

Implementation Of The Public Procurement And Disposal Act, (2005) - Kenya And Organizational Performance

Pamela Marendi Getuno¹, Zachary Bolo Awino, PhD², Patrick K Ngugi, PhD³
Florence Mwaura, PhD³

Public Procurement is one of the major objectives of any government striving to deliver goods and services to its people. The government is a major purchaser of goods and services that entails the application of colossal amounts of money running into billions of shillings and if the procurement process is not transparent and efficient, it results in the loss of taxpayers' money which leads to poverty, insecurity, poor infrastructure, inadequate health services among others. Unfortunately the foregoing scenario has characterized public procurement in Kenya over the years. In an attempt to address these weaknesses, the Kenyan Government enacted the Public Procurement & Disposal Act (PPDA, 2005). Since the Act was put in place, little is available to explain the effect the implementation has had in improving the performance of public entities in delivery of services to Kenyans. The study therefore sought to determine the effect of the PPDA, (2005) implementation on performance of Kenyan state corporations. Explanatory survey design was adopted with a target population of 187 state corporations as per the list of the Taskforce on Parastatal Reforms (2013). The sample size was 125 state corporations and the study managed to get respondents from 112 corporations drawn from the five functional categories. Both primary and secondary data were used for analysis in the study. Primary data was obtained from the information in the questionnaires distributed to procurement practitioners and interview guides from the accounting officers whereas the secondary data was retrieved from existing reports of the PPOA website. Data collected was analyzed using descriptive statistics and multiple regressions. The findings of the study indicated a significant effect of the PPDA, (2005) implementation on performance of state corporations. Enforcement moderated the relationship between the PPDA, (2005) implementation and organizational performance. The study's limitation was the population as it only targeted procurement practitioners and Accounting officers in state corporations. The research thus recommends future studies to widen data coverage by involving mainstream government departments, county governments and service providers. Findings also indicated that enforcement of implementation of the rules increased levels of compliance; however, results also indicated that the compliance audits conducted by the oversight authority were very low. The implication is that policy makers should focus more on enforcement as it is an incentive for state corporations to increase implementation and compliance thus improving their performance. Study also revealed that e-procurement system had not been significantly embraced yet it highly contributed to transparency of the procurement process and increased efficiency. Policy makers in government should lay more emphasize in encouraging state corporations to invest in the e-procurement solution.

Key words: *Public procurement, implementation, organizational performance, state corporations, enforcement, procurement practitioners, accounting officers.*

¹ PhD candidate, Jomo Kenya University of Agriculture & Technology (JKUAT), Nairobi Kenya

² Associate Professor, School of Business, University of Nairobi (UON), Nairobi Kenya Nairobi Kenya

³ Lecturer, Jomo Kenya University of Agriculture & Technology (JKUAT), Nairobi Kenya

Introduction

Public Procurement (PP) has been recognized as a function that plays a key role in successful management of public resources and most countries have made an effort to integrate it into a more strategic view of government efforts (Ambe & Badenhorst-Weiss, 2012). Procurement is a crucial element in the working functions of any state as it is used for purchasing of goods and services in the right quality, from the right source and at the right price all to meet a specific need. Every government has the obligation to provide essential services to its citizens through public procurement. According to Calender and Mathews (2000), PP is an important function of government because of the great impact it has on the economy and needs to be well managed through a sound procurement system.

Kenyan State Corporations

Kenya has 187 state corporations (Rok, Parastatls Taskforce Reforms, 2013), divided into five broad categories based on their mandate and functions. The categories are purely commercial; agencies with strategic function; executive agencies; regulatory agencies; research institutions, public universities and tertiary, educational and training corporations. These state corporations are regarded as one of the factors that are and have a great potential to facilitate growth (Njiru, 2008). Most state corporations were first established during the colonial era where majority were in agricultural sector which predominate the country's economy since independence. As at 2012, agriculture accounted for about 26% of the Gross Domestic Product (Kenya National Bureau of Statistics (KNBS, 2013).

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. Tan

and Smyrnois (2011) proposed the balanced score card as one of the most popular approaches used to measure firm performance and has been adopted by the Kenyan government in measuring performance of all public entities.

Overview of Public Procurement in Kenya

In Kenya, until 2001, there was no sound legal framework and institutional structure governing the function of PP (Akech, 2005). The function was largely undertaken by the Crown Agents on behalf of the Government because the needs of the colonial and independent Kenya were largely met from foreign sources as local sources were still not adequate. The Supplies Manual was developed in 1978, and was supplemented by circulars that were issued from time to time by the Treasury (PPOA, 2010). The numerous and conflicting circulars from the Ministry overshadowed the manual guidelines.

The need for procurement reforms became urgent because of the growing scrutiny and pressure from within and outside the country. Studies conducted by SGS Consultants and the World Bank in 1986 and 1997 respectively to evaluate the country's procurement system revealed that the PP system lacked transparency, fair competition, and that procurement staff were not adequately trained and therefore lacked the necessary skills and professionalism (OECD, 2003; Basheka, 2009). A major recommendation from these two studies was that reforms in PP system were inevitable if the government was to save resources and get value for money spent (OECD, 2005). This therefore led to the gazettelement of the

Exchequer and Audit Act (Public Procurement Regulations, 2001).

Despite this being a huge stride towards reforms, an Independent Procurement Review (IPR) carried out in 2005 established that there were many weaknesses in procurement (OECD, 2005). This therefore necessitated anchoring the procurement process in an Act of Parliament rather than being relegated to Regulations (PPOA, 2010). The reform process was therefore extended to have a sound legal framework through an Act (PPDA, 2005) of Parliament to allow for proper enforcement and remedy the issues arising from the IPR report.

