

# Compliance of Public Procurement Law and Performance of County Government of Isiolo in Kenya

Msc in Mohamed Hussein Mohammed & Dr. Anthony Osoro  
JKUAT University KENYA

**Purpose:** Worldwide, many countries including Kenya have initiated procurement reforms culminating into enactment of procurement laws and regulations. In Kenya, despite the existence of the procurement law, there is low level of compliance by the county governments to this law. The purpose of this study is to investigate the relationship between compliance of public procurement law and performance of County government of Isiolo in Kenya. Specifically, the study sought to establish the relationship between procurement regulations, procurement procedures, procurement personnel and procurement records and performance of County Government of Isiolo.

**Keywords:** procurement regulations 2020 compliance, procurement procedures compliance, procurement personnel compliance, procurement records compliance and performance of County Government of Isiolo

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## 1.1 Introduction

The Public Procurement and Asset Disposal Act (PPAD, 2015) defines procurement as the purchase, rental, lease, hire purchase, license, tenancy, franchise, or any other contractual means of acquiring any type of works, assets, services, or goods, including livestock, and includes advisory, planning, and processing in the supply chain system. According to Basheka & Bisangabasiga (2010), Public Procurement is becoming paramount in service delivery in developing countries where public spending accounts for 58%, 40% and 70% in Angola, Malawi and Uganda respectively while in Kenya its 60% (Aketch, 2005) compared to a global average of 12-20%. Due to the huge amount of money from the public coffers allocated for acquisition of goods, services and works in the public sector, there is need for accountability and transparency, (Hui et al., 2011).

## 2.1 Institutional Theory

The institution theory has its genesis in the theoretical discussion of Powell and Diaggio (1991) and enhanced by Scott (1995). Institutions as asserted by Scott (2004) constitutes three pillars that include regulatory, normative and cultural cognitive. The regulatory pillar emphasizes on the application of rules, regulations and procedures as foundation for compliance. The normative pillar is concerned with norms and value with social responsibility underpinning compliance while the cultural-cognitive pillar is premised on shared understanding that encompasses shared beliefs, emblems and comprehension. Institutional theory is applied mostly to assess elements of public procurement (Tukamuhabwa, 2016). To nurture good governance in procurement, institutions are mandated to make sure that procurement officials and public service abide by the values and principles premised in procurement law when performing all procurement activities (Naidoo 2012). The regulations have made it mandatory for a procuring entity to incorporate procurement plan in the annual budget process, how it shall be submitted and implemented.

## 2.2 System Theory

System theory has its genesis in biology and system science and is indebted to biologist Ludwig Von Bertalanffy who initiated it in the 1940's. It was advanced by Ross Ashby (Introduction to Cybernetics, 1956). The theory from a biological view point considers an organism as an amalgamated system of connected structures and functions while from a sociological vantage, it is the trans-disciplinary approach of an organization. A sociological system consists of objects, attributes, intrinsic connections among objects and environment (Apopa, Iravo, Waititu & Arasa, 2018). According to Zenko et al. (2013), objects are considered to be parts, elements, or variables within the system. Attributes are the properties, characteristics of qualities of a system and its objects. Every system has internal relationships that exist among its objects. In addition, a system exists in an environment (Zenko et al., 2013). A system is a set of objects of things that influence one another within an environment and form a larger pattern that is different from any of the parts (Puche et al., 2016).

## 2.3 Principal Agent Theory

The agency theory was introduced by Alchian and Demsetz (1972) and subsequently enhanced by economists Jensen and Meckling (1976). The theory expounds the relationship that exists between the principal and his agent where the former apportions assignment to be executed by the latter to accomplish the desired objectives of the the principal (Health & Norman, 2004.) In this theory, the association between the principals and agents is distinctly elucidated. Based on the theory, owners of the company (shareholders) who are the principal hire staffs

(agents) to discharge allocated duties on their behalf. The routine operations of the business are designated to the managers by the principals. Managers are regarded as the shareholders' agents in this association (Clarke, 2004). The theory systemizes the best relationships where the principal dictates the task while agent performs it, (Mugo, 2013). In this relationship, the principal employs staff (agents) to discharge the assigned task, (Obanda, 2010). Agency theory presumes both the principal and the agent are driven by individualistic (Munywoki, 2016).

