

**CHALLENGES OF IMPLEMENTING PUBLIC PROCUREMENT AND  
DISPOSAL ACT, 2005 IN PUBLIC SECONDARY SCHOOL; A CASE OF  
SELECTED PUBLIC SECONDARY SCHOOLS IN MOMBASA  
DISTRICT.**

**BY**

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**A RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILMENT  
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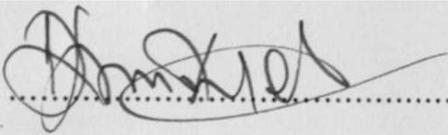
**2011**

## DECLARATION

The research study is my original work and has not been presented to any other institution. No part of this research should be produced without the authors consent or that of Nairobi University.

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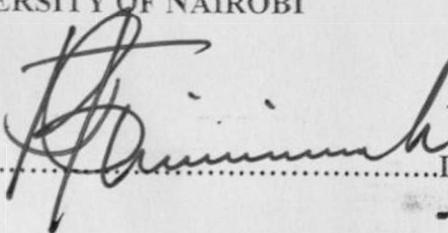
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## DEDICATION

This research is dedicated to my wife Agnes kitondo and my children Genesis Munene and vision Muuo for their support and encouragement they gave me throughout the process.

Secondly, I want to dedicate this research to my dad and mum Mr. and Mrs. Julius Moki Mailu for their moral support and assistance in my education and life in general.

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## ABRIVIATIONS / ACRONYMS

<b>B B</b>	:	Boys Boarding
<b>BD</b>	:	Boys Day school
<b>BOG</b>	:	Board of Governors
<b>CIPS</b>	:	Certified Institute of Purchasing and Supplies
<b>G B</b>	:	Girls Boarding school
<b>G Day</b>	:	Girls day school
<b>GOK</b>	:	Government of Kenya
<b>KACC</b>	:	Kenya Anti-corruption Commission
<b>KISM</b>	:	Kenya Institute of Supplies Management
<b>NPM</b>	:	New public Management
<b>OECD</b>	:	Organization Economic Co-operation Development
<b>PPDA</b>	:	Public Procurement and Disposal Act
<b>PPOA</b>	:	Public Procurement Oversight Authority
<b>PTA</b>	:	Parent Teachers Association
<b>SCM</b>	:	Supply chain management

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## ABSTRACT

This Study was conducted on the challenges of implementing public procurement Act 2005. The objective of this study was to identify successes, challenges and bottlenecks in the implementation of the PPDA with recommendations on how the successes can be replicated and the challenges surmounted. This research was conducted in selected secondary schools in Mombasa district.

The study is significant to ministry of education, public secondary schools, BOGS and PTA committee members for it will enable them formulate policy to overcome the challenges faced in the implementation of PPDA in secondary schools

Literature review; represent a review of other studies done relevant to this study. It also outlines a theoretical framework for the study. It was therefore important to review issues, concerning public procurement in Kenya and the rest of the world so as to understand the issue concerning public procurement Act. Under theoretical literature review several aspects of public procurement have been considered including; Public procurement disposal Act 2005, Challenges of implementing public procurement in developing countries, Changing role of purchasing procurement, Review of public procurement in Kenya and Change management and resistance to change. Conclusions and gaps were also done as well as conceptual framework.

Research Methodology is made up of research design in which descriptive research design has been adopted; target population has also been identified as selected public secondary schools in Mombasa district; while simple random sampling technique was used in this research. Data collection instrument was mainly questionnaires and interview of the key personnel involved in purchasing. Data was presented by frequency tables and analyzed using measures of central tendency such as mean, mode and medium.

Major findings of the study is identification of challenges that the selected public secondary schools faced in implementing PPDA, 2005; Lack of enough resources (cash) to implement the Act, Uncertainty of the flow of cash in the school, Lack of trained staff in procurement department, Lack of sensitization or training to tender committee members, Resistance to change by the implementers of PPDA, Resistance to change by existing suppliers, Influence from external stake holders and the Size of the school.

Recommendations is that there was need to provide adequate funds to the public secondary schools for implementation of procurement and disposal Act, strengthen procurement committees in schools, Amend the procurement law and to have procurement and stores department to handle issues of purchasing. Individual public secondary schools were also required to recruit procurement personnel's as well as to train school tender committee members in terms of both formal as well as sensitization workshop.

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background of the study

Purchasing and procurement are often regarded as synonymous term. Procurement is strictly a wide term than purchasing which implies the acquisition of goods and services in return for monetary value or equivalent payment (Kenneth Lyons 2000).

Public Procurement and disposal Act defines the term procurement as: 'the acquisition or obtaining by purchase, rental, lease, hire purchase licenses', tenancy, franchise (permission) or by any other contractual means of any type of works, assets, services or goods including livestock or any other combination(Public Procurement and Disposal Act 2005). World Bank alternatively defines public procurement as the purchase of commodities and contracting of construction works and services if such acquisition is effected with resources from state budgets, local authority budgets, state foundation funds, domestic loans or foreign loans guaranteed by the state, foreign aid as well as revenue received from the economic activity of state. Public procurement thus means procurement by a procuring entity using public funds (World Bank, 1995).

Today governments all over the world have received a great deal of attention as Providers of essential services such as health, education, defense and infrastructure. To be able to meet the demand for these services, governments purchase goods and services from the marketplace. In other words, governments are purchasers of works, supplies and services from the open market, placing their demands alongside those of the private sector. The business operations of governments in the marketplace or public procurement have thus both economic and political implications (W.Odhiambo and P. Kamau, 2003).Around the world; governments are increasingly becoming focused on improving their public procurement regimes. Significant developments include the establishment of internationally shared norms for public procurement systems, while, at the national level, a number of countries have adopted dramatically new public procurement regimes, and others are experimenting with new procurement vehicles, such as framework agreements and electronic reverse auctions, and new procurement schemes, including public-private partnerships. As each of these changes is contemplated, planned, implemented, and then assessed, government leaders and

policy makers need a framework of analysis for decision making a framework based on public procurement goals and understanding stakeholder interests (Steven L, schooner, Daniel L Gordon & Jessica L Ckark 2008)

Procurement permits the entire spectrum of the development process of a country. It is therefore, no wonder that governments all over the world are major purchasers of goods and service (KACC2007). The items involved in public procurement range from simple goods or services such as clips or cleaning services to large commercial projects, such as the development of infrastructure, including road, power stations and airports. Public procurement is different from private procurement, because in public procurement the economic results must be measured against more complex and long term criteria. Furthermore, public procurement must be transacted with other considerations in mind, besides the economy. These considerations include accountability, non-discrimination among potential suppliers and respect for international obligations. For these reasons, public procurement is subjected in all countries to enacted regulations, in order to protect the public interests. It is worth noting that unlike private procurement, public procurement is a business process within a political system and has therefore significant consideration of integrity, accountability, national interest and effectiveness (Wittig, 1998). This implies that public procurement entails the applications of colossal amounts of tax payer's money running into billions of any designated currency. It also means if procurement process is riddled with corruption, it results in diversion of colossal amount of tax payers money to unscrupulous people. This in turn reverses the development process with the attendant consequences of poverty, insecurity, poor infrastructure inadequate or total lack of health services among others. Sadly, these forces and the scenario have characterized the procurement process in Kenya over the years (Waiganjo 2006). Over 80% of real, perceived and alleged corruption in Kenya is procurement related for instance in 2005, Transparency International had estimated that Kenya had lost some Kshs.475 billion to Shady procurement deals in the seven years before then(Transparency international 20005); GOK dismissed 500 supply officers in 2003 accusing them of mismanaging the system (IPAR, 2006, Olowa D 2002).

In the past decades, the public procurement system in Kenya has undergone significant developments. From being a system with no regulations in the 1960s, and a system regulated by Treasury Circulars in the 1970s; In attempt to address the scourge of corruption in Public procurement, the government developed and issued procurement supplies guide of 1978 which achieved little in terms of stemming the rampant abuses in public procurement with the problem of corruption still raging in 1980s and 1990s. Then the government developed and issued the Exchequer and Public Audit Regulations in 2001 but the regulation were still not sufficient to stop corruption, (Government of Kenya 2001). After many consultations between the Government, Developing Partners and Private sector the public procurement and disposal Act (herein referred PPDA) of 2005 was enacted by parliament (World Bank, 2000) and then the Procurement Regulations of 2006 were introduced. In line with the country's public procurement reform agenda, Kenya in 2006 committed itself to become one of the 22 countries participating in the pilot testing a new Methodology for Assessment of National Procurement Systems (PPOA2007)

The Act applies with respect to procurement or disposal of stores by the following; the Government or any department of the Government; the courts; the commissions established under the Constitution; a local authority under the Local Government Act; a state corporation within the meaning of the State Corporations Act; the Central Bank of Kenya established under the Central Bank of Kenya Act; a co-operative society established under the Co-operative Societies Act; a public school within the meaning of the Education Act; a public university within the meaning of the Universities Act; a college or other educational institution maintained or assisted out of public funds; or an entity prescribed as a public entity for the purpose of this paragraph; (Public Procurement and Disposal Act 2005)

A public secondary school in Kenya is a secondary school which is financed by tax revenues and other government collected revenues and administered exclusively by state and local officials. The administration of public schools is vested in the hands of B.O.G and P.T.A. The school principal is normally secretary to the school B.O.G and P.T.A committees, they also participate in the nomination of member of these committees and by extension they make all the decision in the running of the school including purchasing and

disposal of goods in public secondary schools. Most of professional and educated people shy away from schools P.T.A and B.O.G committees' .As a result poor and inefficient service and consequently lack of value for purchases arises (Collins Wandera, 2004). The Act and regulation is therefore a response to the scenario described above. It makes provisions for an efficient system for the procurement of goods, services, works and disposal of stores and equipments.

## 1.2 Statement of the problem

Gadde and Hakansson (2001), asserts that procurement has become a more significant activity in today's organization and contributes to overall turnover and has become more involved in large part of the company total activities, due to this procurement department capacity has a great consequence in the efficiency of the company. Yet, until not too long ago, the subject of public procurement would have received little attention by academic researchers and policy makers, because it was considered an administrative function too mundane to worry about (Wittig, 1998). It has now been at least two decades since Supply Chain Management (SCM) began to receive serious attention, with scholars arguing that purchasing, as it was then known, be regarded as a key area of academic study and practitioner focus (Burt DNS, 1985; Farmer, 1972; Fearon, 1989). However, SCM still appears to suffer from an underlying frustration or perception of being largely ignored; practitioners feel they have a great deal of value to add, but the organisation is not concerned with them.

The question therefore is whether, despite all of the debate over the last 20-30 years, Has SCM reached a level where it has a sufficiently significant body of knowledge to call itself a discipline? And if it hasn't what is the fate of public procurement; Several studies have been conducted on Public procurement which is part of SCM; Factors influencing the implementation of E-procurement among firms in Nairobi stock Exchange (Kiburi,F.W 2008);Government purchasing in Kenya (Njuguna ,Hempeny Kimani,2005)and Challenges in the implementation of 2005<sup>+</sup> procurement Act in the ministry of higher education in Kenya (Obiero Makori 2008).The finding of these studies cannot be copied to public secondary school. Among the studies; challenges in the implementation of 2005 procurement Act in the ministry of higher education in Kenya by Obiero Makori seems to be closest however, finding of the study notwithstanding the locations of public secondary school, the size and trade in remote environment could not be applied to public secondary schools and therefore the need to conduct a separate study for public schools; the findings which will form invaluable pieces of information to various stake holders who include the Government, Teachers, Non teaching staff, P.T.A,B.O.G and the society in general. The essence of this study was therefore to investigate the challenges public secondary schools are facing in implementing the procurement and disposal Act2005.

### **1.3 Purpose of the study**

The purpose of this study was to investigate challenges of implementing public procurement and disposal Act, 2005 in public secondary schools.

### **1.4 Objective of the study**

Specific objective of the study included to:-

1. Determine the extent in which cash flow affects implementation of Public Procurement and Disposal Act 2005 in the selected public secondary schools in Mombasa district.
2. Establish the extent to which lack of trained staff affect implementation of Public Procurement and Disposal Act 2005 in the selected public secondary schools in Mombasa district.
3. Determine whether resistance to change affect implementation of Public Procurement and Disposal Act 2005 in the Selected public secondary schools in Mombasa district
4. Identify role of stake holders in implementation of Public Procurement and Disposal Act 2005 In the Selected public secondary schools in the Mombasa district.

### **1.5 Research questions**

The research questions addressed by the study were:-

1. How does cash flow affect implementation of Public Procurement and Disposal Act 2005 in the selected public secondary schools in Mombasa district?
2. How does lack of trained staff affect implementation of Public Procurement and Disposal Act 2005 in the selected public secondary schools in Mombasa district?
3. How does resistance to change have any effect on Implementation of Public Procurement and Disposal Act 2005 in the selected public secondary schools in Mombasa district?
4. What are the roles of external stakeholders in the Implementation of Public Procurement and Disposal Act 2005 in the selected public secondary schools in Mombasa district?

## **1.6 Basic Assumption of the study**

During the time of research it was assumed that:-

1. The samples represented the population,
2. Data collection instruments were valid and
3. The school administration was aware of public procurement and disposal Act

## **1.7 Significance of the study**

Reforming public procurement systems has, however, proven to be quite difficult (Robert Hunja2001) and therefore the result of this will be important to various interested groups.

These include but not limited to:-

### **1.7.1 The government**

The study will show the challenges public secondary schools face in the implementation of PPDA 2005 and therefore the finding could be used as a base to develop procedures and policies to overcome these challenges. The government can also develop anticorruption initiatives to ensure that public secondary schools get value for their purchases.

### **1.7.2 The parents**

The study will give them assurance that they get value for money on the purchases made in public secondary schools. It will further show parent their position and how they can participate in implementing PPDA 2005

### **1.7.3 The Teaching, Non- Teaching staff and Students**

These are main users or beneficiaries of purchases made in public secondary schools; This study will not only highlight the challenges of implementing PPDA 2005 in public secondary schools but also help them understand the whole process of purchasing.

