

**PUBLIC PROCUREMENT AND DISPOSAL ACT 2005
IMPLEMENTATION CHALLENGES AND
EFFECTIVENESS IN THE JUDICIAL SERVICE
COMMISSION OF KENYA**

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**A Research Project Report Submitted In Partial Fulfillment of the Requirement for
the Award of Master of Business Administration, School of Business, University of
Nairobi**

2014

DECLARATION

I declare that this project is my original work and has not been presented in any other university or any institution of higher learning for examination.

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DEDICATION

I dedicate this work to my Father- Sam Okeyo, Mother-Nelly Okeyo and siblings-Edwin, Anne, Maureen and Brenda. Uncles Ojuok, Modi and others.

ACKNOWLEDGEMENT

First and foremost is my gratitude to the Almighty God for the gift of life, resources, a sound mind and everything else that enabled me go through the course and I will be forever grateful.

I would wish to acknowledge my Supervisor Mr. Nyamwange Onserio and moderator Mr. Mulwa Munyao for their enlightening guidance.

I equally place on record my appreciation to all my friends, Syonguvi, Raphael, Paul, Mawere, David, Lillies, Ngesh, Lyn, Kate, Laura, Mbae, Mukiri, Moses and classmates for cooperation, support, information sharing and their valuable contribution that enabled me sail through the course. There are many more who contributed in any form and whose list may be endless to publish.

To all of you, may our dear Lord richly bless you

ABSTRACT

This paper identifies challenges and effectiveness of the public procurement and disposal act (2005) implementation at the Judicial Service Commission of Kenya. To determine the Factors that might influence the effectiveness of the Procurement and Disposal Act 2005 in the Judicial Service Commission of Kenya. The theoretical background was established by acquiring information from literature, previous research and professional journals. The study adopted a case study descriptive research design which includes making inferences about relationships between variables from concomitant variables. The design is suitable for collecting data across many units in the organization at one point in time. The data collected was grouped into two categories and analyzed differently and separately depending on the category. Factor analysis and regression analysis was used in the analysis of the data. The study established that the challenges had influences on the procurement process. Financial, non financial and effectiveness in the implementation of the procurement function. The paper concludes that other than financial measures, non financial measures also contribute significantly in the procurement process and effectiveness in its implementation. The commission faces difficulty in finance making decisions on taxation and spending on the public the commission is challenged in budget controls, accounting and external and internal accounting. Financial management challenges influence keeping track of important information, non transparency. There has been slight improvement in the accountability, reduction in corruption and governance has been streamlined. Lack of transparency due to absence of information on rules and practices operate as a barrier to the implementation, weak oversight, inconsistent enforcement of the prevailing rules, compliance with procedural requirements, compromise on the intent and spirit of rules, ambiguities and gaps in the rules and inefficient costly system. The study recommends that JSC comes up with operational management strategies and implement them. The study established that inefficiency in operations has led to increased costs

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ACRONYMS AND ABBREVIATIONS

ORM	Operating Resource Management
MRO	Maintenance Repair and Operations
PPDA	Procurement and Disposal of Public Assets Authority
SP	Sustainable procurement
JSC	Judicial Service Commission
NAWASCO	Nairobi Water and Sewerage Company
GDP	Gross Domestic Product
PPOA	Public Procurement Oversight Authority
OECD	Organizations for Economic Cooperation and Development
CIPS	Chartered Institute of Purchasing and Supply
UNON	United Nation Office at Nairobi
KACC	Kenya Anti-Corruption Commission
KPMG	Klynveld Peat Marwick Goerdeler
FPE	Free Primary Education

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study

Procurement involves commerce between two or more businesses and is such an important element of business operations that a clear strategy is imperative. Public procurement is broadly defined as the purchasing, hiring or obtaining by any other contractual means of goods, construction works and services by the public sector. Public procurement is alternatively defined 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). This has led to much investigation of means to streamline the industrial procurement process. From a strategic perspective, procurement can encompass “the entire operation including a company's requisitioning, transportation, warehousing, and in-bound receiving processes” (Nevalainen, 2003), where the dominant goal is process efficiency.

