

Evaluating Value for Money in Procurement among Government Ministries in Kenya

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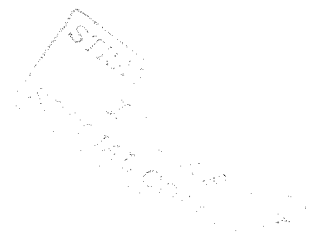
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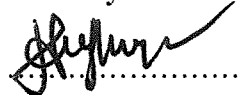


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ABSTRACT

This study aimed at evaluating value for money in procurement among government ministries in Kenya where there is a controlled procurement process by an Act of parliament. In the study, both qualitative and quantitative methods were used to answer the research objectives using data collected from the 42 ministries. It was established that, in regard to legal framework in public financial management, there is an average compliance to the procurement law. It was noted that the market price index tool (market price list) is not commonly used as required by the Public procurement oversight authority (PPOA). Competition through open tendering is not embraced hence alternative procurement methods which are exposed to abuse are commonly used. However, the oversight authority remains steadfast in carrying its mandate as required by the procurement Act as well as the institutional committees and structures within the ministries is adhered to by officers who are held responsible for procurement processes. The study establishes the extent to which value for money in public procurement has been achieved since implementation of the Procurement Law and also provides knowledge in public procurement so that scholars may appreciate how regulated systems may or may not provide value for money in procurement process. For justification of public financial management, the study recommends for strengthening the legal framework especially in provision of better policy on maximum prices that ministries and other public entities should pay for goods, works and services in order to achieve the objectives of the procurement Act.

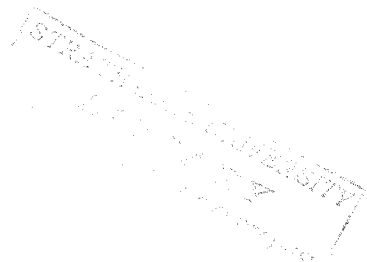


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ACCRONYMS AND ABBREVIATIONS

IDF	Institutional Development Fund
PPOA	Public Procurement Oversight Authority
PPARB	Public Procurement Administrative Review Board
PPDA	Public Procurement and Disposal Act
GDP	Gross Domestic Product
UNCITRAL	United Nations Commission on International Trade Law
UN	United Nations
ACT	The Public Procurement and Disposal Act of 2005.
Regulations	The Public Procurement and Disposal Regulations of 2006.
IMF	International Monetary Fund

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CHAPTER ONE

1.1 Introduction and Background

Public procurement has become increasingly an important factor in global economic and business activities. This is evidenced by the continuous concerns by the governments, civil societies, professional bodies, the private sector and the general public. Public procurement in any country plays a key role in ensuring that citizens are provided with the wide range of goods, works and services that support public service delivery. Citizens rely on public bodies, which include government ministries, state corporations, commissions, public learning institutions, constituency development funds, public hospitals, savings and credit societies, parliament, local authorities and any entity that draws its fund from the government consolidated fund or the exchequer, to spend their budgets wisely, and they rightly expect that public contracts should deliver the best possible “value for money” while supporting high-quality public goods and services with due consideration to the impact on the local and global environment (Bueno & Levy 2009).

Value for money is the optimum combination of the whole life cost and quality to meet the customers’ requirements and/or going beyond the price to get the best available outcome when all relevant costs and benefits over procurement cycle are considered. The 1970’s, 80’s and 90’s saw the public sector expand under the Government of independent Kenya. As the sector expanded there was quite a lot of expenditure on procurement of goods and services to improve virtually all sectors of the economy. In the last five decades, the public procurement system has undergone major significant developments. The system has evolved from an un-orderly regulated system to a system governed by an the Public Procurement and Disposal Act of 2005 and

Regulations of 2006 as per powers conferred to the minister of finance by section 140 of the Act and from the Treasury directives (see appendix 3, table 1).

The enactment of the current Act and Regulations was initiated in 1997 under the Institutional Development Fund (IDF) grant of the World Bank. This was after the Country's Portfolio Performance Review (CPPR) and the Country's Procurement Assessment Report (CPAR) of 1996 and 1997 respectively identified the weaknesses of the public procurement system that needed to be addressed (Mwangi, 2004). The Country's Procurement Assessment Report (CPAR) identified the following weaknesses in the system; Lack of a legal framework governing public procurement, Inadequate fair competition in procurement processing, Lack of adequate transparency in the procurement system and Lack of proficiency and competence in majority of staff responsible for procurement.

In addition to the above, abuse and mismanagement of contract variations and overpricing (buying at inflated prices) and incomplete evidence of receipt of goods and services paid for, and excessive delays in the procurement process, further complicated the procurement system in the country. (CPAR 1997) even though government does not fix market prices of goods and services that are procured by public entities, it was deemed necessary to seek support and procure at prices within the ranges as may be within different segments of the available markets. Corruption and abuse of office for many years, within the public sector led to the purchase of goods and services at inflated prices to cater for the percentage of any cash that was purportedly shared by the concerned officials.

(Task Force on Public Procurement Reform, 1999) reported that operating through inadequate financial planning, the government was unreliable business partner leading to delayed payments

on supplied goods and services; consequently bidders sought to offset these risks by higher prices. But the task force also noted that the system suffered several forms of malpractice including vested interests and high levels of corruption.

In order to counter the weaknesses in the government/public procurement, notable reforms took place within the period covering 1997-2001 out of which public regulations were issued from the Exchequer and Audit Act under the Ministry of Finance which unified all circulars that had governed public procurement. The Exchequer and Audit Act abolished the Central Tender Board and public entities were allowed to establish their own tender committees and begin to procure independently.

The Public Procurement Appeals Board (PPAB) was dissolved and replaced by the Public Procurement Advisory Review Board (PPARB) a body that gave contractors and suppliers a right to appeal in case, they are not satisfied with award of public tenders. In the year 2005, the Public Procurement Reforms entered into climax with the enactment of Public Procurement and Disposal Act, establishment of the Public Procurement Oversight Authority, Public Procurement Oversight Advisory Board, and the Public Procurement Review Board.

In order to bring back sanity and give the public value for money by making savings from overpriced goods and services, the oversight authority developed a tool that was titled as a market price index. The tool as it was developed was just a market pricelist, which is referred to as Market Price Index in public sector, which was created from a survey in three major regions of Kenya. The regions included the western area, coast and Nairobi. The tool was in its wisdom to manage and guide purchasers or entities at maximum prices they could purchase commonly used goods and services. Currently the public procurement system in Kenya is managed and

regulated by the Public Procurement and Disposal Act (2005) and the Public Procurement and Disposal Regulations (2006) which applies to all public entities. The Act is designed to open up Kenya's public procurement system to wider competition, to promote private sector and to increase free movement of goods and services. These legislations also aid in helping to bar participants of unscrupulous bidders whose main intention is to defraud the public through non delivery, overpricing of goods and services, contract variations, develop institutional capacity within public entities, enhance and encourage competition in public procurement and facilitate creation of oversight function in public procurement.

As the country's operating budget continues to expand, the public entities are increasingly looking to private sector to provide goods and services. Through the public procurement process they contract sellers and service providers through legal terms and conditions as may be spelled in the contractual or bid documents. In their study, Rhodd, Scott & Thai (2006) states that the objective of all economic activities (public sector as well as private sector) is the allocation of scarce resources among alternative uses to maximize individual welfare and in the end the community's satisfaction.

To get value for money, public procurement must be measured by and against complex and long term criteria. It must be transacted with consideration like accountability, non-discrimination among potential suppliers and respect for international obligations in order to protect public interest. Efficiency in public procurement determines the country's development (Chemengich, 1961). Therefore public procurement is an area of great economic, political and legal significance representing a significant proportion of economic activities to the country. As at the

financial year 2008/2009, government procurement expenditure accounts for about 10% of the Gross Domestic Product (GDP) (Juma, 2009).

1.2 Problem Statement

Public procurement involves a complex set of choices embracing what to buy, from whom to buy, how to buy and selection criteria. With better regulations, oversight and good institutional arrangement, it is assumed that the public purchaser will achieve the best in goods and services acquired. The primary impact on regulated public procurement therefore is to secure the best possible value for money in the way goods and services are procured, to ensure public money is prudently spent.

Since the inception of procurement reforms in Kenya, little study has been done that dealt with the value for money of procured goods and services within the public sector. Therefore legal policy on public procurement is based on a set of guiding principles which include transparency, competitiveness, accountability, efficiency and legality and have the ultimate aim of supporting the delivery of best value for money to the public. Arrowsmith (2012) noted that, it has often been said that this is the primary goal of most procurement systems, although this is by no means a universal view, nor perhaps true of every procurement system.

Though action has been taken to ensure compliance with the established law/regulations, it is still noted that the system continues to suffer from various forms of malpractice and unethical conduct, hence leading to inefficiency, corruption and undercutting which leads to loss of huge amounts of public resources. Investigations have shown that many public entities are procuring hazardly and hence making fraudulent payments from public revenue for goods and services that are acquired fraudulently, overpricing of goods and services and unequal opportunities to

interested suppliers of goods and services where by open and effective competition is curtailed. (KACC, 2010). It is also noted that, through a judicial and impartial adjudication of matters arising from disputed procurement proceedings, on average there are 60 successful appeals against public entities on procurement to the Public Procurement Administrative Board (PPARB) of PPOA which are due to non-compliance to the Act.

In this basis the thrust of this study will be to find out whether with legal framework and institutions in place, the oversight function, the prices guides and the stated competition through stated objectives, do have an impact in public procurement to providing value for money. The study will therefore seek to answer the question, To what extent has the implementation of the Public Procurement and Disposal Act of 2005 led to value for money in procuring goods and services in the public sector? Since there has been very few studies in public procurement and non-relating to public finance, the study will contribute towards filling the gap in research.

Therefore, best value for money is the optimum combination of whole life cost, quality, pricing and timely deliveries to meet the users requirements in a regulated environment with proper institutional arrangement and fair competition, a concept that the study will seek to find out.

1.3 Objectives Of The Study

1.3.1 General objective

The main objective of the study was to establish the extent to which value for money in public procurement has been achieved since implementation of the Public Procurement and Disposal Act.

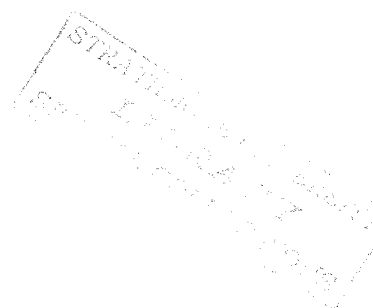
1.3.2 Specific Objectives

The Specific objectives of the study in line with the Public Procurement and Disposal Act were:

- (i) To determine the extent to which the market price list recommended by PPOA is used by government ministries in competitive public purchasing.
- (ii) To establish whether public Procurement Oversight authority is overseeing procurement within the ministries as mandated towards achieving the objectives of the law.
- (iii) To establish whether ministries constitute all structural requirements as required by the procurement law when conducting a procurement process.

1.4 Justification Of The Study (Purpose And Significance)

In contribution to procurement profession in Kenya, this study will seek to explore the flow of knowledge (knowledge transfer) in procurement, in order for persons in different sector may appreciate how a regulated procurement system may or may not provide value for money. The study will probe public financial management and the knowledge expertise in public procurement activity through the use and application of the knowledge by public officials in government ministries.



Other than the procurement knowledge that may be widely needed across all sectors, the study will seek to justify the political motive and the public financial management to give the public a procurement system that caters for value of public funds through legislation. The legislation aimed at curbing any chances of corrupt activities and any open-ended loopholes that could be used by the stakeholders to defeat the purpose of the Public Procurement and Disposal Act, 2005, which aims to increase transparency efficiency and accountability in those procedures.

This study aimed at looking into the significance of the Act and as per section 2 of the Act to relate it to the expected national savings of up to 10% of the total Kenyan GDP due to improvements in their procurement practices, and find out whether the policies and guidelines issued from time to time on price indices and threshold matrices as per the Procurement Regulations of 2006 are adhered to. The purpose of this Act was to establish procedures under the disposal of unserviceable, obsolete or surplus stores and equipment by public entities. From these kind of activities, there is always a potential impact on a wide range of groups and persons. These include;

1.4.1 Tax payers and funding agencies

It is important to secure the best possible value for money in the way goods and services are obtained, to ensure that public funds are spent prudently. Large amounts of public funds are utilized by public entities to purchase goods and services hence vast amounts of money are therefore expended through the public procurement system. A procurement system that has loose or opaque rules and which are also poorly enforced provides opportunities for misuse of monies collected from citizenly or tax payers and donors. Therefore this study will provide information on procurement in government ministries.