The country was very positive and optimistic that the procurement reforms would help improve PP in Kenya. However, the PPDA, (2005) seems not to have addressed the past weaknesses and according to the Mars Group (2011), scandals such as the Anglo-Leasing security contracts, maize importation, sale of Grand Regency Hotel to Libyan investors without following the due process of law, sale of Kenya's Embassy in Japan and many other scandals which relate to PP malpractices was estimated to have cost the country over Ksh700 billion. According to PPOA review reports of public entities (PEs), implementation of the Act and compliance levels to the procurement rules is very low therefore affecting the performance of these entities in delivering their mandates (PPOA, 2010; Muriungi, 2014). As a country therefore, Kenya has largely failed to effectively harness the spirit and letter of the PP Act in delivering transparency, accountability, and good governance in PP.

Hypothesis

H₀: There is no significant effect of the PPDA, (2005) implementation on performance of Kenyan state corporations.

Theoretical literature Review

The study was anchored on the 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.

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 public entities.

The Public Procurement and Disposal Act, (2005)

The PPDA was approved by Parliament and gazetted in 2005. It established procedures for procurement and disposal of unserviceable, obsolete or surplus stores and equipment by PEs to achieve the following objectives: to maximize economy and efficiency (value for money); to promote competition and ensure that competitors are treated fairly; to promote the integrity and fairness; to increase transparency and accountability, to increase public confidence in those procedures; and to facilitate the promotion of local industry and economic development (PPDA, 2005; Muriungi, 2014).

Value for money entails consideration of the contribution made in advancing government policies and priorities while achieving the best return and performance for the money spent (Bauld & McGuinness, 2006). Sometimes the government is at liberty to consider other criteria than the lowest price; for example technical capabilities, qualifications of key personnel, and past performance records in awarding contracts to potential suppliers (Cummings & Qiao, 2003). It is essential that procurement is conducted in a way that is competitive, fair and impartial.

Information needs to be available to all interested parties within the same time frame, and each tenderer need to have access to the same material within the process for it to remain fair. Each bid also needs to be considered in a fair and impartial manner, with no conflicts of interest (Section 43, PPDA, 2005) or bias towards or against certain bidders. When communicating with bidders, it is important that it is conducted not only in the same timeframe but also in the same manner to all bidders.

The access to key procurement information by civil society, the media and other stakeholders, and the ways in which these parties can use the information, directly affects accountability (UNDP, 2010) and transparency. Transparency in PP is about information and is considered as one of the most effective deterrents to corruption and a pre-condition for ensuring public officials' accountability (OECD, 2007). E-procurement is potential in standardizing processes, increase their transparency, improve access to markets, and promote integrity in public bidding (ADB/ OECD, 2006). Accountability applies to the public sector (Barrett, 2000) and also to private sector organizations that are accountable to their stakeholders (Hughes, 2003). The public demand greater accountability and better service (Gunasekaran, 2005). Therefore, managing the risks associated with the complex competitive environment give rise to accountability problems (Barrett, 2000) if the roles and responsibilities of the participants in the process are not clear.

Procurement practitioners are required to exhibit professionalism in conducting the procurement function. Non-

professionalism in PP leads to corruption which ultimately impedes effective implementation and compliance of procurement rules in PEs and adversely affects performance. If procurement officers are not professionally trained, lack awareness about all rules in relation to procurement, then serious consequences including, breaches of codes of conduct occur (Atkison,2003) leading to application of unsound procurement practices and therefore declined organizational performance.

Enforcement of Public Procurement and Disposal Act, (2005)

Enforcement is viewed as any actions taken by regulators to ensure compliance (Zubicic & Sims, 2011). Effective policy making requires information whether PEs are doing things right and whether they achieve the results intended (Acevedo, Rivera, Lima & Hwang, 2010). Strong monitoring and evaluation systems provide the means to compile and integrate this valuable information into policy cycle, thus providing the basis for sound governance and accountable public policies. Inadequate monitoring and evaluation is linked to the absence or poor presence of a control environment, and government entities are placed in a difficult position to give effect to or implement procurement as required by policy (Ambe & Badenhorst-Weiss, 2012). If there is lack of proper monitoring and evaluation as required (Stemele, 2009), deviation or non-compliance goes undetected or is identified after the action.

There are mixed opinions regarding the effect of enforcement on effective implementation and 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 Zubcic and Sims (2011), enforcement action and increased penalties lead to greater levels of compliance with laws. The possibility of review is also a strong incentive for procurement officials to abide by the rules (Hui *et al.*, 2011). According to Collier (2002), enforcement has a greater regulatory impact beyond the violators and reminds directors and others involved in corporate management of their responsibilities and the risks attached to a failure to fulfill those responsibilities.

Empirical Literature Review

Research on implementation and compliance to the PP law has been carried out but not extensively. Gelderman *et al.*, (2006) undertook a study on non-compliance of EU tendering directives. The study surveyed 147 purchasing professionals 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. Geo (2008) on the other hand carried out a study on factors influencing compliance with the PP Law (Act 663) in Ghana. Study established that both organizational goal achievement and familiarity of rules by PP practitioners have a positive, statistically significant impact on compliance.

Osei-Tutu, Mensah and Ameyaw (2011) determined the level of compliance with implementation of the PP Act in Ghana and established overall implementation and compliance levels of 19.58% and 17.8% in the Ashanti and Brong Ahafo regions respectively. Poor compliance with the law was 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.

Conversely, Mugo (2013) conducted a study on determinants of procurement regulatory compliance by Kenya Electricity Generating Company (Kengen). Study employed a descriptive design and specifically sought to find the effect of staff competence, technology, and organizational structure and governance policies in determining procurement regulatory compliance. Findings indicated that information technology (IT) was the most significant variable in determining procurement regulatory compliance. The study concluded that organizational structure determines procurement regulatory compliance and recommended recruiting competent professional workforce equipped with skills and knowledge on procurement.