### **1.7.4 The BOG / PTA**

These being the main administrators of public secondary school would know if the Act has helped in running of schools. This study will therefore help them in overall implementation of PPDA2005in public secondary school.

### **1.7.5 The researchers and academicians**

Just as pointed out by Wittig, (1998); subject of public procurement has received little attention by academic researchers and policy makers, because it was considered an

administrative function too mundane to worry about. This study will therefore give an insight and will be a starting point for further research work.

## 1.8 Delimitation of the study

The researcher received maximum cooperation from those involved especially member of school tender committees. The scope of the study was:-

### 1.8.1 Geographical scope

For the purpose of this study, geographical scope was Mombasa district. Mombasa district has thirteen public secondary schools; Star of the sea high school, Coast Girls' High school, Mama Ngina Girls' secondary school, Sacred Heart High school, Mbaraki Girls' secondary school and Serani Boys' secondary school, Mvita Boys sec School, Aldina secondary school, Shariff Nassir secondary school, Tononoka secondary school, Tudor Day secondary school and Khamisi Boys secondary school. The district has a population of 6970 students, 392 teachers, and 165 Non teaching staff as shown in the table 1.1.

**Table 1.1 Mombasa district public secondary schools population analysis**

SCHOOL	CATAGORY	YEAR STARTED	NO OF CLASSES	NO OF STUDENTS	NO OF TEACHERS	NO OF NON TEACHING STAFF
Star of the Sea	G Day	1909	16	710	36	12
Mama Ngina	G Boarding	1988	8	400	20	20
sacread Heart	Mixed Day	1932	12	500	30	10
Mbaraki Gilrs'	G Day	2001	8	400	20	11
Serani Boys'	B Day	1955	12	500	30	7
Alidina High school	B Day	1939	16	1000	50	13
Tudor High sch	B Day	1940	16	400	40	15
Khamisi High School	B Boarding	1950	16	710	36	23
Alfasi sec sch	B Day	2007	8	360	20	5
Mvita sec sch	G Day	2007	8	340	20	10
Shariff Nasir Sec	G Day	2001	8	400	20	8
Tononoka sec	B Day	2006	8	350	20	8
Coast Girls' sec	G Day	1930	20	900	50	23
<b>TOTAL</b>			<b>156</b>	<b>6970</b>	<b>392</b>	<b>165</b>

Source: District Education Office Mombasa Dec2010

However, for the purpose of this study given the time limitation and the population size, the study was conducted on selected schools six selected school as shown table 1.2:

**Table 1.2. Selection of schools for study**

Star of the sea high school	:To represent Girls' sec school in the District
Mama Ngina Girls' secondary school	:To represent the only Girls' secondary school
Sacread Heart girls' high school	:To represent mixed secondary school
Aldina Visram High school	:To represent Boys' secondary school
Khamisi boys' secondary school	:To represent boys' boarding school

Source :( Author 2010)

### 1.9 Limitations of the study

The following are problems encountered during the research study:-

1. Given normal duties and the area to be covered time was a limitation.
2. Information /data was withheld this is because procurement data is deemed to be confidential and some of respondents especially principal and finance officer may ware not willing to give all the information. These data cannot be obtained from public sites like website and therefore it was not be easy to get them.
3. Key people involved in purchasing in public secondary school (principal and finance officer) were suspicious about the use of the data.

## 1.10 Definition of significant terms used in the study

The following terms have been used in this study;

<b>Committees</b>	:	These includes tender evaluation, technical evaluation and Financial evaluation and disposal committees
<b>Complexity</b>	:	Not easily understood
<b>Enforcement</b>	:	Ensuring compliance
<b>Leverage</b>	:	Taking advantage of existing structures
<b>Paucity</b>	:	Lack of knowledge and no of required staff
<b>Resistance to change</b>	:	This refers to state of those implementing public Procurement and Disposal Act not accepting the changes Proposed by the Act
<b>Sensitization</b>	:	Workshops or any form of ensuring that people are aware of public procurement and disposal Act
<b>Training</b>	:	Any kind of formal training in Purchasing

## 1.11 Organization of the study

This study was carried to find out the challenges public secondary schools were facing in implementing public procurement and disposal Act2005.The study is made of up of five chapters:-

Chapter one introduces the whole study by giving the problem statement that shows why it was necessary to conduct the study, purpose of the study and its significance to the various users. It further shows the scope of the study and the limitation experience in conducting this study.

Chapter two is mainly literature review and focuses on what other writer have written so as to get the gap to be filled by the current study. Among issues highlighted in this chapter are: the public procurement and disposal Act 2005,methods used in public procurement, obstacles to procurement reforms in developing countries, developing countries reforming procurements, measurement of success of procurement reforms, causes of lack of success in procurement reforms, overcoming obstacles of procurement reforms, review if

implementation challenges of public procurement in Kenya, changing role of purchasing procurement profession change management and resistance to change,

The last part of the chapter looked at conclusion and gaps to be filled and the conceptual framework.

Chapter three is made up of research design in which descriptive research design has been adopted; target population has also been identified as selected public secondary schools in Mombasa district; while simple random sampling technique was used in this research. Data collection instrument was mainly questionnaires and interview of the key personnel involved in purchasing. Data was presented by frequency tables and analyzed using measures of central tendency such as mean, mode and medium

Chapter four is analysis of Major findings of the study was identification of challenges that the selected public secondary schools faced in implementing PPDA, 2005; Lack of enough resources (cash) to implement the Act, Uncertainty of the flow of cash in the school, Lack of trained staff in procurement department, Lack of sensitization or training to tender committee members, Resistance to change by the implementers of PPDA, Resistance to change by existing suppliers, Influence from external stake holders and the Size of the school

Lastly Chapter five is conclusions and recommendations.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.1 Introduction

This chapter represents a review of other studies done relevant to this study. It also outlines a theoretical framework for the study. It was therefore important to review issues, concerning public procurement in Kenya and the rest of the world so as to understand the issue public procurement Act.

#### 2.2 The public procurement and disposal Act No 3 of 2005

The elevation of procurement to a strategic role has been the focus of considerable attention since the 1990s. Most of the initial literature was set against the private sector, and predominately manufacturing industry focused (for example, Lamming, 1993; Brandes, 1994; Gadde and Hakansson, 1994; Speckman et al., 1994; van Weele, 1994), with comparatively little attention given to the public sector procurement strategy and management. While the Public Contract Law Journal dates back to 1981 and Public Procurement Law Review to 1992, both had sit within the legal and regulatory disciplines, it is only in the last decade that public procurement strategy and management has, however, been recognised as different from that of the private sector and developed into a research discipline in itself with its own biennial international conference (Thai *et al.*, 2005; Piga and Thai, 2007), journal, and international research study on public procurement (Knight *et al.*, 2007).

Public procurement Act may be cited as the Public Procurement and Disposal Act, 2005, The purpose of this Act is to establish procedures for procurement and the disposal of unserviceable, obsolete or surplus stores and equipment by public entities to achieve the following objectives: to maximize economy and efficiency; to promote competition and ensure that competitors are treated fairly; to promote the integrity and fairness of those procedures; to increase transparency and accountability in those procedures; and to increase public confidence in those procedures; to facilitate the promotion of local industry and economic development(Public Procurement and Disposal 2005).

The Kenyan procurement regulations explicitly identify public universities, colleges, primary and secondary schools as procurement entities. In all these institutions, Tender Committees are responsible for the procurement of works, goods and services. In the public universities, the vice-chancellors are the chairmen of the committees, while principals/heads of colleges chair College Tender Committees. Other members of the University Tender Committees include the deputy vice-chancellors, finance officers, college principals, at least two faculty heads and two council representatives who are not members of the academic staff. In the colleges, members of the board include the principal, deputy principal, the finance officer and at least two departmental heads (W .Odhiambo and P.kamau 2003).

In schools, the Tender Committees consist of the headmaster/headmistress, the deputies, at least two members of the board of governors, the chairman of the teachers-parents association, two staff members and the matron. The functions of the entities are again to award contracts and review bids subject to the specified thresholds According to the act schools are one of public procuring bodies and falls in class C. therefore all public secondary schools should follow the public procurement act when doing all purchasing and acquiring services (G.O.K strategic Plan MOEST,2007).

The Act defines disposal" as the divestiture of public assets, including intellectual and proprietary rights and goodwill and other rights of a procuring entity by any means including sale, rental, lease, franchise, auction or any combination however classified, other than those regulated by any other written law; while "fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity, and includes collusive practices amongst bidders prior to or after bid submission designed to establish bid prices at artificial non competitive levels and to deprive the procuring entity of the benefits of free and open competition.Procuring entity means a public entity making a procurement to which this Act applies; "public entity" means the Government or any department of the Government; the courts; the commissions established under the Constitution; a local authority under the Local Government Act; a state corporation within the meaning of the State Corporations Act; the Central Bank of Kenya established under the Central Bank of

Kenya Act; a co operative society established under the Co-operative Societies Act; a public school within the meaning of the Education Act; a public university within the meaning of the Universities Act; a college or other educational institution maintained or assisted out of public funds; or an entity prescribed as a public entity for the purpose of this paragraph( Public Procurement and Disposal 2005).

## **2.3 Methods used in public procurement**

The following methods have been established by the Act to be used in public procurement:

### **2.3.1 Open tendering**

Under this method, the prospective suppliers are invited to compete for a contract advertised in the press; the lowest tender generally being accepted, although the advertiser usually states that they are not bound to accept the lowest or any tender (lysons 1996:332)

The procuring entity shall take such steps as are reasonable to bring the invitation to tender to the attention of those who may wish to submit tenders. If the estimated value of the goods, works or services being procured is equal to, or more than the prescribed threshold for national advertising, the procuring entity shall advertise, at least twice in a newspaper of general nationwide circulation which has been regularly published for at least two years before the date of issue of the advertisement, and on its website in instances where the procuring entity has a website, and the advertisement shall also be posted at any conspicuous place reserved for this purpose in the premises of the procuring entity as certified by the head of the procurement unit. The successful tender shall be the tender with the lowest evaluated price (Burton, R. A. 2005).

The procuring entity shall prepare an evaluation report containing a summary of the evaluation and comparison of tenders. The evaluation shall be carried out within such period as may be prescribed (Public procurement and Disposal 2005).

### **2.3.2 Restricted tendering**

A procuring entity may engage in procurement by means of restricted tendering in such manner as may be prescribed. A procuring entity may use restricted tendering if the following conditions are satisfied; competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors: the

time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured; and there is only a few known suppliers of the goods, works or services as may be prescribed in the regulations(Public procurement and Disposal 2005)

### **2.3.3 Direct procurement**

A procuring entity may use direct procurement as allowed under subsection (2) or (3) as long as the purpose is not to avoid competition(Public procurement and Disposal 2005).

A procuring entity may use direct procurement if the following are satisfied; there is only one person who can supply the goods, works or services being procured; and there is no reasonable alternative or substitute for the goods, works or services. A procuring entity may also use direct procurement if the following are satisfied; there is an urgent need for the goods, works or services being procured; because of the urgency the other available methods of procurement are impractical; and the circumstances that gave rise to the urgency were not foreseeable and were not the result of dilatory conduct on the part of the procuring entity(Bailey and farmer 1992).

The following shall apply with respect to direct procurement; the procuring entity may negotiate with a person for the supply of the goods, works or services being procured; the procuring entity shall not use direct procurement in a discriminatory manner; and the resulting contract must be in writing and signed by both parties (Dobler D.w and Burt D.N 1996)

### **2.3.4 Request for proposals**

A procuring entity may use a request for proposals for procurement if; the procurement is of services or a combination of goods and services; and the services to be procured are advisory or otherwise of a predominately intellectual nature. Subject to any prescribed restrictions, a procuring entity may use a request for proposals for procurement if the procuring entity would be allowed to use another alternative procurement procedure for that procurement under section 73, 74, 88 or 90.Sections 78 to 86 set out the procedure for a procurement using a request for proposals. The procuring entity shall prepare a notice inviting interested persons to submit expressions of interest. The notice inviting expressions of interest shall set out the following: the name and address of the procuring entity; a brief

description of the services being procured and, if applicable, the goods being procured. The procuring entity shall advertise the notice inviting expressions of interest in at least two daily newspapers of nation-wide circulation (Public procurement and Disposal 2005).

### **2.3.5 Request for quotations**

A procuring entity may use a request for quotations for a procurement if; the procurement is for goods that are readily available and for which there is an established market; and the estimated value of the goods being procured is less than or equal to the prescribed maximum value for using requests for quotations. (Burton, R. A. 2005).

The procuring entity shall prepare a request for quotations that sets out the following; the name and address of the procuring entity; the specific requirements prepared under section 34 relating to the goods being procured; an explanation of where and when quotations must be submitted; and anything else required under this Act or the regulations to be set out in the request for quotations (Public procurement and Disposal 2005).

### **2.3.6 Procedure for low-value procurements**

A procuring entity may use a low-value procurement procedure if; the estimated value of the goods, works or services being procured are less than or equal to the prescribed maximum value for that low-value procurement procedure; and any other prescribed conditions for the use of the low-value procurement procedure are satisfied. A regulation prescribing a maximum value for a low-value procurement procedure or prescribing conditions for the use of such a procedure may prescribe different values or conditions for different classes of public entities or different classes of goods, works or services being procured (Development Assistance Committee 2005).

The procedure for low-value procurement shall be as prescribed. A regulation prescribing a low-value procurement procedure may prescribe different procedures for different classes of public entities or different classes of goods, works or services being procured; or exempt the procedure from the application of a provision of Part IV or vary the application of such a provision to the procedure (Public procurement and Disposal 2005).