1.4.2 The beneficiaries of goods and services

These are users of the procured goods and services. Therefore performance of contractors/suppliers have a direct and important impact on the public sector's ability to fulfill its responsibilities to its citizens and the effective management of procurement process to ensure an appropriate choice of provider as a key element to the process. (Arrowsmith, Linarelli & Wallace, 2000)

The public sector uses the public procurement towards promoting environmental goals and developing welfare of the disadvantaged groups in the society. The disabled and marginalized people are able to receive public goods in reasonable time. Development of any nation's economy depends on the public goods and services which mainly support players in from different sectors. All these depend on the procurement practice employed by the government.

1.4.3 Business Community

Some firms entirely may, indeed, depend on government business, especially in industries such as defense, telecommunications and road constructions, where the government may be the main, or the only, customer

Efficiency in public procurement fosters a national industrial growth and hence high employment rates through encouragement of competition and also by supporting the most competitive firms and products and with the frameworks of supporting Small and Medium Enterprises (SMEs). Business communities and their collaborators in the public institutions who benefit from such public procurement systems have a very deep vested interest in the maintenance of a good procurement system and a legal framework that encourages healthy competition and transparent

processes. However, Hunja (2001) noted that in many developing countries, access to public contracts by business community serves as a means to reward political connected individuals and technocrats who work in the government entities hence denying many businesses chance to do trade with the governments. This study will aim to provide knowledge on how to traders on the very objectives of the Act.

1.4.4 Government Oversight Bodies

In most developing countries, public procurement has been used by the political patronage to gain political advantage. Practices of this kind may seriously prejudice the effective and value for money procurement. This study will identify the weaknesses that may lead to this oversight authorities hence deal with noncompliance.

Therefore the research will help the authorities (Public Procurement Oversight Authority and Ministry of Finance) to know shortcomings of the system are, and may use the recommendations thereafter to make any necessary improvements.

1.5 Organization of the Study

The study provides the initial systematic and comprehensive insight into the developments of public procurement in Kenya. Given the scale and importance of public procurement and the reforms that have been carried out in many countries across the world, the paper gives an insight of what other writers have talked about value for money in public procurement by discussing the legal side, prices of commodities and services, the oversight function and the institutional framework. Therefore chapter one discusses the background information and objectives of the study. Literature review, methodology, presentation of research findings and discussions are discussed in chapters two, three, four and five respectively.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter begins with introducing public procurement and reforms thereafter, the theoretical framework and theories as discussed by various scholars. A comprehensive insight on what other writers have said about value for money by use of specific variables including legal/legislation, oversight functions, the pricing guidelines on goods and services, the institutional structural framework, and value for money defined.

The conceptual framework brings together all variables to indicate their relationships with each other and conclude by discussing the operationalization of the terms based on a synthesis of ideas from my own experiences with the public procurement activities in Kenya. This chapter therefore discussed the theoretical framework, conceptual framework and operationalization of terms.

2.2 Theoretical Framework

Public Procurement in general refers to the function of purchasing/acquiring goods and services by public entities such as Government ministries, parastatals and municipalities from an outside body (Arrowsmith, Linarelli and Wallace 2000). Public procurement “the main target of reform” refers to the situation in which it is the Government (central or local) or any public body that purchases items from the market other than when a public entity enters into contractual relationship/agreements to purchase from a public entities or state owned firms, the relationship is not considered as a public procurement by the Act. The purchases are made with a view of fulfilling the tasks of government in providing public services (Trepte, 2004). Public Entities seeking value for money constantly need to consider whether they can obtain better value by

contracting out or outsourcing to private sector rather than performing those functions of Government owned industries and business or “in-house” with other public entities or employee.

There can be no doubt that the regulation of public procurement has recently undergone and continues to undergo-such significant development that is appropriate to speak of a “global reform” or even a “global revolution” (Wallace, 1995). This section of the paper examines a number of public procurement studies and the legal systems in order to investigate whether value for money in Kenyan public procurement is achievable. Public procurement according to Brammer & Walker (2007) found out that governments are committed to more widely and deeply embedding sustainability in procurement practice.

They need to continue to provide clear legislative and regulatory support for sustainable procurement hence value for public money. Hunja (1998) confirms that codified with rules and regulations a purchaser will get value for money. However, Arrowsmith (2004) disagreed with supporters of national legislation citing that the laws are discriminative and prohibits foreign suppliers from participating in national procurement leading to locking out the best quality of goods and services from the international market. In this case, the legal framework is a basic factor in analyzing value for money in Kenya.

In oversight function in procurement Thompson (2005) conceptualized the ethics of oversight as focusing on “the moral responsibility for seeing that other people act rightly and when they do not, the responsibility of acting to correct the problem”. In the Kenyan situation, the oversight

function is a concept bestowed in one government body that oversees procurement in the public sector.

Thai, (2001) noted that public procurement practitioners have always walked on a tight rope. Their ability to accomplish procurement objectives and policies is influenced very much by internal forces. Market conditions have a great influence on public procurement practitioners' effort to maximize competition. Moreover, the market determines whether or not socio-economic objectives of procurement are accomplished, whether or not a governmental entity can fulfill its needs; the timeliness of fulfillment; and quality and costs of purchased goods, services and capital assets. This led to development of the price index that will always be used as a standard guide in general prices within the economy.

The Agency Theory

In agency theory where the principal is considered to be the state in this case and agent being the procurement entities, Bishop (2005) noted that public control system on procurement must be more elaborate and formal so that the institutions that are referred to as procurement entities have defined obligations and duties of the public ex ante by means of procedural regulations. In this case, the state being the principal, government entities though good elaborate structures which will create the whole function of an entity to manage resources under them in which procurement of goods and services is the main activity.



Economic Theory

Economic theory as mentioned by Arrowsmith & Hartley et al. (2002), if policy objective is economic efficiency, then the procuring entity should act as a competitive buyer by specifying product requirements and allowing free entry for bidders and then selecting the most advantageous bid and awarding a fixed price contract. This model requires the government to know what it wants, that its requirements can be incorporated into a completely specified contract and that there is competitive market amongst suppliers.

In Economic efficiency, it is assumed that market is the sole means of allocating resources, all purchasing decision made by individual consumers will be made with a view of maximizing their own benefit or utility. The assessment of value for money is often complicated when the purchaser is faced with a choice between differentiated products and services. Trepte, (2004) and Grier, (1998).

The assessment is further complicated when the purchaser is government. Economic efficiency is the reflection of allocation of resources guided by 'Adam Smith's invisible hand', in which a free market each participant will try to maximize self-interest, and the interaction of market participants, leading to exchange of goods and services, enables each participant to be better off than when simply producing for himself/herself. In a free market, no regulation of any type would be needed to ensure that the mutually beneficial exchange of goods and services took place, since this "invisible hand" would guide market participants to trade in the most mutually beneficial manner. Allocation efficiency is blind to the fairness and equity of the outcome. As a concept, 'value for money' hereby is contingent on individual preferences, on availability of

differentiated products and services and on the political and social value judgment of governments which reflect the collective will and the preferences of the majority.

Transparency, accountability and efficiency challenges cut across contexts and are invariably observed in most developing countries such as vague and dispersed procurement rules, weak controls and oversight mechanisms, political interference or lack of capacity of procurement officers. Brammer and Walker, (2007), argue that, public procurement in the European Union is governed by a set of similar national policy frameworks concerning the objectives of public procurement to those described for the UK, coupled with an overall policy framework that is designed to open up the EU's public procurement market competition.

This is also the case in East African countries where they are coming together to open up a common market for the member countries for increased competition and hence better quality of goods and services available to public procuring entities. All these variables have been discussed and studies have been done on related activities and many scholars came up with different ideas and opinions.

2.2.1 Development of the public procurement law and the legal environment

One question that causes a fair amount of debate in a number of common law – countries where Kenya is one, who have inherited a procurement based on the United Kingdom (UK) model is the type of juridical form or instrument that the reforms should be put in place to regulate public procurement (Hunja 2001). In her paper, ArrowSmith (2004) noted that, due to the shortcomings of inherited methods and in order to promote trade a Government Procurement Agreement of the world Trade Organization (GPA) was made to merely prohibit discrimination and establish a procedural frame work for making foreign suppliers aware of opportunities and ensure that

entities cannot hide discrimination. With the GPA, it never offered a blue print for achieving domestic objectives, such as value for money. In order to achieve the national objectives, there was a considerable achievement by making a UNCITRAL model law by United Nations (UN) which provided for early/first procurement laws of countries in Central and Eastern Europe. More recently, it has been used to reform existing systems in a diverse range of countries including Kenya hence creating a regulatory provision to promote and modernize domestic objectives.

Gershon (1999) recognized that changing delivery patterns as a result of the governments' modernization agendas would have an impact on procurement, but crucially continued to emphasize the need to obtain value for money. Value for money had long been advocated as primary of government purchasing having been identified in the first significant review of government purchasing. Regulatory provisions are often put in place for which will be termed as domestic reasons, where individual governments use regulations and national laws to promote domestic objectives. Paramount amongst these is to achieve value for money in procurement by adopting formal rules governing matters such as tendering procedures and approval processes for major contract awards. (Hunja 1998, Arrowsmith, Hartley et al, 2002, & Dischendorser 2003).

As noted by Agaba & Shipman (2006), in most developed countries, public procurement takes place within a framework of international obligations, such as the World Trade Organization's Agreement on Government procurement or the Procurement Directives made under regional agreements such as the European Union or the North America Free Trade Agreement. Public procurement in developing countries may not be bound to these international rules but managed and guided by locally enacted laws and regulations.

Brammer & Walker (2007), found out that committed governments to have a widely and embedded sustainable procurement practice, they should have provided a clear legislative and regulatory support for public procurement system. To achieve value for money, Kenyan government was prompted to enact the Public Procurement and Disposal Act of 2005 and a subsidiary legislation entitled Public Procurement and Disposal Regulations. With the existence of legal and regulatory framework from highest level in government of Kenya, more policies, procedures, guidelines and standards conditions have been put in place.

2.2.2 The Market price lists (Price Index)

According to National Audit Office (2012), they noted that, if markets work effectively they tend to promote social welfare by allocating scarce resources efficiently among competing needs. Consumers provide incentives for firms to lower prices improve the quality of goods and services and develop new products to suit changing needs.

Trepte (2004), states that, procurement cycle and regulation of procurement are not always coextensive. Procurement involves the purchase of items from the market but the prices of purchasing involve many stages from the initial recognition of the need for items to the final stage of ensuring competition. Government's procurement requirements will often be a matter of policy and entail consideration of internal budgeting Majone, et al. (1996). The considerations which give an entity the decision to procure goods and services from the market, are considerations that pre-date any concern with the conduct of the procurement although they are of direct concern of the governments/departments overall budgeting.

However, development of procurement regulations and reforms within the manual economy implies that its purpose is in some way an instrument of pursuit of economic welfare. In a market economy, economic welfare is achieved in part by pursuing the objective of economic or allocative efficiency. Therefore, regulations can give rise to; Attempt to correct market and institutional failures in order to achieve the goal of economic efficiency and value for money, a goal that is insufficient for itself to achieve economic welfare because it is based on the assumption that optimal economic welfare will result from perfect functioning of the price market and achievement of the allocation efficiency, Economic welfare may be formulated with intention of achieving specific economic, social and political objectives which will have an

impact on the formulation of those instruments of policy employed to achieve economic efficiency.

In Kenyan situation the question of correct price that public entities should pay for goods has been canvassed for a long time and whereas it has been agreed that price results from market forces of demand and supply. Base line survey by PPOA on procurement of common-user items revealed that the public lost substantial amounts of funds in the past due to overpricing. According to African Development Bank (ADB) 2002, good procurement follows the principles of economy (best value of money), efficiency, fairness and transparency. A system that encourages as many qualified firms as possible to compete on basis of price, while ensuring objectives are met is most likely to satisfy these principles.

