

**THE PERCIEVED EFFECT OF PUBLIC PROCUREMENT  
LAW ON PROCUREMENT EFFICIENCY AND  
EFFECTIVENESS AMONG PARASTATALS IN KISUMU  
COUNTY, KENYA**

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**D61/60479/2010**

**A Research Project Report Submitted in Partial Fulfillment of  
the Award of the Master of Business Administration of  
University of Nairobi  
October, 2012**

## DECLARATION

### Declaration by the candidate

This research project report is my original work and has not been presented to any other institution of learning for the award of any degree

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## **ACKNOWLEDGEMENT**

I have been given indispensable co-operation, guidance, assistance and encouragement by several people. It is my heartfelt pleasure to extend my sincere gratitude to them.

My first acknowledgement goes to my supervisor Mr. Gerald Ondiek for assisting me in doing this research project report. Through his guidance and assistance I was able to write the project report.

I also thank my wife Sophie and our children who gave me ample time to do the project despite the hard times they had to go through.

## **DEDICATION**

This project is dedicated to my creator the almighty father, my wife Sophie Oluoch Atieno, children Bradley Odaya Ongoma and Renee Linet Aleri Sakwa

## ABSTRACT

This study sought to evaluate the perceived effect of the procurement law on efficiency among parastatals in Kisumu, County, Kenya. Parastatals organizations operating in Kisumu county were taken as a case study as they are key implementors of the public procurement law.

The research recognizes the importance of the law in public procurement since effective public procurement helps in efficient public financial management by ensuring that only sufficient and necessary public funds are invested in assets. The main objective of the study was to find out the perceived effect of the procurement law on efficient and effective public procurement.

The research adopted descriptive case study design. Data were collected from 25 respondents who were drawn from procurement officers of parastatals. Primary data were collected through the administration of a structured questionnaire. The data collected were then summarized by calculation of percentages and represented in frequency distribution tables. The Likert scaling method was used to determine the weight of the respondents' perception on the procurement law influences.

This study found out that the law has had a significant influence on procurement performance in parastatals. While the same law has had an equally significant influence on transparency and accountability of the procurement process in parastatals. The study recommends, among other recommendations, that public procurement procedures should

be reviewed with the aim of accommodating many of the stakeholders' views so as to improve on the perception further from what the study found out. These results are important to the management of Parastatals, the government, Public Procurement Oversight Authority and suppliers of goods and services since efficient procurement helps all of them to assist in managing public finances effectively.

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## LIST OF ABBREVIATIONS AND ACRONYMS

<b>A</b>	-	Agree
<b>ANOVA</b>	-	Analysis of Variance
<b>CGD</b>	-	Centre for Governance and Development
<b>CPI</b>	-	Compliance and Performance Indicator
<b>CEO</b>	-	Chief Executive officer
<b>CSOs</b>	-	Civil Society Organizations
<b>D</b>	-	Disagree
<b>DAC</b>	-	Development Assistance Committee
<b>DFID</b>	-	Department for International Development
<b>DDO</b>	-	District Development officer
<b>EC</b>	-	European Commission
<b>EU</b>	-	European Union
<b>GOC</b>	-	Government-Owned Corporation
<b>IG</b>	-	Inspectorate of Government
<b>N</b>	-	Neutral
<b>NGO</b>	-	Non Governmental Organization
<b>KACC</b>	-	Kenya Anti-Corruption Commission
<b>LPO</b>	-	Local Purchase Order
<b>LSO</b>	-	Local Service Order
<b>NAO</b>	-	National Audit Office
<b>NPPPU</b>	-	National Public procurement Policy Unit
<b>OECD</b>	-	Organization for Economic Co-operation and Development

<b>PE</b>	-	<b>Procuring Entity</b>
<b>PO</b>	-	<b>Procurement officer</b>
<b>PPDA (2005)</b>	-	<b>Public Procurement and Disposal act (2005)</b>
<b>PPDA</b>	-	<b>Public Procurement and Disposal of Public Assets Authority (Uganda)</b>
<b>PPOA</b>	-	<b>Public Procurement Oversight Authority</b>
<b>SA</b>	-	<b>Strongly Agree</b>
<b>SD</b>	-	<b>Strongly Disagree</b>
<b>SME's</b>	-	<b>Small and Medium Enterprises</b>
<b>UK</b>	-	<b>United Kingdom</b>
<b>VFM</b>	-	<b>Value for Money</b>
<b>WB</b>	-	<b>World Bank</b>

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## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1.0 Background to the study**

Procurement is a crucial element in the working functions of any state. It refers to the purchasing of goods and services in the right quality, from the right source and the right price all to meet a specific need. Every government has the obligation to provide essential services to its citizens. In Kenya, procurement consumes 45% of the national budget according to Ministry of Finance, excluding local government procurement. The close relationship between procurement and development demonstrates that there is need for transparency and accountability in the manner in which procurement is conducted (Masime, 2011). Citizens need to understand the basics of procurement and how they can play a part in ensuring that public procurement takes place in a professional manner. On the other hand, procurement entities need to comply with the procurement laws and regulations. In Kenya, weak public procurement legislation and the lack of citizen oversight in procurement procedures have resulted in enormous waste of taxpayers' money. This is evident in the management of devolved funds (Centre for Governance and Development, 2010).

Just as government can move from a controlling regime to a facilitative state so too can procurement move from a rule compliance function to a cost down, efficiency led function, to a facilitating supporter of broader government objectives, to a deliverer of broader government objectives (Pennington and Rydin 2000). A comparison was made across all countries involved in the study of their stated objectives of public procurement in their

nations. Common themes emerged around the principles on which procurement must be based. e.g. in the South African Gauteng case there were four pillars: "Value for money; Open and effective competition; Ethics and fair dealing; Accountability and reporting", with a fifth political one of 'equity'. These are not dissimilar to the three key principles which shaped the procurement policy of the Singapore government: fairness; value for money and probity. A simpler division in the German system between efficiency and formality captured the essence of the conflicting demands inherent in all the stated principles. In general though, the cases revealed more similarity in the principles underpinning public procurement than differences (Harland, 2012).

#### **1.1.1 Concept of Procurement**

There are as many definitions of procurement as there are writers about it. According to Baily et al (1998), the overall task is the process involving the purchasing of the right quality of material, at the right price, at the right time, in the right quantity, from the right source. This has been commonly summed up as the five "rights" of purchasing. These "rights" keep increasing with different prevailing circumstances in different organizations and has elicited a lot of criticism from a number of quarters. For instance, certain critics have said that the term "right" is situational since each organization will define "right" differently. The right must be consistent with corporate goals and objectives from which functional goals and objectives are derived. The criticism may be valid but the definition provides a practical framework within which the function should operate.

According to Lysons and Larrington (2006), procurement is the function responsible for obtaining by purchase, lease or other legal means, equipment, materials, supplies and

services by an undertaking for use of production. There are many definitions but what is important is the fact that all these focus on one particular meaning which sums up the very purpose for existence of the function that is the acquisition of goods and services in an efficient, effective and economic manner that meets the needs of the organization.

Procurement is seen by today's successful organizations as an activity of considerable strategic importance. Due to the changing business environment there is need for organizations in both the public and private sector to seek ways of becoming more efficient and effective in ensuring that the supply of goods and services is appropriate. This has pushed the pace and development of the function and profession of procurement and supply (Cox and Lamming, 1993). Therefore effective and efficient procurement procedures will ensure efficient supply of goods, services and works to the public.

### **1.1.2 Concept of efficiency and effectiveness in procurement**

According to the UN Procurement Practitioners handbook, Economy and effectiveness means providing an appropriate solution to the organization's need with regards to quantity, quality and timeliness at the right price. It also means ensuring that the overall cost to the organization in conducting the procurement process is minimized in the interests of the overall budget of the organization. Economy protects the interest of the budget owner, while effectiveness ensures the interest of the end-user is met (UN, 2006).

The concept of value for money is currently coming up in the assessment of procurement in the public and NGO sector to assess the efficiency, economy and effectiveness of the projects in achieving the intended outcomes. The UK's National Audit Office (NAO)

defines VIM as being 'the optimal use of resources to achieve intended outcomes'. In turn, Department For International Development (DFID) has defined Value For Money (VIM) as, "maximizing the impact of UK aid so it makes the most difference to the poorest people in the world" (DFID, 2011).