### 2.3.7 Specially permitted procurement procedure

A procuring entity may use a procurement procedure specially permitted by the Authority which may include concessioning and design competition. For the purpose of this section- "concessioning" means a procurement that encourages the mobilization of private sector resources for the purpose of public financing, construction, operation and maintenance of development projects and may include build-down and operate, build-own-operate and transfer, build-operate and transfer or similar types of procurement procedures; "design competition" means a procurement procedure for obtaining competitive bids for services which are creative in nature and which require that part of the services be carried as part of the bid to facilitate evaluation of the bids and such services include architecture, landscaping, engineering, urban design projects, urban and regional planning and fine arts (Development Assistance Committee 2005).

## 2.4 Obstacles to procurement reforms in developing countries

In many developing countries, public procurement has not been viewed as having a strategic impact in the management of public resources. It was largely treated as a process-oriented, "back-office" support function often implemented by non-professional staff of the buying agencies. Consequently, little effort was expended to ensure that the policies and rules and the institutional framework governing the procurement system were maintained in a manner that ensured that public funds were used in the most efficient and economic way and that the system delivered the best value for money. Recently, however, this has been changing. In the face of shrinking budgets and the need to fight corruption, governments are realizing that significant savings can be gained by a well-organized procurement system. Many developing countries have also realized that a well-organized procurement system contributes to good governance by increasing confidence that public funds are well spent. Many developing countries have therefore instituted reforms aimed at making the procurement system more transparent and efficient and increasing the accountability of public officials, in Kenya public procurement system has always had serious deficiency, many of which relate to poor governance (Wanyande 2006).

The Kenyan public procurement system has hitherto been extremely slow and prone to corrupt practices. The system has been characterized by decades of wastage of resources through defective and fraudulent public expenditure patterns. Because of the colossal amounts involved, public procurement presents a 'good' avenue to amass quick wealth, especially through exaggerated prices and kickbacks for some unscrupulous stakeholders both within and outside of government. The Anglo Leasing scam is one such practice where senior government officials inappropriately used their positions to corruptly defraud the government colossal sums of money. Owing to weak legal and institutional framework for public procurement has led to huge economic loss, estimated at Kshs. 459 billion in the last seven years (Transparency International, 2003). Yet, reforming public procurement systems has, however, proven to be quite difficult (Hunja 2001).

### 2.4.1 Countries are reforming procurements

Developed and developing countries have a need for a well-functioning public procurement system. This is particularly true for developing countries, where procurement usually accounts for a high proportion of total expenditure, e.g., 40% in Malawi and 70% in Uganda, compared with a global average of 12-20% (Development Assistance Committee, 2005).

In most developed countries, public procurement takes place within a framework of international obligations, such as the World Trade Organisation'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 most developing countries does not have to meet these international requirements. Consequently, the pressure to reform may not have been as strong and some developing countries retained a procurement system that differed little from that which was in place during colonial times. However, in recent years, the impetus for reform has increased, partly in consequence of requirements set by the World Bank and other donor organisations as conditions for providing development aid but principally because the inefficiencies of the unreformed systems have become self-evident. Most donors consider that a well-functioning procurement system is an essential requirement if their funds are to be used effectively to promote development. Where such a system is not provided by the host country, donors may insist on using their own procedures. There has been a trend in recent years for using national systems where these are suitable, through multi-donor budget support programmes (Abeillé 2003).

As most developing countries prefer the flexibility that comes with receiving development aid through budget support, they have an incentive to reform their public procurement and financial management systems.

Countries that are reforming procurement systems can be divided into four general categories characterized by their stage of economic development and the issues driving the reform efforts. One category consists of those countries whose economies are in transition from planned/socialist economies to market-based systems. These countries have no recent

history of competitive public procurement as government essentially supplied to it through tender or other trading mechanisms between public entities. They therefore have had to design and implement new procurement systems to provide mechanisms for the government to buy from the private sector on an open, competitive basis. The second group of countries could be described as the "middle income" countries. Many of these countries have had market-based procurement systems in place but are in the process of modernizing such systems. The push towards modernizing their procurement systems is motivated by a number of factors, most of which can be traced to the need to satisfy the demands of a more enlightened citizenry for more efficient and transparent systems of service delivery by government and for greater accountability in the management of public expenditures. The third group of countries could be described as developing countries. In many of these countries, the procurement systems differ very little from those that were put in place during the colonial era. Acceptances of the importance of proper management of public expenditures, including the fight against corruption have motivated such countries to modernize their procurement systems. Influence from the donor community has also been a factor in urging and providing resources to support the reforms (Wattig, W.A2002).

Reform of public procurement systems is also taking place in the industrialized economies. The motivation to reform in these countries is largely driven by the fact that governments are significantly changing the profiles of what and how they are buying e.g., moving away from goods and works into buying services, and using private financing for delivery of public services including infrastructure), the need to use new information and communication technologies throughout the procurement process and the introduction of new concepts of public sector management which establish "value for money" as a goal of the procurement process, leaving agencies with a fair amount of discretion on how to achieve this goal. In a developed or developing country, public procurement practitioners have and will face always many challenges. Each country has its own economic, social, cultural and political environment, and each country's public procurement practitioners face different types of challenges, or the same types of challenges but at different levels from their counterparts in other countries (Khi.V. Thai2001)

## 2.4.2 Procurement reforms in developing countries

A strong and well-functioning procurement system would be one that is governed by a clear legal framework establishing the 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 the procurement function is also necessary. Studies and assessments of procurement systems in many developing countries, however, have consistently indicated weaknesses in most if not all of these areas (World Bank 1989).

With regard to the legal framework, reviewers have found that 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. Another typical finding in many jurisdictions is the existence of a multiplicity of legal texts governing procurement that are often contradictory. Reforms of the legal framework will therefore be aimed at providing a regime that is clearly identifiable and that has a high enough juridical level to make it easily enforceable (Wanyande 2002). Furthermore, such a regime should also establish the basis for a competitive and transparent procurement process with strong self-reinforcing mechanisms. The minimum elements of such a process should include the following requirements ;effective and wide advertising of upcoming procurement opportunities, public opening of bids, pre-disclosure of all relevant information including transparent and clear bid evaluation and contract award procedures ;clear accountabilities for decision making, and bidder's enforceable right of review when public entities breach the rules. The latter is particularly important because experience has shown that the most successful procurement systems are those that provide bidders with a legal basis to challenge the actions of procurement officials when they breach the rules (Wattig, W.A.2002).

With regard to the institutional arrangements, 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. This normally leads to diverse interpretations and implementation of existing rules across various public agencies and even within some of the agencies. More

seriously, the lack of an entity that has oversight responsibilities for the proper functioning of the procurement system creates serious gaps in the enforcement of rules. The combination of lack of predictability in application of existing rules and weak enforcement creates enormous opportunities for abuse of the system often with total impunity. Institutional reforms have therefore been aimed at creating entities that are empowered to formulate policy, assist in enforcement of the new legal framework and provide tools for the buying agencies to carry out their functions properly (World Bank 1989).

The other aspect in which developing countries are reforming the way in which procurement is carried out is by bringing professionalism to those who carry out and manage the procurement function. Raising the strategic profile of procurement by making it core to good service delivery necessitates the formation of a professional cadre of public officials to implement this function. Instituting ongoing training programs and having a scheme within the public service that enables procurement professionals to gain seniority commensurate to their expertise and experience have been the cornerstones of reforms in this area (McCruden J.C, 2004).

### **2.4.3 Measuring success of procurement reforms**

A review of countries involved in procurement reform efforts indicates that, so far, comprehensive procurement reforms have largely been successful only in those countries in East and Central Europe that have been implementing a transition from socialist, planned economies to open, competitive market-based economies. The results in those countries that have had existing (albeit weak) competitive procurement systems is at best mixed. Only a few successfully implemented full-fledged reforms in the three areas mentioned above (Hunja 2001).

Edgar and shipman points out that When measured against the outcomes envisaged by the 1998-99 Task Force and the criteria set out by the World Bank and by the OECD, the procurement reforms in Uganda have been partially successful, though important gaps remain. The first two of the OECD pillars, providing for a legislative and regulatory framework and an institutional framework and management capacity, are largely in place at the central government level and are being extended to the local government procurement

system. The model that has been adopted, providing for decentralized procurement practice supported by central regulation, can provide operational flexibility within a national standard of good practice. While Tanzania and Kenya followed in enacting procurement and disposal laws and are on similar lines to the PPDA Act (Edgar and Shipman2006).

In Kenya for example it was until 2001 when major changes were introduced, the Supplies Guide published by the Ministry of Finance in 1978 regulated public procurement in the country. The changes introduced included the passing of the Exchequer and Audit (Procurement) Regulations 2001, which abolished the Central Tender Board and decentralized the procurement process by allowing public entities to set up tender committees responsible for all procurements within each entity. Besides, a monitoring and supervisory body, the Directorate of Public Procurement (DPP), was set up. To streamline the public procurement process, the government enacted the Public Procurement and Disposal Act, 2005, which established the Public Procurement Oversight Authority (PPOA) to replace DPP (IPAR2006)

Success in the transition economies can, however, be explained by the fact that governments did not have a public procurement system based on open competition, transparency and market principles. In the period of transition, these countries have had to implement market-based systems including those governing public procurement. They have done so by enacting substantive procurement legislation normally based on the Regulation Model Law on Procurement of Goods, Works and Services (IPAR2006). Most of them have also established entities whose role is procurement policy formulation and general oversight over the procurement system. They have also attempted to professionalize the procurement function by instituting continuous training programs for those carrying out procurement (Odhiambo and Kamau 2003).

Outside the transition economies, success in achieving comprehensive procurement reforms has proven more difficult. While many countries have attempted to implement fundamental changes to procurement systems, there isn't much evidence of these efforts achieving full fledged, fundamental reforms. Most post-colonial states, for example, have maintained

procurement systems that largely resemble pre-independence regimes. Where attempts have been made to bring about significant changes, these have essentially amounted to marginal tinkering with some of the rules while leaving the general framework intact (McCruden J.C, 2004).

#### **2.4.4 Causes of lack of procurement reform success**

In a developed or developing country, public procurement practitioners have and will face always many challenges. Each country has its own economic, social, cultural and political environment, and each country's public procurement practitioners face different types of challenges, or the same types of challenges but at different levels from their counterparts in other countries (Khi V.Thai 2001)

Thai (2001) classifies the challenges as to either external or internal challenges. The external factors includes rapid developments in technology (which have led to new procurement methods), public procurement cannot be perceived as mere a 'clerical routine,' as procurement practitioners are and should be involved in strategic procurement planning (Office of Management and Budget, 1997; Hinson & McCue, 2004); In addition to technology is social and economic environment, public procurement practitioners are under other external pressures such as an environment protection movement, and foreign policy commitments such as environmental Protection Concern or Green Procurement. Environment protection has been present in every country developed and developing and environmentalists have placed a great deal of pressure on public procurement practitioners (Oanda, C. 2006).

As far as internal factors are concerned Arrowsmith and Trybus (2003, p. 9), points out "the last decade of the twentieth century had witnessed the start of a 'global revolution' in the regulation of public procurement." Actually, challenges in procurement reforms are beyond procurement regulations to include procurement process, methods, procurement organizational structure, and workforce. Procurement reforms occur constantly in all countries, developed as well as developing countries.

Reasons for this lack of success in implementing reforms are varied but also interlinked. The most difficult obstacle is the lack of political will at the highest levels of Government to significantly overhaul an existing system. The underlying reasons for this may be many. The following are the most apparent (Arrowsmith and Trybus 2003)

#### **2.4.4.1 Deeply vested interests and lack of political will in reforms**

Public procurement is the process by which large amounts of public funds are utilized by public entities to purchase goods and services from the private sector. 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 provide opportunities for misuse of the contract award process through corruption or other patronage arrangements. Those in the private sector and their collaborators in the public institutions who benefit from such flawed systems have a very deep vested interest in the maintenance of the status quo. Vested interests in such systems can also manifest themselves in various other ways. They could, for example, include local business cartels that may have an interest in maintaining a legal framework that prohibits competition from foreign suppliers. Another group with a vested interest in maintaining the status quo is often the individuals or entities managing the reform process. Whoever drives the process essentially determines the outcomes. However, the government officials who are in charge of overseeing or managing the flawed system that needs to be fundamentally reformed are often put in charge of the reform effort or have some control over how the process proceeds. Management of the reform process by those in the bureaucracy who have a stake in the maintenance of the status quo leads to inaction and lack of implementation even where there is no discernable public opposition to reforms (Hunja 2001).

In many developing countries, access to public contracts also serves as a means to reward political supporters and of financing political parties, in Kenya for example before the implementation of public procurement act, Local Authorities were guided by Cap.265 and procurement regulations issued by the Central Government from time to time. Whereas these laws set out very clear procedures, the same were flouted with abandon not only in LAs but also in all other public entities (Lewa, 2006; Waiganjo, 2006; Wanyande, 2006; Mwangi 2006; Nzai & Chitere, 2006; Oanda, 2006). LAs were preoccupied with the

regularity and legality of the procurement process not value for money. Matters were aggravated by the fact that the politicians (councilors) were in charge of the tendering process from adjudication to award as members of the influential tender, finance and work committees. Conflicts of interest and influence peddling were rampant and in most cases council officials were willing accomplices in flouting the laws for own gains and serving of political interests. It was common to award tenders to bidders other than the lowest priced ones. The minister for Local Government had the final say in procurement matters. Allegations abound on how councilors and businesspersons would lobby the minister to be awarded tenders (USAID 2010).

The political leadership often lacks the will to expend the political capital necessary to overcome the resistance of often powerful economic forces. Inability to overcome the resistance of those with vested interests can manifest itself in many ways. For example, even where the government may have publicly committed itself to reforms, endless and circular discussions on what the reforms should constitute (including such issues as the type of legal instrument that should be prepared and the manner of administrative arrangements to put in place) are used as a means of forestalling progress. As these "discussions" continue, no actual steps are taken to change the existing structures. The experience in a number of those countries is that despite many attempts at implementing change and the use of significant resources to bring about reforms, In many cases achievements are limited, funds may be used in preparation of reports, recommendations and position papers, draft laws and other instruments may be discussed but no action is taken to implement the proposed changes. Public procurement oversight authority have done several review of the implementation of the Act in Kenya yet in most of them the same challenges have been identified for example in the review of ministry of education there was no evidence that staff level capabilities and expertise were adequate to improve on the value for money in procurement functions within the Ministry. It was noted that the then head of the Procurement Unit was the head at the Ministry of Health where a procurement review had been undertaken previously and one expected the compliance level to increase as he had participated in a similar exercise yet similar problems were encountered (PPOA2007).