## **2.4 Legitimacy Theory**

Dowling and Pfeffer (1975) were the proponent of legitimacy theory. As asserted by Philips et.al, (2017), legitimacy theory predicates that a firm is obligated to disclose its transactions to the stakeholders, specifically the general public, and to prove its presence within the precincts of community. Apart from emphasizing the relationship and interaction between a procuring entity and society, the proposition also provides a sufficient and superior lens for understanding government procurement. Public procurement, according to Poterba D. (2001), is a political process in which public servants bestowed the mandate to perform the obtainment process and verdicts are answerable to the elected leaders who have been delegated the powers to spend the public resources by the electorate as per their needs on their behalf (Poterba D., 2001.) The idea suggests that perceived legitimacy of public procurement laws is a precondition of public procurement compliance behavior. Measures of the legitimacy of public procurement are the level of integrity and transparency of the procurement team and procurement process (OECD, 2016).

Therefore, the theory is relevant to this study because the procuring entity (is required to disclose to the stakeholders its practices by publishing awarded contracts, termination of procurement and asset disposal proceedings reports and preference & reservation reports in the PPRA portal. It also focuses on the relationship and interaction between a procuring entity and the society. The theory supported the fourth variable which is procurement records.

### **2.2.1 Procurement Regulations (2020) Compliance**

The regulations describe the various processes and procedures to be undertaken sequentially by a procuring entity to acquire goods, services or works for the users. These include internal organization of the procuring entities in terms of corporate governance and leadership in complying with the legal framework, organizational structure in terms of separation of roles of the various procurement committees, procurement planning and management of all procurement records activities (Njeru et al, 2014). Public procurement regulation is an important instrument for using public resources efficiently and ensuring quality services to citizens (World Bank Working Paper November 2017.) In Kenya, public procurement is anchored in the Public Procurement and Asset Disposal Act (PPADA, 2015) and operationalized by attendant regulations. It applies to all public entities in relation to procurement planning, procurement processing, inventory and asset management, contract management and asset disposal (Republic of Kenya, 2017) Its requisite that procurement plan shall be incorporated in the annual budget process by a procuring entity and put forward by the user unit head to the accounting officer. This is done prior to the start of the accounting year and executed predicated on the set schedules.

### **2.2.2 Procurement Procedures Compliance**

Public procurement process is a legal procedure established in law but influenced by economic, cultural, legal, political, and social environment, (OECD, 2009). Procurement procedures are critical in all procurement activities such as leasing, hiring and where necessary other activities accompanying the life cycle of goods or service contracts and the disposal of obsolete and unserviceable goods. (Bartik, 2009). Procurement procedures are strategies followed when making organization purchasing decisions. Implementing effective procurement procedures significantly improve the effectiveness of purchasing decisions (Sobczak, 2008). The Kenyan public procurement law regulates both public and private sector procurement practitioners and aims at professionalizing procurement practice in Kenya (Andrew 2010) with the objective of development and management of key suppliers, internal procedure of procurement function and coordination of purchasing with other functions within the firm, and efforts to meet or exceed customer expectations. The Kenyan public procurement entails procurement for projects and consumables for day to day running of the procuring entities (George, 2008). The procurement of projects, works, goods and services in public sector is anchored in the Kenyan public procurement directives stipulated under the Public Procurement Asset and Disposal Act (PPADA) 2015, Public Procurement and Asset Disposal Act Regulations 2020, Public Private Partnerships Act (2013) and Public Private Partnership regulations 2011 (PPRA 2020).

### **2.2.3 Procurement Personnel Compliance**

Personnel capital has the capacity to create and optimize competitive advantage within an organization (Banda, 2019). This improves and alters organization capabilities by altering their perception, motivation, commitment and job satisfaction. This ultimately minimizes pilferage and spillage of organization human resources capacity. Berger and Humphrey (2007) argued that it is economical to implement professionalism amongst employees who have requisite skills for executing a certain task. There are alternative strategies which have been developed

by institutions to impact requisite skills. Sultana (2012) argued that organization responds to internal and external changes depending on prevailing skills gaps. Those organizations which are malnourished on procurement professional skills incur huge costs in acquisition of their respective raw materials. Formal and informal skills development can be adopted by State Corporation to bridge any skill gap amongst its heterogeneous employment work force (Appiah, 2016). Through these training an institution would manage procurement life cycle, improve on client relationship management and mitigate against conflict which may arise during procurement life cycle (Seleim, 2007). Staff development is formal and systematic modification of employees' behaviors through instructions. The process equips workforce with requisite knowledge, skills and attitude that would in pursuance of organization goals and objectives.