According to Commonwealth procurement guidelines (2008), Value for money is the core underpinning Australian Government procurement. In a procurement process this principle requires a comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle (whole-of-life costing). Value for money is enhanced in government procurement by encouraging competition by ensuring non-discrimination in procurement and using competitive procurement processes, promoting the use of resources in an efficient, effective and ethical manner, and making decisions in an accountable and transparent manner. In order to be in the best position to determine value for money when conducting a procurement process, request documentation needs to specify logical, clearly articulated, comprehensive and relevant conditions for participation and evaluation criteria which will enable the proper identification, assessment and comparison of the costs and benefits of all submissions on a fair and common basis over the whole procurement cycle. Cost is not the only determining factor in assessing efficiency and effectiveness of procurement.

Knudsen, (1999) suggested that procurement performance starts from purchasing efficiency and effectiveness in the procurement function in order to change from being reactive to being proactive to attain set performance levels in an entity. According to Van Weele (2006) purchasing performance is considered to be the result of two elements: purchasing



effectiveness and purchasing efficiency. Performance provides the basis for an organisation to assess how well it is progressing towards its predetermined objectives, identifies areas of strengths and weaknesses and decides on future initiatives with the goal of how to initiate performance improvements. This means that purchasing performance is not an end in itself but a means to effective and efficient control and monitoring of the purchasing function (Lardenoije, Van Raaij, & Van Weele, 2005).

Purchasing efficiency and purchasing effectiveness represent different competencies and capabilities for the purchasing function. CIPS Australia (2005) presents the differences between efficiency and effectiveness. Efficiency reflects that the organization is "doing things right" whereas effectiveness relates to the organization "doing the right thing". This means an organization can be effective and fail to be efficient, the challenge being to balance between the two

For any organization to change its focus and become more competitive Amaratunga & Baldry (2002) suggest that performance is a key driver to improving quality of services while its absence or use of inappropriate means can act as a barrier to change and may lead to deterioration of the purchasing function. Organizations which do not have performance means in their processes, procedures, and plans experience lower performance and higher customer dissatisfaction and employee turnover (Artley & Stroh, 2001, Amaratunga & Baldry, 2002 and CIPS Australia, 2005). Measuring the performance of the purchasing function yields benefits to organizations such as cost reduction, enhanced profitability, assured supplies, quality improvements and competitive advantage as was noted by

Batemburg & Versendaal (2006). Until an organization measures purchasing performance they will never know how well they are performing and why they should measure purchasing performance.

### **1.1.3 Concept of Public Procurement law**

Public procurement is defined as the acquisition, whether under formal contract or not, of works, supplies and services by public bodies. It ranges from the purchase of routine supplies or services to formal tendering and placing contracts for large infrastructural projects by a wide and diverse range of contracting authorities (NPPPU, 2005).

Public procurement means acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or any type of works, services or supplies or any combination' up to the time a user consumes or utilizes a service as per his requirement and in line with the procurement Act and regulations of the country (Iysons,2006) Consequently, developed and developing countries have 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, p. 18). Therefore Kenya as a country needs a well functioning public procurement system that can deliver value for money.

Public procurement law regulates the purchasing by public sector bodies and certain utility sector bodies of contracts for goods, works or services. The law is designed to open up the EU's public procurement market to competition, to prevent "buy national" policies and to

promote the free movement of goods and services. Public procurement is defined as the acquisition, whether under formal contract or not, of works, supplies and services by public bodies. It ranges from the purchase of routine supplies or services to formal tendering and placing contracts for large infrastructural projects by a wide and diverse range of contracting authorities. (NPPPU, 2005)

The main objectives of public procurement in Kenya according to the PPDA 2005 are: to maximize economy and efficiency, to promote fair competition and to promote integrity and to increase transparency and accountability and promote local industry (PPDA,2005). To emphasize accountability, governments have come up with policies, laws and regulations which will not only ensure that public finances are spent prudently but make sure that there is value for money for every cent that is spent (Bower, 2003).

Successful reform is frequently measured by how far a procurement system complies with International best practice. For example, an OECD analysis of Kenya, Tanzania and Uganda found that the countries have recently undertaken important initiatives to make their public procurement systems more efficient and transparent in line with international procurement guidelines (Odhiambo and Kamau, 2003). In Kenya the enactment of the Public Procurement Act 2005 was meant to guide all public procurement and ensure that it achieves the highest value for money possible.

Public procurement is different from private procurement. In public procurement the economic results must be measured against more complex and long-term criteria.

Furthermore, public procurement is 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 (Kenya, 2010).

#### **1.1.4 Concept of perception of public procurement**

Eggen and Kauchak (2001) gave cognitive dimension of perception; they see perception as the process by which people attach meaning to experiences. They explained that after people attend to certain stimuli in their sensory memories, processing continues with perception. Perception is critical because it influences the information that enters working memory. Background knowledge in the form of schemas affects perception and subsequent learning.

According to Owegi and Aligula (2006), Persistent controversies in Kenya's public procurement and the resultant negative impacts on efficient public service delivery can be explained, in part, by weak enforcement of the existing legislation. They could also be attributed to the absence of a coherent policy framework. A coherent public procurement policy can complement and broaden the scope of continuing legislative reforms to make government acquisition more predictable and less problematic. It can also support and contribute to national growth and development strategies, as enumerated in the Economic

Recovery Strategy (Government of Kenya, 2003). This has been the negative perception of public procurement despite the enactment of the law.

The perception within civil society is that there is corruption in the procurement processes. Anti corruption agencies and other CSOs are aware of instances of corruption in procurement of public goods. They reported high favoritism and lack of transparency in the allocation of contracts in procurement of goods and services. The view held is that the procurement staff and people with responsibility for procurement actually allocate procurement works to their own friends and relatives, own companies and proactively seek out bribes from those who win contracts. The entrenched nature of corruption which has pervaded every aspect of the Ugandan society, from procurement to everyday lives is seen as a key contributively factor. While the CSOs appreciate the role of the IG, they hold that the IG has not been effective in combating corruption (PPDA, 2010)

### **1.1.5 Parastatals in Kisumu County**

Kisumu County borders Vihiga to the North, Nandi County to the North East, Kericho County to the East, Nyamira to the South, Homa Bay to the South West and Siaya to the West. The county measures 2, 085.9 square kilometres. The has an annual relief rainfall between 1200 mm and 1300 mm with a mean annual temperature of 23°C and ranges between 20°C and 35° C. Kisumu county has a population of 968,909 according to the census carried out in 2010. The headquarters of Kisumu County is Kisumu Town. The county has five constituencies, namely Kisumu Town East, Kisumu Town West, Kisumu Rural, Muhoroni, Nyando and Nyakach. The county has three districts, namely Kisumu

East, Kisumu West and Nyando. The county is endowed with a variety of economic activities ranging from agriculture, fisheries, manufacturing tourism and financial services. Subsistence farming, livestock keeping, fishing, rice farming, sugar cane farming, and small scale trading this are but some of the economic activities of the population.

According to a Study Prepared by the U. S. General Accounting Office for the Committee on Government Operations (1998), a parastatal is a legal entity created by a government to undertake commercial activities on behalf of an owner government. Their legal status varies from being a part of government into stock companies with a state as a regular stockholder. There is no standard definition of a government-owned corporation (GOC) or state-owned enterprise (SOE), although the two terms can be used interchangeably. The defining characteristics are that they have a distinct legal form and they are established to operate in commercial affairs. While they may also have public policy objectives, GOC's should be differentiated from other forms of government agencies or state entities established to pursue purely non-financial objectives.

There are many parastatals in Kisumu county Chemilil Sugar Company, Kenya Sugar Research Foundation and Lake Basin Development Authority represent the agriculture sector. Kenya Agricultural Research Institute, Kenya Marine and Fisheries Research Institute, Kenya Medical Research Institute represent the research sector. National Irrigation Board, Water Resources Management Authority, Lake Victoria South Water Services Board represents the irrigation and water sector. Maseno University, University of Nairobi and Bondo University represent the academic sector. Due to the various

economic activities in Kisumu County, the county has a variety of parastatals that cover various sectors of the economy as shown in appendix III (DIDO, Kisumu East, 2012).