Several studies done in the management of schools have shown that parental involvement in the area of financial management is still low in Kenya. It should be noted that parental involvement greatly influenced the way finances in schools are managed, yet not many parents who participate in schools BOG and PTA committees and by extension in implementation of PPDA 2005. Parental levels of involvement in the area of school finances affect financial transparency in schools; (Peter Kiplangat Koross, Moses Waithanji Ngware, Anthony Kiplangat Sang, 2009)

Masese (2008), Ngingi (2007) and NJeru (2002) noted that fees guideline issued by ministry of education had serious effect in management of public secondary schools; because of these guideline in some instances the fees charged by school was too low to afford advertisement of tender through the media as a result schools supplies are controlled by a cartel of supplier who can wait when the schools have funds for them to be paid (Masese 2008, Ngingi 2007 and NJeru 2002).

#### **2.4.4.2 Paucity of technical knowledge and capacity in procurement.**

In addition to the problems associated with resistance of vested interests and lack of political will is the paucity of technical knowledge on the key ingredients of a well-functioning, modern legal and institutional public procurement framework. This is further compounded by the lack of knowledge on how to marshal reforms through the political and bureaucratic processes and on how to manage change. Preparation of a proper and comprehensive procurement legal framework demands that those undertaking the work possess a combination of good legal skills and substantial knowledge of good procurement practices and procedures including related institutional issues. Ideally, the team managing the reforms should also be well versed in overcoming the challenges inherent in implementing reforms in an environment that may not be fully supportive of such reforms. It has been argued that an organization with a high level of professionalism is more receptive to changes and tends to value managerial characteristics such as efficiency and effectiveness. This is because professionalism often injects professional norms and values into a bureaucratic culture. Studying IT adoption by small city governments, Brudney and Selden 1995 propose that "a professional administrative atmosphere is more conducive to the efficient and

effective delivery of government goods and services and is more congenial to computer technology implementation and use” (Brudney and Selden 1995).

However, most procurement practitioners in developing countries possess only some technical procurement skills but normally lack knowledge on the larger policy and other issues necessary to plan, manage and implement wide-ranging reform efforts. It is even more difficult to find local lawyers who are technically proficient on procurement matters. This paucity of technical skills locally necessitates the use of foreign consultants in drafting of laws and other legal instruments. And while access to foreign skills can be very useful in transferring knowledge, such consultants need to take great care to ensure that proposed legislation corresponds to the local legal structures and traditions. Drafting of such texts by foreign consultants without strong input from local lawyers may also contribute to a lack of “buy-in” by those who should be managing the reforms locally (McCrudden J.C 2004).

A review of implementation of PPDA 2005 in the ministry of education showed that the ministry has insufficient sensitization training on the procurement law and regulations especially for senior officials of the ministry and other affiliated agencies. There was no evidence that all personnel handling the procurement-related functions including departmental heads, members of standard and specific committees had undergone adequate sensitization training in the procurement law and good practice, as organised by PPOA. Only nine staff from the Procurement Unit had attended the sensitisation training under MCA-TP programme. This is one of the causes of inappropriate application of the Act and regulations. There was need to for all personnel of the Ministry involved in procurement related functions countrywide, including members of committees such as PTA, BOG and users departments, to undergo sensitisation training in the Public Procurement and Disposal Act 2005 and the related regulations. The Procurement Unit was established in accordance with the PPDA Section 4 and was fully operational as stipulated in the Act and regulations. The Procurement Unit is headed by Principal Procurement Officer. The Procurement Unit has eleven staff with two qualified CIPS and only three officers are members of KISM. The same situation was found in KIE and KNEC which are affiliate bodies of MOE (PPOA2007).

#### **2.4.4.3 Complexity of substantive issues involved in procurement.**

An added complication to the dearth of technical skills and knowledge is the fact that some of the issues that have to be considered in the context of implementing fundamental reforms are quite complex and often require innovative thinking and some hard decisions. Some of the more difficult issues that reformers have to tackle include the type of legal instrument to be used, how to optimally organize the procurement function and what kind of institutional arrangements to put in place (Hunja2001).

In Kenya, Government procurement professionals face a unique set of challenges. In public sector organizations, speed and efficiency are difficult to achieve because workers must fully document audit procurement processes that are often lengthy, labor intensive, and time consuming. Every day, procurement professionals try new processes and tweak existing ones to find innovative ways to meet their customers' demands. But in public sector organizations there are hundreds – sometimes thousands – of rules, regulations, and directives that simply can't be avoided. In addition to the constraints of such a structured environment, there's a more fundamental problem: a limited workforce. Many public sector employees will be eligible to retire within the next three to five years, and there aren't enough workers trained and ready to take their places. Organizations must compensate by changing the way they do business and enterprise resource planning (ERP) solutions provide the answer. But for public sector organizations, there's a catch. With cumbersome procedures that require steps such as budget checking, competitive bidding, vendor certification, and strict control over contract changes, public sector procurement processes often don't fit into standard automated solutions (Oanda, C. 2006).

#### **2.4.4.4 Type of legal instrument in reforming procurement.**

One question that causes a fair amount of debate in a number of common law-countries who have inherited a procurement system based on the United Kingdom (UK) model is the type of juridical form or instrument that the reforms should put in place to regulate public procurement. Historically, the UK did not regulate the manner in which public procurement was implemented through substantive legislation but by means of a set of regulations issued by the Department of the Treasury instructing Her Majesty's civil servants on the procedures to use when using public monies. Even though this has changed in the UK (most of the

procurement in the UK is now governed by the European Union Directives on Procurement), most of the developing countries that have the UK-based model have maintained this basic legal structure (Hunja2001).

Thus, in most of these countries, procurement is regulated by policies issued by the minister responsible for budget matters under some generic statute such as the Exchequer and Audit Act supplemented by various manuals and other ministerial instructions.

Over time, this has proven to be problematic for a number of reasons. One is that such regulations are then subject to amendments and changes without a systematic effort to ensure consistency and coherence. Furthermore, because such regulations are essentially directed at public servants, the business community is usually not aware of the legal rules that govern the procurement system, thus contributing to the opaqueness of the legal framework. The other significant problem is that such regulations usually only apply to central government entities, leaving other public entities (e.g., local authorities and state-owned enterprises) to issue their own rules and to create their own procurement systems. Reforms in such countries should therefore include the enactment of a comprehensive legal instrument at a high enough juridical level that makes the rules easily identifiable and enforceable and that would govern all entities that use public funds. However, attempts to enact a substantive statute have often met resistance partly because it doesn't correspond to the legal tradition of such countries, since procurement was not historically governed by legislative instruments (Nzai & Chitere, 2006).

A complication that is found even in countries where public procurement was normally regulated by way of a code (as is the case in most countries with a civil law tradition) is the division between what should be contained in the code and what should be provided for by way of subsidiary legislation in the form of implementing regulations. It is generally recognized that a comprehensive legal framework should provide for all the procedures that a public entity should follow in carrying out procurement. However, since most of these may be rather detailed procedures, the basic legislative instrument should only contain the essential procedures and principles leaving matters of procedural detail to be issued in the form of regulations or other subsidiary texts. It is often difficult to gauge where the "division" between what the laws should contain and what should be in the underlying

regulations. More importantly, careful consideration in drafting should be given to ensure that such regulations do not contradict, dilute or compromise the policy objectives provided for in the law itself (Development Assistance Committee, 2005).

#### **2.4.4.5 How to organize the procurement function**

One issue that raises difficulties in implementing procurement reform is the extent to which the procurement function should be decentralized. Although the organizational arrangements may differ significantly between different countries, many developing countries have generally maintained elements of a centralized procurement system. This normally includes mandatory prior review of all contracts above a certain threshold by a central tender board, centralized purchasing of common user items and little delegation of authority to the user agencies. Problems of inefficiency and lack of accountability associated with such a centralized system has, however, led many countries to move towards a more decentralized arrangement where the user agencies manage all the procurement for their own needs. One of the key benefits of a centralized arrangement is that it removes the diffusion of accountability for procurement decisions by placing this within the agency that holds the funds. It also enables capacity to be built in the user agencies where there is a greater need. However, in contemplating the move to such a decentralized system, a number of difficult issues have to be tackled. These include the manner in which oversight over the decentralized system should be managed, how to leverage the buying power that comes with centralized purchasing especially of common user items and how to create adequate capacity in the buying agencies to tackle types of procurement they had no responsibility over before. In dealing with the oversight problem, many countries have coupled decentralization of the procurement function with the creation of central entities with oversight and enforcement responsibility (Abeillé, B. 2003),

However, in countries without the history of such an agency, vigorous debates can occur regarding the powers and responsibilities that such an entity should have the extent to which it should be endowed with operational independence and where such an entity should be placed within existing government structures. While the answers to many of these issues depends largely on how the government fiduciary arrangements are organized, the principle should be to vest such an entity with adequate authority and independence to enable it

vigorously enforce the procurement rules across all public agencies(Odhiambo and Kamau 2003).

#### **2.4.4.6 Enforcement**

Enforcement is the biggest challenge in any changes in public bodies' public schools included. A review of bursary allocation in public secondary schools shows there is a need of efficient utilization, with strict monitoring and auditing should constitute key features of this process. A monitoring mechanism should be put in place to ensure transparency and accountability in working out the amount of funding to be allocated per student, and also in the disbursement of the funds. Ensure that schools are guided on how to evolve fees waiver mechanisms as well as income-generating activities in order to enhance access to secondary education by the poor. Given the scenario above, then the biggest question to answer is; if allocation of bursary funds to needy students which is a one of thing is a challenge to public secondary schools what of enforcing public procurement rules? (IPAR2003)

In carrying out assessments of existing procurement systems, one constantly finds that abuse of the procurement system arises largely due to weak or inconsistent enforcement of the prevailing rules. This is clearly reflected by the dissonance between the prevailing (formal) rules (in whichever juridical form these may be) and what actually takes place in practice during the procurement process. Ambiguities and gaps in the rules also lead to different interpretations and practices that are mainstreamed. And, when the problem is framed as one of lack of enforcement, doubt is often expressed as to whether replacing existing rules with a new legal framework will, result in any radical improvements. This can be a difficult question because, while the lack of enforcement can partly be traced to the weakness in the rules themselves, a solution will require a multi-faceted approach. It will include for example, strengthening the right of bidders to obtain redress when the public entities breach the rules, forcing greater transparency into the decision-making process (including public notification of contract awards) coupled with other institutional oversight mechanisms such as procurement audits. The challenge lies in achieving proper balance so that mechanisms of enforcement do not become as heavy as to make the system inefficient and costly (Hunja 2001)

## 2.4.5 Over coming the obstacles

The following are possible ways of overcoming the challenges:-

### 2.4.5.1 Develop a Strategy:

The most important step towards overcoming obstacles to fundamental reforms of the public procurement system is an analysis of where the problems with the system lie, what solutions would be needed to solve the identified problems and the obstacles that would be faced in trying to achieve those solutions. Once the assessment indicates that significant problems with the procurement system are of a systemic nature, it is crucial to formulate strategies aimed at diffusing obstacles to the far-reaching reforms that are needed. The strategy must include a realistic analysis of such obstacles to reform and the means of managing them (Obiero Makori 2008).

In terms of this reform, often referred to as the new public management (NPM), public management has widely been regarded as an improvement on the outdated public administration (Auriacombe, 1999, pp. 124-36). Reform ideas emanating from management writers, academia, consultants, in particular microeconomic ideas, management and organisational thinking, have greatly infused the process of modernisation. International institutions such as the Public Management Service of the Organisation for Economic Co-operation and Development (OECD), World Bank, and the European Commission were instrumental in exporting these ideas to various countries (Pollitt and Bouckaert, 2004) however developing states are not particularly successful in the implementation of management reform initiatives (Hughes, 2003 ).

Evidence from countries where reform efforts have stalled for a long time indicates that it is very difficult to achieve wholesale, systemic changes to the legal framework in the absence of consistent political commitment and support from within the highest levels of government. Only support at such levels can overcome the process and substantive obstacles to reform. However, even where there is a lack of high level political support, it should be possible to explore ways in which different aspects of reforms can be entertained. Thus, rather than abandon reform efforts because it is not possible to achieve dramatic

results, the strategy may involve introducing intermediate mechanisms that can be introduced in the interim and specifically at dealing with one or two of the more serious problems. For example, if one of the problems is the lack of predictability or uniformity in the rules that public entities will apply, it may be useful to explore whether the introduction of standard bidding documents including standard forms of contract may help in establishing some uniformity to the bidding process. Another example of a mechanism that can greatly increase transparency is to have upcoming procurement opportunities (and contract awards) announced electronically. Computer connectivity is increasing in the major public entities even in developing countries, and the use of such systems can have a significant impact on transparency and efficiency. Thus, in crafting strategies for reform, it would be necessary to aim at that which is achievable in each specific context (Bugler, D., & Bretschneider, S. 1993).

As pointed out by wirner Webb; during the past two decades, the public services of many states have been subjected to a number of pressures. Demands were made on the public administration to make savings in public expenditure, obtain greater efficiency and effectiveness and to improve the quality of public services. One way in which public services could respond to these demands was to undertake public management reform. Efforts to “modernise”, “streamline” or “reform” the public service soon became widely popular. Undertaking public management reform, it was expected, would also lead to greater accountability to the legislature and society, greater political control over the bureaucracy, and greater freedom for public managers to manage (Wirner Webb 1998)

#### **2.4.5.2 Leverage**

Because efforts to bring about fundamental changes to a flawed system may attract direct opposition if implemented by as a self-standing program, one way to increase the possibility of success is to implement such reforms within the context of an existing package of reforms aimed at increasing the overall efficiency of the public sector. Since procurement is the means by which public resources are spent, improvements to the procurement system will have a developmental impact from many perspectives. Many countries are in the process of improving their systems of governance (of which management of public resources is a key aspect) and in implementing anti-corruption measures. Procurement reform fits well into

any such programs and is bound to attract less direct opposition if it is part of a large reform effort. Furthermore, many developing countries are implementing governance reform efforts with the support of the donor community who can also be useful in leveraging support for reforms politically and in providing resources (Trepte, P.2004).