Procurement is a complex process that has both direct and indirect functions. Specifically, the distinction is that direct procurement is the purchase of high volume materials and/or services that directly facilitate the creation of the end product (Mercer, 2001). Indirect procurement is the purchase of the support materials and services necessary to enable the creation of the end product. Subsets within this category are operating resource management (ORM) and maintenance, repair, and operations (MRO). MRO purchases tend to be low volume and high frequency items (Bartezzaghi, E., and

Ronchi, S. 2004). Direct procurement accounted for fewer purchasing transactions (between 20% and 40% in manufacturing companies) but could account for up to 60% of a manufacturing firm's total procurement expenditure (Neef, 2001). This distinction is an important one to note when analyzing the internet's role in procurement (e-procurement), as the characteristics of different materials may determine their suitability to online transactions (Bartezzaghi and Ronchi, 2004).

The public procurement system in Kenya has evolved to an orderly and legally regulated system governed by the Procurement and Disposal of Public Assets Authority (PPDA, 2005). Prior to this, Central Government procurement process was governed by Treasury Circulars from 1969, then the Supplies Manual of 1978, before the promulgation of the Exchequer and Audit (Public Procurement) Regulations, 2001. The PPDA, as of 1st January 2007, applied to all procurement of goods, works and services, as well as the disposal of assets by public entities. The Public procurement processes is a complex issue because of the multiple interests and objectives it strives to achieve simultaneously coupled by the multiple regulatory policies and bodes it has to adhere to (Bartezzaghi and Ronchi, 2004).

The judicial service commission has faced a fair share of challenges in the management of procurement process. There have been cases where goods are procured without due adherence to the provisions of Procurement and Disposal Act 2005. For instance, there have been procurement cases where proposed office for magistrates and the house for the Chief Justice which have turned out to have happened against the provisions of Public Procurement Act 2005. This has also been witnessed in the procurement of office furniture where due process was not followed among other office consumables (GoK,

2014). This has raised concern on the adherence of the Procurement and Disposal Act 2005.

1.1.1 Public Procurement and Disposal Act

Public procurement is the process of acquiring items from other organizations or institutions (Odhiambo and Kamau, 2003). Public procurement exercise normally happens by means of a contractual arrangement after public competition, of goods, services, works and other supplies by the public service. The process spans the whole life cycle from initial conception and definition of the needs of the public service to the end of useful life of an asset. Public procurement is concerned with how public sector organizations spend taxpayers' money on goods and services. It is guided by principles of transparency, accountability, and achieving value for money for citizens and taxpayers. Public sector expenditure is substantial in relation to the government organizations across the world tend to spend between 8 per cent and 25 per cent of GDP on goods and services (Odhiambo and Kamau, 2003).

Public Procurement in Kenya has evolved from a crude system with no sound legal framework and institutional structure to a properly regulated system anchored in the New Constitution through Article 227. Major legal and institutional reforms have been undertaken to streamline the management of public procurement through enactment of laws that criminalize corruption and instill good governance based on the principles of transparency and accountability. However, studies still indicate that corruption is still common in public procurement and that the legal and institutional reforms instituted so far have largely failed to produce the necessary prudence and accountability in public

procurement. Recent scandals on cemetery land in Athi River, Anglo-Leasing security contracts, maize importation scam, Free Primary Education (FPE) funds, sale of Grand Regency Hotel to Libyan investors, sale of Kenya's Embassy in Japan and many others which relate to corruption in public procurement have cost Kenya over KSh700bn (USD 8.24 billion) [Mars Group, 2011].

In the UK, public procurement expenditure is approximately KShs210.9 Trillion (www.ogc.gov.uk). Government is often the single biggest customer within a country, and governments can potentially use this purchasing power to influence the behavior of private sector organizations. In particular, it has been noted that, public procurement can be a lever to deliver broader government objectives, such as stimulating innovation in supply markets, using public money to support environmental or social objectives, and for supporting domestic markets. In response to the call made at the World Summit on Sustainable Development in 2002 to promote public procurement policies that encourage development and diffusion of environmentally sound goods and services, the UK government, in 2005, stated its goal to be amongst the leaders in Europe on sustainable procurement by 2009 (www.ogc.gov.uk/procurement.asp).

Sustainable procurement (SP) is procurement that is consistent with the principles of sustainable development, such as ensuring a strong, healthy and just society, living within environmental limits, and promoting good governance (Nevalainen, A., 2003). As noted, sustainable procurement therefore places government in two roles by participating in the market as purchaser and at the same time regulating it through the use of its purchasing

power to advance conceptions of social justice. The goods, services and consultancy involved in Public procurement range from simple items such as pins and cleaning services to big projects such as Highway, Power stations and international ports.

