that is used to examine elements of public procurement (Obanda, 2010). Scott, (2004) identifies 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 and values with social obligation as the basis of compliance. The cultural-cognitive pillar rests on shared understanding on common

beliefs, symbols, and shared understanding.

### **Legitimacy Theory**

Legitimacy theory derived from the concept of organizational legitimacy, was defined by Dowling and Pfeffer, (1975) as a condition or status which exists when an entity's value system is congruent with the value system of the larger social system of which the entity is a part (Guthrie, Cuganesan & Ward, 2006). When a disparity, actual or potential, exists between the two value systems, there is a threat to the entity's legitimacy. Legitimacy theory posits that organizations continually seek to ensure that they operate within the bounds and norms of their respective societies. According to Wilmshurst and Frost (2000), 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 way for understanding state corporations procurement practices (Hui et al., 2011).

### **Public Value Theory**

Public Value theory was formulated by Moore in 1995 to provide public sector managers with a greater understanding of the constraints and opportunities within which they work, and the challenge to create publically valuable outcomes. Benington and Moore (2010) argue that Public Value theory envisages a manager's purpose as going beyond implementation of policy and adherence to institutional norms. It includes seeking out

opportunities to make significant improvements to the lives of the public.

According to Constable, Passmore and Coats, (2008) unlike private enterprise, organizations providing public services are directly accountable to citizens and their democratic representatives. The study will apply public value theory to determine the extent to which compliance with the procurement legal framework in state corporations contribute to improvement of organization performance in terms of provision of better services, quality goods, increased efficiency, accountability and increasing the level of customer satisfaction.

### **Organizational Performance Theories**

Public entities operate under an environment that affects their performance (Bolton, 2006). The external forces affecting the implementation of the procurement legal framework include: political, economical, social and technological factors. The following theories explain the effect of implementation of the public procurement legal framework on organizational performance

### **Resource Based Theory**

Penrose (1959) provided initial insights of the resource perspective of the firm. However, the resource-based view of the firm (RBV) was put forward by Wernerfelt (1984) and subsequently popularized by Barney's (1991) work. Many authors for example (Nelson & Winter 1982; Dierickx & Cool 1989; Mahoney & Pandian 1992; Eisenhardt & Martin 2000; Zollo & Winter 2002; Zahra & George 2002; and winter, 2003) made significant contribution to its conceptual development.

Theory emphasizes the importance of organization resources and, their influence on performance and competitive advantage in the market. According to RBVT, every organization has its own unique resources that enable it to remain competitive in the market, by addressing the rapidly changing environment (Helfat, 2007). These resources may be financial, human, physical, technological and information, and they must be valuable, rare and non-substitutable (Crook, Ketchen, Combs & Todd, 2008).

Critiques of the RBVT have pointed out that some resources contribute to competitive advantage while others do not; hence, not all resources of an organization have the ability to contribute to competitive advantage. Secondly, the mere availability of resources does not contribute to competitive advantage, until such resources are coordinated and integrated (Lopez, 2005). Implementation of the PP legal framework requires state corporations to have capabilities in terms of professionally trained and experienced staff in the field of procurement and competent leaders capable of directing the organization staff on how to effectively execute procurement functions as stipulated in the provisions of the legislation (SPMA, 2007). The study will adopt this theory to assess if PEs employs professionally qualified and trained procurement staff, level of staff competency, and the extent to which the procurement staff are familiar with procurement rules and regulations.

### **Public Procurement**

Public procurement refers to the government activity of purchasing goods and services needed to perform its functions (Arrowsmith, 2010). According to Odhiambo and Kamau (2003), PP is

broadly defined as the purchasing, hiring or obtaining by any contractual means, goods, construction works and services by the public sector. It is the acquisition of goods and services by government or public organizations (Hommen & Rolfstam, 2009).

In developing countries, public procurement is increasingly recognized as essential in service delivery (Basheka & Bisangabasaija, 2010) and it accounts for a high proportion of total expenditure. For example, public procurement accounts for 70 per cent in Uganda (Basheka & Bisangabasaija, 2010), 60 per cent in Kenya (Akech, 2005), 58 per cent in Angola, 40 per cent in Malawi and Vietnam (OECD 2006b), and 70 per cent in Ghana (Adjei, 2006). This is very high when compared with a global average of 12-20 per cent (Froystad et al., 2010). According to Schulten et al., (2012), the European Union public procurement accounts for between 10.5 percent of the GDP in Cyprus and 30.6 percent in the Netherlands.