## 2.5 Review of implementation challenges of public procurement in Kenya

In his study in the ministry of Higher Education Science and Technology, Obiro Makori identified that the ministry faced several challenges in implementing public procurement and disposal Act 2005; these include lack of trained and qualified procurement staffs; lack of well drawn and coordinated training program for the implementation of public procurement and disposal Act within the department; resistance to change also contributed to challenges of implementing the Act as some of staffs were not ready to change, (Obiro Makori 2008)

Public procurement oversight authority have done several review in the ministry of Education (PPOA, 2007) and in the ministry of Health (PPOA 2008). In all of the above reviews the following have clearly been identified as challenges of implementing public procurement and disposal Act

### **i. Lack of Procurement Records Management Procedures Manual**

Procuring entities in the ministry of education including schools and colleges did not have properly document procurement proceedings and records were not managed in accordance with Regulation 7 (e) of these regulations. The Ministry was therefore required to upgrade record keeping in line with the requirements of Section 45 of the PPD Act and Regulation 34 (3) which requires PEs to maintain a comprehensive file for each procurement activity (PPOA, 2007)

### **ii. Separation of procurement responsibilities**

There was no documented administrative schedule of duties in the PE outlining separation of procurement related functions into initiation, processing and receipt of goods. It was therefore difficult to determine whether there is clear separation of powers for those undertaking initiation, processing, and receipt as required by Section 26 (3)(c) of the Act. 17 (PPOA, 2007)

### **iii. Insufficient training**

Personnel who handled the procurement-related functions including departmental heads, members of standard and specific committees had not undertaken adequate sensitization training in the procurement law and good practice. Only nine staff from the Procurement

Unit had attended the sensitisation training. This was one of the causes of inappropriate application of the Act and regulations (PPOA, 2007)

**iv. Lack of comprehensive policy and strategy for procurement**

Ministry of education did not have clear and documented policy or strategy to undertake Proper procurement as there no Strategic use of framework contracts for the categories of spend for which they are most appropriate, including printing of KNEC publications; Examination Reports; Calendars, Paper reels, Plates; Examination Results Slips. There was no guidance, tools and support to staff engaged in procurement functions and there was a need to explore opportunities of increasing modern procurement practices such as long-term contracts and collaboration with suppliers (PPOA, 2007).

In the MOH, The PPDA 2005 and PPDR 2006 were operational procurement functions and Procedures. However, there were no established procurement policies and procedures (PPOA, 2008)

**v. Organisation and staffing of Procurement Unit**

The Procurement Unit was established in accordance with Section 26 (4) of the PPDA. Much of the procurement was undertaken directly by the schools, colleges and the affiliated agencies. The district offices undertook a significant amount of procurement of the procurements for the education offices in the district.

This left the Ministry headquarters to procure mainly administrative supplies such as stationery, furniture computer equipment and some maintenance contracts. There was 17 staff members in the unit of which only three are qualified CIPS diploma holders and none is member of KISM. The procurement functions was incorporated in the overall strategic plan 2006-2010. It was found that the present staff level capabilities and expertise were not adequate to improve on the value for money in procurement functions within the Ministry (PPOA, 2007).

In the ministry of health the procurement unit had a total of sixteen officers but majority of them did have specific job descriptions, responsibilities and accountability. It was also not easy to establish the adequacy of personnel, and/or procurement management skills consistent with responsibilities. High turnover of staff as illustrated in table below was observed that since 2004 there have been sixteen transfers of staff with the average period of stay of two years. The senior staff had left duty under interdiction leaving no room for

handovers. It was highlighted this high turnover was a major challenge in the procurement management as it compromises planning, efficiency and consistency (PPOA, 2008).

**TABLE 2.1 Procurement Staff Turnover in the MOH Procurement Unit**

<b>Staff</b>	<b>Year of joining MOH</b>	<b>Year of leaving MOH</b>
procurement officer	February,2004	April,2005
Senior Procurement Officer	February,2004	May,2006
Chief Procurement Officer	April, 2004	May,2006
Chief Procurement Officer	April ,2004	May,2006
Senior Procurement Officer	April,2004	June,2007
Principal Procurement Officer	August,2006	January,2007
Chief Procurement Officer	May,2004	February,2008
Principal Procurement Officer	January,2007	January,2008
Chief Procurement Officer	June,2007	January,2008
procurement officer	April,2004	January,2008
Procurement Officer I	May,2004	January,2008
Procurement Officer I	May,2004	January,2008
Procurement Officer I	January,2006	January,2008
Procurement Officer II	May,2004	January,2007
Procurement Officer II	May,2004	January,2008
Procurement Officer II	May,2004	January,2008

**Source: public procurement oversight authority (2008)**

**vi. Committee members**

Several committees had been formed as per the act though majority of them were not operational; Tender Committee Standing Complying with regulations; Procurement Committee Standing Appointed but has never met and there was no minutes; Tender Opening Specific was Complying with regulations; Evaluation Preliminary Specific was also Complying with regulations; Evaluation Technical Specific was Complying with regulations; Evaluation Financial Specific was Complying with regulations; Inspection and Acceptance Standing was Not fully active though appointed and Disposal Standing was Not active though appointed

Members of these committees had not undergone any training on matters relating to PPDA and the related regulations (PPOA, 2007).

## 2.6 The changing role of purchasing profession

Purchasing is seen by many of today's successful organization as activity of considerable strategic importance. It is therefore true to say that majority of organization employ the service of dedicated team of purchasing and supply specialists (Peter Baily, 2005) The early 1980s saw the academic debate move from a logistics/operations management orientation, focused on inventory control systems, transportation, trans-shipment problems and distribution issues, towards a focus on the strategic nature of supply itself. Kraljic (1983) in his highly quoted Harvard Business Review paper also began to shift the debate away from examining the practical technical issues of purchasing towards thinking about purchasing as a more strategic business issue. Kraljic (1983) introduced concepts and strategies, such as category management, leveraging and relationship management, into common business parlance. The term "supply chain management" was typically introduced to refer to the entire supply activity of the firm. Whilst it is interesting to note that many authors do not like the term, SCM has been adopted by the global academic community, despite several attempts to advance the debate and offer new terms such as pipeline management, network sourcing, demand management and value stream management (Christopher, 1992; Farmer and van Amstel, 1991; Hines et al., 1999; Lamming, 1993).

The increasing profile of SCM in the academic world has been equally matched by a rise in purchasing's profile within the firm. Several world economic events including the oil price crisis of the late 1970s, increased global competition, the rise of Japanese manufacturing, and world recessions, have helped purchasing to become a key function within many firms. The optimisation of internal production through operations management tools and techniques, such as world class manufacturing (Schonberger, 1986), benchmarking and "business process re-engineering" (Hammer and Champly, 1993), were no longer sufficient in this environment. The introduction of lean manufacturing (Womack et al., 1990) helped shift the focus, considering not only how the production process could be optimised, but also how this was constrained by supply chain activities. Lean supply techniques were introduced including supplier tiers, collaboration, joint design and development, and supplier associations (Lamming, 1993; Rich and Hines, 1997). The application of, and research into, SCM also began to focus on concepts such as just-in-time (JIT), and TQM, and their

relationships with supply management practices. Research into managing this subset of inter-organisational relationships has blossomed, and has been accompanied by research across a range of academic disciplines, with each discipline making use of its own theoretical lens, such as transaction cost economics (TCE), resource-based view (RBV) and social capital, to analyse and explain supply activities of firms.

This changing role is due to is due to several factors:-

1. Leading –edge concept

Organization applying leading –edge concept approach to the management of materials are putting into practice integrative ideas which are in part based on strategic and integrated role for purchasing.

2. Competitors activity

When trying to develop new ideas pressure is often placed on an organization to look at what level of performance the competitor and other organization are achieving

3. Customer demands

Customers are now seen by many as being all important .Delighting customers is no longer to give the second best service if you want to be profitable and retain market share(Philip Kolter,1999)organization both public or private worldwide are more customer driven and these driving forces impact upon purchasing

4. Government intervention

There are varying degrees of government intervention such as trade block involvement in the market places. These interventions take form of price control and control of monopoly restrictive practices such as enactment of public procurement and Disposal Act2005

5. Chartered institute of purchasing and supplies(CIPS)

In early 1990 institute of purchasing and supplies was granted a royal charter .this was a landmark in the development of purchasing and supply function and is now truly more professional activity. The institute has spent considerable time and effort at national level demonstrating the importance and contribution of effective purchasing in both public and private sector.

6. Technological changes

Technology is changing and new issues are emerging in procurement such as Ecommerce, online purchasing etc

## **2.7 Change management and resistance to change**

Kurt Lewin defines change as modification of the forces keeping the system behavior stable (Cumming, T.G, 2009). Taylor points out that; work places are dynamic as they have always been. Those who view the past time as time of static business are mistaken although of course the phase of change increase and decline and is not always the same (Taylor R, 2002). Change within an organization come from two sources (K Lewin, 1951)

### **2.7.1 External Triggers**

External causes Change in demand for an organization's products or services (as a result of changing consumer preferences, action by competitors, government etc) and includes: threatening tactics of competitors; arrival of a new comer in the market; takeover of the business (K Lewin, 1951).

### **2.7.2 Internal Triggers**

These are effects of things within the organization control and includes; need to change strategy as a result of external forces; need to introduce a new culture in the organization; need to improve productive efficiency; need to improve the quality of product or services; need to improve standards. Change can either originate from the environment or from within the organizations. An example of an exogenous change (from the environment) is one generated by a change in some aspect of law. An example of an exogenous change is where for example a university introduces a new program. Change can impact various aspects of an organization. It can impact on task, technology, structure or people. Organizational growth or retrenchment as well as new government action often changes structure. Changes in technology can also affect people's attitudes, emotions, skills, abilities, and expectations and interest seldom is the impact of change neatly compartmentalized as affecting just one or two parts of an organization (Cumming, T.G, 2009).

### **2.7.3 Resistance to change**

Although change is a universal and an inevitable phenomenon, it rarely occurs in a smooth, balanced fashion. Resistance to change is a frequent and natural occurrence. The paragraphs that follow discuss four of the most common reasons for resisting change.

The main reason for resistance to change is parochial self-interest. This occurs where virtually all organizational members are expected to behave in ways that will maximize those goals that they personally consider most important. Consequently, to the extent that all proposals for change represent a threat to the status quo, individuals and groups are likely to resist if they believe they stand to lose something of value as a result. In such circumstances, the parties involved will for the most part focus on their own self interest, and only incidentally on the overall good of the organization. The following are some of the personal goals, that when threatened, will almost inevitably provoke resistance; power, money, prestige, convenience, security etc (Bedeian 1983).

Other source of resistance includes; Lack of understanding and trust especially when people do not understand the intended purpose, mechanics, or consequences of a planned change; Different assessments if organisational participants differ in their evaluation of associated costs and benefits resulting from a proposed change; Low tolerance for change due to the fact that different people have varying abilities to absorb change. Unknown consequences of change may present a psychological threat to many individuals challenging their sense of adequacy as well as threatening their self-esteem (Bedeian 1983).

### **2.7.4 Dealing with resistance to change**

There are six methods suggested by Bedeian (1983) to influence participants to accept changes. These methods are briefly discussed; Education and Communication which involves sharing of knowledge or perception that a change initiator has acquired through means not typically available to other members of his or her general organization. This approach involves securing relevant facts, eliminating misunderstanding due to incorrect or incomplete information and resolving difficult viewpoints through discussion. Purchasing training can be a rewarding experience .You can learn techniques that you can directly apply to your job to reduce cost, improve process and achieve your organizational goals (Charles Dominic2002)

Participation and Involvement is another method and it involves the involvement of potential resisters in the planning and implementation of a proposed change. This method is based on the notion that the most effective way to reduce opposition and to engender commitment to a proposed change is to work collaboratively with the members of the targeted system. While Facilitation and Support involves the use of facilitative and supportive skills particularly appropriate when resistance develops as a result of fear and anxiety, this method may be traced to the interest stirrings of human relation's movement. Negotiation and Agreement involves the use of covert attempts to side step potential resistance to change. Manipulation is not simply a matter of persuasion but more a devious tactic for persuading different minded groups that a proposed change should be adopted. As such, manipulation involves supporting a position through slanted appeals to the particular interests of a target system. Selective distortion of information by both omission and commission may be involved. In addition facts and emotional appeals most likely to be convincing to the principal parties may be consciously misrepresented. Co-operation may be classified as a form of manipulation. Absorption of various key resisters into an organization's selection making structure has long been a popular method to avert opposition. Explicit and implicit Coercion assumes that there is a basic disagreement and that the principal parties involved are operating from relatively fixed positions. Typified by at least temporary abandonment of efforts at consensus, coercion involves the use of force or threats or both to compel acceptance of an enacted change. Tactics involved may include violent disagreements as well as threatened firings, transfers and loss of promotion possibilities. Coercion is generally used sparingly in practice (Cumming, T.G, 2009).

## **2.8 Conclusions and Gaps to be filled**

SCM still appears to suffer from an underlying frustration or perception of being largely ignored; practitioners feel they have a great deal of value to add, but the organisation is not concerned with them, While many writers acknowledge the importance of procurement, yet little as been done to promote the discipline. The literature review and the conceptual frame work identifies a gap in terms of knowledge in that very little has been done on the issue of procurement in public secondary schools yet large amount of money is collected in form of school fees by these schools.