Jones and Carey (2010) conducted a study in the United Kingdom to examine user perceptions of e-procurement quality (EPQ) in four organizations using survey data from 274 respondents. Findings indicated a strong positive relationship between user-perceived EPQ system and contract compliance. System compliance was most strongly influenced by

professionalism and content dimensions, whilst contract compliance was most strongly influenced by processing, specification, and content dimensions. The study was important, however, some of its weaknesses include the fact that it was carried in the UK which is a developed economy and with far better electronic infrastructure. The generalization of the findings to include under developed countries including Africa is therefore inaccurate.

Kiama (2014) conducted a study on the factors affecting implementation of PPDA (2005) in SACCO Societies in Kenya with the main variables of strategic planning, enforcement and organizational culture. Through a descriptive research design, the study targeted procurement officers and general managers working with SACCOs societies. Findings revealed that the impact of the regulator on SACCOs was high and culture favors good procurement procedures. Study recommended procurement process to uphold integrity; eliminate malpractices and procurement decision making to be based on accurate market information.

In an attempt to assess the reasons for non-compliance in the procurement in Nigeria, Ojo and Gbadebo (2014) conducted a study using a structured questionnaire that was administered to randomly selected sample of 100 stakeholders' respondents. Findings indicated that familiarity of procurement rules and political influence on decision making were some of the reasons for non compliance. Gesuka and Namusonge (2013) conducted a study on the factors affecting compliance of PP in Kenya with 70 respondents that were purposively selected from the Butere

district commissioner's office, procurement committees, procurement unit, user departments and suppliers. The findings indicated some level of compliance to the legal requirements, but also revealed weak familiarity of procurement rules of all the stakeholders.

Studies by Woolf (2002); Namusonge (2007); and Manasseh, (2007) have concurrence that compliance audit is considered effective if it attains the intended results of nurturing good governance and effective accountability in the management of public resources on timely, with minimal cost, generates quality reports with clear control gaps and recommendations, remedies and should not be done in visceral manner. Such compliance audits should also address deterrence measures to fraud. The key elements of the audit law include; compliance, monitoring, documentation and reporting.

Methodology

Study adopted an explanatory survey design with a target population of 187 state corporations as per the list of the Taskforce on Parastatal Reforms (2013). Stratified random sampling was used to randomly select a sample size of 125 from the five functional categories of state corporations of purely commercial agencies, agencies with strategic function, regulatory agencies, executive agencies and research institutions, public universities, tertiary education training (Taskforce on Parastatal Reforms, 2013). The study managed to get respondents from 112 corporations giving a response rate of 90%.

Findings and Discussions

Data collected was analyzed using descriptive statistics and multiple regression analysis was used to determine the statistical significance influence of the variables. Study sought to establish whether implementation of the PPDA, (2005) had achieved the intended objectives of efficiency, competition, equal treatment, transparency, accountability, and ethical standards (professionalism). Table 2 presents the analysis of the variable PPDA, (2005). Each sub variable/indicator was measured on an ordinal scale of 1 to 5 based on the responses given.

The efficiency sub variable was measured on the number of complaints received on the quality of goods and services delivered, number of complaints received on procurement performance, number of market surveys conducted before award of contracts and number of internal audits conducted to monitor the efficiency of the procurement process. The first indicator on table 4.9 measured quality of goods and services delivered using the number of complaints received from users. Measure was on a scale of 1 to 5 representing 2 and below, 3-5, 6-9, 10-12 and 13 and above. 25 respondents received less than 2 complaints on quality of goods and services, 48 received between 3-5, 19 respondents received between 6-9, 13 respondents received between 10-12 and 7 respondents received 13 complaints and above. On average the number of complaints received on quality of goods and services delivered were between 3 -5.

The second indicator measured the number of complaints received from internal users on procurement performance using a scale of 1 to 5 representing 2 and below, 3-5, 6-9, 10-12 and 13 and above. 31 respondents received less than 2 complaints from internal users on procurement performance, 45 respondents received between 3-5 complaints, 20 respondents received between 6-9 complaints, 8 respondents received between 10-12 complaints and 8 respondents received 13 complaints and above. On average the respondents received 3-5 complaints from internal users on procurement performance.

The third indicator measured the number of market surveys the organization conducted before award of contracts for procurement of goods and services. The measure was on a scale of 1 to 5 representing 2, 3, 4, 5, and 6 and above. 17 respondents carried out 2 market surveys before procurement of goods and services, 46 respondents carried out 3 market surveys, 17 respondents carried out 4 market surveys, 15 respondents carried out 5 market surveys and 7 respondents carried out 6 market surveys and above. On average the respondents carried out 3 market surveys before procurement of goods and services.

The fourth sub variable measured the number of internal audits carried out to monitor the procurement process performance. From Figure 4.6, many respondents reported the number of internal audits at low figures. This number reduces as the number of internal audits conducted annually increases.

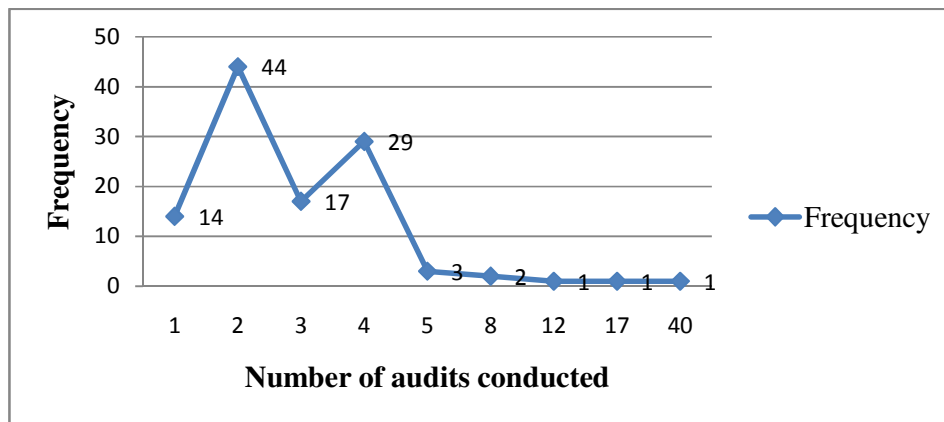


Figure 1: Internal Audits Conducted Annually

The objective of competition was measured on the number of open tenders advertised in the print media and the average amount of money of the budget spent on each method of procurement. The fifth indicator on table 4.4 measured the number of open tenders advertised on print media on an annual basis. The measure was on an ordinal scale of 1 to 5 representing 10-14, 15-19, 20-24, 25-29 and 30 and above. Findings indicated that 37 respondents advertised between 10-14 open tenders, 39 respondents advertised 15-19, 14 respondents advertised 20-24, 16 respondents advertised 25-29 and 6