The importance of public procurement in terms of size relative to world GDP and world trade is highlighted by an OECD report (OECD, 2001 quoted by Odhiambo and Kamau, 2003). In this report, the value of the contestable government procurement market was estimated at over \$2 000 billion which is equivalent to 7 per cent of world GDP and 30 per cent of world merchandise trade. Trionfetti, (2000) estimates the size of public procurement to be between 5 and 8 per cent of GDP in most industrialized countries. For the Middle East and Africa, the magnitude of central government purchases ranges between 9 and 13 per cent. Kipchilat, (2006) noted that

procurement in Kenya absorbs 60 percent of government expenditure.

The concept of PP involves procurement planning, contract placement and contract administration (Arrowsmith, 2010). Hughes (2005) observes that acquisition follows five main steps of: assessing needs, service design, supplier short listing, supplier selection, and supplier performance evaluation. According to PPOA (2009), acquisition process starts with identification of need, procurement planning and definition of requirements, determination of source, evaluation and selection of vendor, contract award, contract implementation, storage, payment and lastly disposal.

Public procurement addresses a wide range of objectives (Uyarra & Flanagan, 2009). It delivers goods and services to the constituents of a particular government administration, used to achieve socio-economic objectives such as stimulating economic activity; protecting national industries from foreign competition; improving the competitiveness of certain industrial sectors; and remedying national disparities (Thai, 2006). Arrowsmith (2010) contends that the objectives of PP are achieved through the legal and regulatory framework.

### **Review and Critique of Empirical literature**

Gelderman et al., (2006) undertook a study on non-compliance of EU tendering directives. The study surveyed 147 purchasing professional of the Dutch Ministry of Defense and the findings revealed that both purchaser's familiarity with the rules and organizational incentives have a positive, statistically significant impact on compliance. On the

other hand, inefficiency of the directives and supplier resistance did not influence compliance with the directives. The study however failed to give recommendations on how both developed and developing nations can improve regulatory compliance and increase organizational performance.

Basheka (2008) as well undertook a study among 99 local government stakeholders selected from 11 districts of Uganda. Using a correlation research design, study aimed at identifying the critical components of procurement planning and accountable Government system. Data was analyzed using principal component factor analysis and results indicate a significant positive relationship between procurement planning and accountable local government procurement systems.

Geo (2008) on the other hand carried out a study on factors influencing compliance with the Public Procurement Law (Act 663). The research used data from a survey of 58 responding PP purchasers from procurement entities within the public sector of Ghana. Study established that both organizational goal achievement and familiarity of rules by PP practitioners have a positive, statistically significant impact on compliance. The study focused on non compliance and failed to show how it affects the performance of public entities.

Ogot, Mulinge and Muriuki (2010) studied the impact of the PP law and Regulations on 54 profit oriented public corporations in Kenya. The study established that regulating procurement in profit oriented public corporations had significantly promoted transparency, quality and value for money in procurement carried out.

However, the study revealed that the ability by the PEs to bargain with suppliers for the best deal and speedy response to business opportunities were some of the areas adversely impacted by the law.

The study did not indicate the impact of the inability to bargain with suppliers and failure of speedy response to business opportunities had on the firms' profitability and growth; for accountability of the firms; profit generation and growth cannot be alienated from the managers' discretion to control cost of inputs, that is, procurement (Ogot et al., 2010). In other words, there is no rationale to task managers of regulated firms for failure to generate profits if they are denied control over costs. The managers' denial of discretion and control over operating costs may have significant adverse effect on business planning and the overall firm's performance.

However, using data collected from semi structured interviews in Atlanta Georgia, Schnequa and Alexandra (2012) noted that the Public Private Partnerships in public procurement are possible only under rigid constraint. In their study, they found that there are two decision making patterns, the-broker and the purist-correlated with length of employment by the same organization and the political context of the agency.