## **1.2 Statement of the Research problem**

Before the establishment of the Public Procurement and Disposal Act (2005), most public organizations had been experiencing challenges as they procure goods and services due to poor and uncoordinated procurement strategies. This resulted in a lot of wastage, delayed deliveries, sourcing inappropriate goods etc. In reaction the government decided to introduce the public procurement and disposal Act to reverse the situation. It is for this reason that the researcher is proposing to do a study to investigate the procurement law to find out if it has resulted in efficient and effective public procurement as envisaged in the act (Kenyanva, 2010).

The aim of the reform programme in many developing countries as being to establish a strong and well-functioning procurement system that is governed by a clear legal framework establishing rules for transparency, efficiency and mechanisms of enforcement, coupled with an institutional arrangement that ensures consistency in overall policy formulation and implementation (Hunja, 2003).

According to Olivia (2008), Procurement reform is very much driven by concerns about efficiency, that existing rules were not enabling governments to get the best-quality goods and services and the best price. However, efficiency can also be looked at from another angle – the simplicity of the rules, the ease of use and cost and time implications. Before reform in Ghana, procurement was guided by many different rules, and

government officials struggled to know which ones to follow. Having one set of rules to follow, at all levels of government, is a clear improvement.

It is a universal practice to regulate public procurement systems, cutting across developed to developing economies. While it is undisputable that public procurement systems demand high level of transparency, compliance and accountability as enforced by law the allowance for risk management and maximization of value throughout the procurement process using managerial skills should be accommodated (Smith, 2009).

According to previous studies carried out by Kenyena (2010), Wanyama(2010) KACC(2008), PPOA(2007), Owegi (2006) and Kipchilat (2006),they have all observed that even after the enactment of the procurement law, there are still losses of public funds that can be attributed to public procurement. It is to this end that the researcher wants to find out if imposition of rigid rules and strengthening of the regulatory frame work alone is of significance to the achievement of efficiency and effectiveness in public procurement.

Therefore the study aims to answer the following questions.

- (i) What is the perceived effect of the procurement law on procurement performance?
- (ii) What is the perceived effect of the procurement law on competitive procurement process?
- (iii) What is the perceived effect of the procurement law on transparent public procurement?



- (iv) What is the perceived effect of the procurement law on cost effective purchasing?

### **1.3 Objective of the study**

The main objective of the study was to find out the perceived effect of the procurement law on efficient and effective public procurement.

### **1.4 Value of the study**

The study will be significant to the policy makers in republic of Kenya as it aims to find out the achievement for VFM by the procurement law for an efficient and effective public sector procurement system i.e. a corruption free procurement system

The study will be significant to practitioners and users of the procurement law i.e. public academic institutions as they will be able to assess the various procurement methods used with a view of improving on there procurement systems in order to maximize benefits.

The study will be also very important as it will contribute to development of new knowledge in the field of public procurement. This will be also be of importance to other researchers as they can conduct further research on the same with a view to improving procurement in public institutions.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.0 Public procurement in Kenya**

##### **2.1.1 Evolution of procurement**

Purchasing represents a stage in the evolution of civilized human relationships as it enables a desired object to be obtained by trading rather than conquest, plunder or confiscation. It is a very ancient activity. A cuneiform tablet excavated at El-Rash Sharma , Northern Syria, dated about 2800BC carried an inscription that ,roughly translated ,reads: 'HST to deliver 50 jars of fragrant smooth oil each 15 days after [u starting date] and during the reign of AS. In return he will be paid 600 small weights in grain .This order will continue indefinitely until the purchaser or his son removes his consent. Despite the long history, it is only in the later half of the twentieth century that the importance of efficient purchasing was widely recognized and even later its strategic aim as opposed to the operational significance was acknowledged within emphasis on the purchasing process, relationship and performance rather than the products (Lysons et al, 2006).

According to Reck and Long (1998), they identified four stages in the evolution and development of purchasing so as to become a competitive weapon in the battle of markets. The first stage is the passive stage; here purchasing function has no strategic direction and primarily reacts to the requests of other functions. The second stage is called the independent stage. During this stage the purchasing function adopts the latest purchasing techniques and processes, but its direction is independent of the firm's

competitive strategy. The third stage is called the supportive stage: here the purchasing function supports the firm's competitive strategy by adopting purchasing techniques and products, which strengthen the firm's competitive position. The final stage in the development of purchasing in an organization is called the integrative stage. This is the ultimate state of affairs. The purchasing strategy is fully integrated into the firm's competitive strategy and constitutes part of an integrated effort among functional peers to formulate and implement a strategic plan. The Kenya's public procurement has had its own share of evolution as follows.

### **2.1.2 Historical Development of Public procurement law in Kenya**

The public procurement system in Kenya has evolved from a crude system to an orderly, regulated, legal and constitutional regime. Kenya Public procurement system can be traced back from 1955 during the colonial days. It has been improved through a system regulated by Treasury circulars in the 1960's to the 1990s to an orderly legally regulated procurement system from March, 2001 under the Exchequer and Audit (public procurement) regulations and eventually the public procurement and Disposal Act, 2005 enacted by parliament, before acquiring Constitutional anchorage under article 227 of the constitution of Kenya, 2010 (PPOA, 2007).

During the Pre independence set up dispensation two procurement institutions were established. These were the Central tender Board (CTB)-1955 and the Supplies branch-1960. The CTB presided over tender awards while the Supplies branch dealt with procurement of common user items for government ministries, Departments and

Agencies. It is worth noting that the CTB was abolished in 2001 while Supplies Branch exists to date. During Post-independence period (1960's and 70's), the procurement services continued as during the pre-independence days. The system continued to be governed by Treasury Circulars. It is during this dispensation when it emerged that though they were binding to internal operations of government, the Circulars did not have any binding force on Suppliers (PPOA, 2007).

The Supplies manual, 1978 was introduced to enhance procurement and internal materials management system, the Government issued the Supplies manual in 1978. The manual supplemented by occasional treasury circulars governed the public procurement system. However, its main weakness was that it left out procurement of works. In 1982 the government issued the "District Focus for Rural development Strategy" commonly known as the "blue book". The strategy made Districts to be centres for planning, implementation and management of rural development and sets thresholds for procurement by Districts, ministries and the CTB. This the beginning of the devolution and decentralization process of the public procurement system (DN, 9th December, 2011).

Initial results of the reforms were witnessed when public procurement regulations were issued in the year 2001 under the Exchequer and Audit Act. These regulations unified all the circulars that had governed the public procurement system, abolished the CTB and heralded the establishment of Ministerial Tender Committees; Public Procurement Complaints, Review and Appeals Board; and the public procurement Directorate.

Through its promulgation was a great milestone, these regulations could not forestall problems such as, uncontrolled contract variations, overpricing (buying at inflated prices), lack of structured authorization of expenditure levels, lack of fair and transparent competition, inappropriate application of procurement methods, air supply, uncontrolled low value procurement items, poor procurement records and documentation, excessive delays in the procurement process, conflict of interest among players in the procurement system and lack of legal permanence and enforcement (GOK, 2001).

To addresses the foresaid challenges, the Public procurement and Disposal Act, 2005 was enacted by parliament in October, 2005. The Act sets forth the general procurement rules; internal institutional arrangements for procuring entities, established the Public Procurement Oversight Authority (PPOA) and strengthened bid protest system through the Public Procurement Administrative Review Board. Public procurement has now been constitutionalized. The Constitution of Kenya, 2010, under part XII public Finance, Article 227 deals with public procurement and clearly stipulates the system must be governed by an Act of parliament. It is against this background that the government is in the process of re-aligning the public and Disposal Act, 2005 with the Constitution and Vision 2030. With the enactment of the public procurement and disposal Act, 2005 regulations and procedures have been put in place to ensure an effective and efficient public procurement process i.e. a system that ensures there is value for money for the goods, services and works procured (KACC, 2006). For the first time in the history of independent Kenya a body mandated with enforcing and regulating Public procurement was established. PPOA was set up.