The law provides that procurement of standard goods, services and works with known market prices shall be procured at prevailing market price. In their paper in Brazil, (Blancas et al., 2011) noted that, for the states to achieve and get competitive prices, there is a legal basis that pricing of contracts is done as per the market dictates. Financial evaluation is done before technical evaluation so as to eliminate any contractor whom has higher prices than the true market prices. They indicate that the country has enacted laws allowing pricing public institutions to pick contractors who have quoted not only the prevailing market prices but also the lowest. The procurement laws as enacted in different countries give guidelines on how to procure goods, works and services without having to pay excessively beyond the market prices. The Kenyan Act through procurement regulations allows for formulation of thresholds that guide all public entities.

PPOA recognizes the challenges faced by accounting officers or chief executive officers of procuring entities in their Endeavour to achieve value for money. As a result, PPOA developed market price index and any deviation from the reference prices should be based on the prevailing consumer price index obtained from Kenya National Bureau of Statistics or the monthly inflation rate issued by the central bank of Kenya. Nevertheless, no much effort has been made towards the literature to measure the impact of price index tool within the procurement system. In this paper, the study attempted to provide more literature as explained in other subsequent section.

2.2.3 Oversight Authorities

Thompson (2005) conceptualizes the ethics of oversight as focusing on the moral responsibility for overseeing actions of officers and that they act within the legal framework. With this, oversight encompasses both holding policy makers responsible for creating and maintaining the conditions for proper institutional oversight holding overseers responsible for fulfilling their valance duties. We rely on oversight to protect our finances, safety and ensure public services are provided properly, efficiently and effectively. However it does not prevent losses, conversely flawed oversight bears partial responsibility on financial fiascos and service failures.(Schwartz, 2005)

Prof. Arrowsmith, (2010) noted that, in the United Kingdom, particularly in central government, controls over procurement policy – such as requirements for competition – have been applied predominantly through administrative directions and guidelines from the Treasury which is the oversight body. These are supplemented by internal rules and policies developed by the oversight body and adopted by the procuring entities themselves. A substantial system of legal rules has

been adopted in the United Kingdom only from the 1990s as a result of the requirements of European Union procurement law.

Rothery, (2003) noted that Centralized oversight is generally recognized as an important component of a country's procurement system and is an evolving feature of a country's legal framework. It should be noted that the regulatory or supervisory authority provided for in the legal framework is a central policy-making body, no doubt introduced to insure policies are truly national. Hunja (2001) noted that comprehensive procurement reforms have largely been successful only in those countries who have established oversight entities whose role is procurement policy formulation and general oversight of procurement system.

Agaba & Shipman et al. (2006) and AfDB/OECD (2008), noted that an oversight authority can only ensure value for money exist by having an effective control and audit systems, existence and efficient appeals mechanism, high degree of access of information and existence of ethics and anti-corruption measures. Just like many other countries including Uganda and Tanzania whom are in the same trading block with Kenya, one of the significant institutional developments of the Act is the establishment of Public Procurement Oversight Authority (PPOA) the first institution of its kind in Kenya and expected to play a substantial role in overhauling the processes of public procurement. Section 9 of the Act confers PPOA with the functions of ensuring that procurement procedures as established by the Law are complied with, monitor procurement system, implement and operationalize the public procurement system in the country.

2.2.4 Institutional Structures and Committees

Life in society is organized around complex systems in which and by which man tries to bring some semblance of order to his universe. Life is organized around institutions of all sorts where public entities are included, (Gigch 1974, p.1). The word “institution” to refer to an organizational entity and some use the term to refer to rules, norms and strategies adopted by individuals operating within an organization, (Ostrom, 1999, p.37). Traditionally, an institution is defined as an assembly or a set of related elements, (Gigch, 1974, p.1). Thai (2001) viewed the public procurement as an extreme complicated function of government institutions with experts of interdisciplinary skills and knowledge are required to achieve value for money.

In his paper, Bishop (1990) observed that, the public procurement control system is and must be elaborate and more formal. Probably the most important method of control is through the obligation and duties of the public agents in the government institutions whom are agents ex ante by means of procedural regulations. Hunja et al (2002) states that a strong and well-functioning procurement system would be one that is governed by a clear legal framework establishing rules for transparency, efficiency and mechanisms of enforcement, coupled with an institutional arrangement that ensures consistency in overall policy formulation and implementation. A professional cadre of staff that implements and manages procurement function is also necessary. He further noted that, studies and assessments of procurement systems in many developing countries, however, have consistently indicated weaknesses in most if not all of these areas.

Hunja & Chard (2005), noted procurement has been recast as a process of supply change management involving decisions to acquire, maintain and sell off unnecessary assets (Ref Appendix 2). Procurement specialists work alongside other leading officials and participate in

decision making on how the entities will manage and spend their resources in procurement. The officials are as set out in PPDR part II. The Internal Organization of a procuring entity provides the role of the Chief Executive Officers/Accounting officers; users; procurement units and its specialists; the tender, procurement, evaluation and inspection committees; procuring agents and planning.

To ensure effective functioning of public procurement markets (and thereby maximizing value for money) will necessitate addressing two distinct but related challenges. 1. Ensuring integrity in related administrative process, 2. Promoting effective competition among alternative suppliers. (Anderson & Kovaci, 2009). The public sector, by virtue of its overall demand in certain markets, may be in a position to protect and promote competition, for example by maintaining a competitive market structure through deliberate sourcing its requirements from a range of suppliers, by providing incentives to suppliers to invest and innovate, or by helping firms to overcome barriers to entry. However, this paper notes that the above system may also restrict or distort competition. (Kearney, 2004)

According to African Development Bank (ADB) 2002, good procurement follows the principles of economy (best value of money), efficiency, fairness and transparency. A system that encourages as many qualified firms as possible to compete on basis of price, while ensuring objectives are met is most likely to satisfy these principles.

The procurement laws as enacted in different countries give guidelines on how to procure goods, works and services. The Kenyan Act through procurement regulations formulates thresholds of the PPDR First Schedule, Threshold Matrix that guide all public entities whom are classified into class A, B and C. Though many countries try to exercise the preference and reservation

schemes in order to protect local growing firms like SMEs, competition is quite key and paramount in enhancing efficiency and transparency hence leading to achievement of value for money in public procurement.

Depending on the laws of Kenya therefore provides for a guide/threshold through the Public Procurement and Disposal Regulations in order to encourage local and global competition when procuring. The Act therefore provides that with given thresholds, a public entity can either use, International open tenders, National open tenders, Restricted tenders, Request for proposals, direct procurement, Request for quotations and low value procurement. All these methods are expected to be done fairly and competitively.

2.3 Conceptual Framework

The conceptual framework of this study has been developed from other related researches carried out previously. In their paper, Odhiambo & Kamau (2009) stated that in public procurement's economic results must be measured against complex and long term criteria which must be translated with considerations like accountability and non-discrimination among potential suppliers. Hence the procurement process should be subjected to enacted regulations and to private public interests to ensure the process is economical and efficient.

In his paper, Kuichana (2009), (the procurement Act is not a tamper proof), states that it is evident that there has always been inertia on the part of Kenya's state authorities to put in place legislation to combat procurement malpractice. Now that the Act and Regulations are in place, it is upon incumbent oversight bodies to subject all public entities engaged in public procurement to the set standards under the Act and give the public value for their money.

Most of public procurement studies were undertaken before the enactment of the Public and Disposal Act, 2005, and Public Procurement and Disposal Regulations, 2006 a period (ref appendix 1) when reforms were still in process. Since the promulgation of the procurement law in January 2007, there has been a tremendous reform in the public procurement although not at its best to seal all the loopholes that compromised value for money. In this context, the study undertook incisive assessment of the procurement process under the current arrangement to determine the level of public procurement on the value for public money (funds). As Robert Hunja (1998), states in the UNCITRAL Model Law on Procurement of Goods, Construction and Services and its Impact on Procurement Reform, the law codifies the common understanding that the public purchaser will most likely get the best value for money when the procurement procedures are characterized by transparency, wide competition, economy and efficiency. The study therefore sought to evaluate value for money in procurement among government ministries in Kenya through the stated objectives.

The procurement law and policies include the Act of 2005, regulations of 2006 and policy documents given by the oversight Authorities. The procurement law creates the oversight authority and gives the procurement entities an independent mandate to determine the right prices and quality through market surveys. Operationalizing this variable has an important political characteristic since it stems from a parliamentary legislation. Therefore the greater levels of compliance to the Act and Policy issued will be related to high levels of value for money in public procurement.

The Oversight Authority has the mandate to oversee and give guidelines on public procurement policy. For PPOA to ensure compliance of the Act, it must ensure that policies are adequately formulated and are in force, positive relationship between compliance matters and professionalism of the officers overseeing the function of procurement, proper and competent structures that deal with complaints from the market entities, prompt reviews/audits of entities to ensure compliance and regular reports to other oversight agencies.

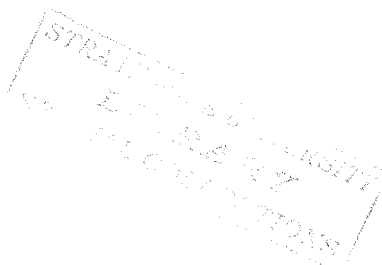
Section (30) of the Public Procurement and Disposal Act provides that procurement of standard goods/commonly used items, services and works with known market prices shall be procured at prevailing market prices. Therefore the market price list is a normalized average of prices for common user items and services in a given region during a given interval of time. This helps to trace changes in price of individual goods and services hence aiding the public entities not to procure goods and services at inflated prices or at different prices from the other public entities. In his model, Thai (2001) depicted public procurement function to have processes, methods, organizational structures, procurement workforce and a feedback mechanism. It is noted that from the Act, that all public bodies are procurement entities and shall independently carry out procurement activities. The Entities institution arrangement shall be headed by an accounting officer whom shall create a procurement unit with qualified personnel and a professional workforce to facilitate the process with workable institutional structure as stipulated in the Act in relation to various committees that perform procurement activities.

According to Thai (2001), market conditions have a great influence on public procurement practitioners' effort to maximize competition. Supporting this theory, the Public Procurement

and Disposal Act of 2005 was enacted with an objective to promote and enhance competition in public procurement hence ensuring that the government gets value for money. The Public Procurement and Disposal Regulations of 2006 provide thresholds that guide on the procurement method that will be applied on each tender.

These include open tendering process that requires some tenders be openly advertised as required by section 54 of the Act, request for quotations from a list of qualified business firms as given in section 89 of the Act, a method based on comparing price quotations obtained from several firms with items of standard specifications and conducting regular market surveys to determine any new entrants to the market and the current prevailing market prices. Value for money is usually explained in terms of the 3Es of economy, efficiency and effectiveness (Demirag and Khandaroo, 2008; Glynn, 1985; and Glynn and Murphy, 1996). Glynn (1985, p. 29) defines economy as 'acquiring resources of an appropriate quality for the minimum cost'. It is concerned with minimizing the cost of resources acquired or used, having regard to appropriate quality (Hyndman and Anderson, 1995; and Kloot, 1999). Assessing Value for Money is therefore a complex process which requires estimating future financial and non-financial benefits of the procurement options (Glynn and Murphy 1996, Hyndman and Anderson, 1995, Heald, 2003, and Pollitt, 2003). In this study Value for Money was generally evaluated by a comparison against presence of the legal and policy enabling environment, oversight, price, and institutional arrangement.

Value for money in public procurement being an optimum combination of a whole life cost and quality concept that was looked into from the perspective of the objectives as mandated by the



PPDA of 2005, measurement and valuation of various activities under the Act. The oversight Authority in this study is the compliance and policy framework under which procurement entities are supposed be monitored. One-dimensional scaling will be used to measure compliance and operationalization of the activities of the authority.

This will include the publicity and capacity building, provision, operationalization and usage of policies and manuals, number of audits carried out and the perceptions of procurement entities towards the oversight authority. Being a new area in public procurement reform, and as per the researcher's knowledge, there has been no similar or related research that has measured oversight functions in area of procurement. In this case, a likert scale of five (5) points will be used to measure the activities of the Authority towards achieving value for money in public procurement.

Market price list (Price index) in this study is described as the price list prepared by the oversight authority that is used as the price guideline on common user items in Kenya. A study done by Rhodd, Scott and Thai (2006), measured price quantitatively by using marginal analysis to find out the prices at which government could purchase without any price mechanism. In this study, price levels are provided by the oversight authority as a guide to avoid purchasing at inflated prices. The public sector/ministries are directed by the PPOA to use the price index when procuring as a guiding tool in commodity/service prices on all common user items/services. This may also be used in planning stage of budget preparation and approval. Therefore, this study sought to measure the usage and reliability of this tool in government ministries. The researcher uses a likert scale of 4 points with other factors being explained by self-judgment of the respondents on the price index compliance.