respondents advertised 30 and above open tenders in the print media. On average 15-19 open tenders were advertise in the print media.

Table 1 presents the analysis on the use of the different procurement methods, and corporations spent more of the budget on open tendering which is 30% of the corporations' budget. Requests for quotations had an average of 20%, restricted tenders taking 10%, direct tenders 8%, expression of interest and low value procurement 5% respectively and specially permitted method 2%. On average, the organisations spend 80% of their budgets on procurement.

Table 1: Methods of Procurement

Method	Percentage of organization's Budget spent
Open tenders	30%
Restricted tenders	10%
Direct tenders	8%
Request for Quotation	20%
Expression of interest	5%
Low value procurement	5%
Specially permitted	2%
Total	80%

The sixth indicator measured how long the corporations take to pay suppliers. The measure was on an ordinal scale of 1 to 5 representing 120 days, 90 days, 60 days,

30 days and immediately. 34 respondents indicated 120 days, 45 respondents indicated 90 days, and 14 respondents indicated 60 days, 10 respondents

indicated 30 days and 9 respondents indicated to have paid immediately for the supplies. On average the corporations take 90 days to pay for the supplies.

Transparency objective was measured on how often state corporations use E-

procurement system for procurement of goods and services. From figure 2, 83% of respondents reported to have never used the system, 13% indicated occasional use and 4% respondents reported regular use of the system.

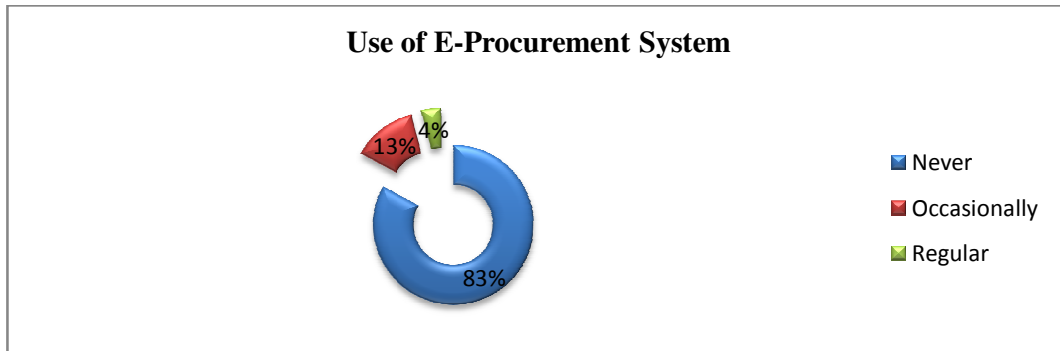


Figure 2: State Corporations Applying E- Procurement System

The accountability objective was measured on how often organizations made reports to PPOA as per Section 46 of the PPDA, 2005 using indicator seven. The measure was on an ordinal scale of 1 to 5 representing Never, annually, half yearly, quarterly and monthly. 23 respondents indicated to have never made any reports to PPOA, 57 respondents indicated reporting on an annual basis, 14 respondents reported half yearly, 13 respondents reported on quarterly basis and 5 respondents reported each month. On average the organizations reported to the Authority on an annual basis.

The ethical standards sub variable was measured on the number of procurement officers with professional qualifications in the organization and who were members of Kenya Institute of Supplies Management (KISM). On the number of

staff with professional qualification, the measure was on a scale of 1 to 5 representing 1, 2, 3, 4 and 5. 22 respondents indicated 1, 65 respondents indicated 2, 15 respondents indicated 3, 4 respondents indicated 4 and 6 respondents indicated 5 officers with professional qualifications. On average there were only 2 officers with professional qualifications in state corporations.

The last indicator measured the number of procurement staffs in the organization that were members of KISM. The measure was on an ordinal scale of 1 to 5 representing 0, 1, 2, 3 and 4 and above. 45 respondents had no procurement staff that were members of KISM, 50 respondents had 1 staff, 45 respondents had 2 staff, 6 respondents had 3 staff and 9 respondents had 4 and 2 respondents had 5 and above procurement staffs who were members of KISM. On average the organizations had

only one procurement staffs who was a member of KISM.

Table 2: Public Procurement and Disposal Act, (2005)

Statement	Frequencies					Median
	1	2	3	4	5	
Number of complaints received on quality of goods and services delivered	25	48	19	13	7	2
Number of complaints from internal users on procurement performance	31	45	20	8	8	2
No. of market surveys conducted before procurement of goods and services	17	46	27	15	7	2
Frequency of stores & inventory audit	23	57	14	13	5	2
No. of tenders advertised on print media	37	39	14	16	6	2
Period it takes to pay suppliers	34	45	14	10	9	2
Number of reports made to the oversight authority	23	57	14	13	5	2
No. of procurement officers with professional qualifications	22	65	15	4	6	2
Number of procurement staff in organisation that are members of KISM	50	45	6	9	2	3

Enforcement of the PPDA, (2005) Implementation

Enforcement of the PPDA,(2005) was measured on the number of compliance audits carried out by PPOA, the compliance levels, number of procurement reviews conducted by the Public Procurement Administrative Review Board (PPARB), and the period it takes the board to complete a procurement review.