According to Owegi (2006), prior to 1998, many public procurement problems could be explained by the absence of a uniform or transparent procurement system covering the entire public sector. Since independence, central government procurement decisions were in fact guided only by a Supplies Manual written in 1978, and circulars issued from time to time by Treasury. Regulation was undertaken through multiple, often uncoordinated, statutes, including: General commercial laws (e.g. Sale of Goods Act Cap 31, Law of Contracts Cap 23, Government Contracts Act, Cap 25, etc.); Laws governing state corporations, labour, tax, customs and banking laws among a myriad of other statutes containing aspects of procurement; and Laws governing the practice of various professions.

Following a major reform initiative launched in 1997 to develop a comprehensive and consistent public procurement system, The Exchequer and Audit (Public Procurement) regulations, contained in Legal Notice No. 51 of 2001, were introduced. These regulations provided not only for structured organizations to undertake procurement but also basic rules to guide procuring entities, including handling of appeals and complaints. Contrary to expectations, these regulations did not lead to much success in eliminating public procurement controversies. It is difficult, given this setting, to predict the extent to which the Public Procurement and Disposal of Public Assets Act (2005) has improved the image of government procurement even if outstanding reforms are completed (Owegi, 2006).

### **2.1.3 The Public Procurement Regulations of 2006**

These regulations became effective on 1st January 2007 after the gazettelement of the Public Procurement and Disposal Regulations 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 efficient management of public funds

The act contains eleven (11) parts. Part II of the Act deals with the establishment of bodies involved in the regulation of public procurement, namely, The Public Procurement Oversight Authority (PPOA), Public Procurement Oversight Advisory Board, and the Public Procurement Administrative Review Board. The PPOA is charged with ensuring procurement procedures are complied with. The Public Procurement Oversight Board's functions include approving the PPOA's estimates of revenue and expenses, and recommending appointment or termination of the Director General.

Part III of the Act deals with the internal organization of public entities as far as procurement is concerned, for instance, requiring all public organizations to establish tender committees of not less than 5 members whose secretary must be a fully qualified professional.

Part IV of the Act makes general provisions for procurement by public entities. It highlights the requirement that each procurement entity shall use the open tendering under Part V or alternative procurement procedure under Part VI. The use of alternative

procurement procedure is qualified; a public entity may only use restricted tendering with written approval of its tender committee and with documented reasons for doing so. All those that qualify for a tender award must have the requisite professional qualifications, resources and equipment and the capacity to enter legal agreements. The Part also deals with three aspects of policy: conflict of interest, non discrimination and giving maximum business opportunities to small and micro enterprises. This part also outlaws all forms of corruption in procurement: that is to say, payment for goods and services which are not supplied; if supplied they are sub-standard, defective or overpriced; purchase of goods in excess of requirements; over-invoicing by contractors; giving bribes and disclosure of confidential information.

Part V makes provisions for preparation of tender documents, advertisement and invitation to tender, tender securities, as well as opening of tenders. In addition, it provides for responsiveness of tenders, evaluation, and notification of award, contracting and extension of tender validity. Part VI deals with alternative procurement procedures. This part provides the alternative methods of procurement as restrictive tendering, requests for proposals and quotations, procedure for proposals and quotations, procedure for low value procurement and concessioning.

Part VII provides administrative review of procurement procedures. It recognizes that any aggrieved party in a procurement process has a right to seek administrative review of a tender award. Part IX provides for debarment from participating in public procurement. The Director General may, with approval of the Advisory Board, bar a person from



participating in procurement proceedings for up to 5 years. The grounds for such punishment are the commission of an offence relating to breach of contract, giving false information about qualifications and refusal to enter into a written contract. Part X deals with the disposal of stores and equipment by public entities. Part XI makes miscellaneous provisions for example that defense and national security organs are required to comply with the Act.

The membership structure of the tendering committee is as follows. Chairman is a head of department appointed in writing by the CEO. The deputy chairman is the head of finance appointed in writing by the CEO. Other members should be at least five departmental heads including the company secretary appointed in writing by the CEO. The secretary is the head of the procurement unit in the corporation

The public procurement law recommends the following process for general consumable to be followed by all levels of public procurement entities is much the same. The relevant Procurement Officer (PO) advertises annually for suppliers of goods, services and works. These advertisements are made in the national Daily papers. Prior to this, various ministries and departments provide information on what goods, services and works they require and to what specification. Tender documents are drawn up accordingly. Potential suppliers then purchase tender documents and bid. The PO adjudicates the bids, verifies support documentation, and makes recommendations to the tender committee that awards the tender. In certain instances, tenders may be split amongst several suppliers, each of whom may be more competitive than another in a certain area. The supplier is then

notified that he has won the tender and will be a preferred supplier of those items, services or works for the year under a term contract (CGD, 2010).

A register of suppliers is kept, and actual procurement is made through a quotation process from the registered suppliers, or where there is only one short-listed supplier, directly from it. An order is then generated by the user ministry or department. It obtains quotations from the pre-qualified supplier(s) and forwards this to the PO. The PO checks that the suppliers are pre-qualified, and that the price range is within the original tender submission. He/she then forwards his/her recommendations to the tender committee, which will make the award final. The PO notifies the user department or ministry which then issues a Local Purchase Order (LPO) (or Local Services Order if it pertained to works or services), as well as an Immediate Letter of Communication to the supplier so that it can begin processing the order (CGD,2010).

In instances where the goods or services required fall outside the gambit of the annual tenders, an open tender is placed in the daily newspapers. Tenders are then adjudicated by the PO and submitted to the tender committee for decision. For low value procurement, cash requisitions are made and the supplier is paid accordingly at the user department level (CGD, 2010).

## **2.2 Efficiency and effectiveness in procurement**

There is a widely held belief that government and public sector procurement decision making is based upon "the lowest price". This is not the case. Purchasing decisions must

be made on the basis of 'value for money' criteria. This requires the consideration of many factors. These include cost over the lifetime of the goods and services offered status and standing of the supplier, exact details of the equipment, goods or service offered financial aspects, operating cost, and extent of support during life and assistance with disposal (Baily et al. 2005).

(Behan, 1994) Points out, that the real value for money in question is "how much will the item or service purchased cost to own and use". Therefore it is prudent for the public procurement process to ensure that the goods or service acquire is of very high quality possible. According to Saunders and Malcolm Public ownership imposes obligation with regard to public accountability which leads to prescribed methods of purchasing and policies towards treatment of suppliers. The difference between public and private sector purchasing has been exaggerated as they share common concern and techniques. The need to obtain value for money is just one of them (Saunders et al, 1997)

The UK National Audit Office (NAO) uses a Three-pronged approach to VFM, sometimes known as the 'Three Es', which examines not just economic factors, but also efficiency and effectiveness. VFM is about spending less (economy); spending well (efficiency); and spending wisely (effectiveness).A good VFM assessment achieves a balance across the 'Three Es': it is not the case that the cheapest option is always the best VFM. Instead, "VFM is high when there is an optimum balance between all three elements, when costs of relatively low, productivity is high, and successful outcomes

have been achieved” The NAO states good value for money is the optimal use of resources to achieve the intended outcome (DFID, 2011).

The following is the procedure generally recommended by the procurement law for procurement in parastatals in order to achieve efficiency and effectiveness in there procurement processes. The head of the procuring entity shall ensure availability of funds to meet the commitments under procurement contracts. The head of the PE and accounting officers shall appoint the tender committees, tender opening committee, evaluation committee, inspection and acceptance committee and disposal committees and shall allow the committee to perform their assignments without due influence or interference from any other quarters (PPOA,2012).

### **2.2.1 Procurement efficiency performance measures**

The procurement process involves the purchasing of the right quality of material, at the right price, at the right time, in the right quantity, from the right source. This has been commonly summed up as the five “rights” of purchasing. These “rights” keep increasing with different prevailing circumstances in different organizations and has elicited a lot of criticism from a number of quarters. For instance, certain critics have said that the term “right” is situational since each organization will define “right” differently. The right must be consistent with corporate goals and objectives from which functional goals and objectives are derived. The criticism may be valid but the definition provides a practical framework within which the function should operate (Baily et al. 2005). Therefore the study intends to establish if the Kenyan public procurement system has been able to

achieve these rights.