Users and committees (Institutional arrangement) in this study include various committees as instructed in the PPDA and regulations, the heads of departments and the procurement unit within each ministry. According to Hunja (2002), institutional arrangement is directly correlated to legal framework and hence value for money. Better institutional arrangement provides for better supervisory role in expenditure of public funds, purchase of right quality and quantity and when there is need to carry out the procurement. In this study, measurement to this variable is based on compliance of the PPDA of 2005 and whether the respondents agree that with existence of proper institutional frame work leads to compliance of the Act and Regulations.

CHAPTER THREE

3.0 METHODOLOGY

3.1 Introduction

This chapter brings out the research design, target population, data collection procedure, presentation and analysis.

3.2 Design

The most suitable design considered for this study is a non-experimental and descriptive survey design. A descriptive design was selected because of its high degree of representativeness and the ease in which participants' opinions were obtained. (Polit & Beck, 2004, p.50). In this study, views of respondents were obtained and described in regard to their nature of experience in the public procurement system in Kenya.

Therefore, to achieve the objectives of the study, a census survey was carried out where both qualitative and quantitative methods were used. Qualitative data was analyzed to establish the extent to which value for money has been achieved in the Kenyan public sector since enactment of the Public Procurement and Disposal Act. Qualitative method was used because it focuses on discovering and understanding the experiences, perspectives, and thoughts of respondents that is, qualitative research explores meaning, purpose, or reality (Hiatt, 1986). In other words, qualitative research is a situated activity that locates the observer in the universe and it consists of a set of interpretive, material practices that make the universe visible. (Denzin & Lincoln, 2005, p. 3)

Quantitative data was used to analyze values allocated to responses obtained from questionnaires to establish the level of value for money in public procurement in relation to the Public Procurement and Disposal Act of 2005 and reforms in public procurement thereafter

through PPOA. Quantitative method was used to maximize objectivity, replicability and generalizability of findings in this study. Questionnaires were used to obtain opinions of procurement officers from each ministry on their knowledge in public procurement activities in the public sector.

3.3 Population

The research was conducted across the 42 ministries of the government of Kenya which are the main entities or central government in public sector. The public sector in Kenya comprises the central government, District treasuries for procurement purposes, state corporations, local authorities, semiautonomous government entities, commissions, learning institutions as well as public hospitals. The study however covered the central government since all funds for procurement are issued through the ministries and that all this entities are under the government ministries whom have the express authority on their budgetary activities.

From the 42 ministries, the research targeted all procurement heads/managers as representatives of the ministries on public procurement systems. Where the managers of the departments were not available, any officer acting on his/her behalf was requested for respond.

Further, given that the ministries offer financial support and receive feedback on expenditure through annual report from these entities, the respondents have more knowledge on the procurement processes and expenditures carried out and what value they add to the government's long term plans and policies. Therefore, this postulates that, the ministries have both primary and secondary information that can be relied upon. A target population is the total elements about which one intends to make inferences from. (Mugenda and Mugenda, 1999) For this study, the ministries included all central government administrative entities headed by a permanent secretary as an accounting officer.

Given the small size of the population sampling was considered unnecessary for this research. Appendix 5 shows the government ministries that constitute the population of the study.

3.4 Data Collection Procedures

A pre-numbered semi structured self-administered questionnaire was mailed and a copy delivered by the researcher to the head of each procurement unit of the ministries. Sending questionnaires to the procurement unit was not only maximizing the accuracy of information on procurement issues but also the procurement unit is mandated by section 26 (4) of the PPDA of 2005 as the sole entity coordinating all procurement activities and that the head of the procurement unit generally is involved in the whole institutional framework of the procurement system hence him/her becoming the principle respondent to the questionnaire.

In order to keep track on the responses from various officers/respondents, a register of all questionnaires sent was kept. Follow up calls and visits were conducted on the third week after sending out the questionnaires. Appendix 2 shows a sample of the questionnaire that was used in data collection. Additional secondary data was obtained by reviewing of theoretical and empirical literatures, relevant organizational journals, PPOA annual reports to the minister for finance, PPOA performance contract reports in order to obtain information and achievements of oversight function as mandated the PPDA. .

3.5 Data Analysis

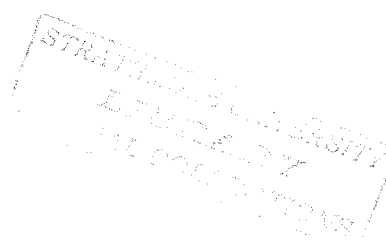
Data analysis was done by categorizing the general information provided by the respondents. This was followed by entering the responses into the Statistical Package for Social Sciences (SPSS) data software as per the questionnaire. Quantitative data was analyzed by applying a descriptive statistics data analysis method to come up with descriptive statistical forms consisting

of mean, median, mode and standard deviation. Open ended questions were listed in a Microsoft excel sheet was employed to analyze qualitative data obtained. All related items were grouped together in order to form common opinions from different respondents.

In response to objective one, the study sought to determine the extent to which the market price index recommended by PPOA is used by government ministries in competitive public purchasing. Using SPSS, quantitative data was analyzed to come up with descriptive data inform of means, median and mode which was presented inform of bar charts. Further analysis of the data was aided by Likert scale which was used to capture the intensity of the respondents' feelings where 1 represents never, 2 don't know, 3 sometimes, 4 frequently and 5 all the time. For open ended questions, Microsoft excel sheet was used to analyze data where it was presented inform of graphs and averages.

In response to objective two, the study sought to establish whether public Procurement Oversight authority is overseeing procurement within the ministries as mandated towards achieving the objectives of the law. Using SPSS, quantitative data was analyzed to come up with descriptive data inform of mean, median, mode and standard deviation which were also presented inform of bar charts. Chi square test was also used to determine the association between research variable and the legal framework.

Further analysis of the data was aided by Likert scale which was used to capture the intensity of the respondents' feelings where 1 represents strongly disagree, 2 disagree, 3 neutral, 4 agree and 5 strongly agree. For open ended questions, Microsoft excel sheet was used to analyze data where it was presented inform of graphs and averages.



In response to objective three, the study sought to establish whether ministries constitute all committees and involve all users of items to be procured as required by the procurement law. Using SPSS, quantitative data was analyzed to come up with descriptive data inform of mean, median, mode and standard deviation which were also presented inform of graphs. Chi square test was also used to determine the association between research variable and the legal framework. Further analysis of the data was aided by Likert scale which was used to capture the intensity of the respondents' feelings where 1 represents strongly disagree, 2 disagree, 3 neutral, 4 agree and 5 strongly agree.

CHAPTER FOUR

PRESENTATION AND DISCUSSION OF RESEARCH FINDINGS

4.1 Introduction

This chapter presents the findings and discussion of the data on the extent to which value for money in public procurement has been achieved since implementation of the Public Procurement and Disposal Act, through the oversight function, the price index, competition and institutional arrangement and in linkage with other empirical findings.

The chapter first addresses the preliminary analyses which include the response rate from the questionnaires and the general information on the respondents. The first objective on the price index as a useful tool in public procurement relationship in achieving value for money was answered by sections 4.3 and discussed by figures 4.3 and 4.4. The second objective on whether the Oversight Authority performs as mandated towards achieving the objectives of the law was answered in sections 4.4.

The third objective on the Institutional arrangement of the Public Procuring Entities towards achieving value for money in public procurement was discussed by section 4.5 and and the fourth objective on whether public entities procure competitively from the market was answered by sections 4.6. Other procurement issues not addressed in the literature review by other researchers but were found to be important were discussed within all sections as supporting information.

4.2 General Information

General information in the findings of the study are discussed in section 4.2.1, 4.2.2 and 4.2.3 discussing response rate, years of work and

4.2.1 Response Rate

The study collected information from all procurement departments of all ministries in Kenya. Out of the 42 Ministries targeted, 97.6% response rate was achieved. This means that 41 out of 42 respondents targeted responded and returned the questionnaires. This was achieved because questionnaires were administered by drop and pick method.

4.2.2 Years of work and professional membership

Procurement in Kenya has gone through several changes over the years since 2003. Proper and appropriate skills, competencies and good experiences among procurement staff and those directly entrusted with procurement activities helps the government achieve its objectives by implementing the legal issues. This assists the researcher to make a conclusion on achievements.

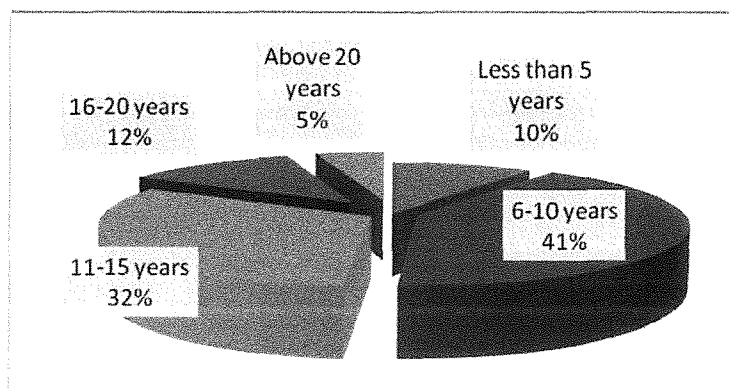


Figure 4.1: Duration in the public service

Majority (41%), of the respondents worked as procurement officers between 6 to 10 years followed by (32. %) between 11-15, while 12% worked between 16 – 20 years and 10% worked for less than 5 years. However, 5% of the respondents worked above 20 years in public service.

This implies that majority of respondents worked in public service as procurement officers between 6-10 years.

The respondents were requested to indicate their professional membership in the public service.

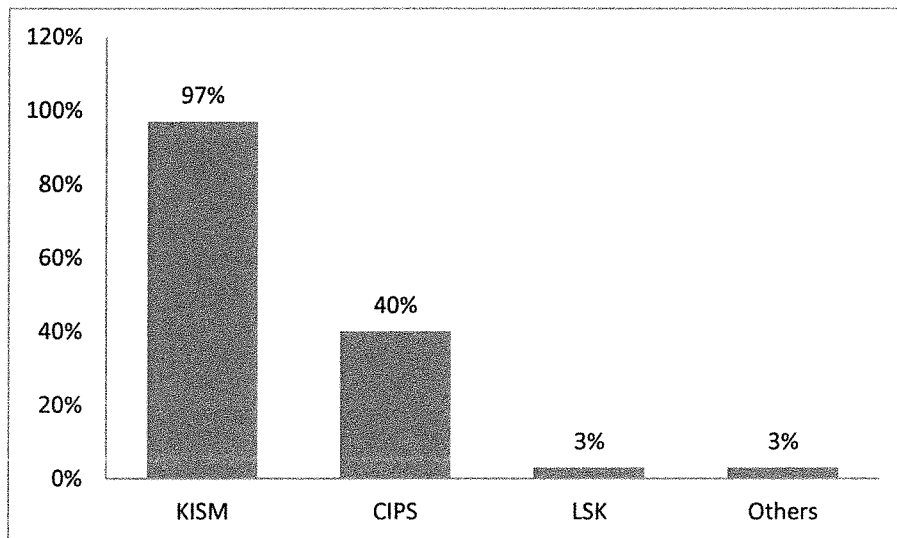


Figure 4.2: Professional Membership

The study findings indicated that majority (97%) of respondents had professional from KISM followed by 40% who had a professional from CIPS while 3% is from LSK and the same proportion 3% reported having registered with other professional bodies. In this case it can be deduced that most of the professionals have KISM qualifications which makes the respondents practice and conduct their activities effectively and efficiently.