Thus the challenge for implementing PPDA in Kenya and developing countries identified in the literature review includes; effects of cash flow, Lack of enough professionals, Resistance to change by implementers, role of stakeholders , size of the school , Lack of policy and strategy and government policy

To overcome the above challenges the following have been recommended; Develop strategy, Sanitations workshop for committee member and Engaging professional procurement staffs

## 2.9 Conceptual framework

This shows the various independent and dependent variable which are available for this study and the possible relationship between them.

Independent variables are variable the researcher manipulates in order to determine their influence on the dependent variable. Variation in these variables would predict the amount of variations that would occur in the dependent one. Implementing public procurement Act 2005 in public secondary school varies as a function of independent variable; cash flow effects, lack of trained staff, resistance to change and role of stakeholders.

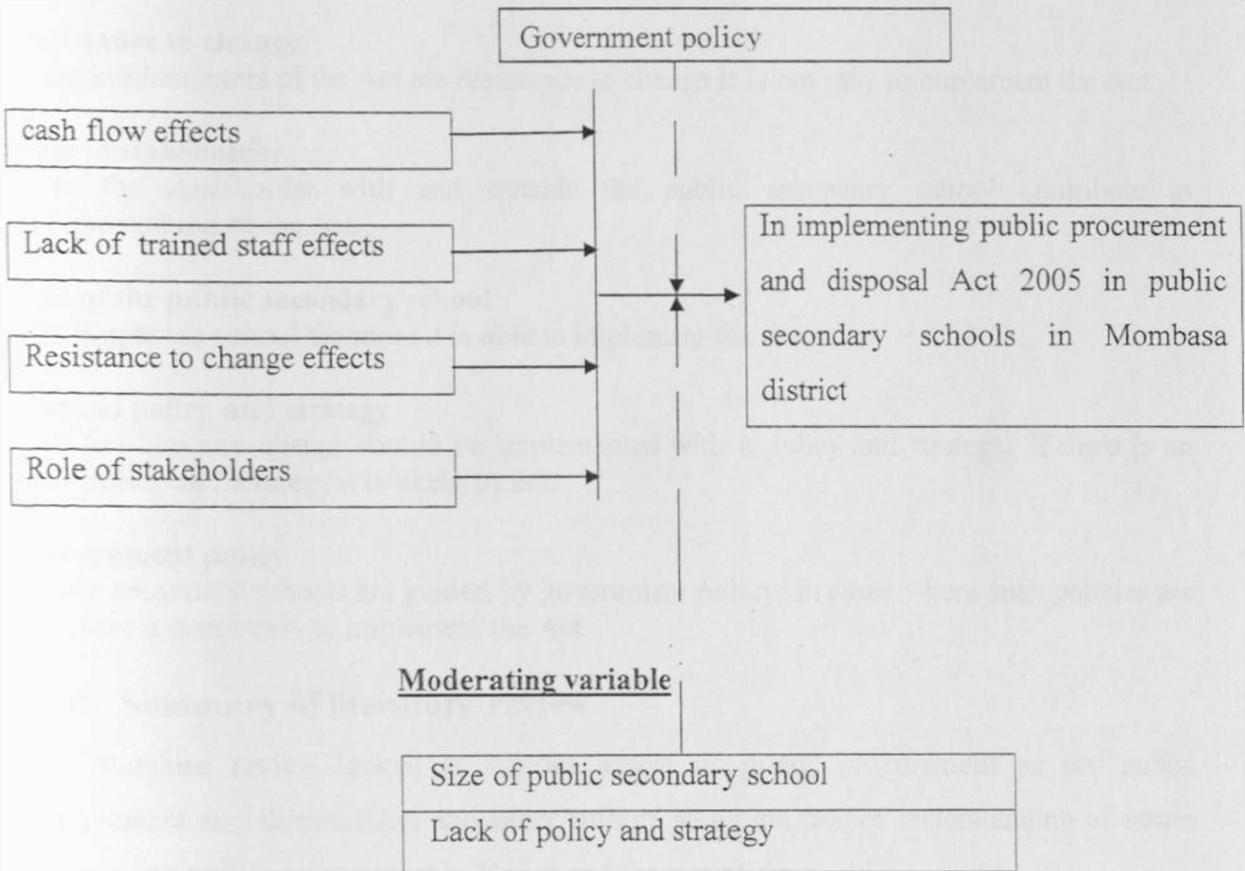
Conceptual framework also incorporates the moderating variables; size of public secondary schools, lack of policy and strategy and intervening variable; government policy.

The relationship of the independent, dependent, moderating and intervening variable are conceptualized below.

X independent variable

y; independent variable

Intervening variable



**Figure1: The conceptual Framework: source (Author 2011)**

In the figure 1.1 above there is different pattern of relationship between variables of cash flow effects, lack of trained staff effects, resistance to change effects and role of stakeholders on one hand and in the implementation of public procurement Act 2005 in Mombasa district on the other hand that is as result of size of public secondary school, lack of policy and strategy and government policy. These variables are briefly explained below:-

**Effects of cash flow**

Effects of cash flow are the ability and timing of the school to have enough cash for the purpose of implementing the Act. To implement the Act the schools therefore needs enough cash.

### **Effects of lack of trained staff**

If the procurement staff and tender committee are properly trained it is easy to implement the Act and vice vicar.

### **Resistance to change**

If the implementers of the Act are resistance to change it is not easy to implement the Act.

### **Role of stakeholder**

How the stakeholder with and outside the public secondary school contribute to implementation of the Act.

### **Size of the public secondary school**

The bigger the school the more it is able to implement the Act.

### **Lack of policy and strategy**

The Act like any change should be implemented with a policy and strategy. If there is no such policy and strategy it is likely to fail.

### **Government policy**

Public secondary schools are guided by government policy. In cases where such policies are not there it is not easy to implement the Act.

## **2.10 Summary of literature review**

The literature review looked at various aspect of public procurement as per public procurement and disposal Act and other authors so as get deeper understanding of issues surrounding public procurement in Kenya and the rest of the world.

Among issues highlighted in this chapter are: the public procurement and disposal Act 2005, methods used in public procurement, obstacles to procurement reforms in developing countries, developing countries reforming procurements, measurement of success of procurement reforms, causes of lack of success in procurement reforms, overcoming obstacles of procurement reforms, review if implementation challenges of public procurement in Kenya, changing role of purchasing procurement profession change management and resistance to change,

The last part of the chapter looked at conclusion and gaps to be filled and the conceptual framework.

## CHAPTER THREE

### RESEARCH METHODOLOGY

#### 3.1 Introduction

The chapter seeks to bring out the different methods used in the research design. It constitutes sampling procedure, data collection and data analysis procedure used. In this study both primary and secondary was used.

#### 3.2 Research design

A descriptive research design was used in order to ascertain and be able to describe the challenges Public Secondary schools faces in implementing PPDA 2005. Descriptive analysis is largely the study of one the variable (Kothari 2004).

#### 3.3 Target population

Mombasa district has thirteen public secondary schools; Star of the sea high school, Coast Girls' High school, Mama Ngina Girls' secondary school, Sacred Heart High school, Mbaraki Girls' secondary school, and Serani Boys' secondary school, Mvita Boys sec School, Aldina secondary school, Shariff Nasir secondary school, Tononoka secondary school, Tudor Day secondary school and Khamisi Boys secondary school. The district has a population of 6970 students, 392 teachers, and 165 Non teaching staff however only five schools were selected for the study and each school six members of school tender committee were studied as shown in the table 3.1 and in the scope of the study.

**Table 3.1 Population under study**

SCHOOL	NO TEACHERS	OF NO	OF NON	OF NON	OF N T	TOTAL
		STUDENTS	STAFF			
Star of the sea high school	36	710	12			758
Mama Ngina Girls secondary	20	400	20			440
Sacred Heart girls high school	30	500	10			540
Aldina Visram High school	50	1000	13			1063
Khamisi boys secondary school	36	710	23			769
TOTAL	172	3320	78			3570

**Source: District Education Office Mombasa (Dec 2010)**

### **3.4 Sample size and sampling procedure**

Purchasing in public secondary school is done by school tender committee. Tender Committees consist of the headmaster/headmistress, the deputies, at least two members of the board of governors, the chairman of the teachers-parents association, two staff members and the matron (public procurement and disposal Act2005).

In this study, five schools were selected and each school has a tender committee of eight members; the population under study was therefore forty members of the tender committees from the selected schools however, only six members were randomly selected for the purpose of this study and therefore the sample size was 30 members of school tender committee

Mugenda points out that the rule of the thumb is to obtain as big sample as possible; the only constrain should be resources and time in deciding on the sample size to be used (Mugenda 1999), however statisticians have shown that the sample size of 30 or more will result to sampling distribution that is very close to normal distribution. Minimum number of 30for statistical analyses provides a useful rule of the thumb for the smallest number on each category within overall sample (Stately. M, 2003)

Simple random sampling was used to ensure at least six members of school tender committees from the selected schools in Mombasa district have been randomly selected.

### **3.5 Data collection instruments.**

The following methods of data collection were used.

#### **3.5.1 Interview**

Key people involved in purchasing such as principals and finance officers were interviewed. Interview method of collecting data involves presentation of oral verbal stimuli and reply in terms of oral verbal response (Kothari 2004)

#### **3.5.2 Questionnaires**

Questionnaires were distributed among randomly selected members of tender committee from selected public secondary schools. Questionnaire consist a number of printed questions typed in a definite order on a form or set. The questionnaire are given to people either directly or are mailed to people who are expected to read and understand the question and

write down the reply in the space meant for that purpose in the questionnaire itself(Kothari 2004)

### **3.6 Validity and Reliability of research instruments**

Data validity refers to the degree to which the result of study represents the phenomenon under study and therefore the results are accurate, meaningful and free from interference if data is valid.

Internal validity refers to the degree to which extraneous factors have been controlled such that a change in dependant variable can accurately be attributed to that of change in independent variable.

External validity on the other hand is the degree to research finding can be generalized to population and environment outside the experimental setting; this is generally representativeness of the sample with regard to the target population.

Reliability is the measure of the degree to which a research instrument yield a constant results or data after repeated trial (mugenda 1999)

To ensure reliability in this study, equivalent form technique was used; Schools' principals from the selected schools were interviewed using interview guide; the same information was collected from the same class of respondents using a questionnaire; Correlation analysis was done on the results of the two forms to check whether two are correlated.

### **3.7 Data presentation and analysis techniques**

Data analysis is the process of bringing order structures and interpretation to the mass of collected data (Marshall and Rossman 1999). In this study, data was presented using frequency distribution tables. Ratio and percentages was used to present data. Data was analyzed by use of measure of central tendency such as mean, mode and Medium (Kothari 2004).In some cases spearman's rank correlation analysis was used; correlation analysis studies the joint variation of two or more variable so as to determine if the two or more variable is correlated.

### 3.8 Operational definitions of variables

Indicators/variables are specified by operation definitions; an operational definition identifies one or more specific observable conditions or events and then tells the researcher how to measure that event. Typically, there are several operational definition possibilities for variables and values. The operational definition of this study is as shown in the table 3.2;

**Table 3.2: Operational definition of the variables**

objective	Variable	Indicator	Measure	Scale	Tool analysis
<b>Independent variable</b>					
To determine the extent in which cash flow affect implementation of PPDA,2005	Cash flow	Availability of funds	Ability to advertise tenders in the press	Nominal	Mean, Mode
To establish the extent in which lack of trained staff affect the implementation of PPDA,2005	Training	Type of training	No of trained	Ordinal	Mean , Mode,
To determine whether resistance to change affect the implementation of PPDA,2005	Resistance	Perception	Willingness to adopt changes	Nominal	Mean , Mode,
To identify the role of stake holders in the implementation of PPDA,2005	Role	Decision making process	Influence on decision	Nominal	Mean , Mode ,
<b>Moderating variables</b>					
	Size	Size of sch	No of students	Ratio	Mode Mean Median
	Policy and strategy	Lack of policy and strategy	No of policies	Nominal	Mean Mode
<b>Intervening</b>					

Government policy	Lack of govt policy	No of govt policy	Nominal	Mean Mode
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**Dependent variable**

Implementat ion of PPDA,2005 in public secondary schools	PPDA2005 in use	Usage of PPDA in procuring goods and services	Nominal	Mean Mode
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### 3.9 Summary of the Chapter

The researcher did a study on the relation of the independent variable and the dependent variable. The researcher sampled 40 tender committee members from selected public secondary schools. Researcher-administered questionnaires were personally administered to the respondents. The research instruments were validated through equivalent form technique. Measure of central tendency such as mean, mode, median and mode as well as spearman's rank correlation analysis was used to analyze data.

### DATA PRESENTATION, ANALYSIS AND INTERPRETATION, OF FINDING

#### 4.1 Introduction

In this chapter, the empirical data collected during the study was analyzed and reported. The study sought to find out the challenges public secondary schools are facing in implementing public procurement Act, 2005 with the focus of selected public secondary schools in Mombasa as shown by the scope. During the study four key areas as shown below were discussed and answers to the questions sought from the respondents. Each question has been addressed accordingly; the data was presented in quantitative and qualitative form using percentages and frequency distribution tables. Data analysis was done using measure of central tendency such as mean mode and median and spearman's rank correlation analysis. The first part of the chapter reports on response rate and reliability of data collection instruments.

#### 4.2 Response Rate

The researcher collected the data personally so as to clarify any query by respondent and get the appropriate responses for a period of two weeks. Researcher did not employ field assistance due to financial constrains. A total number of 30 respondents took part in the survey; however, two of the expected respondent gave inconsistency and contradicting responses to the items and therefore were eliminated. The remaining twenty eight were considered as valid and were analyzed. This represented a response rate of 93.333%.

The correlation coefficient of reliability was found to be  $\alpha=0.855678$ . This reflected high reliability of the instrument since the rule of thumb is that a good reliability should have a coefficient of at least 0.70 (kasomo, 2006)

#### 4.3 Demographic characteristic of Respondents

The research wanted to determine the qualification of the respondent. This is because the qualification was a guide in determining if the respondent is involved in purchasing. Also the study needed to identify the schools of the respondent because the study was on selected schools in Mombasa district.