### **2.2.2 Open Competition**

According to Olivia, efficiency is defined narrowly in terms of value for money, the best quality at the lowest cost. In this view, efficiency is best secured through open competition, so procurement reform is seen as encouraging a more liberalized system. A broader definition of efficiency that considers development gains alongside cost and quality would ensure that procurement plays more of a role for poverty reduction (Olivia, 2009).

Open competition is the basis for efficient public procurement. Borrowers shall select the most appropriate method for the specific procurement. In most cases, International Competitive Bidding (ICB), properly administered, and with the allowance for preferences for domestically manufactured goods and, where appropriate, for domestic contractors for works under prescribed conditions is the most appropriate method. In most cases, therefore, the Bank requires its Borrowers to obtain goods, works, and non-consulting services through ICB open to eligible suppliers, service providers, and contractors (World Bank, Guidelines, 2011). Therefore public procurement is supposed to encourage open competition so as to offer value for money to the public by allowing as many groups as possible to bid.

Public procurement is generally conducted through competitive tendering, which occurs when suppliers make written quotations or bid to supply goods, services and works. Unlike single tendering, competitive tendering helps to avoid favouritism and to

discourage the emergence of monopolies and cartels. Competitive tendering underpins contemporary procurement markets and differs substantially from pure competition found in conventional demand-supply exchange situations. The latter aims to achieve the "lowest bid price" while the former aims to achieve the "lowest total cost of ownership". This is accomplished through Life Cycle Costing (LCC), a key procurement-contract award technique that balances price and quality considerations against all other costs to be incurred during an item's lifetime. LCC is the basis of sustainable public procurement and helps in realizing value for money (Owegi, 2006)

Thus public law values that emphasize transparency and accountability may result in governments not obtaining value for money. By contrast, the normal practice in private industry, which is not constrained by considerations of transparency, is "to have continuous liaison between buyers and sellers." Proposals that have been offered to limit the counter productive effects of open competition in public procurement include a requirement of written decisions justifying procurement decisions, making of procurement decisions through multiple-member evaluation panels, peer control in the decision making process and subsequent oversight of decision rationales, and recording of ex parte or informal contacts (Migai, 2005).

### **2.2.3 Transparency and accountability**

The Constitution of Kenya, 2010, under part XII public Finance, Article 227 section 1 states that, when a state organ or other public entity contracts for goods and services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive

and cost effective manner (Constitution of Kenya, 2010). The 2030 vision is transparent, accountable, ethical and result oriented governments institution (2030 Vision, 2007). Therefore public procurement is supposed to be transparent to enhance efficiency and effectiveness that results into value for money for the taxpayers.

According to Owegi and Aligula . The basis for undertaking the study was the need to develop a sound policy framework outlining objectives of government procurement as well as channels through which public purchasing is expected to promote fairness, transparency, accountability and value for money (VFM), together with stability in the macroeconomic environment, efficiency in infrastructure and service delivery, increased productivity in all sectors, faster industrialization and deeper regional integration (Owegi, 2006)

The integrity and transparency of a public procurement system rely on a number of control mechanisms, including an effective control and audit system, an efficient appeals mechanism, a comprehensive information sharing system enabling civil society and interested stakeholders to conduct social audit, and effective ethics and anti-corruption measures. Without such control mechanisms, flaws in the procurement system may not be detected and addressed. The fourth pillar of the assessment therefore measures the existence of adequate control systems and the practices related to these (PPOA, 2007).

#### **2.2.4 Cost Effectiveness**

A study by EOCD /DAC revealed failure by many procuring entities to observe simple issues like bid validity periods thus rendering many awarded tenders null and void. Some

tenders were awarded far beyond the legally allowed maximum period (sometimes up to six months later) while others had their bid period slashed to below the legally allowed minimum period e.g. 19 days instead of 30 days (Msita 2009).

Rigidity of public procurement laws in the developing economies has been singled out as one of the major factors impeding the achievement of value for money and attainment of international best practices. With procurement in Tanzania gaining a wider definition (CPAR, 2006) to include consultancy services, works and high technology projects and the attempts by the new legislation governing public procurement delegating more authority to accounting officers and tender boards entrepreneurial managerial skills of those involved in the process become of paramount importance than ever before. Procurement laws are compelling public institutions to “invite the world” to participate in a tender so as to increase competitiveness in anticipation for reduction in public spending. However, management science is challenging the legal requirement in that it has failed to take into account all costs associated with the increased competition. Models have been developed showing possibility to save money through limiting the number of bidders (Costantino et al, 2008) but without compromising competition. Therefore public procurement can deliver value for money through cost effective purchasing of goods, services and works.

The World Bank Group (WB) is transforming its former, highly manual process of selecting consulting services into a robust e-Procurement solution as part of its procurement simplification and modernization agenda. The World Bank engages



consultants and service providers for technical or managerial advisory services in all sectors from socioeconomic and environmental projects to reforms of state and financial sectors, privatization, information technology and infrastructure. To that end, the World Bank needs to manage the selection of providers and the resulting contracts with thousands of businesses throughout the world. To ease this process and improve efficiency, the World Bank has implemented a new electronic procurement solution for the selection of consultants, with the goals of fostering consistency of practice worldwide, increasing transparency and competition, and minimizing processing time and effort (Leipold and Knut, 2004).

2.3.0 Conceptual framework

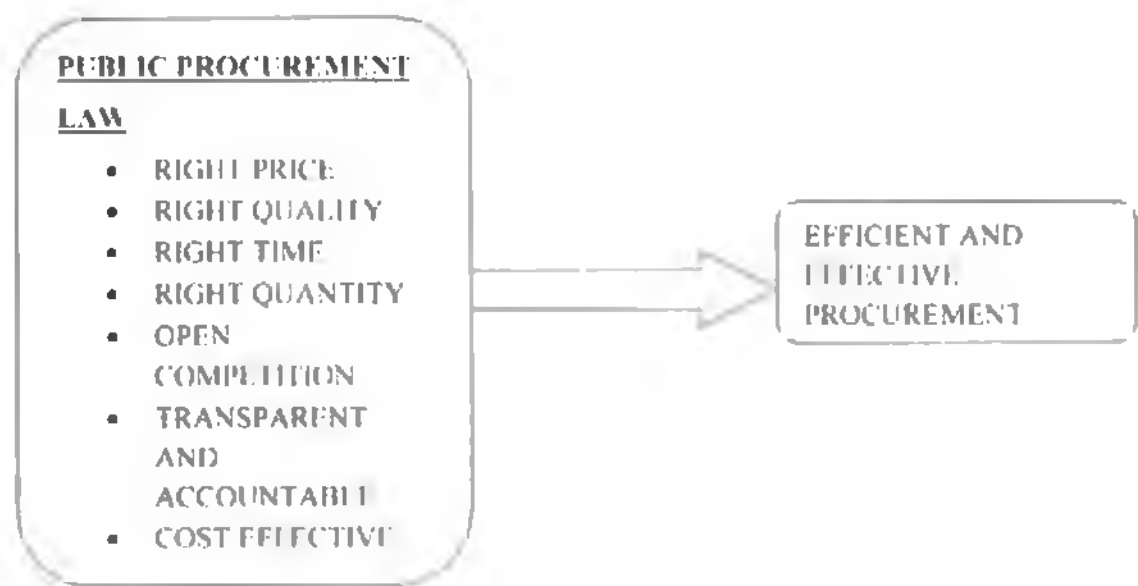


Fig. (i) Conceptual framework

SOURCE: Own conception, 2012

The conceptual framework exhibits the relationship between the public procurement and

disposal act 2005 on the acquisition of goods and services. If properly implemented it leads to acquiring goods and services at the right price, right time, in the right quantity, of the right quality, in a competitive manner, in a transparent manner and in a cost effective way. This in turn results in achievement of good value for money. Therefore the public procurement law acts a catalyst to ensure that the goods, services and works procured in an efficient and effective manner.