Ivar, Paula and Erik (2011) conducted a survey of over 7300 procurers and participating firms and in-depth interviews with 150 procurement professionals on the patterns of use, costs and effectiveness of EU procurement. The study sought to directly assess the costs of procurement and to compare costs across procedures,



countries, authorities and sectors. Findings indicate that procurement costs and effectiveness vary significantly across countries and that the procurement directives support the core objectives of PP policy. In particular, PP markets are highly competitive and this helps to bring about efficient purchasing outcomes. The regulatory dilemma is how to balance the positive core features of the system, while responding to a perceived need for increased efficiency and flexibility.

PPOA (2007) undertook a survey on the level of compliance to the procurement law and established that the introduction of the legal and regulatory procurement framework; the establishment of PPOA as an oversight body; the development of a framework for contract administration and the appeals mechanism were among the aspects of the procurement system rated as having been positively affected by the law. In contrast, the existing institutional development capacity in PEs and functioning of the procurement market were assessed as being among the weakest aspects of the system. The study noted that although procedures supporting systematic procurement planning had been established were not complied with, that there was a low share of procurements that were done through open tendering, meaning most procurements were done on an ad hoc basis, by RFQs and direct procurements, thus suggesting a lack of procurement planning in most of the surveyed PEs. One of the strong points about the public procurement law according to the study was that procurement decision making had been fully delegated.

Eyaa and Oluka (2011) conducted a cross sectional study on the causes of non-compliance in PP in Uganda using a structured questionnaire. The target population was 120 Central Government Procuring and Disposing Entities (PDEs). The sample size selected was 92 using random sampling technique and the response was 46, giving a response rate of 50%. Collected data was analyzed using correlation analysis. The reliability of the measures was determined using the Cronbach Alpha Co-efficient. All co-efficient of the variables were above 0.5, implying that the measures were adequate. The findings indicate that only familiarity with rules is a significant predictor of compliance. The implication is that the more procurement personnel are familiar with the regulations, the more compliant they will be. The authors' model indicates a 52.4% variation in compliance with the regulations. The study did not explore the structure of the country's procurement legal framework and how it affects the performance of PEs.

Osei-Tutu, Mensah and Ameyaw (2011) studied the level of compliance with the public procurement Act in Ghana targeting PEs in local government, education and health as representation of procurement activities of the Ashanti and Brong Ahafo regions. Four main compliance areas with sub-criteria adopted were management systems, information and communication, procurement process and contract management. The simple method of calculating averages was employed in the computations to determine the degree of compliance and obtaining a 100% would imply that the PE fully complied with the

requirements of the procurement law in that particular area.

The ratings of the performance under each procurement area were done by the authors using a predetermined Key Compliance Indicators. In all, a total key of 85 and 61 PEs were assessed in both Ashanti and Brong-Ahafo regions respectively. Findings indicate overall compliance levels of 19.58% and 17.8% in the Ashanti and Brong Ahafo regions respectively (Osei-Tutu et al., 2011). The findings further indicate that the general poor compliance with the law is due to lack of professional procurement personnel to man PP, lack of resources to purchase in bulk, lack of understanding of the law, lack of Internet facilities to facilitate access of information from PP Authority and also to post adverts and procurement plans. The study drew more attention on the level of procurement regulations compliance and thus failed to address the effect of the regulations on organization performance.

The study by Ntayi, Ngoboka, Mutebi and Sitenda (2012) examined the perceptions and effects of social value orientation, expected utility, fairness in procurement procedures, the legitimacy of the procurement law and the procurement law enforcement authority on compliance with the procurement law, guidelines, procedures and regulations. Data were collected from a sample of 110 Procurement and Disposing Entities (PDEs) and analyzed using confirmatory factor analysis (CFA) and structural equation modeling (SEM).

Findings indicate that social value orientation, expected utility, legitimacy of the procurement law enforcement agency and perceptions of procedural justice were significant predictors of the PP regulatory compliance (Ntayi et al., 2012). CFA demonstrates that PP staffs are driven by individualistic self-interest, pro-social and competitive social value orientations while performing the procurement functions and follow rules which they do not believe in, but which are perceived by government to promote transparency and accountability. A study by Kenyana, Mamati and Onyango (2009) sought to determine the influence of the PPDA, (2006) on procurement practices in PEs in Kenya. Data were collected from 95 respondents of tender committee members, the suppliers and the principals of the schools. Study established that the regulations have had a significant influence on pricing of goods procured and lead time. On the other hand, the same regulations have had a less significant influence on transparency of the procurement process and quality of goods procured.