On the number of compliance audits conducted by PPOA from 2009 to 2013, findings indicated that in the year 2009, 28 compliance audits were conducted, 12 in 2010, 16 in 2011, 21 in 2012 and 35 in 2013. The year 2013 had the highest number of compliance audits. On compliance levels the measure was on an ordinal scale of 1 to 5 representing 10 - 20%, 21 – 30%, 31 – 40%, 41 – 50%, and over 50% level of compliance respectively.11 respondents indicated 10 - 20% level of compliance, 28 respondents

indicated 21 – 30%, 46 respondents indicated 31 – 40%, 26 respondents indicated 41 – 50%, and 1 respondent indicated over 50% compliance level. On average the corporations had 31 – 40% average level of compliance.

Procurement review indicator measured on the average the number of procurement reviews handled from 2009 to 2013. Findings indicated that in the year 2009, entities had 14 review cases, 30 cases in 2010, 42 cases in 2011, 19 in 2012 and 7 cases in 2013. The year 2011 had the highest number of procurement review cases. Study also measured the length of time taken to handle and finalize procurement review cases. The measure was on an ordinal scale of 1 to 5 representing 1, 2, 3 and 4 and over 4 months respectively, 18 respondents had 0 months, 35 had one month each, 29 had 2 months, 27 had 3 months and 3 had over 3 months. On average the corporations had 2 months.

Hypothesis testing

The study hypothesized that there is no significant effect of the PPDA, (2005) implementation on performance of Kenyan state corporations. The variable was used to fit the regression model $Y = \beta_0 + \beta_1 X_1$. Table 3 present a summary of regression model results. The value of R and R² were

.594 and 0.353 respectively. This showed a positive linear relationship between the PPDA, (2005) and organizational performance. The R² value indicated the explanatory power of the independent variable of 0.353, meaning that 35.3% of the variation in performance is explained by the model $Y = \beta_0 + \beta_1 X_1$. The remaining 64.7% was explained by other factors not considered in the study.

Table 3: Cover Summary for PPDA, (2005) Implementation and Performance

R	R Square	Adjusted R Square	Std. Error of the Estimate
.594 ^a	0.353	0.348	7.51436

The ANOVA from Table 4 shows an F statistic that has a significance level of 0.000. This shows that the coefficient in the equation fitted is not equal to zero

implying a good fit since it is less than 0.05. This demonstrates that there is a significant relationship between the PPDA, (2005) implementation and performance.

Table 4: ANOVA for PPDA, (2005) and Organizational Performance

	Sum of Squares	Df	Mean Square	F	Sig.
Regression	3395.136	1	3395.136	60.128	.000 ^b
Residual	6211.209	110	56.466		
Total	9606.346	111			

Table 5 shows the results of Coefficients to the model $Y = 12.134 + 7.962 X_1$. The model estimates were both significant at 0.05 level of significance. This is because the significances of 0.000 were all both less than 0.05. The constant term indicates

that at zero implementation of the PPDA (2005), organizations perform at 12.134 measures. Increasing implementation of PPDA, (2005) increases the performance by 7.962.

Table 5: Coefficients for PPDA, (2005) and Organizational Performance

	Unstandardized Coefficients		T	Sig.
	B	Std. Error		
(Constant)	12.134	2.441	4.972	0.000
Public Procurement and Disposal Act, (2005)	7.962	1.027	7.754	0.000

Effect of Enforcement on PPDA, (2005) Implementation and Organizational Performance

Study hypothesized that there is no moderating effect of enforcement on the relationship between the PPDA, (2005) implementation and performance of Kenyan state corporations. A regression analysis was done to determine the effect of enforcement on the relationship between PPDA, (2005) implementation

and performance of Kenyan state corporations. The variable PPDA, (2005) intersection enforcement was computed and used in the regression model. Table 6, present a summary of regression model results. The value of R and R² were .654 and 0.427 respectively. This means that about 42.7% of the variation in PPDA, (2005) is explained by the model $Y = \beta_0 + \beta_1 X_1 + \beta_2 X_1 * X_5$.

Table 6: Cover Summary for Enforcement and PPDA, (2005) Implementation

R	R Square	Adjusted R Square	Std. Error of the Estimate
.654a	0.427	0.417	7.10494

The ANOVA from Table 7 shows an F statistic that has a significance level of 0.000. This shows that the coefficients of the equation fitted are jointly not equal to zero implying a good fit.

Table 7: ANOVA: Enforcement and PPDA, (2005) Implementation

	Sum of Squares	df	Mean Square	F	Sig.
Regression	4104.004	2	2052.002	40.65	.000b
Residual	5502.341	109	50.48		
Total	9606.346	111			

Table 8 shows the results of Coefficients used to generate the line, $Y = 16.073 + 1.933X_1 + 1.752 X_1 * X_5$. The coefficient of PPDA, (2005) intersection Enforcement was significant since the p-value was

0.000 which was less than 0.05. Since the coefficient of $X_1 * X_5$ was significant, this implies that enforcement of regulations has a moderating effect on the relationship between PPDA, (2005) and performance.

Table 8: Coefficients for Enforcement and PPDA, (2005) Implementation

	B	Std. Error	t	Sig.
(Constant)	16.073	2.536	6.338	0.000
Public Procurement and Disposal Act, (2005)	1.933	1.879	1.029	0.306
Public Procurement and Disposal Act, (2005) intersection Enforcement	1.752	0.468	3.747	0.000

Discussions

The study results indicated that on average corporations received between 3-5 complaints on quality of goods and services delivered from suppliers.