#### 4.4 Effect of cash flow

The selected schools being public secondary schools receive revenue from fees collected from parent and government subsidies to the fees collected.

Interview with principals and finance officers showed that the revenue the schools receives from the parents and government was not enough to finance the operation of the schools for example the school could not afford to advertise tender in the national paper; due to this the schools relied on the loyal local suppliers who are within the schools environment for its supplies though some time these local suppliers were expensive.

It was also pointed out that the timing of revenue was also one of the challenges the schools were facing in implementing public procurement and disposal Act. There was delay in disbursement of government subsidies as well as fees collection from the parents. In this case the schools could not honor its obligations to the creditors timely; for example supplies made in September could be paid in the January the following year. This is because in third term the schools usually have little funds kept to cater for examination expenses.

The school also works on the budget with vote head for various expenses and none was meant for advertisement. The biggest question was therefore the source of funds for the school to cater for tender advertisement. Though tenders are sold to the respective and interested suppliers given the uncertainty of fund explained above such tenders could not attract high response if advertised in national paper and therefore schools could not afford to advertise their tenders.

Effect of the cash flow to provision of services in the school was expressed by delay in the service provision in the table 4.1

**Table 4.1: Duration taken to receive services**

Length of Delays	No of respondent	Percentage (%)
0-5 days	3	11%
5-10 days	15	53%
10- 15 days	10	36%
TOTAL	28	100%

Source: (Survey Data 2011)

Model class = delays of 5 -10 days

## Calculation of measures of central tendency

Class	midpoint(x)	Frequency	CF	FX
0-5	2.5	3	3	7.5
5-10	7.5	15	18	112.5
10-15	12.5	10	28	125.0
Total		28		245.0

Mean =  $245/28=8.75=9$  Respondents = 32%

Mode =  $5+ (15-3/15-3+15-10)*5=13.57=14$  Respondents = 50%

Median =  $5+ (14-3/15)*5=9$  Respondents = 32%

From the table 4.1 it is evident that highest no of respondents (modal class) is between ten and fifteen days and mode is 14 Respondents which represents 50% of population interviewed ;these waited for the services from the schools due to lack of the funds while on average nine respondent which represents 32% had been affected by such delay .

The effect is thus the schools could not follow public procurement procedure because following such calls for delays. In response to the above scenario schools opted not to advertise for tenders in the daily nation but used direct purchase/proposal and quotation.

### 4.5 Training

Training is a key aspect in the implementation of public procurement Act. If majority of stakeholders do not understand the Act it is very difficult to implement .Just like it was found in the review of implementation of public procurement Act in the ministry of education and health it was important to test the level of training in public secondary schools.

In the selected schools it was found that none of the staff had underwent formal training in purchasing including the store keeper who was expected to have some background training in purchasing.

In terms of Sensitization workshop it was only one school principal who had undergone one day workshop organized by ministry of education in collaboration with public procurement oversight authority.

This one day work shop was not enough to master all aspects of public procurement; to make the matter worst was the fact that majority of school committee members such as PTA

members and BOG member were non professionals, yet public procurement and disposal Act committees such as tender committee and disposal committee drew membership from these committees.

This was expressed in the table 4.2;

**Table 4.2: No of committees members trained**

Level of training	No of respondent	Percentages (%)
Sensitization work shop	1	3%
None	27	97%
<b>TOTAL</b>	<b>28</b>	<b>100%</b>

**Source; (Survey Data 2011)**

Mode =none=97%= Representing 29 members

From table 4.2 it can be noted that the Mode is 29 members who represents 97% of the people interviewed had not attended any form of sensitization workshop. It was only one person who had attended such workshop representing 3%.

This was one of the causes of inappropriate application of the public procurement Act and regulations in the public secondary school and therefore members could not implement what they did not understand.

#### 4.6 Resistance to change

As result of lack of training on public procurement staffs, teacher and even committee members were not ready to change.

In the selected public secondary school resistance to change was evident from at least two sources

- I. The implementers of public procurement and disposal Act including principals, finance officers and committee members
- II. The suppliers of materials and services

While the first group was ignorant because of lack of knowledge about the Act, the second group was afraid of losing business if the Act was followed to the letter. These consisted of well connected suppliers of goods and services who knew implementing public procurement and disposal Act calls for advertisement of tender and as a result they might lose the contract to competitive suppliers who are capable of supplying but have not gotten the opportunity to

supply. It should be noted that the longer the supplier stays the resistance it is to change the supplier. This was represented in the table 4.3:-

**Table: 4.3 Duration of Suppliers in the school**

Kind of supply	Average Duration of supply(years)	Percentage (%)
Stationery	20	33%
Lab materials	15	25%
Maintenance service	25	42%
Total	60	100%

**Source; (Survey Data 2011)**

From table 4.3 it can be noted that in terms of the duration the suppliers have taken, the supplier of maintenance services has taken long with 42% representing 25 year of continuous services to the schools. The supplier who had taken the least duration is that of stationery yet it was 25% representing 15 years.

An interview with the principals and finance officers about their perception to the PPD Act showed that they were not happy with the changes that the PPD Act had brought; they complained of lengthy procedures. To avoid these procedures the schools opted to quotation or direct purchases or request for proposal as methods of procurement rather than using open tendering as preferred method as per the Act.

This was represented in the table 4.4

**Table : 4.4 preferred method of purchasing**

Procurement method	NO of time used	Percentage %
Open tendering by daily paper	0	0%
Open tendering by placing notice in DEOS office	2	7%
Direct purchasing	13	46%
quotation	7	25%
Request for proposal	6	21%
	28	100%

**Source; (Survey Data 2011)**

Though open tendering is the preferred method of purchasing as per PPDA but in the selected public schools it was discovered that they proffered to use direct purchasing e.g. in

the last year they had used direct purchasing 13 time representing 46% as compared to other method. They had only used open tendering twice representing 7% but again not in the daily nation as recommended by PPDA but by advertising through DEOS office .

This is a clear indication that the implementers of PPDA in the selected public secondary schools were resistance to change.

#### 4.7 Role of external stakeholders

Schools like any other organization do not exist on isolation but are rather made up of both internal as well as external environment.

While the schools have control over internal environment it does not have such controls to external environment.

External environment is mainly made up of external stake holders who among others include Political class, member of community, government, sponsors etc. The external stakeholders participates directs or indirect in management of schools by influencing the kind of decisions that are made in schools for example they participate in selection of members of school committees such as BOG and PTA and in return indirectly influence the decision making process.

In regard to implementation of PPDA in public secondary schools it was therefore necessary to examine the role of such stakeholder. Interference on implementation of PPDA in the selected public secondary schools was classified as shown in table 4.5

**Table: 4.5 The role of external stake holders**

Source of interference	Respondent	Percentages (%)
Ministry of Education	5	17%
Political class	6	20%
Other suppliers	10	33%
Within tender committee	4	13%
School sponsors	5	17%
Total	30	100%

Source; (Survey Data 2011)

In the selected public school ten respondent representing 33% of all respondent felt that the biggest source of interference was from other suppliers.

These suppliers made sure that no one gets tenders from the schools by using all means available to them; for example they could lobby and ensure that the tenders are not advertised though open tendering, then using insider information they could know the lowest quotation earlier before surrendering their own. Eventually they could adjust their quotation so as to reflect the lowest price and get the tender. This was made of cartel of suppliers who worked for each other.

Another source of the interference according to the respondent was political class .six respondents which represents 20% of respondent interviewed felt that the suppliers were connected to political class of the day .Political class had influence especially in cases when the school receives CDF moneys such as for construction of classroom. In this situation the political class hijacked the whole tendering process and could identify the suppliers and contractors.

Five of the respondents which represented 17% blamed ministry of education for interfering with implementation .according to them some of officers had Supplies Company and influenced the purchasing process

Sponsors were also blamed by 5 respondent representing 17%.Thsese believed that the sponsors controlled the whole administration of school and therefore they indirect influenced purchasing; for example the protected school principal even when he was anti reform. The last category felt that interference was within the tendering committee .This was made up of 4 respondents representing 13%.according to them even members of tender committee leaked information to prospective suppliers and advised them on the possible ways of winning the tender

#### **4.8 The size of the school.**

An interview with the school principal and finance officer showed that the size of the school hindered implementation of PPDA. According to them small schools are disadvantaged in the implementation of PPDA in: They don't have enough resources such as cash for implementation of PPDA, Their committees are not well established to constitute various

PPDA committees and they rely on donation and are easily influenced by the donors as in table 4.6:

**Table: 4.6** No of committees

Population of school (X)	No of committees (y)	Ranks-x	ranks-y	D
Star 758	7	3	4	-1
MamaNgina 440	3	1	1	0
Sacred 540	6	2	3	-1
Aldina 1063	8	5	5	0
Khamisi 769	5	4	2	-2
TOTAL 3570				

Source; (Survey Data 2011)

$R_s = 1 - 6 \sum d^2 / n(n^2 - 1)$  where  $n=5$ ,  $d^2=6$ ; Therefore spear man rank correlation coefficient =0.7

In the selected public secondary it was found the size of school was positively correlated to number of committees the school had with correlation coefficient of 0.7. It was therefore concluded that the bigger the school the ability to constitute various committees and therefore the higher the ability to implement the public procurement Act.

#### 4.9 Lack of Policy and Strategy

To introduce any change there must be a policy and strategy in place just as pointed out in the literature review that the most important step towards overcoming obstacles to fundamental reforms of the public procurement system is an analysis of where the problems with the system lie, what solutions would be needed to solve the identified problems and the obstacles that would be faced in trying to achieve those solutions. Once the assessment indicates that significant problems with the procurement system are of a systemic nature, it is crucial to formulate strategies aimed at diffusing obstacles to the far-reaching reforms that are needed as shown by table 4.7.

**Table: 4.7** Availability of policy

Kind of Policy	Respondent	Percentages (%)
Procurement plan	0	0%
Lesson Plan	28	100%
Total	28	100%

Source :( Survey Data 2010)

It was found that none of the selected public secondary school had either a policy or a strategy of overcoming challenges of public procurement as well as plan of implementing the act while all schools had lesson plan as strategy of teaching which represented 100%.

Although the selected public schools were facing challenges as far as public procurement were concerned none of the school had developed any policy or strategy and the implementation of PPDA in the selected public secondary school was managed through crisis where every school could develop a procedure after facing a crisis

### 5.10 Government policy

Public secondary school being public bodies usually gets their procedures from the government policy. These policies are usually from the parent ministry or other authorities such as public procurement oversight Authority. Public Procurement oversight Authority has developed procurement manuals for public secondary schools which should be followed while doing purchasing in public secondary schools. It was expected that government was supposed to enforce the use of PPDA through inspections, Audits and monitoring or evaluation process. This is shown by table 4.8

**Table 4.8 Availability of Government policy**

Kind of Policy	Respondent	Percentages (%)
Procurement Manual	0	0%
Budget Guidelines	28	100%
Total	28	100%

Source :( Survey Data 2010)

Mode: Budget Guideline =28

In the selected secondary schools it was found mode is 28 which is 100% which represents schools had budget guidelines only and that none of the schools had schools procurement manuals yet all the schools had Budget guideline. Inspection done was mainly on academic performance and the Audits concentrated mainly on financial audit majoring on expenditure and not on procurement procedures. Lack of procurement manual in the schools implies that the schools might not be implementing public procurement Act. In terms of monitoring and evaluation it is clear that all inspections were financial and academic and none was for procurement. This in turn implies that there was no enforcement.

## 5.11 Summary of data analyzed

From the above analysis various factors were identified as the challenges that selected public secondary schools were facing in implementing PPDA2005: Lack of enough resources (cash) to implement the Act, 50% of respondents suffered from delayed services due to lack of funds. Uncertainty of the flow of cash in the school was also identified as a challenge as the school cash flow was not certain. Lack of trained staff in procurement department as well as lack of sensitization or training to tender committee members was also a challenge with 97% of school tender committee having no training. Resistance to change by both the implementers of PPDA and existing suppliers was also witnessed as school used 46% sourcing of goods and service through direct purchase. Yet Influence from external stake holders was expressed by 33% receiving from other suppliers in attempt to get tender. The size of the school was also a challenge with big schools and established being able to implement requirements of PPDA. Lastly lack of policy and strategy as well as government policy in place were blamed as challenges public secondary schools faced in implementing PPDA.

# SUMMARY OF FINDING, DISCUSSIONS, CONCLUSION AND RECOMMENDATIONS

## 5.1 Introduction

The purpose of the study was to identify challenges public secondary schools are facing in implementing PPDA 2005. This section summarizes major findings of the study, makes conclusions and recommendations based on the findings to policy makers, planners or any other concerned party. The final part of the chapter has suggestions for areas that need further study.

## 5.2 Summary of findings

On the issue of effect of cash flow the study confirmed that the selected public schools did not have enough cash to implement the aspects of the Act such as advertising for the tenders and employing professional procurement staff. This was further complicated by uncertainty of cash flow in which the school was only liquid in first term only.

Training such as formal training in supplies as well as sensitization work shop for school tender committee member is very important yet the study confirmed that it was only one school principal who had attended a one day work shop which was not sufficient enough for the implementation of PPDA.

It was confirmed that there was resistance from both within the tendering process and outside the process with implementers of PPDA choosing direct purchasing method as opposed to open tendering as preferred by PPDA. Outside tendering process resistance come from existing suppliers who wanted the status quo to be maintained.

An indication to the effect that the stakeholder interfered in the tendering process and the implementation of PPDA was confirmed by the study which proved that indeed there were rampant forces trying to influence the process such as from ministry officials, sponsors and political class among others.