#### **2.2.4. Procurement Records Compliance**

Procurement records are documents that are generated or gotten in the process of undertaking administrative and executive transactions in order to provide remembrance for audit track by the state and justification of the financial utilization by the procuring entity to those whom it is answerable (Obura, Noor & Mukanzi, 2021). Both public and private entities are progressively recognizing that effective records management is connected to service delivery (Musembe 2016). According to Sanderson & Ward (2016) the significance of records management is gradually being acknowledged in organizations. Consequently, it is incumbent upon the records managers to make certain that they get the consideration of opinion formers in their entities. Getting cognizance is imperative to persuade the stewardship of the role of records management as facilitating unit in an institution. To perform their assigned obligations and roles systematically and effectively in a crystal clear way staffs needs information. Records are not only main origin of information but also the only dependable and regulatory verifiable source of data that can provide testimony of decisions, actions and transactions in an organization (Wamukoya, 2020).

#### **2.2.5 Performance of County government of Isiolo**

Getuno (2015) studied the effect of the Public Procurement and Disposal Act (2005) implementation performance of Kenyan state corporations. Study adopted an explanatory survey design with a target population of 187 state corporations. Primary data was obtained using questionnaires distributed to procurement practitioners and interview guides for the accounting officers whereas the secondary data was retrieved from existing reports of the PPOA website. Data collected was analyzed using descriptive statistics and multiple regressions. The results indicated a significant effect of the PPDA, (2005) implementation on performance of state corporations. Findings also revealed that enforcement of implementation of the rules increased levels of compliance. Study concludes that implementation of PPDA, (2005) improves performance of state corporations. Policy makers should focus more on enforcement as it is an incentive for state corporations to increase implementation and compliance thus improving their performance. The study therefore inferred that implementation of the PPDA, (2005) significantly leads to increased organization performance.

### **3. Research Design**

This study adopted a descriptive research design. According to Lambert, (2012), descriptive research design gives the respondents the freedom to fully describe the topic under study, meaning that the nature of the topic in hand can be presented in a complete and accurate manner. This was

#### **3.1 Procurement Regulations 2020 Compliance**

After table 1.1, the plaintiffs settled that: This County Government is required to have an annual procurement plan. ( $M= 3.566$ ,  $SD= .8017$ ); Through procurement planning the county has been able to make rational decisions on priority and non-priority projects hence increasing performance ( $M=3.833$ ,  $SD=.9202$ ); Appropriate procurement method should be employed by the county government during procurement process ( $M=3.903$ ,  $SD=.9007$ ); Adherence to competitive tendering has effect on performance of this County Government. ( $M=4.061$ ,  $SD=.3651$ ); The county adheres to the procurement law in assigning responsibilities to the various procurement committees. ( $M=3.841$ ,  $SD=1.3020$ ); and Procurement regulations 2020 compliance enhances performance of at County government of Isiolo in Kenya ( $M=3.742$ ,  $SD=1.0602$ ). This verdicts agree with the outcomes of Nyile *et al.* (2022) who observed that clear description of Procurement regulations 2020 compliance enhance effective performance of County government of Isiolo.

**Table 1.1: Procurement Regulations 2020 Compliance**

Statement	Mean	Std. Dev.
This County Government is required to have an annual procurement plan.	3.566	.8017
Procurement planning has effect on performance of this County Government.	3.833	.9202
The County Government should use appropriate procurement method during procurement process.	3.903	.9007
Competitive tendering has effect on performance of this County Government.	4.061	.3651
The county adheres to the procurement law in assigning responsibilities to the various procurement committees.	3.841	1.3020
Procurement regulations 2020 compliance enhances performance of County government of Isiolo	3.742	1.0602