Respondents interviewed were in agreement that the implementation of the PPDA, (2005) had improved the performance of the state corporations as the complaints from users had greatly

reduced. One respondent indicated that this was as a result of involving users in all the stages of the procurement process right from planning for procurement needs, preparation of specifications, evaluations of bids, contract implementation, receiving, inspection and acceptance of delivered goods, equipment, works and services rendered. However, findings also indicated that on average corporations carried out 3 market surveys before procurement of goods and services. Compared with the number of procurements conducted by each state corporation in a financial year, the number of market surveys conducted was low and it can therefore be inferred that lack of market survey results to procurement of goods and services at very high prices. Findings are in agreement with a survey conducted by PPOA and KNBS in 2010 which established that public entities procured items at about 60% above market prices (Juma, 2010).

The number of internal audits carried out to monitor the procurement process performance was established to be very low. The findings are in tandem with the observations of Mithamo, Iravo and Mbithi, (2013) who asserted that lack of internal controls leads to inefficient procurement that highly affects development issues such as service delivery, economic growth and private sector development and decentralization. Study results also indicated that on average corporations advertised between 15-19 open tenders in the print media. Findings are in tandem with Mwangi and Kariuki (2013) who asserted that most institutions believe that open tendering may not be an efficient purchasing

mechanism and therefore prefer the alternative procurement methods.

Study established that open tender method took 30% of the corporations' budget. On average, the organisations spend 80% of their budgets on procurement. Findings are supported by those of European Commission (2010) that effective competition between suppliers produces superior procurement outcomes. Also, on average the corporations took 90 days to pay for the supplies. The findings agree with the study by Ameyaw, Mensa and Osei-Tutu (2003) cited in (Basheka, 2012). Authors identified inadequate funding as one of the major challenges affecting public procurement, that suppliers are contracted without budget allocation and public entities fail or delay to pay on time as per the contract terms.

Study established that majority of the corporations did not use e-procurement system for procurement of goods and services. Findings from the personal interviews confirmed that most state corporations had not implemented the e-procurement system. The main reason of non implementation of the system as reported by respondents was financial constraints. Study also established that on average corporations had only 2 officers with professional qualifications and only one staff who was a member of KISM. The findings concur with those of (Atkison, 2003) who asserted that procurement officers who are not professionally trained and lack awareness about regulations and procedures lead to serious consequences including application of unsound procurement practices. Kapila (2008) also observed that lack of certified procurement professionals is a critical

problem that affects supply chain management practices in public institutions.

The findings on enforcement are in tandem with a number of studies by other scholars (Sang & Mugambi, 2014; Etse & Asenso-Boakye, 2014 and Kilungu, 2014). The number of compliance audits conducted by PPOA was very low and this was confirmed by content analysis of the PPOA website which indicated that only 15 state corporations have been audited since 2009. It can be implied that the PPOA has no capacity to conduct compliance audits of all the PEs in Kenya and this can indeed be a reason of non implementation and compliance to the law. Compliance levels exhibited a below minimum level of compliance of 60% as set out in PPOA's performance monitoring plan and this can be attributed to lack of compliance audits by PPOA.

Results of the regression analysis indicated a positive linear relationship between the PPDA, (2005) and organizational performance. The R^2 value indicated explanatory power of the independent variable at 0.353. This means that 35.3% of the variation in performance is explained by the model $Y = \beta_0 + \beta_1 X_1$. The remaining 64.7% was explained by other factors not considered in the study. The constant term indicated that at zero implementation of the PPDA (2005), organizations perform at 12.134 measures. Increasing implementation of PPDA, (2005) increases the performance by 7.962. Findings are in agreement with those of Ogot, Mulinge and Muriuki, (2010) who established that regulating PP had significantly promoted transparency, quality and value for money. This implies that the implementation of the PPDA,

(2005) has influence on the performance and state corporations should therefore focus on fully implementing the PPDA as it leads to improved performance.

Enforcement also moderated the relationship between the PPDA (2005) and organizational performance. The R^2 value was .427 meaning that about 42.7% of the variation in PPDA, (2005) is explained by enforcement. These findings are in agreement with a number of studies by other scholars (Zubic & Sims, 2011; Acevedo et al., 2010; Ambe & Badenhurst-weiss, 2012; Stemele, 2009; imperto, 2005; Raymond, 2008; Hui et al., 2011; Eyaa & Oluka, 2011; Woolf, 2002; Namusonge, 2007; Manasseh, 2007 and Este & Boakye, 2014).

Since the p value for the coefficient for PPDA, (2005) was less than 0.05, the null hypothesis was thus rejected and the alternative hypothesis accepted that there is a significant effect of Public Procurement and Disposal Act, (2005) implementation on organizational performance of Kenyan state corporations.

Conclusion

Study concludes that implementation of PPDA, (2005) improves performance of state corporations. Complete rules contribute to efficiency; accountability and transparency of the procurement system, and accessibility to the rules contribute to transparency thereby resulting in economic procurement improvement. Enforcement and proper monitoring of implementation of the PPDA, (2005) by the oversight authority helps in achievement of the intended objectives of efficiency, competition, equal treatment, transparency, accountability and ethical

standards. The study therefore inferred that implementation of the PPDA, (2005) significantly leads to increased organization performance.

Study recommends that state corporations advertise tenders in the open media, PPOA and entities websites to increase greater dissemination of information, including increasing the level of public access to PP information. In order to get the best possible procurement outcomes (best value for money), PEs should generate the strongest possible competition by giving bidders the opportunity to compete on a level playing ground. Study also recommends corporations to conduct market surveys before award of contracts to facilitate informed decision making and conduct internal audits continuously to measure the efficiency of the procurement process.

Implications of the Study

Results of study indicated that enforcement of implementation of the rules increased levels of compliance; however, results also indicated that the compliance audits conducted by the oversight authority were very low. The implication is that the Public Procurement Oversight Authority (PPOA) should focus more on enforcement as it is an incentive for state corporations to increase implementation and compliance thus improving their performance.