The study was to determine on the compliance of rules and regulation in the public service. The respondents were requested indicate on compliance of the rules and regulations

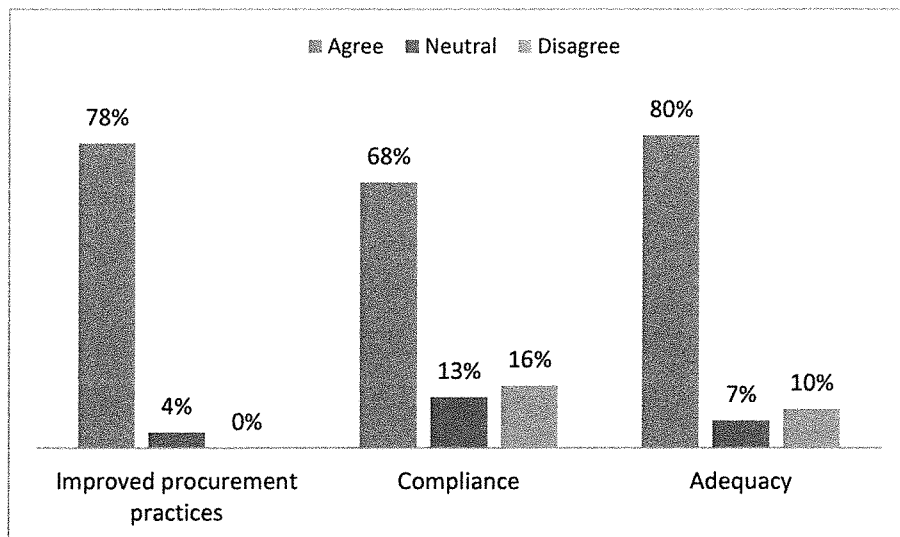


Figure 4.3: Response on the Act and Regulations.

The study established compliance of rules and the regulations as shown in figure 4.3. Majority (78%) of the respondents indicated that the Act and Regulations have greatly improved the procurement practices in the Kenyan public sector. From the study findings, it is evident that, 68% of the respondents confirmed that there is compliance with the laws and 80% noted that the law is the adequate tool that will lead to achievement of value for money in public procurement.

Hunja (1998), Arrowsmith, hartley et al 2002 & Dischendorser (2003) who noted that national laws and regulations promote domestic objectives which include to achieve value for money by adopting formal rules in tendering and approval processes of major contract awards. The study deduces that due to compliance of laws and regulations, there is improvement of procurement practices in public service.

Respondents indicated market price index compliance in the public service.

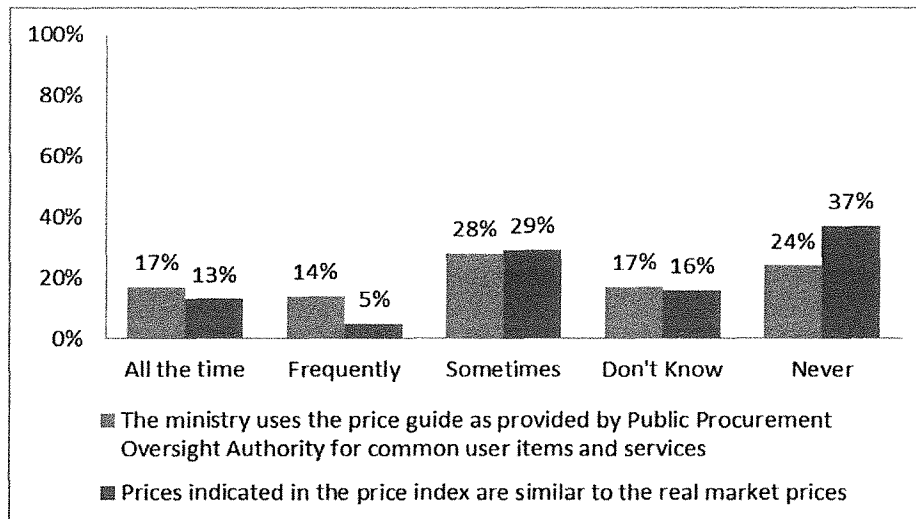


Figure 4.4: market Price list (Index) Compliance

The first objective of the study was to determine the extent to which the market price index recommended by PPOA is used by government ministries in competitive public purchasing. The study sought to establish the level of usage of the price index tool in public procurement. The results of the study show that 37% of the respondents never used price guide in public procurement, 28% of the respondents said sometimes the price was used and 14% said the list is frequently used and 17% of the respondents said the list is used all the time. The study also revealed that 17% of respondents indicated that they even don't know whether the price list exists. This implies that most of respondents in the public service don't use price guide index in compliance with the market price.

Price list tool, the finding showed that, due to low usage and lack of credibility on market prices, the price index is not a useful tool in public procurement and hence not a very important tool. This means that the oversight Authority that developed this tool has not fully achieved its mandate and therefore defeating the primary concept of value for money in the public sector. In

their study, (Blancas et al., 2011) in the Brazilian public sector there was no evidence that reforms had led to controlled prices in which public sector is procuring goods and services.

4.3.1: Respondents Views on price list tool

The study sought to find out the usefulness of the price index tool by seeking personal opinions.

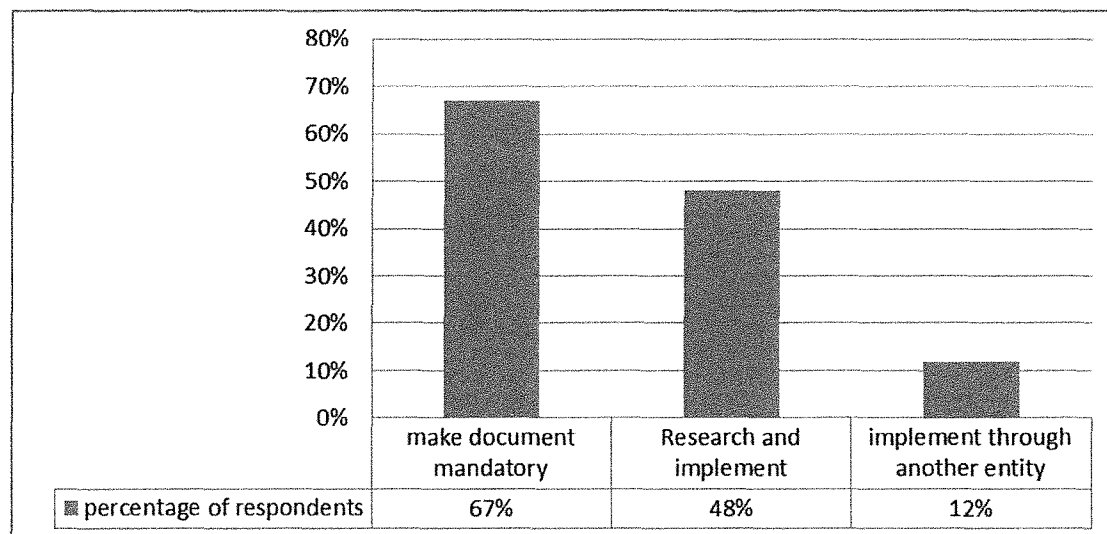


Figure 4.5: Respondents views on the price index tool

As shown in figure 4.5, respondents were asked to independently narrate their views on the price index tool in which three issues were identified. The respondents whom identified the issues were counted and presented by percentages as shown in figure 4.5 above and discussed as below.

The price index document as issued by the PPOA is not a mandatory document and therefore no public officer can be held responsible for noncompliance. This therefore defeats the process of controlling purchase of goods and services at exaggerated and exorbitant prices. 67% of respondents suggest that the price index be made mandatory to be used in all sectors of the public service. They suggest that the price index be anchored in an Act of parliament and a few others suggest that it be made policy by government circular. There is need for a continuous

research and improvement for the index to reflect the market prices on all goods and services. It was observed that 48% of respondents' advice that, for the price index to improve public procurement there is need for updating the index to reflect the prevailing market prices from time to time and to include other goods and services left out of the index.

Implementation of the price index in public sector can be done better by another government entity other than PPOA who develop it so that it is made mandatory. 12% of the respondents also suggested that the index can be improved by having another body to assist implement this index. These respondents suggest a government one stop shop like the famous Supplies Branch of the Ministry of Public Works, in order to control prices as guided by the Authority. This body will ensure that the Government realizes savings in the procurement of common user items which are needed by its ministries and departments through bulk purchasing

4.3.2 Merits of Price list tool

The study sought to find out merits of the price index tool as issued by the Authority. From the data obtained, 41% of the respondents gave merits on the price index and noted that the document contributes towards reducing corruption in public sector. 76% of the respondents noted that the document has helped in reducing purchases that are done at inflated or high prices. Only 6% respondents indicated that the document helps in planning and budgeting. Although there has been no empirical study on this matter before in Kenya, Maurice (2009) acting for PPOA, noted that the public lost substantial amounts of money in the past due to overpricing. The finding therefore indicated that price index tool is an important tool that will guide pricing of procured common user items and hence reduce corruption in public sector.

4.3.3 Weaknesses of Price listing

On the price index tool the respondents indicated, 28% noted that the index could not measure or give price or value of any service nor could it predict price trends. 14% of the respondents noted that the index cannot account for inflationary tendencies within the economy. A high number of respondents i.e. 64% of respondents noted that the index was not updated regularly and hence was rendered a dormant and un useful document that could not be relied on and being non statutory document 8% of respondents noted that the documents may all together be a waste of public funds since procurement entities may chose to ignore the same.

The above findings, makes the researcher to note that many respondents seem not to be aware of section 30 of the Act which provides that procurement of standard goods/commonly used items, services and works with known market prices shall be procured at prevailing market prices and that the Authority is mandated to ensure compliance of the same. Therefore there is need for the Authority to carry out proper and comprehensive sensitization to public servants who are carrying out the procurement processes. However with many respondents observing that the index is not updated regularly and that the documents are not used in all sectors of the public sector, it defeats the usefulness and purpose of that function of the Authority and hence lack of compliance with the law which will lead to procurement at inflated prices and leading to loss of public funds. This hinders what the government wants to achieve in value for money. In conclusion, the reform process in Kenya therefore, through considering the impact of a pricing tool in public procurement, there is no any evidence that the tool has led to any achievement of value for money. However this is a preliminary finding in the Kenyan public sector.

4.4 The Oversight Function

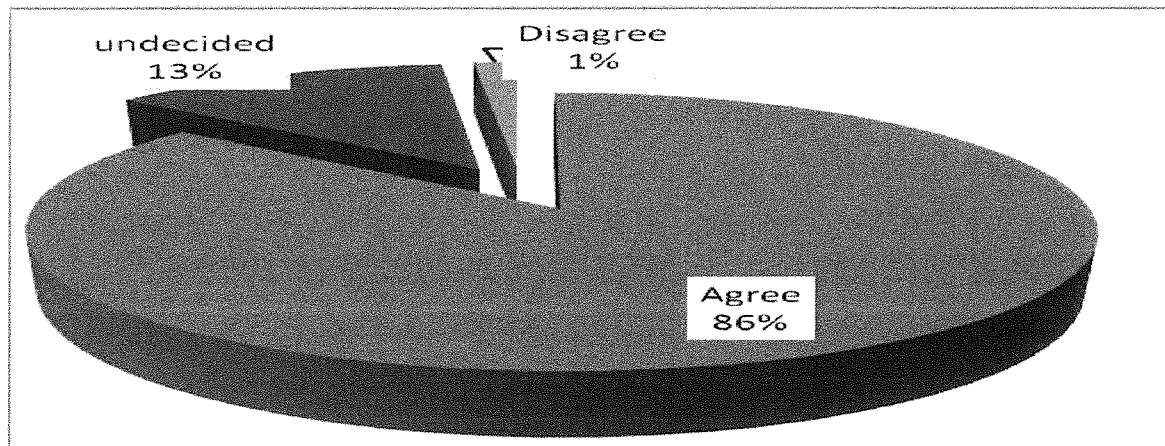


Figure 4.6 General responses to Policies and manuals

The second objective was to establish whether public Procurement Oversight authority is overseeing procurement within the ministries as mandated towards achieving the objectives of the law. The study established the level of compliance in relation to the Oversight Authority, Figure 4.6. Majority (91%) of the respondents noted that Public Procurement Policies and manuals which include public procurement and disposal general manual and procurement manual for works, have led to achievement of value for money. Only 2% disagreed with this.

Similarly, above 80% of the respondents agreed that Procurement manuals for insurance, Framework contracting, Records management and project manual lead to achievement of value for money. Procurement manual-non-intellectual services and Planning guidelines had 86% of the respondents who agreed and 16% of respondents were undecided and 13% responded to the negative. In general, majority (86%) of the respondents agreed that Public Procurement Policies and manuals have led to achievement of value for money in public procurement, whereas 13% were undecided and the rest were of the negative opinion.