### 5.3 Discussions on the finding

This section discusses the main findings of the study and their relation to the relevant literature reviews on the topic of the challenges of implementing Public Procurement Act, 2005, in selected public secondary schools in Mombasa District. Challenges of implementation PPDA, 2005 in selected public secondary schools were:-

The study found out that the issue of effect of cash flow in the selected public schools affected implementation of public procurement Act; Schools did not have enough cash to implement aspects of the Act such as advertising for the tenders and employing professional procurement staff .This was further complicated by uncertainty of cash flow in which the school was only liquid in first term only. This confirms what Masese (2008), Ngingi (2007) and NJeru (2002) noted that fees guideline issued by ministry of education had serious effect in management of public secondary schools; because of these guideline in some instances the fees charged by school was too low to afford advertisement of tender through the media as a result schools supplies are controlled by a cartel of supplier who can wait when the schools have funds for them to be paid.

Training such as formal training in supplies as well as sensitization work shop for school tender committee member is very important yet the study confirmed that it was only one school principal who had attended a one day work shop which was not sufficient enough for the implementation of PPDA .This confirms what Obiro Makori(2007) found in the ministry of higher education science and technology as well as results of review of implementation in ministry of education (PPOA2007) and that in the ministry of Health(PPOA2008) by public procurement oversight authority.

The study found that there was resistance from both within the tendering process and outside the process with implementers of PPDA choosing direct purchasing method as opposed to open tendering as preferred by PPDA .Outside tendering process resistance come from existing suppliers who wanted the status quo to be maintained. . This confirms what hunja pointed that management of the reform process by those in the bureaucracy who have a

stake in the maintenance of the status quo leads to inaction and lack of implementation even where there is no discernable public opposition to reforms (Hunja 2001).

The study found that the stakeholder in the selected public secondary schools interfered in the tendering process and the implementation of PPDA because there were indeed rampant forces trying to influence the process such as from ministry officials, sponsors and political class among others. This was a confirmation of a case of local government ministry whereas these laws set out very clear procedures; the same were flouted with abandon not only in LAs but also in all other public entities (Lewa, 2006; Waiganjo, 2006; Wanyande, 2006; Mwangi 2006; Nzai & Chitere, 2006; Oanda, 2006). LAs were preoccupied with the regularity and legality of the procurement process not value for money. Matters were aggravated by the fact that the politicians (councilors) were in charge of the tendering process from adjudication to award as members of the influential tender, finance and work committees. Conflicts of interest and influence peddling were rampant and in most cases council officials were willing accomplices in flouting the laws for own gains and serving of political interests. It was common to award tenders to bidders other than the lowest priced ones. The minister for Local Government had the final say in procurement matters. Allegations abound on how councilors and businesspersons would lobby the minister to be awarded tenders (USAID 2010).

## 5.4 Conclusions of the study

In conclusion, the researcher is of the view that there are several factors that affects implementation of PPDA in public secondary schools;

The study found that Lack of enough resources (cash) to implement the Act was a major constrain in the implementation of Public Procurement and Disposal Act 2005. It was found that the selected public schools did not have vote head to cater for advertising tenders and the flow of cash was uncertainty

The study also showed that schools personnel in the selected public secondary schools did not have full knowledge about the law hence its implementation could not be without problems. The staffs had heard the enactment of the Public Procurement and Disposal Act, 2005 to serve as a policy guideline in the procurement procedures. Details of the document were however not known since no training programme had been organized to sensitize them. The little that the workers knew about the law was heard in the media - newspapers, radio and television. In view of this, it was only one principal who was abreast with law.

According to the study there was resistance to change by the implementers of PPDA and by existing suppliers; The school personnel in the selected public secondary schools also perceived that the law was only meant for large institutions which operated with huge sums of money, and that public secondary schools in the selected secondary schools and the Mombasa districts required few inputs for operation and that purchases could be done through the old shopping method.

Lastly, Stakeholder played various role including influencing the procurement decision. The selected public secondary schools received interference from within tendering committee as well as from outside such as from other suppliers, sponsors, ministry of education officials and political class. Some of these factors definitely have more impact than others. In this research, cash flow effects and training have a significant impact on the implementation of PPDA, 2005 in selected public secondary schools in Mombasa district.

## **5.5 Recommendations**

This section seeks to address issues cropped up in the study. They are suggestions being brought up as means to improve the situation, as far as proper implementation of Public Procurement and Disposal Act in secondary schools were concerned.

### **5.5.1 Provision of Adequate Funds for Procurement**

The government should as a matter of urgency resource the public secondary schools with adequate funds. This can be achieved through having a vote head for tender advertising in the schools budgets.

### **5.5.2 In-service and External Training Sessions**

The ministry of education should organize both in-service and external training sessions for public secondary schools staff in the district, especially those officers who were involved in procurement procedures. This is because the Public Procurement and Disposal Act 2005, which is a new document guiding the way and manner procurement matters should be carried out contains so many processes. Officers in procurement have to be given thorough training on the subject so that its implementation will not be a problem. With in-service training, short courses within weeks or more could be held to enable the principals have in depth knowledge of the Act.

As far as external training was concerned, the Ministry of Education and specific public schools could liaise with the training institutions like the polytechnics and other middle level institutions such as Kenya institute of management (KIM) to hold training sessions for personnel in the service in the procedures in procurement. This could even be included in the training curriculum of the training institutions to introduce and Public secondary staff, auditors and tender committee member's students to enhance their capacity in the procurement processes.

### **5.5.3 Recruitment of Procurement Personnel**

Procurement Professionals should be engaged by individual public secondary schools so that they can oversee proper and full implementation of the procurement law. Diploma graduates in Purchasing and Supply should be employed as Procurement officers in public secondary

schools. This will not only solve the problem of inadequate personnel but to a large extent give way for separating stores functions from finance, which have become a big issue for a very long time in the basis of transparency since the traditional bursar office combine the two functions.

### **5.3.4 Strengthening of Procurement Committees in schools**

The management teams of the public secondary schools institutions in the Mombasa district should be committed to strengthening their procurement committees.

This could be done by having educated and qualified tender committee members and holding regular meetings to discuss and give recommendations on procurement process

### **5.3.5 Amendment in the Public Procurement Law**

As the law stands now, it is very difficult to implement it in the smaller schools in the rural areas. The rural public secondary schools do not have capacity in terms of personnel and committee members'. The Public Procurement Oversight Board could make proposal to parliament for amendments to some parts of the Public Procurement Act to suit the smaller public secondary schools in the districts in connection with purchases. For instance, the composition of public secondary school tender committee could be obtained from that level.

## **5.6 Suggestions for further studies**

Since the interference in PPDA and tendering process seems to be very common, researcher recommends that a further study be conducted to find out what factors causes interference and recommend the best way this problem can be completely eradicated.

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## APPEDIXES

### Appendix I: Data collection instruments

#### TRANSIMITTAL LETTER

Kennedy Moki  
REG NO. L50/60157/2010  
Department of Extra mural studies  
University of Nairobi

To  
Principal, Staffs, Teachers, and Tender Committee Members

Dear sir/madam,

**RE: challenges of implementing public procurement Act (2005) in public secondary schools in Mombasa District**

I am MA candidate in the school of distance and continuing education studies, university of Nairobi. I am in my research year of my post graduate studies focusing on "the challenges of implementing public procurement Act (2005) in public secondary schools

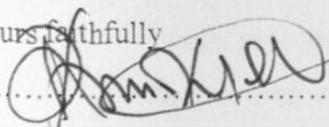
The specific objective of survey component of research is to establish the challenges public secondary schools are facing in implementing public and procurement Act 2005. Your school has been selected for study.

The purpose of this letter is to request you to kindly complete the questionnaire provided, honestly and objectively

Please be assured that this information is sought for research and academic purpose only and your response will be treated with utmost and strictly confidentiality and no individual response shall be quoted

Thanking you in advance for co-operation and support

Yours faithfully

  
.....  
Kennedy Moki

L50/60157/2010

## Interview guide

1. Name of the school.....
2. Designation.....  
.....
3. No of the year in the school .....
4. Role play in procurement process .....

## The challenges of implementing PPDA, 2005in public secondary schools in Mombasa

### District

1. Explain the challenges in the operational planning in the implementation of procurement and disposal Act 2005in public secondary schools.
2. What is the perception of implementing agent towards the new changes in procurement that has been introduced by public and procurement Act
3. Does the implementation process require resources, how has the resources been secured and allocated for the new strategy
4. Are there interference from any other angle in the implementation of procurement and disposal Act
5. In you own opinion what is the status of the personnel in the school assigned in the responsibility of procurement
6. Has members of tender committee been trained on procurement Act? How effective was it?
7. What has the school realized from the implementation of procurement and disposal Act
8. In your own opinion what are some of mitigating measures that should be put in place to counter the challenges facing the public secondary schools in the implementation of public procurement and disposal Act 2005.
9. Is there any other comment that you may wish to put across concerning challenges which public secondary schools are facing in the implementation public procurement Act2005?
10. In you own view explain to what extent the following aspect have changed with the implementation of the procurement Act
  - I. Influence on evaluating and participating in procurement

- II. Corruption practices ,fraudulent, collusion and conflict of interest
- III. Confidentiality, procurement record
- IV. Tendering procedures
- V. Inspection and audit relating to procurement and contract

**Thanks for taking your time off busy dealing to answer these questions**

## Questionnaire

Kindly tick the appropriate box

Name ..... (Optional)

School ..... (Optional)

Designation .....

1) Professional qualification (TO TICK)

Degree  Diploma  Certificate  No professional Training

2A) Does your school use public procurement guidelines provided in PPDA2005 while doing procurement?

Yes  No

2B) if the answer to 2A above is yes, does the school have the following committees in operation? (Tick)

Tender committee

Disposal committee

2C) If the answer of 2B above is yes, which is the preferred method of procurement that the school uses for procuring its goods and services?

- i) Open tendering
- ii) Quotation
- iii) Direct purchasing
- iv) Request for proposal

2D) what hinders the school from using the above methods?

- I. Uncertainty of cash flows
- II. Inflexibility of procedures
- III. Resistance to change
- IV. Interference from other parties

3A) How many suppliers are prequalified to supply the school?  (Insert the No)

3B) who is the longest supplier of the following categories of goods and service (Indicate the Name and Duration he has been supplying.

ITEM	NAME OF SUPPLIER	DURATION
Tuition materials		
Lab materials		
Boarding materials		
Security service		

4. A) Do you experience interference from outside while undertaking tendering process?

Yes  No

4. B) Indicate the source of interference (Tick the source of interference)

- i) From ministry officials
- ii) From political class
- iii) From other suppliers
- iv) From school administration
- v) Within tender committee

5. A) in your own view list at least 5 challenges that the school is facing while implementing public procurement Act 2005.

- i) .....
- ii) .....
- iii) .....
- iv) .....

5. B) suggest remedies to the above challenges.

- i) .....
- ii) .....
- iii) .....
- iv) .....

6. What are the benefits of public procurement Act 2005 to schools (list at least 4 benefits)

- i) .....
- ii) .....
- iii) .....
- iv) .....

**Thanks for taking your time off busy dealing to answer these questions**



**UNIVERSITY OF NAIROBI**  
**COLLEGE OF EDUCATION AND EXTERNAL STUDIES**  
**SCHOOL OF CONTINUING AND DISTANCE EDUCATION**  
**DEPARTMENT OF EXTRA-MURAL STUDIES**

Your Ref: UON/CEES/MEMC/10/13

Our Ref:

Telephone: Mombasa 020-2649890

Moi Avenue  
Jubilee Insurance Building  
P.O. Box 83732-80100  
MOMBASA, KENYA

19<sup>TH</sup> MAY, 2011.

TO WHOM IT MAY CONCERN:

Dear Sir,

RE: DATA COLLECTION

This is to confirm that **MOKI KENNEDY** Registration Number **L50/60157/2010** is a student pursuing the Degree of **MASTERS OF ARTS IN PROJECT PLANNING AND MANAGEMENT COURSE** at the School of Continuing and Distance Education of the University of Nairobi.

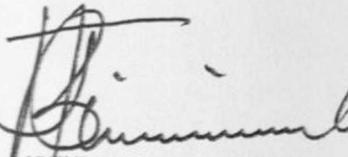
As part of his course, he is required to go to the field for data collection and prepare a research project. He is therefore collecting data which is related to his research topic: **CHALLENGES OF IMPLEMENTING PUBLIC PROCUREMENT AND DISPOSAL ACT 2005 IN PUBLIC SECONDARY SCHOOLS. A CASE STUDY OF SELECTED PUBLIC SECONDARY SCHOOLS IN MOMBASA DISTRICT.**

The information he is gathering is purely for academic purposes and will be treated with utmost confidentiality.

Any assistance extended to him will be highly appreciated.

Regards,

**RESIDENT LECTURER**  
**UNIVERSITY OF NAIROBI**  
**Mombasa Extra-Mural Centre**  
**P.O. Box 83732, MOMBASA**  
**EXAMINATION OFFICER**  
**DEPT OF EXTRA-MURAL STUDIES**

  
**JOHNBOSCO M. KISIMBII**  
**RESIDENT LECTURER**  
**EMC. MOMBASA & ITS ENVIRONS**

# MINISTRY OF EDUCATION

Telegrams: "SCHOOLING",  
MOMBASA  
Telephone: Mombasa 2312420  
When replying please quote



DISTRICT EDUCATION OFFICER  
MOMBASA DISTRICT  
P. O. BOX 83429  
MOMBASA

Ref no. EDU/MSA/15/5

3<sup>rd</sup> June, 2011  
.....

ALL PRINCIPALS  
PUBLIC SECONDARY SCHOOLS  
MOMBASA DISTRICT.

RE: DATA COLLECTION ON CHALLENGES OF IMPLEMENTING PUBLIC  
PROCUREMENT AND DISPOSAL ACT 2005 IN PUBLIC SECONDARY SCHOOLS –  
MOKI KENNEDY

This office has no objection for the above mentioned student to carry out the DATA collection from public schools to his certification.

Any assistance rendered to him will be highly appreciated.

DISTRICT EDUCATION OFFICER

P. O. Box 83429

MOMBASA

A.O. ODHIAMBO  
FOR: DISTRICT EDUCATION OFFICER  
MOMBASA.