From the descriptive statistics, the study revealed that e-procurement solution had not been embraced by state corporations yet it highly contributed to transparency of the procurement process and increased efficiency. Policy makers in government to encourage state corporations to invest in

the e-procurement solution as this will lead to increased transparency and efficiency of the procurement process

References

- Akech, J. M. M. (2005). Development partners and governance of public procurement in Kenya: enhancing democracy in the administration of Aid. *International law and politics*, 37(4), 829-868.
- Alchian, A., & Demsetz, H. (1972). "Production, information costs, and economic organization. *American Economic Review*, 62 (4), 777-795.
- Ambe, I.M. & Badenhorst-Weiss, J.A. (2012). Procurement challenges in the South African public sector. *Journal of Transport and Supply Chain Management*. (1) 242-261.
- Ameywa, C., Mensa, S. & Osei-Tutu, E. (2012). Obstacles to the procurement reforms in Ghana. *Journal of Public Procurement and Contract Management*, 1 (1), 54.
- Atkison, W. (2003). New buying tools present different ethical challenges; *Purchasing*, 132 (4), 27-30.
- Acevedo, G. I., Rivera, K., Lima, L. & Hwang, H. (2010). Challenges in monitoring and evaluation: an opportunity to institutionalize M & E systems. Washington, DC; The international Bank for Reconstruction and development/ the World Bank
- Barret, P. (2000). Balancing accountability and efficiency in a more competitive public sector environment. *Australian Journal of Public Administration* 59 (3), 58-70.
- Bauld, S. & McGuiness, K. (2006). "Value for money" Summit, 9, 1(1) 20-1.
- Basheka, B. C. (2009) Public procurement corruption and its implications on effective service delivery in Uganda: An empirical study, *International Journal of Procurement Management*, 2 (2) 415-440.
- Basheka, B. C. (2012) Public procurement skills requirements framework for local

- government procurement professionals in Uganda: A self-perspective approach. *Journal of Public Procurement and Contract Management*, 1, 1- 4.
- Bruijn, H.D. (2007). *Managing Performance in the Public Sector*, (2nd Ed.). London: Routledge.
- Callender, G., & Mathews, D. (2000). Government purchasing: "An evolving profession". *Journal of Public Budgeting, Accounting & Financial Management* 12 (2), 272 - 290.
- Collier, B. (2002). The role of ASIC in corporate governance. Paper presented at the corporate governance Summit, Canberra, 27 November,
- Cummings, G., & Qiao, Y. (2003). The use of qualification based selection in public procurement: a survey research, *Journal of Public Procurement*, 3 (2), 215-216.
- Etse, D., & Asenso-Boakyee, M. (2014). Challenges of public procurement audit; A perspective of Ashanti regional office of Ghana audit services. *International Journal of Economics, Commerce and Management*, 2 (3), ISSN 2348 0386.
- Eyaa, S., & Oluka, P.N. (2011). Explaining non-compliance in public procurement in Uganda. *International Journal of Business and Social Science*. 2 (11), 35-44.
- European Union Chamber of Commerce in China (2010). *Public procurement in china: European Business Experiences Competing for Public Contracts in China*<http://www.publictendering.com/pdf/PPStudyENFinal.pdf>.
- Gelderman, J. C., Ghijsen, W. P. & Brugman, J. M. (2006). Public procurement and EU tendering directives - explaining non-compliance. *International Journal of Public Sector Management*, 19(7), 702-714
- Gesuka, D. M. & Namusonge, G. S. (2013). Factors affecting compliance of public procurement regulations in Kenya: A case study of Butere district. *International Journal of Social Sciences and Entrepreneurship*, 1 (5), 882-896.
- Geo, R. (2008). Public procurement reforms in Ghana: An evaluation of the implemented changes. Unpublished Master thesis.
- Gunasekaran, A. (2005). Benchmarking in public sector organizations, benchmarking: *International Journal*, 12 (4), 289-92.
- Heinrich, C.J. (2007). 'Measuring public sector performance and effectiveness', in B.G. Peters and J. Pierre (eds) *The Handbook of Public Administration*: London: Sage.
- Hughes, J. (2003). Accountability rules, *Supply Management*, 8 (4), 17-18.
- Hui, W. S., Othman, R. O., Normah, O., Rahman, R. A., & Haron, N. H. (2011). Procurement issues in Malaysia. *International Journal of Public Sector Management*, 24(6), 567-593.
- Imperato, G. L. (2005). Corporate crime, responsibility, compliance and governance. *Journal of Health Care Compliance*, 7(3), 11-19.
- Jensen, M.C., & Meckling, W.H.(1976). Theory of the firm: managerial behavior, agency costs and ownership structure. *Journal of Finance and Economics*. (3), 305- 360.
- Jones, A. B., & Carey, S. (2010). Nurse prescribing roles in acute care: an evaluative case study. *Journal of Advanced Nursing*, 67 (1), 117-126.
- Juma, M.O. (2010). Public procurement reforms in Kenya. Presentation to the OECD-DAC conference, 3rd-5th May, PPOA- Nairobi.
- Kapila, P. (2008). Business ethics. *Journal of Management*, 12 (1), 224-237.
- Kenya National Bureau of Statistics. (2010). *The Kenya Economic Survey Report*, Government Press, Nairobi
- Kiama, G. P. (2014). Factors affecting implementation of public procurement act in SACCO societies in Kenya. *International Journal of Academic research in Business and Social Science*, 4 (2), 169-194.
- Kilungu, J. (2014). Towards simplification of the procurement bid challenge system in East Africa. Paper presented at the Kenya institute of supply management 5th annual conference held in Kigali Rwanda:

- Building effective procurement systems. KISM Nairobi.
- Langevoort, D. C. (2002). Monitoring: The behavioral economics of corporate compliance with law. *Columbia Business Law Review*, (71), 71-118.
- Mars Group (2011). Corruption in Government report for the year 2010. Nairobi. The Mars Group. Accessed on www.marsgroup.org on 14th August 2013.
- Manasseh, P.N. (2007). *A Text Book of Principles of Auditing*. Nairobi: McMore Accounting Books.
- Marris R. (1964). *The Economic Theory of Managerial Capitalism*, London, Macmillan.
- Mithamo E., Iravo, M & Mbithi, S. (2013). Effect of procurement regulations adherence on administration of the procurement process in Kenyan public entities: a case study of Kenya rural roads authority. Proceedings of 1st JKUAT-SHRD Research Conference 12th and 13th September 2013
- Mugo, H. (2013). Determinants of procurement regulatory compliance in Kenyan electricity generating company. *International Journal of Social Science and Entrepreneurship*, 1 (7), 267-25.
- Muriungi, I. (2014). Public participation and civilian oversight: The key to improving integrity in public procurement, Transparency International: Advocacy & legal advisory centre.
- Mwangi, T. D., & Kariuki, T. J. (2013). Factors affecting compliance of public hospitality entities to public procurement laws and regulations in Kenya. *International Journal of Business and Commerce*; 2 (10), 66-78 (ISSN: 2225-2436).
- Namusonge, G.S. (2007). Entrepreneurial finance and micro, small and medium enterprises innovations in Kenya, proceedings of 2006, Jomo Kenyatta university of agriculture and technology, scientific, technological and industrialization conference, JKUAT - Harnessing scientific and technological synergies for innovation and rapid industrialization.
- Njiru, E. (2008). The role of state corporations in a developmental State: The Kenyan Experience. A paper presented to 30th African association for public administration and management annual roundtable conference, Accra Ghana on 6th – 10th October
- Ogot, M., Mulinge, M., & Muriuki. R. (2010). Impact of public procurement law on profit oriented state owned corporations in Kenya. *Towards new horizons in public procurement*, PrAcademics Press.
- Ojo, E. A. & Gbadebo, A. M. (2014). An assessment of non-compliance with procurement proceedings in procurement of works in Nigeria. *International Journal of Economic and Business Management*, 2(3), 25-34
- Ohemeng, K. L. F. (2009). Constraints in the implementation of performance management systems in developing countries. The Ghanaian case. *International Journal of Cross Cultural Management*, 9 (1), 109-132.
- Organization for Economic Cooperation and Development (OECD). Working party of the trade committee (2003). *Transparency in government procurement: The benefits of efficient governance and orientations for achieving it" (TD/TC/WP (2002)31/FINAL)*. Paris, France: OECD.
- Organization for Economic Cooperation and Development, (2005). *Fighting corruption and promoting integrity in public procurement*. Paris: OECD.
- Organization for Economic Cooperation and Development - Development Assistant Committee (2006). *Joint venture for procurement. Methodology for Assessment of National Procurement Systems*, (4), 1-16.
- Organization for Economic Cooperation and Development, (2007). *Integrity in public procurement. Good practice from A to Z*, OECD Publishing, and Paris, France.
- Osei-Tutu, E., Mensa, S., & Ameyaw, C. (2011). *The level of non compliance with the Public Procurement Act (663)*, Nigeria.

- Public Procurement Oversight Authority, (2010). PPOA Journal. October Edition, PPOA, Nairobi.
- Public Procurement Oversight Authority. (2010). Background Information. Nairobi: PPOA.
- Raymond, J. (2008) "Benchmarking in public procurement", benchmarking: An International Journal, 15 (6), 782 – 793.
- Republic of Kenya, Kenya Gazette Supplement Acts (2005): Public Procurement and Disposal Act, 2005, Supplement No. 77, Act No. 3, Government Press, Nairobi.
- Republic of Kenya, (2013). Report of the presidential taskforce on Parastatals reform.
- Rungtusanatham, M., Rabinovich, E., Ashenbaum, B., & Wallin, C. (2007), Vendor owned inventory management arrangement in retail; An agency theory perspective. Journal of Business Logistics, 28 (1), 11-35.
- Sang, W.K. & Mugambi, F. (2014). Factors affecting compliance with public procurement laws and regulations in public institutions in Kenya: A case study of public entities in Mombasa County. International Journal of Social Science and Entrepreneurship 1(11), 650-671.
- Sparrow, M. K. (2000). The regulatory craft: Controlling risk, solving problems and managing compliance. Brookings Institution Press, and Washington, DC.
- Stemele, B. M., (2009). Assessing good governance in procurement at Lejweleputswa district municipality. Masters dissertation. University of Stellenbosch
- Teelken, C., & Smeenk, S. (2003). "Toward a single quality assessment system in higher education? Composing an outline for international comparative quality assessment, european conference on educational research, University of Hamburg, 17–20 September, education online:
<http://www.leeds.ac.uk/educol/documents/00003538.htm>.
- Thuo, W. & Njeru, A. (2014). Effect of public procurement reforms on service delivery the National spinal injury referral hospital, Nairobi. International Journal of Business and commerce, 3 (8), 70-81.
- UNDP. (2010). Accountability in public procurement - transparency and the role of civil society.
- Verbeeten, F., & Boons, A. (2009), "Strategic priorities, performance measures; an empirical analysis in Dutch firms," European Management Journal, (27), 113- 128.
- Waijano, J. W., Mukulu, E., & Kahiri, J. (2012). Relationship between strategic human resource management and firm performance of Kenya's corporate organizations. International Journal of Humanities and Social Science, 2(10). Special Issues.
- Woolf, E. (2002). Auditing today. London: Prentice Hall.
- Xingxing, Z. & Kaynak. H. (2012). An agency theory perspective on supply chain quality Management. International Journal of Operations and Production Management, 32 (4), 423-446.
- Zubicic, J., & Sims, R. (2011). Examining the link between enforcement activity and corporate compliance by Australian companies and the implications for regulators. International Journal of Law and Management, 53(4), 299-308.