## **CHAPTER THREE**

### **METHODOLOGY**

#### **3.1 Research design**

The study adopted a descriptive survey design to investigate if public procurement law has resulted in efficient and effective procurement in parastatals in Kisumu County. The study is basically qualitative in terms of design of instruments for data collection and data analysis procedures. Saunders et al (2007) defines descriptive survey method as one which looks at with intense accuracy the phenomena of the moment and describes precisely what the researcher sees. Descriptive research design is concerned with describing the characteristics of a problem. A descriptive research design also allows for in-depth analysis of variables and elements of a population studied as well as collection of large amounts of data in a highly economical way. This enables generation of factual information about the study. The study will be good for gaining in depth understanding of the efficiency and effectiveness of the public procurement laws in Kenya.

#### **3.2 Target population**

The population of the study was Procurement officers of Parastatals in Kisumu County who are involved directly in procurement activities in these organizations. A census survey of the parastatals in Kisumu County was used for the study. In total 34 parastatals were used according to records at DDO Kisumu East District.

#### **3.3 Data collection, procedures and instruments**

The study used primary data. The primary data was collected through self administered

questionnaires. Also face to face interviews and observation will also used.

Closed ended questions were used to extract information from the respondents through questionnaires. Respondents were made to feel free and confident to express themselves since the researcher just required the information only and not their names. The respondents were also assured of confidentiality by the researcher as there names and other relevant details were not to be disclosed. The researcher was able to assist the respondents where the questions were not clear.

### **3.4 Data analysis methods**

Descriptive statistics was used to analyze primary data with the purpose of obtaining frequency, weighted mean and ANOVA. This was used to summarize the data in a way that is meaningfully understood and communicated. The data collected were processed by coding, editing, entry and cleaning in preparation for qualitative analysis. The data were then summarized according to research objectives. The five-point Likert Scale was used to analyze the data in order to answer the research questions. The results are presented in tables.

## **CHAPTER FOUR**

### **DATA ANALYSIS, RESULTS AND DISCUSSIONS**

The study sought to find out the respondents perception on the effect of the procurement law on efficiency and effectiveness of public procurement among parastatals in Kisumu County, Kenya. Data for this research were collected from procurement officers of the parastatals.

A pilot study was carried out using 3(12%) members of the target population to pre test the questionnaires for simplicity and admissibility. A total of 34 questionnaires were given out to the responding parastatals. Only 25 out of the questionnaires given out were received back for analysis. This resulted into a 74% response rate of the target population. Only 11 out of the parastatals in the county responded to the questionnaires directly. The other 14 respondents had there questionnaires answered at the parastatals headquarters. Only 9 (26%) of the respondents did not return there questionnaires due to there own reasons.

From the study 10(40%) the respondents had been in the procurement function for a period of between 0-5 years. Of the rest of the population 9(36%) had been in the procurement function for a period of between 5-10 years and 6(24%) had been in the procurement function for a period exceeding 10 years.

From the target population 3(12%) of the respondents said they had a budget of less than 10 million. These were branches of parastatals that have headquarters elsewhere. A majority of the parastatals that participated in the study had a budget of between 10-100

million 8(32%) parastatals and between 100-500 million 9(36%) parastatals. Only 6(24%) had a budget exceeding 500 million

#### 4.1 What is the perceived effect of the procurement law on procurement performance?

Table 4.1

*Procurement performance*

	SA		A		N		D		SD		Σ f	100
	(f)	%	(f)	%	(f)	%	(f)	%	(f)	%		%
Right Price			3	12	2	8	20	80			25	100
Right Quantity	12	48	3	12	5	20	5	20			25	100
Right Quality											25	100
Quality Control			15	60	5	20	5	20			25	100
Reduction of Lead time	3	12	20	80			2	8			25	100
Total	10	40			5	20	10	40				
%	25	100	41	164	17	68	17	170				500
		20		32		14		34				100

(Source: Author, 2012)

The study results from Table 4.1 revealed that 80% of the respondents still disagree that the law has been able to result in the procurement of goods and services at the right prices. 12% agreed that it has resulted in the procurement of goods at the right price while another 08% was neutral as they were neither agreeing nor disagreeing that the law has had any impact on procurement of goods and services in the parastatals.

On the right quantity of goods and services 48% of the respondents strongly agreed that the law has resulted in procurement goods and services in the right quantities i.e. there

are no cases of "air supply" as it used to be initially before the law. Another 12% of the respondents agreed that the law has resulted in procurement of goods in right quantities. While 20% of the respondents were neutral on the impact of the law on quantities procured. A final 20% of the respondents disagreed that the law has had any impact on the quantities of goods procured by parastatals in Kisumu County, Kenya.

A total 60% of the respondents agreed that the procurement law had resulted in the acquisition of quality goods and services, another 20% of the respondents were neutral on the impact of the law on quality of goods procured. A final 20% of the respondents disagreed with the notion that the procurement law has had any impact on the quality of goods and services procured in terms of quality in Parastatals.

A total 12% of the respondents strongly agreed that the procurement law had a strong impact on the development of quality control mechanisms to check on the incoming goods being procured. 80% of the respondents agree that the law has provided quality control checks that have enabled the organizations to get good quality goods and services. A final 08% disagreed that the procurement law has provided for quality control mechanisms to check incoming goods and services.

A total 40 % of the respondents strongly agreed that the procurement law has resulted in reduced lead times in the acquisition of goods and services. 20% of the respondents were neutral to this phenomenon. Another 40% of the respondents disagree that the law has resulted in reduced lead times in the acquisition of goods and services.

Table 4.2

*Analysis on Procurement performance*

	SA(5) $f_i$	A(4) $f_i$	N(3) $f_i$	D(2) $f_i$	SD(1) $f_i$	$\Sigma f_i$	$\Sigma f_i W_i$	$\frac{\Sigma f_i W_i}{\Sigma f_i}$
Right Price		12	6	40		25	58	2.32
Right Quantity	60	12	15	10		25	97	3.88
Right Quality		60	15	10		25	85	3.4
Quality Control	15	80		4		25	99	3.96
Reduction of Lead time	50		15	20		25	85	3.4

(Source: Author, 2012)

The study sought to find out the perception on procurement performance and the following parameters were used to judge procurement performance. These were right prices, right quantity, right quality, quality control and reduction in lead time. These were tabulated and weighted on a five point Likert scale. The sum of the weighted frequencies was divided by the sum frequencies of the respondents in each category. This is tabulated in table 4.2. Form the result in table 4.2, it was observed that the influence of the law on the right price was the lowest as it weighted at 2.32 while the best weight was observed on the law having an impact on quality control mechanism which weighed 3.96 followed by influence of the law on right quantity at 3.88 The impact of the law on right quality weighed 3.4 and reduction of lead time also weighed at the same 3.4. This shows that the law has had a positive impact on procurement performance as most of the parameters used scored more than 3.0 on the Likert scale.



Table 4.3: ANOVA single factor on procurement performance

Significance level = 95%

ANOVA						
Source of Variation	SS	df	MS	F	P-value	F crit
Between Groups	58.26923	4	14.56731	3.837853	0.895653	0.25984
Within Groups	448.5	8	56.0625			
Total	506.7692	12				

(Source: Author, 2012)

$F > F_{crit} (3.833785 > 0.25984)$

The results from table 4.3 where  $F (3.833785)$  is greater than the  $F_{crit} (0.25984)$  means that the null hypothesis is to be rejected which means that the procurement law has had an impact on procurement performance in parastatals.

4.2 What is the perceived effect of the procurement law on competitive procurement process?

Table 4.4

Open competition

	SA		A		N		D		SD		Σ f	100%
	(f)	%	(f)	%	(f)	%	(f)	%	(f)	%		
Many bidders			8	32			17	68			25	100
SME consideration	4	16	4	16	4	16	13	52			25	100
Bid rigging discouraged	4	16	4	16			4	16	13	52	25	100
Total	8	32	16	64	4	16	34	136	13	52		300
%		12		21		05		45		17		100

(Source: Author, 2012)

Table 4.3 shows that, total 32% of the respondents agree that the procurement law allows for participation of many bidders in the procurement process. While 68% of the respondents disagree that the law allows for the participation of many bidders.