The above findings agrees with the findings of Hunja (1998), Arrowsmith, Hartley et al. 2002 and Dischindorser (2003) where in their papers they noted that rules and policies were paramount to achieving value for money in public procurement. This is particularly accepted because the policies issued by the Authority are used as guide lines and all decision are based on the policy documents.

For this case, it can be concluded that these policy documents aid to a greater extent to achieving the Public Procurement objective hence the oversight authority achieving part of its mandate. Further the study sought to find out whether the achievements of the oversight authority had any relationship or association with the procurement law so as to determine the degree at which the Act has or may have influenced the functions of the Authority.

Table 4.1 Association between the Act and the Oversight

The procurement law of 2005 and Regulations of 2006	Oversight Authority				Test statistic P-value (χ^2)
	C3	D4	E5	Total	
E5 (n)	2	7	8	17	Chi value (χ^2) = 13.59 df=4 p-value = 0.003
(%)	11.8%	41.2%	47.1%	100.0%	
D4(n)	8	14	1	23	
(%)	34.8%	60.9%	4.3%	100.0%	
C3I(n)	1	0	0	1	
(%)	100.0%	0.0%	0.0%	100.0%	
Total(n)	11	21	9	41	
(%)	26.8%	51.2%	22.0%	100.0%	

As shown in table 4.1 above, there was a strong association between the overall response of the Procurement and Disposal Act 2005 and the procurement Regulation of 2006 and the Oversight authority (Chi value (χ^2) = 13.59, p-value = 0.03). The oversight Authority being a creation of legislation through the procurement Act to operationalize the law, its effectiveness depends on the positive results from compliance of the law users.

Just like the finding in the Kenyan case, Rothery (2003) notes that in china, oversight is an important component of a country's procurement system and is an evolving feature in the legal framework. He noted that, the regulatory or supervisory authority provided for in the legal framework is a central policy-making body, no doubt introduced to insure policies are truly national. Therefore, there is a positive and strong association between the Act and the Oversight Authority. (Hunja 2001) found out that, legal framework in developing countries often don't have a generic procurement law or that, where a procurement code exists, the procedures are non-transparent or are vaguely defined, the Kenyan Act or the legal framework clearly spells out the mandate of the Oversight Authority towards achieving its objective in public procurement.

In order to determine on average the how the oversight has been assisting in compliance of the law within the ministries, table 4.3 sought to investigate the average strengths from the responses.

Table 4.3: Brief description of measures of central tendency

Score	N						
	Mean	Std. Dev	Median	Mode	Min	Max	total
Oversight authority	4.02	0.11	4	4	3	5	41

As rated in table 4.3, oversight authority had a mean score of 4.02 ± 0.11 out of 5, median of 4 and standard deviation (SD) of 0.11. This indicated that the Oversight Authority is a good measure in achieving the value for money. Even though Schwartz (2005) found out that the oversight functions do not necessarily prevent losses of public money through procurement, Thompson (2005) conceptualized that an oversight focuses on seeing that other people act rightly and when they do not, the responsibility of acting to correct them hence complying with the law. Due to this the oversight is rated as good in its functions but with a higher risk that if not managed well will fail to achieve its objectives of the Act.

4.4.1 Strengths of the Authority

Figure 4.7 gives results of the strengths of the oversight authority as discussed by the respondents.

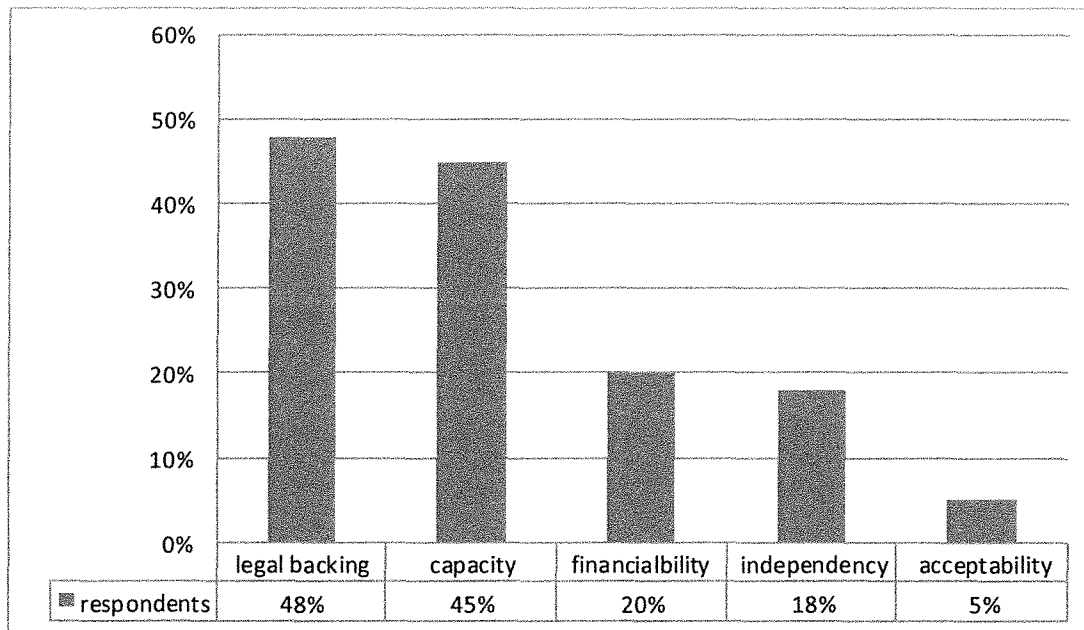


Figure 4.7: strengths of the Authority

By creation of PPOA through an Act of parliament is strength to the Authority and its institutions. 45% acknowledged this strength that the authority (PPOA) is better placed to carry out its mandate. They indicated that “the Authority being a creation of the law, it has better backing legally and that procurement procedures shall be followed as per the requirements of the Act”.

However, Arrowsmith (2004) disagreed with legislation citing that the laws are discriminative and prohibits foreign suppliers. Hunja (1998) agrees with the respondents as he states in the UNCITRAL Model Law on Procurement of Goods, Construction and Services and its Impact on Procurement Reform, legislation codifies the common understanding that the public purchaser will most likely get the best value for money.

The Authority has the required and necessary capacity to deal with procurement issues in the public sector. 45% of the respondents noted that the authority through its employees, trained personnel in public sector, qualified and experienced consultants from countries that have best practices, capacity is improved and hence leads to better performance. Therefore this means that the Authority is able to pick up quick wins in implementing its mandate hence leading to achievement of value for money in public procurement.

The country through donor funds including the World Bank that financed reforms in Kenya has greatly benefited through many programs. The Public Financial Management Reforms kitty within the Ministry of finance and the national budget allocation has greatly funded activities of the Authority. 20% of the respondents said that through donor funds, the ministry of finance and parliament, the authority has a good financial backing hence strength towards achieving its mandate. Many respondents may not have been aware of this strength. However, the Authority may not have an absolute stability since all public funds are voted by parliament.

The Authority in its mandate to carry out reforms in public procurement has always gained confidence within all the public entities. Not less than 69 cases were decided by the Authority on procurement process appeals as at the year 2010. (ppoa 2010). 5% of the respondents also noted that the authority has strength because it is widely accepted within the public sector and the public in general. This means that the Authority can easily penetrate all ministries to ensure that its mandate is achieved through compliance of the law, regulations and policies issued.

4.4.2 Weaknesses Associated to the Authority

Figure 4.8 gives results of the weaknesses of the oversight authority as discussed by the respondents.

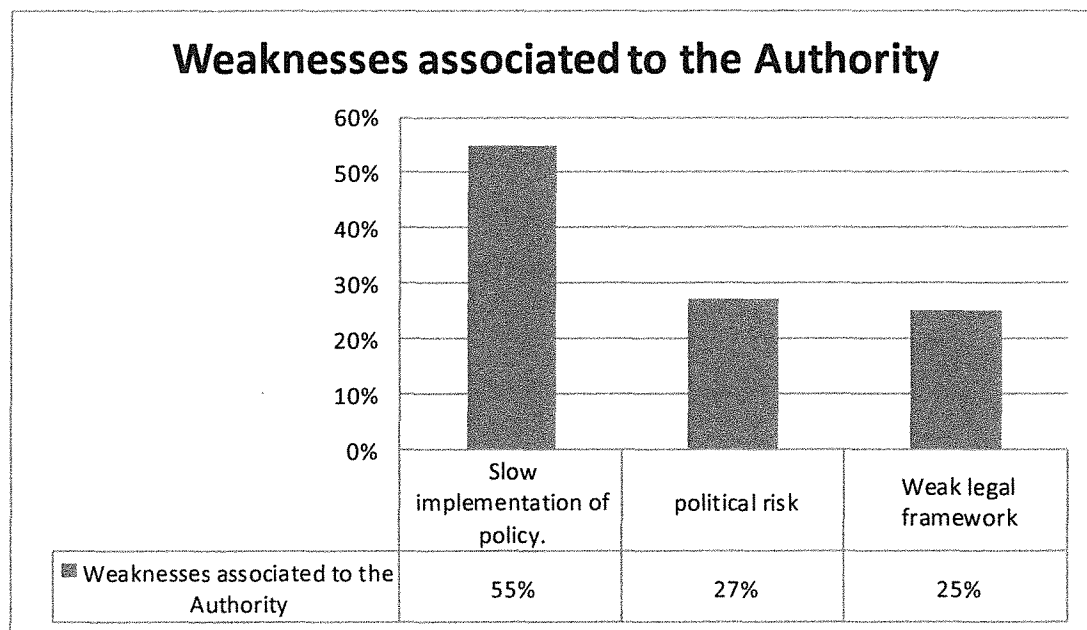


Figure 4.8: weaknesses of the Authority

Most Kenyan government institutions are politically created to serve political interests as may be gazzeted by the president or the minister in charge through legal notices or Acts of parliament.

These processes pose a high risk of political interferences on the internal affairs of the institutions. 27% of the respondents who answered the question noted that the Authority is at risk of political interference since it is a creation of politics through parliament and its 2 boards are appointed politically. The respondents also noted that, financing of the authority is political through a politically elected minister for finance. Thai (2001) agrees with this observation and from his paper he noted that having various interests, objectives and beliefs, interest groups are involved in the public procurement system in several ways such as lobbying legislative bodies to

pass or alter procurement statutes, influencing implementation of these statutes, and influencing budget authorization and appropriations processes. He noted that this compromises government program to suit views of different interest groups, policy makers and management and due democratic environment, there are cases of a strong coalition of policy makers, bureaucrats and interest groups in their effort to get their programs adopted.

The PPDA was created and passed by parliament in 2005 which was the first time legal document for the country under reforms. The study observed that 25% of the respondents noted that the legal framework within which this authority operates is weak since there are other bodies like the High Court, the Ministry of Finance, the Parliament and the Attorney General's office which the Act did not eliminate their responsibilities in public procurement. Respondents noted that the authority has no powers to prosecute, the high court can advise otherwise on cases decided by the Administration Review Board of the Authority.

Arrow Smith (2004) agrees that there exist shortcomings of inherited methods of previous regimes and regulations hence weakening any new legal framework. Schwartz, (2005) noted that due to the weaknesses in the legal framework, the oversight bodies do not prevent losses, conversely flawed oversight bears partial responsibility on financial fiascos and service failures. There are many policies as provided by the Authority which are yet to be implemented or if implemented are not widely accepted in the public sector. 55% respondents noted that the authority is implementing policies in a slow pace hence hampering achievements of its mandate as provided by the Act of Parliament. They noted that the authority takes too long to take action on any malpractice, to update price index and took a long period to employ enough staff.

The study establishes an existence of a positive association between the oversight Authority and the procurement Act hence leading to achievement of value for money. This Authority is carrying out activities as mandated by the Act. It is noted that through legal backing, its capacity, finances i.e. section 18 of the Act and acceptance in public sector, the Authority has achieved the main objective as per the Act. Policy as issued has assisted in achieving this mandate in the public sector.

4.5: Procurement structures

Third objective of the study was to establish whether ministries constitute all committees and involve all users of items to be procured as required by the procurement law. The study established the optimality level of recommended structures and committees as required by the Act and Regulations, the procurement units in each ministry towards achieving the requirements of the procurement Act in the public sector in Kenya. From the results of the study, majority of the respondents positively affirmed to the institutional arrangement in the ministries as shown in figure 4.9 and as indicated in appendix 9.