Achuora, Arasa and Onchiri (2012) conducted a study on the factors affecting effectiveness of PP audits for constituency development funds in Kenya. Specifically it sought to investigate the effect of the legal framework, auditor's specific professional qualities, technical audit factors and client-related factors on effectiveness of PP audits. The study adopted a descriptive research design using a stratified random sampling to ensure representativeness. The study findings indicate that technical audit factors have greatest influence on effectiveness of PP audit, followed by

regulatory framework, client related factors and auditor's professional qualities respectively. The study narrowed its research undertakings on PP audits and hence failed to demonstrate the influence of PP rules and regulations on performance of PEs.

In an attempt to determine factors influencing compliance to procurement regulations in public secondary schools in Nyamache sub-county, Onyinkwa (2013), conducted a descriptive survey research in 15 schools with a sample size of 135 respondents. The study established that ethics, awareness and training influence compliances with procurement regulations. Study concentrated its research undertakings on procurement regulatory compliance challenges did not show the effect of compliance on performance of the schools.

European Union Chamber of Commerce in China (2010) conducted a study on European business experiences competing for public contracts in China. The study targeted foreign-invested enterprises (FIEs) competing in China's PP markets. The study established that the regulatory framework governing procurement is fragmented, inconsistent and unevenly implemented and that it is a drag on efficiency and innovation for the Chinese economy as a whole. However, the study failed to demonstrate the influence of the Chinese government procurement legal framework and performance of government corporations.

A study by PPRA (2007) assessed the Country's Procurement System in 20 PEs that were sampled randomly. The

assessment methodology was based on the OECD-DAC/WB structure of four pillars, namely: legislative and regulatory framework; institutional framework and management capacity; procurement operations and market practice; and integrity of the public procurement system. The study found out that tenders which did not use standard bidding documents accounted to 55% and most of the interviewed stake holders were not familiar with the Act and Regulations. The study recommended enforcement and close monitoring of all PEs to ensure compliance.

In another study by Belisario et al., (2011) on Asia Pacific Economic Cooperation procurement transparency standards in the Philippines, entailed consultations with the private sector whether those laws and regulations are implemented in practice and actually help reduce corruption. Study failed to demonstrate the influence of the employed procurement legal framework on performance of government corporations in Philippines.

Tadeo, Karuhanga and Mukokoma (2011) studied the extent to which procurement officers at local governments in Uganda comply with the legal framework and the relationship between compliance and service delivery. The study adopted a combination of qualitative and quantitative approaches to collect and analyze the data. The findings indicate a moderate level (70%) of compliance to the law and a weak relationship between compliance and timeliness ( $r = .13$ ,  $p = .57$ ), cost ( $r = .38$ ,  $p = .63$ ), and quality ( $r = .18$ ,  $p = .49$ ). Study failed to show the effect of compliance with procurement rules and regulations on organizational performance.

Okundi (2013) carried out a study on Procurement Laws Review Key to the Success of Devolution with the aim of establishing how procurement law can help implementation of county governments. Study revealed that despite the progress made since the operationalization of the law, the Kenyan procurement system still faces a myriad of challenges. In 2012 for instance, the then Permanent Secretary for Finance noted that up to 30 per cent of the national budget is lost in procurement related malpractices.

## CONCLUSION

In conclusion, there are conflicting findings on the linkage between the public procurement legal framework and compliance. Indeed the findings vary from one context to the other. In some cases the compliance indicators are positive and in others it is negative. There is no concurrence leading to further study in this area of knowledge. The debate provides a clear gap which needs further research, there is lack of consensus and the implementation challenges are many.

## IMPLICATION OF THE STUDY ON POLICY AND PRACTICE

The policy makers need to review their thinking in view of the conflicting findings. Many formulators of policies have made it mandatory to enforce legal framework in procurement of goods and services and yet studies show there is no consensus in compliance.

In practice, it has been difficult to follow to the letter the laws and regulations in public procurement. The red tape created by these legal requirements has actually stifled the acquisition of goods and services. If the compliance of laws and

regulations is effective and efficient as it was intended, why then is private procurement practice not regulated? That is the begging question. In essence other factors should be taken into consideration

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