A total 16% of the respondents strongly agree that the procurement law allows SME's to be given special consideration as they bid. Another 16% agree that SME's have special consideration in public procurement contracts. Another 16% are neutral on this issue. Interestingly, 52% of the respondents disagree that SME's are given special consideration as they bid is expressly provided in the law

A total 16% of the respondents feel that the law strongly discourages bid rigging. Another 16% agree that the law discourages bid rigging. 16% of the respondents disagree while 52% strongly disagree that the law expressly discourages rigging of bids in parastatals.

Table 4.5

*Analysis on open competition*

	SA(5) $f_i$	A(4) $f_i$	N(3) $f_i$	D(2) $f_i$	SD(1) $f_i$	$\Sigma f_i$	$\Sigma f_i W_i$	$\frac{\Sigma f_i W_i}{\Sigma f_i}$
Many bidders		32		34		25	66	2.64
SME consideration	20	16	12	26		25	74	2.96
Bid rigging discouraged	20	16		8	13	25	57	2.28

(Source: Author, 2012)

The results of the study in table 4.4, the study sought to find out the impact of the law on open competition in procurement in parastatals. On the many bidders the score was 2.64, on consideration of SME's the score was 2.96 and on discouraging of bid reading the score on the Likert scale was 2.28. This was a very low weight on the influence of the law on open competition.

Table 4.6: ANOVA single factor on open competition

Significance level = 95%

ANOVA						
Source of Variation	SS	df	MS	F	p-value	F crit
Between Groups	81	4	20.25	9.117182	0.3849	1.5
Within Groups	40.5	3	13.5			
Total	121.5	7				

(Source: Author, 2012)

$$F > F_{crit} \; (9.117182 > 1.5)$$

The results from table 4.6 where F (9.117182) is greater than the Fcrit (1.5) means that the null hypothesis is to be rejected which means that the procurement law has had an impact on open competition in procurement in parastatals.

### 4.3 What is the perceived effect of the procurement law on transparent public procurement?

Table 4.7

*Transparency and Accountability*

	SA		A		N		D		SD		Σ f
	(f)	%	(f)	%	(f)	%	(f)	%	(f)	%	
Transparent Procurement	5	20	15	60			5	20			25
Less Corruption			15	60			10	40			25
Viewing of records			20	80	2	8	3	12			25
Total	5	20	50	190	2	8	18	72			
%		08		64		03		25			

(Source: Author, 2012)

From table 4.5 a total 20% of the respondents of the study strongly agreed that the procurement law has resulted to transparent public procurement of goods and services. 60% agreed that the law has resulted in transparent procurement in parastatals. Only 20% of the respondents disagreed that the public procurement law has not resulted in transparent public procurement in parastatals.

On corruption 60% of the respondents agreed that the procurement law has resulted in less corruption. An opposing 40% disagreed that the procurement law has resulted in less corruption in procurement in parastatals. This is even reflected in the variance, where the variance is 12.5 is very low compared to the other two parameters. This means that the sample views are divergent but not in extreme proportions.

A total 80% of the respondents agreed that the procurement law allows the public access to view procurement records on public procurement. Only 8% of the respondents were neutral and the remaining 12% disagreed that the public can view the records of procurement process in parastatals. The variance is very high, this means that the respondents have varying opinion in extreme proportions i.e. 80% agree while 8% are neutral and another 12% disagree.

Table 4.8

*Analysis on transparency and accountability*

	SA(5) f <sub>i</sub>	A(4) f <sub>i</sub>	N(3) f <sub>i</sub>	D(2) f <sub>i</sub>	SD(1) f <sub>i</sub>	Σ f <sub>i</sub>	Σ f <sub>i</sub> W <sub>i</sub>	<u>Σ f<sub>i</sub> W<sub>i</sub></u> Σ f <sub>i</sub>
Transparent Procurement	25	60		10		25	95	3.8
Less Corruption		60		20		25	80	3.2
Viewing of records		80	6	6		25	92	3.68

(Source: Author, 2012)

The results of the study in table 4.6, the study sought to find out the perception of the law on transparency and accountability on procurement in parastatals. On transparency in procurement the law was weighed at 3.8, reduction on corruption the weight was 3.2 and on the access of records on procurement the score was 3.68. This shows the law has had a positive impact on transparency and corruption on procurement in parastatals.

Table 4.9: ANOVA single factor on transparency and accountability

Significance level = 95%

ANOVA						
Source of Variation	SS	df	MS	F	P-value	F crit
Between Groups	20.83333	2	10.41667	6.944272	0.860557	0.155958
Within Groups	267.1667	4	66.79167			
Total	288	6				

(Source: Author, 2012)

$F > F_{crit} (6.944272 > 0.155958)$

The results from table 4.9 where  $F$  (6.944272) is greater than the  $F_{crit}$  (0.155958) means that the null hypothesis is to be rejected which means that the procurement law has had an impact on transparency and accountability in procurement in parastatals.

4.4 What is the perceived effect of the procurement law on cost effective purchasing?

Table 4.10

Cost effectiveness

	SA		A		N		D		SD		Σ f	100
	(f)	%	(f)	%	(f)	%	(f)	%	(f)	%		%
Cost effective				20		20		32		28	25	100
buying			5		5		8		7			
e-				20		12		28		40	25	100
procurement			5		3		7		10			
Cost		28		60		12					25	100
variation												
discouraged	7		15		3							
Non lengthy		52		8				20			25	100
tendering	13		7				5					
Litigations		40		40		20					25	100
reduced	10		10		5							
Total	30	120	42	168	16	64	8	80	7	68		500
%		24		34		13		15		14		100

(Source: Author, 2012)

A total 20% of the respondents from table 4.10 agreed that the procurement law has resulted in cost effective public procurement in parastatals. Another 20% were neutral. 32% disagreed that the law had led to cost effective public procurement in parastatals. A final 28% of the respondents strongly disagreed that the procurement law had resulted in cost effective public procurement in parastatals. The variance of the sample is very low as the respondents have divergent opinions but in almost similar proportions.

A total 20% of the respondents agreed that the procurement law encouraged the use of e-procurement. 12% of the respondents were neutral. The other 28% of the total respondents disagreed that the procurement law encouraged the use of e-procurement. A final 40% strongly disagreed that the procurement law expressly supports the use of e-procurement. On cost variations 28% strongly agree that the procurement law

discouraged cost variations.60% also agreed that the law discourages cost variations. Only 12% of the respondents were neutral.

On the lengthy tendering 52% strongly agreed that the procurement law has not resulted in lengthy tendering process. This is after the prequalification has been done. This is so as the procurement officer can easily select any of the prequalified suppliers. Another 28% equally agreed that the law has reduced the tendering time in parastatals. Only 20% of the respondents disagreed.

On litigations 40% of the respondents strongly agreed that litigations have not increased due to the procurement law. This is because most of the organizations sampled have so far not experienced any legal issues due to procurement activities. Another 40% agreed that the law has not yet resulted into legal issues as per now. Only 20% were neutral on this issue.

Table 4 | 1

Analysis on cost effectiveness

	SA(5) f <sub>i</sub>	A(4) f <sub>i</sub>	N(3) f <sub>i</sub>	D(2) f <sub>i</sub>	SD(1) f <sub>i</sub>	Σ f <sub>i</sub>	Σ f <sub>i</sub> W <sub>i</sub>	$\frac{\sum f_i W_i}{\sum f_i}$
Cost effective		20	15	16	7	25	58	2.32
buying e-		20	9	14	10	25	53	2.12
procurement								
Cost variation	35	60	9			25	104	4.16
discouraged								
Non lengthy	65	28		10		25	103	4.12
tendering								
Litigations	50	40	15			25	105	4.2
reduced								

(Source: Author, 2012)



The results of the study in table 4.8 show the findings in relationship to cost effectiveness in procurement in parastatals. On cost effectiveness in buying the weight was 2.32 and encouraging of e-procurement was 2.12. This was the lowest scores of the impact of the law cost effectiveness in procurement in parastatals. The best scores were from reduced litigations (4.2), discouragement of cost variations (4.16) and non lengthy tendering process (4.12)

Table 12: ANOVA single factor on cost effectiveness

Significance level = 95%

ANOVA						
Source of Variation	SS	df	MS	F	P-value	F crit
Between Groups	14.35714	4	3.589286	3.633089	0.890546	0.269196
Within Groups	120	9	13.33333			
Total	134.3571	13				

(Source: Author, 2012)

$$F > F_{crit} (3.633089 > 0.269196)$$

The results from table 4.12 where F (3.633089) is greater than the Fcrit (0.269196) means that the null hypothesis is to be rejected which means that the procurement law has had an impact on cost effectiveness in procurement in parastatals.