### 3.2 Procurement Procedure Compliance

By way of of table 1.2, respondents agreed that: The County government of Isiolo in Kenya considers tender opening and evaluation on Procurement procedure compliance (M=3.851, SD=.8312); A procurement procedure compliance is likely to deliver on performance of County government of Isiolo in Kenya (TORs) (M=4.033, SD=.3606); Evaluation committee members should be guided by the evaluation criteria in the bid document (M=4.094, SD=.8005); Tender award compliance enhances on performance of County government of Isiolo in Kenya (M=4.041, SD=.8302); Through proper contract management has been able to get performance of County government of Isiolo in Kenya (M=4.252, SD=.8165). These findings were in agreement with the findings of Ongeru and Osoro (2021) that the goal of Procurement procedure compliance is to ensure performance of County government of Isiolo in Kenya. Effective Procurement procedure compliance minimizes or eliminates problems and potential claims and disputes. This coincides with the outcome of Ominde et al. (2022). It is essential for Procurement procedure compliance to understand the provisions of the supplier evaluation, have the ability to perform to all practices involved, and maintain control over the performance of County government of Isiolo.

**Table 1.2: Procurement Procedure Compliance**

Statement	Mean	Std. Dev.
Isiolo county considers tender opening and evaluation on procurement procedure compliance	3.851	.8312
A procurement procedure compliance is likely to deliver on performance of County government of Isiolo in Kenya	4.033	.3606
Evaluation committee members should be guided by the evaluation criteria in the bid document	4.094	.8005
Tender award compliance enhances Performance of County government of Isiolo in Kenya	4.041	.8302
Proper contract management boost procurement performance of County government of Isiolo in Kenya	4.252	.8165
Compliance of procurement law enhances performance of County government of Isiolo in Kenya	4.111	.7117

#### Model of Goodness Fit

Regression examination was used to inaugurate the strengths of relationship between the performance of County government of Isiolo in Kenya (dependent variable) and the predicting variables; Procurement regulations 2020 compliance, Procurement procedure compliance, Procurement personnel compliances and Procurement record compliance (Independent variables). The results showed a correlation value (R) of 0.764 which portrays that there is a good linear dependence between the independent and dependent variables. This discovery is in line with the verdicts of Ongeru and Osoro (2021). They observed that this also portray the significance of the regression analysis done at 95% confidence level. This implies that the regression model is significant and can thus be used to evaluate the association between the dependent and independent variables. This verdict is in line with the answers of Okumu (2019), who observed that analysis of variance statistics examines the differences between group means and their associated procedures.

**Table 1.3: Model Goodness of Fit**

R	R <sup>2</sup>	Adjusted R	Std. Error of the Estimate
0.764	0.789	0.731	0.064

By an R-squared of 0.789, the model demonstrations that Procurement regulations 2020 compliance,

Procurement procedure compliance, Procurement personnel compliances and Procurement record compliance donate up to 78.9% on performance of County government of Isiolo in while 21.1% difference is explained by other gauges which are not all-inclusive in this research study.

A unit alteration in Procurement Regulations 2020 compliance would thus lead to a .470 effect on performance of County government of Isiolo in Kenya ; while a unit change in Procurement procedure compliance would have an effect of .219 change in performance of County government of Isiolo ; also unit change of procurement personnel compliance would lead to .141 of performance of County government of Isiolo and further unit change of procurement record compliance would lead to .262 of performance of County government of Isiolo .This finding is in line with the findings of Ongeru and Osoro (2021). This implies that among other factors, Procurement regulations 2020 compliance, Procurement procedure compliance, Procurement personnel compliances and Procurement record compliance are significant determinants of performance of County government of Isiolo in Kenya.

**Table 1.4 Regression coefficient Results**

	Unstandardized coefficients		Standardized coefficients		T	Sig.
	B	Std. Error	Beta			
(constant)	-.134	.060			.004	.002
Proc. Reg. 2020 comp	.470	.132	.858		5.472	.003
Proc. Procedure comp	.219	.067	.162		2.471	.001
Proc. Personnel. comp	.141	.059	.563		4.385	.004
Proc. Record Comp.	.262	.115	.321		2.657	.002

### Summary

Consequently, from the preceding, this study summarizes that Procurement regulations 2020 compliance have broadly impacted on performance of County government of Isiolo in Kenya. The outcomes summarizes that any county in Kenya should get-up-and-go to encirclement the finest performance of County government of Isiolo in Kenya. When communal-sequestered corporations is comprised through Procurement procedure compliance, Procurement personnel compliances, and Procurement record compliance then the performance of County government of Isiolo in Kenya will be strengthened

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