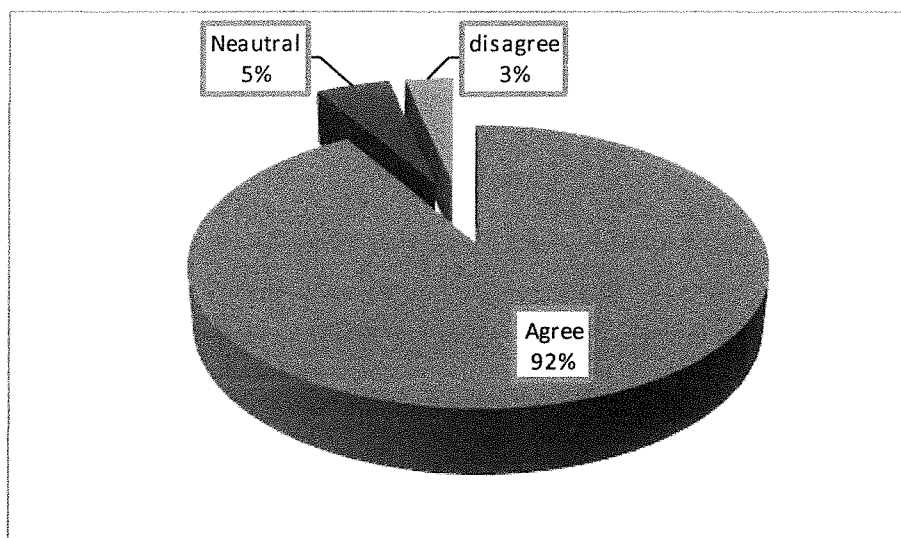


Figure 4.9; procurement structure

It was noted that most of the respondents acknowledge that the procurement structure and committee is important in procurement arrangement and that all processes and institutions set by the Act of parliament are put in place and lead to achievement of value for money. About 97% of the respondents noted that these structures exist within the ministries that they work for, which is a clear indication of compliance of the Public Procurement and Disposal Act of 2005.

From the findings, 97% acknowledged the importance of a procurement unit and on the various committees that exist within the institution, all respondents confirmed to the existence of the committees hence confirming compliance to the requirements of the Act. Hunja (2002) in his paper also conceptualized that structural arrangement provides better supervisory role in procurement process which is also envisaged in the Kenyan Procurement Act. As Bishop (1990) noted in his study, public procurement control system is and must be elaborate and more formal through such institutions. In finding the optimality of institutional frame work, the study also

sought to find out the association with the Act that provides the guideline for compliance. Table 4.2 therefore investigates the association between institutional arrangement and the procurement Act in which D4 and E5 represented the respondents who agreed and strongly agreed respectively.

Table 4.2 Association between the Act and procurement structure/Arrangement

The procurement law of 2005 and Regulations of 2006 have improved	Institutional Arrangement			Test statistic
	D4	E5	Total	P-value (χ^2)
E5 (n)	4	13	17	Chi value (χ^2) = 1.03 df=2
(%)	23.50%	76.50%	100.00%	
D4 (n)	8	15	23	p-value = 0.65
(%)	34.80%	65.20%	100.00%	
C3 (n)	0	1	1	
(%)	0.00%	100.00%	100.00%	
Total(n)	12	29	41	
(%)	29.30%	70.70%	100.00%	

As shown in table 4.2 above there was no association between the procurement structure in the ministries and the procurement law and Regulations. (Chi value (χ^2) = 1.03, p-value = 0.65). The chi square test deduce a significant difference in the association between the two variables that is, having an effective institutional arrangement within the ministries may not be dependent on the procurement law and regulations only but other factors too.

Hunja (2001) noted that, with regard to the procurement structure, one consistent weakness in most developing countries is the lack of an entity within government that is charged with overall responsibility for formulation of procurement policy and to ensure that the system is functioning properly. He noted that most procurement practitioners in developing countries possess only some technical procurement skills but normally lack knowledge the larger policy and other

issues necessary to plan, manage and implement wide-ranging reform efforts. This normally leads to diverse interpretations and implementation of existing rules across various public agencies and even within some of the agencies.

Agaba & Shipman et al. (2006) indicated that, oversight can only ensure effective control and audit systems, hence forcefully enforcing the law through other mechanisms. The results therefore deduce that compliance of the law may not be necessarily through the laid down mechanism in the Act and through the Oversight Authority.

In order to find overall achievements in structural arrangement as provided by the Act, the study sought to measure the central tendencies for the 41 ministries that responded as answered by table 4.4.

Table 4.4: Brief description of measures of central tendency for procurement structure /arrangement

Score	N						
	Mean	Std. Dev	Median	Mode	Min	Max	total
Institutional arrangement	4.71	0.07	5	5	4	5	41

Overall mean score of procurement structure (arrangement) was 4.71 ± 0.07 out of 5 with median of 4. The institutional arrangement comes out to be the variable that is more stable towards achieving value for money. Its dispersion around the mean is also manageable hence low risk. This is rated as good in the overall results which confirms Hunja's (2002) observation that with an institutional arrangement that complies with the law provides better supervisory role in procurement process.

Therefore, procurement structure (arrangement) within the public sector is quite optimal and that there is compliance to the Act not necessarily vide the legal consequences.

4.7: Chapter Summary

Considering the impact of a pricing tool in public procurement, there is no any evidence that the tool has led to any achievement of value for money. However this is a preliminary finding in the Kenyan public sector. In order to achieve the main objectives of the Act, it is noted that the government need to continuously improve the oversight function and the structural arrangement within the ministries. However, competitive procurement is a challenge to most of the ministries and needs to be addressed so that all bidders are given equal chances to bid.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

Therefore this chapter highlights the conclusions based on the findings of the study. Therefore, summary of objectives and methodology was discussed in section 5.2, conclusions and implications of the study are indicated in section 5.3, recommendations of the study are discussed in section 5.4, recommendations for further studies are indicated in section 5.5, limitations of the study in section 5.6 and section 5.7 states the summary and conclusion of the chapter.

5.2 Summary and Conclusions

The study in general sought to establish the extent to which value for money has been achieved in public procurement since the enactment of the procurement Act of 2005 in Kenya. To achieve this the study the study investigated the objectives as stated in chapter 2 of the public procurement and disposal Act in order to determine the extent to which the market price index recommended by PPOA is used by government ministries in competitive public purchasing, to establish whether public Procurement Oversight authority is overseeing procurement within the ministries as mandated towards achieving the objectives of the law and to establish whether ministries constitute all committees and involve all users of items to be procured as required by the procurement law.

The study investigated the 42 ministries which is the central government of the Kenyan and responses vide a semi structured self-administered questionnaire analyzed using statistical package for social sciences. Data obtained was both qualitative and quantitative.

The study established that's there is an average compliance of the Public Procurement and Disposal Act of 2005 and Public Procurement and Disposal regulations of 2006 within the public procurement by ministries. This means that, even though the law has put in place mechanisms that guide public procurements, there is need for the PPOA and the courts system to push for compliance in order to achieve the objectives of the Act.

Even though the price index tool is likely to give guidance on price ceilings for procured items, it is noted that the tool is not effective as per the main objective to which it was created. The oversight authority has since done so much in futility to develop a tool that may is not used and cannot be effective within the public sector. This also agrees with (Blancas et al., 2011) finding that there was no any evidence that reforms using controlled prices in public procurement was successful.

As found out by Hunja (1998), Arrowsmith, Hartley et al., 2002 and Dischimoder, (2003), rules and policies issued by specific oversight institutions were paramount to achieving value for money. This study also established that there exists a positive association between the oversight authority and the procurement Act hence leading to achievement of value for money. This means that the authority is carrying out its activities as mandated by the Act. It is noted that through legal backing, its capacity, finances i.e. section 18 of the Act and acceptance in public sector, the Authority has achieved the main objective as per the Act. This also agrees with Rothery (2003), who found out that oversight function is an important component in a country's procurement

system and a regulatory or supervisory authority provided for in a legal framework in an important central policy making organ. However, this can only be sustained if the Authority can deal with political risks, the legal framework and amendment of the Act to include price index tool and poor implementation of policies.

The study further established a positive association between the procurement structural committees with the legal framework in regard to achieving value for money in the Public sector. This is where different cadres in the service come in to play a role in public procurement and this is the determinant point of compliance. It is important to note that most of the achievements made to date in the Kenyan procurement reforms towards achieving value for money are anchored with the people who work within various capacities in the ministries. This is also resonated by Hunja (2002) and Bishop (1990) a good regulated procurement system provides a better supervisory role hence a more elaborate and formal legal institution. Therefore through part III of the Act, the institutional committees and users lead to the achievement of the main objectives of the Act.

5.3 Recommendations

Based on the findings of the study, for the government of Kenya to achieve the core objective which is value for money in public procurement, there is need to involve stakeholders i.e. all market players, so that through parliament, they can amend the procurement Act of 2005 to accommodate monitoring tools like the price index developed by the Oversight authority so as to supplement with Section 30 of the Act. The amendment should also give the oversight authority (PPOA) sole responsibility to give operational directives based on principles of best practices with regard to the UNCITRAL law, and to avoid lengthy legal process of litigation the

Authority's Review Board be strengthened to determine and finalize all arbitration cases in procurement.

To set maximum prices at which entities can procure at and have it complied with by public entities may be a tall order with the current arrangement by the Authority. This can be achieved if this is anchored in the Act to make it compulsory in public sector. However, with the dynamics of the market, there is need for a continuous research and improvement of the document so that prices are updated from time to time. This will create confidence and credibility of the document.

The structural arrangement within all ministries that responded has been well managed as per the requirement of the Act. Since this is a key function in the procurement process, therefore, there should be continuous monitoring and audits to maintain transparency and accountability.

The study further recommends that, there should be more audits by PPOA, the Kenya National Audit office and Ethics and Anti-Corruption Commission to make sure that ministries and other public institutions procure competitively from the markets. This can be achieved by maintaining the open tendering process as default methods of procurement and eliminating the pre listing of suppliers before the procurement processes begin within ministries.

To achieve the same, there is need for the government to develop integrated software that can be used to assist in the procurement processes to handle the huge numbers of suppliers within the market. Therefore it is important for the public sector to procure openly and at the market rates. From the findings, value for money in public procurement has been averagely achieved since the enactment of the Public procurement and Disposal Act of 2005 and the operationalization of the

Public Procurement and Disposal Regulations of 2006. This is supported by a responsive Authority i.e. PPOA and the users and practitioners that act as per the spirit of the Law.

However, controlling the prices at which the technocrats are purchasing goods, services and works at has been a tall order for the government. It is noted that unless the law is amended to make it compulsory that all procurements be made at market price, the government will continue loosing public funds through inflated prices.

5.4 Recommendations for Further research

The study was limited to government ministries only and yet there are several other institutions in the public sector which include state corporations, public learning institutions, medical institutions, Cooperative societies and state commissions. Therefore, there is need to carry out a further study to determine whether value of money is achieved by all these organization when procuring using public funds. Since the new dispensation of public procurement is at infant stages in Kenya, a further study should be carried out to determine whether the government is making any savings of public funds from current procurement practices compared to the previous processes before reforms were undertaken.

The Kenyan public procurement has been marred with corruption and bribery that lead the World Bank and other institutions pushing for reforms in the public sector. Therefore there is need for a further investigation or experiment to measure the level of bribery in public procurement with the current dispensation.

5.6 Limitations of the Study

In evaluating value for money in procurement among government ministries in Kenya, the study was not able to analyze competition as a variable since information obtained from the respondents was not sufficient to form an opinion as in line with the bidding processes and the markets. This was also caused by the limitations of questions as per the questionnaire.

The current findings of the study were based on data from the 42 ministries of the government of Kenya which are the main entities under which all public entities are anchored. However it is important to note that these institutions operate independently from the ministries. Therefore the findings of the study may not necessarily reflect the status of value for money in all ministries and the government at large.

Lastly, even though this was an academic study, the targeted public officials from various ministries could shy and were always reluctant to fill the questionnaires or give information due to a confidentiality clause in government, the sensitivity and past experiences of corrupt activities in public procurements. This led to delayed processes hence prolonged period of the research process. However the researcher made more effort to convince them by personally walking to their offices and at times going through friendly officers to convince them on my behalf to fill the questionnaires.