## **CHAPTER FIVE**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1 CONCLUSION**

The public procurement law has resulted a lot in improved public procurement in parastatals. This can be established when you compare the number of procurement officers who agree with what the law has achieved compared with those that disagree with the same as per the findings of the study

##### **5.1.1 What is the perceived effect of the procurement law on procurement performance?**

On this phenomenon a total of 52% (20% plus 32%) of the respondents agree the procurement performance has improved in parastatals compared to those who disagree who are 34% of the respondents. A total of 14% of the respondents were neutral on the effect of the law on procurement performance.

This can be assumed to show that as much as there is perceived improvement of public procurement performance in parastatals due to the law a lot needs to be done to improve this perception so that it can rise above 52%.

##### **5.1.2 What is the perceived effect of the procurement law on competitive procurement process?**

A total of 33% (12% plus 21%) of the respondents feel that the procurement law has resulted in more open competition among bidders in parastatals. Another 05% of the

respondents were neutral on the effect of the law on open competition. A total of 53% (45% plus 17%) of the respondents disagreed that the procurement law has resulted in more open competition by bidders in parastatals

**5.1.3 What is the perceived effect of the procurement law on transparent public procurement?**

A total of 72% (8% plus 64%) of the respondents agree that the procurement law has resulted in increased transparency and accountability in public procurement in parastatals. Only 25% of the respondents disagreed that the procurement law had resulted in increased transparency and accountability.

This can be perceived as a very positive perception of the impact of the procurement law on procurement practices in parastatals as it can be assumed that the law has led to a lot of transparency and accountability in these organizations.

**5.1.4 What is the perceived effect of the procurement law on cost effective purchasing?**

A total of 58% (24% plus 34%) of the respondents agreed that the procurement law has resulted in cost effective procurement in parastatals. Only 29% (15% plus 14%) of the respondents disagreed that the procurement law has resulted in cost effective public procurement in parastatals.

## 5.2 RECOMMENDATIONS

The study intended to find out the perception of procurement officers of parastatals the effect of the procurement law on their operational efficiency. The study found out that they have varying opinions on the same. This means that more sensitization on the public procurement law requires to be done. This can be done through the Directorate of public procurement and Public Procurement Oversight Authority.

The procurement law requires to be reviewed to incorporate the views of the users and any other stakeholders like the suppliers. The study only focus on procurement officers but a similar study should be done for suppliers so that their views or opinions to be incorporated.

Enhancement of access to procurement information to the public as a whole is another step that may be used to improve procurement in public institutions. This will assist the public audit which will enhance procurement. This can be done through the media, both electronic and print. The government should therefore ensure that access to regulations and procurement opportunities are disclosed as widely as possible in a consistent, timely and user friendly manner.

There is need to review the procurement procedures and identify the underlying problems with a view to sealing the remaining loopholes through which dishonest participants are misusing the process. More checks and controls should be introduced to check on the integrity of the tendering systems and ensure that it is as open as possible. For example

the PPOA should blacklist and even prosecute parastatal officers, tendering committees' members and suppliers to the parastatals who in their own have grossly flouted the laid down procedures. This can effectively be achieved if the PPOA sets up functional offices at the county levels.

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## APPENDICES

### APPENDIX I: QUESTIONNAIRE

This survey will be entirely confidential and is designed to solicit honest and candid feedback and is solely for academic purpose.

The purpose of the study is to find out if the procurement law on the acquisition of goods, services and works in Parastatals has resulted in efficient and effective public procurement. You are kindly to respond to the questions by marking the in the spaces provided.

#### SECTION A

Mark in the appropriate box using v

1. Gender                                      Male      ☐                      Female      ☐

2. How long have been involved in procurement in the organization?

0-5 years      ☐                      5-10 years      ☐                      10 years and above      ☐

3. What the level of expenditure of procurement in your organization?

☐                      ☐                      ☐                      ☐  
0-10 million      10-100 million                      100-500 million      Above 500 million

#### SECTION B

To complete the questionnaire, read and then rate your satisfaction level based on the statements on a scale of 1 to 5; 1 being the least score and 5 being the highest score.

Write the score in response section after the statement.

Strongly Agree	Agree	Neutral	Disagree	Strongly Agree
5	4	3	2	1

**A. PROCUREMENT PERFORMANCE MEASURES (RIGHT PRICES, RIGHT QUANTITY, RIGHT QUALITY AND RIGHT TIME)**

1. The procurement law has resulted in procurement at the right prices in your organization

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

2. The procurement law has resulted in procurement of goods in the right quantity in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

3. The procurement law has resulted in procurement goods of the right quality in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

4. The procurement law provides a quality control mechanism to check in coming goods, services or works.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

5. The procurement law has resulted in procurement goods at reduced lead times in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

**B. OPEN COMPETITION**

6. The procurement law allows for participation of many bidders.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

7. Small and medium Enterprises are given special consideration as they bid in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

8. The procurement law does not encourage bid rigging

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

**C. TRANSPARENCY AND ACCOUNTABILITY**

9. The procurement law encourages transparent procurement practices.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

10. The procurement law has resulted in less corrupt practices in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

11. The procurement records can be viewed by the public on request in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

D. COST EFFECTIVENESS

12. The procurement law has resulted in cost effective buying in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

13. The procurement law has encouraged your organizations to utilize e-procurement

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

14. The procurement law has discouraged cost variation of contracts in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

15. The procurement law has not led to lengthy tendering processes in your organization

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

16. The procurement law has not resulted in a lot of litigations on procurement in your organization.

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
5	4	3	2	1

*Thank You very Much for Answering this Questionnaire*



## **APPENDIX II**

### **Parastatals in Kisumu County**

1. Lake Basin Development Authority
2. Kenya Sugar Research Foundation
3. Kenya Agricultural Research Institute
4. Kenya Marine Fisheries Research Institute
5. Kenya Airport Authority
6. Chemilil Sugar Company Limited
7. Kenya Medical Research Institute
8. Kenya Wildlife Services
9. Water Resources Management Authority
10. Kenya Airports Authority
11. Lake Victoria South Water Services Board
12. National Irrigation Board
13. Postal Corporation Of Kenya
14. National Cereals And Produce Board
15. National Museums Of Kenya
16. Kenya Industrial Estates
17. Kenya Ports Authority
18. Kenya Bureau of Standards
19. Kenya Railway Corporation
20. National Environmental Management Authority
21. National Hospital Insurance fund

22. National Social Security Fund
23. Kenya Power
24. Catering Development and Levy Trustee
25. Kenya Rural Roads Authority
26. National Housing Corporation
27. Agriculture Finance Corporation
28. Kenya Broadcasting Corporation
29. Kenya Industrial Research Development Institute
30. Kenya Electricity Generating Company Limited
31. Kenya Medical Research Institute
32. Kenya Sugar Board
33. Kenya Forest Service
34. National Industrial Training Authority

**Source (DDO, Kisumu East District)**

22. National Social Security Fund
23. Kenya Power
24. Catering Development and Levy Trustee
25. Kenya Rural Roads Authority
26. National Housing Corporation
27. Agriculture Finance Corporation
28. Kenya Broadcasting Corporation
29. Kenya Industrial Research Development Institute
30. Kenya Electricity Generating Company Limited
31. Kenya Medical Research Institute
32. Kenya Sugar Board
33. Kenya Forest Service
34. National Industrial Training Authority

**Source (DDO, Kisumu East District)**