5.7 Summary and Conclusions

From the findings, value for money in public procurement has been averagely achieved since the enactment of the Public procurement and Disposal Act of 2005 and the operationalization of the Public Procurement and Disposal Regulations of 2006. This is supported by a responsive Authority i.e. PPOA and the users and practitioners that act as per the spirit of the Law.

However, controlling the prices at which the technocrats are purchasing goods, services and works at has been a tall order for the government. It is noted that unless the law is amended to make it compulsory that all procurements be made at market price, the government will continue losing public funds through inflated prices.

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APPENDICES

Appendix 1: Introduction letter

Strathmore University

Dear Sir/Madam

RE: RESEARCH ON VALUE FOR MONEY IN PUBLIC PROCUREMENT IN KENYA

I am a second year, Master of Commerce student at Strathmore University currently undertaking a thesis project. My study focuses on public finance where I will study value for money in Kenyan public procurement.

The study will be solely conducted as an academic research and information you provide will be treated with utmost care and in strict confidence. Ethical principles will be adhered to ensure confidentiality and the results of the study will not include reference to any other individual or organization. However, you can obtain the findings of the research on request.

The study targets government ministries and it will be carried out by use of the questionnaire. I hereby request you to complete the questionnaire, attached here in and later on, picked by the researcher, in order to facilitate the above-mentioned project.

For further information, you may contact me on e-mail mochachejeff@yahoo.com

Or on phone +254 752426375

Thank you.

Yours sincerely

Geoffrey Mochache

4. Professional membership

KISM

☐

CIPS

☐

ICPAK

☐

IIA

☐

LSK

☐

Other

SECTION TWO

The procurement and disposal act 2005 and Regulations of 2006	Strongly Agree	Agree	Neutral	Disagree	Strongly disagree
1) The procurement law of 2005 and Regulations of 2006 have improved procurement practices in Kenya.					
2) The procurement law of 2005 and Regulations of 2006 can achieve high level of value for money in Kenya.					
3) The procurement laws and regulations are followed by public official charged with the procurement activity.					
4) The procurement Act and regulations are adequate tools to achieve value for money in public procurement.					
The Oversight Authority	Strongly agree	Agree	Neutral	Disagree	Strongly disagree

5) PPOA's impact as a regulator of public procurement has brought well managed procurement system in Kenya.					
6) Recommendations from Audits and reviews by PPOA are implemented and have assisted towards improving public procurement					
The following Public Procurement policies and manuals have led to achievement of value for money in public procurement;					
i. Public Procurement and Disposal General Manual					
ii. Procurement manual – works					
iii. Procurement manual – insurance					
iv. Procurement manual – nonintellectual services					
v. Framework contracting					
vi. Records management procedures manual					
vii. Procurement manual- projects manual					
viii. Planning guidelines.					
Which of the documents listed above are you not aware of its existence					
7) The oversight authority is highly ranked in performance					
8) In your opinion, what are the weaknesses and strengths of the oversight authority and what can the authority do to improve public procurement?	... Weaknesses.....				

	Strenghts.....				
Price Index compliance	All the time	frequently	Sometimes	Don't Know	Never
9) The ministry uses the price guide as provided by PPOA for common user items and services.					
10) The price index is reliable tool					
Give reasons for the answers of questions 8 and 9 above if any.					
11) What are the merits of the price index a issued by PPOA, if any					
12) What could be the weaknesses of the price index issued by PPOA, if any					
Institutional Arrangement	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
13) A procurement unit is key in providing value for money in a government ministry					
14) Annual procurement budgets are approved by the board/senior management committee					
15) Your Entity prepares and uses a procurement plan annually and reflects					

departmental needs.					
16) The following committees exist or may exist when required and are useful to the ministry; tender, procurement, evaluation and inspection & acceptance committee.					
Which committee is or may not be constituted in the ministry					
17) Funds are always set aside for a procurement before it's commencement.					
Competition					
18) Reviewing and updating the prequalification and registration of qualified bidders leads to achievement of value for money.					
19) The user department of the ministry initiates and participates in the procurement process as required by the procurement law.					
20) Procured items and services are received within reasonable period					
21) Only the following procurement methods are used in the ministry; Open tendering and request for proposal					
22) All bidders are invited to witness bid opening and timely informed on the outcomes of all tender evaluations processes.					

Appendix 3 Procurement Reforms

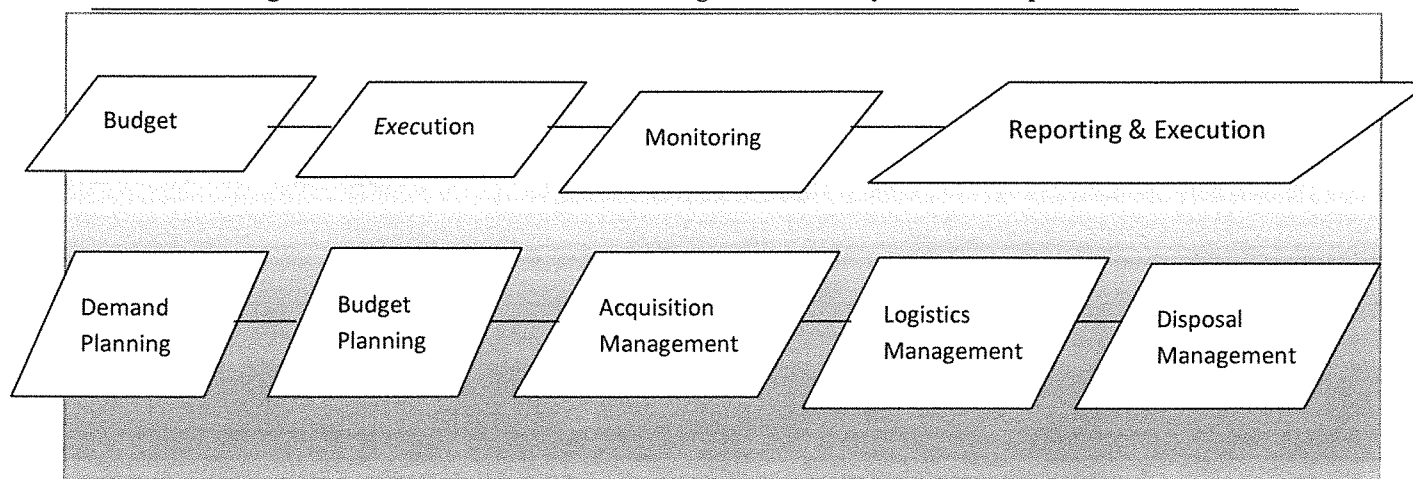
Table 1. Summary of Public Procurement Reforms

YEAR	ACTIVITY
1969 to 1978	Treasury circulars were used to check public procurement.
1978 to 2001	Supplies manual were used.
1997	With support of the world bank, the Government of Kenya initiated public procurement reforms.
2001 – 2006	Exchequer and Audit Act used to regulate public procurement by issue of regulations.
2005	Public Procurement and Disposal Act is enacted and leads to creation of PPOA in 2007 together with Public Procurement Review Board which replaces PPARB.

Sources: Kirungu H. 2009, Public procurement Situation in Kenya, 2nd East African Procurement Forum, Nairobi, Kenya; Juma M. 2010, OECD DAC meeting, Nairobi Kenya; Kenya Procurement Journal issue no. 5 march 2010;

Appendix 4: Mainstreaming Procurement as a Financial Management Activity

Mainstreaming Procurement as a Financial Management Activity – An Example of South Africa



Source: Extract from presentation made at 1st Round table meeting in Paris January 2003.

Appendix 5. Ministries of the Kenya Government

1. Office of the President (the presidency and cabinet affairs office)
2. Office of the Vice-President
3. Office of the Prime Minister
4. Office of Deputy Prime Minister & Minister For Local Government
5. Office of Deputy Prime Minister & Minister For Finance
6. Ministry of Agriculture
7. Ministry of Co-operatives Development
8. Ministry of Development of Northern Kenya & other Arid Lands
9. Ministry of East African Community
10. Ministry of Education
11. Ministry of Energy
12. Ministry of Environment and Mineral Resources
13. Ministry of Fisheries Development
14. Ministry of Foreign Affairs
15. Ministry of Forestry and Wildlife
16. Ministry of Gender and Children Affairs
17. Ministry of Higher Education, Science Technology
18. Ministry of Housing
19. Ministry of Industrialization
20. Ministry of Information and Communication
21. Ministry of Justice, National Cohesion and Constitutional Affairs
22. Ministry of Labour
23. Ministry of Lands
24. Ministry of Livestock Development
25. Ministry of Medical Services
26. Ministry of Nairobi Metropolitan Development
27. Ministry of Public Health and Sanitation
28. Ministry of Public Works
29. Ministry of Regional Development Authorities
30. Ministry of Roads
31. Ministry of Special Programs
32. Ministry of Tourism
33. Ministry of Trade
34. Ministry of Transport
35. Ministry of Water and Irrigation
36. Ministry of Youth and Sports
37. Ministry of National Heritage and Culture
38. Ministry of State for Provincial Administration & Internal Security.
39. Ministry of State for Immigration & Registration of Persons
40. Ministry of State for Planning, Development & Vision 20/30
41. Ministry of State for Public Service
42. Ministry of Defence

Appendix 6. data on variables

Oversight Authority, Institutional Arrangement and Competition

Statement about:	Percentage number of Employees /Respondents N=42		
	Agree	Neutral	Disagree
The oversight authority			
Public Procurement and Disposal General Manual	(91%)	(7%)	(2%)
Procurement manual-works	(91%)	(7%)	(2%)
Procurement manual-insurance	(82%)	(16%)	(2%)
Procurement manual-non-intellectual services	(80%)	(16%)	(2%)
Framework contracting	(83%)	(14%)	(3%)
Records management procedures manual	(87%)	(13%)	(0%)
Procurement manual-project manual	(84%)	(14%)	(0%)
Planning guidelines	(80%)	(13%)	(2%)
Institutional Arrangement			
A procurement unit is key in providing value for money in a government ministry	8(97%)	(1%)	(0%)
Annual procurement budgets are approved by the board/senior management committee	(87%)	(10%)	(3%)
The ministry prepares and uses a procurement plan annually and reflects departmental needs	(86%)	(9%)	(6%)
Funds are always set aside for a procurement before its commencement	(74%)	(13%)	(13%)
Tender committee	(99%)	(1%)	(0%)
Procurement committee	(99%)	(1%)	(0%)
Evaluation and inspection committee	(96%)	(3%)	(1%)
Acceptance committee	(93%)	(3%)	(4%)
Competition			
Reviewing and updating the prequalification and registration of qualified bidders leads to achievement of value for money	(60%)	(17%)	(23%)
The user department of the ministry initiates and participates in the procurement process as required by the procurement law	(59%)	(20%)	(20%)
Open tendering and request for proposal are the only procurement methods used in the ministry	(34%)	(21%)	(44%)
All bidders are invited to witness bid opening	(61%)	(30%)	(9%)
All bidders are informed in good time the outcomes of the tender evaluation process	(67%)	(21%)	(11%)

Appendix 7 Response to oversight authority

Statement about the oversight authority	Percentage number of Employees /Respondents who					
	number of Agree n(%)		undecided n(%)		Disagree n(%)	
Public Procurement and Disposal General Manual	37	91%	3	7%	1	2%
Procurement manual-works	37	91%	3	7%	1	2%
Procurement manual-insurance	34	82%	7	16%	1	2%
Procurement manual-non-intellectual services	33	80%	7	16%	1	2%
Framework contracting	34	83%	6	14%	1	3%
Records management procedures manual	36	87%	5	13%	0	0%
Procurement manual-project manual	34	84%	6	14%	0	0%
Planning guidelines	33	80%	5	13%	1	2%
Average	35	84.70%	5	12.50%	1	1.60%

Appendix 8 Response on Committees and users

Institutional Arrangement

Statement about Institutional Arrangement	Percentage number of Employees /Respondents who		
	Agree n(%)	Undecided n(%)	Disagree n(%)
A procurement unit is key in providing value for money in a government ministry	41 97%	1%	0%
Annual procurement budgets are approved by the board/senior management committee	36 87%	10%	3%
The ministry prepares and uses a procurement plan annually and reflects departmental needs	86%	9%	6%
Funds are always set aside for a procurement before its commencement	74%	13%	13%
Tender committee	99%	1%	0%
Procurement committee	99%	1%	0%
Evaluation and inspection committee	96%	3%	1%
Acceptance committee	93%	3%	4%