Public Procurement must be transacted in considerations of several factors such as economy, transparency and adherence to international obligations. The essence of this is to have a fair process that is open, non discriminative to all participating suppliers in addition to having an adequate checks and balances, (Odhiambo and Kamau, 2003).

1.1.2 Effectiveness

In general, effectiveness is the extent to which stated objectives are met — the policy achieves what it intended to achieve. The goal can be as broad or as narrow as is deemed appropriate — a continuum exists, ranging from achieving very specific outputs to very general outcomes (www.pc.gov.au).

An open, transparent and non-discriminatory procurement process is the best tool to achieve value for money as it optimizes competition among suppliers (TISA, 2009). This openness and equality can only be achieved if there is an effective process.

Public Procurement is considered effective if it accomplishes the intended results of fostering good governance and effective accountability in the management of public resources timely, with minimal cost, generates quality reports (showing control gaps and how to address them), prevents occurrence of fraud and embraces the use of information and communication technology (GOK, 2005). An appropriate regulatory system is

required to enhance transparency and non-discriminatory in the application of public resources and also to provide framework for audit activities (PPDA, 2005).

According to PPDA (2005) an appropriate regulatory system is required to enhance transparency and non-discriminatory in order to achieve value for money. The law establishes the procurement methods to be applied, advertising rules and time limits, the content of tender documents and technical specifications, tender evaluation and award criteria, procedures for submission, receipt and opening of tenders, and the complaints system structure and sequence (PPOA, 2007). Ongoya (2005) points out that regulations lays the foundation for separation of powers between institutions managing public procurement and those checking on compliance.

The Supplies and Management Practitioners Act, (2007) provides for professionalization of procurement practice which facilitates good record keeping. This facilitates timely audit and enhance cost efficiency. Sound procurement regulations are critical to effectiveness of public procurement audit. Before the PPDA (2005), there were big discrepancies and differences between the procurement practices applied in different public entities (PPOA, 2007).

1.1.3 Background of Judicial Service Commission of Kenya

The judiciary of the Republic of Kenya traces its origin to the East African order of council of 1897 and the crown regulation, which marked the beginning of a legal system in Kenya. The East Africa order of council applied certain Indian and British Acts of

Parliament to the East African Protectorate. The common law of England in force at the time was also applied. It was based on a tripartite division of subordinate courts; that is, Native courts, Muslim courts and those staffed by Administrative officers and Magistrates. A dual system of superior courts was also established, with one court for Europeans and the other for Africans. This lasted only for five years (Mars group Kenya, 2007).

Public procurement practitioners at the JSC have faced challenges imposed upon by a variety of environment factors including market, legal environment, political environment, organizational environment, and socio-economic and other environmental factors. Although a majority of the procurement processes have been adhered to, some of the procurement at the JSC has not observed the provisions of the Procurement and Disposals Act.

1.1.4 Public Procurement at the Judicial Service Commission

According to (Abdullahi, A., 2002), the Kenyan judiciary is plagued with excessive bureaucracy, backlogs of cases, endemic corruption, inefficient and ineffective case management, poor terms of services for judicial and administrative staff and poor infrastructure. This creates a supportive environment for corruption to flourish and, according to (CGB, 2011) data, 43 % of Kenyans who have had contact with the judiciary reported paying a bribe 12 months preceding the survey (Abdullahi, 2002).

Freedom House (2011) indicated that courts are understaffed, underfinanced, and lack the capacity to efficiently prosecute corruption cases this in turn leads to inefficiency in procurement processes at the courts. While about half a dozen ministers have been

suspended over corruption allegations, many of them have been reinstated and no minister of high profile official has been convicted.

1.2 Statement of the Problem

The public procurement processes is a complex issue because of the multiple interests and objectives it strives to achieve simultaneously coupled by the multiple regulatory policies and bodes it has to adhere to (Muturi, 2007). The major objectives public procurement include ensuring the tax payers enjoy value for money, achieving efficiency and effectiveness, ensuring fair competition amongst the suppliers, ensuring accountability and transparency, ethics among others (Commonwealth Procurement Guidelines, 2005). This is a stark contrast from the private sector whose *raison de etre* is the profit motive. In most countries in the world over, public procurement is guided by the public procurement laws and guideline but in Kenya, public procurement has important economic and political implications (Muturi, 2007). Ensuring that the process is economical and efficient is crucial. This requires in part that the whole process is well understood by all the stakeholders including the government, the procuring entities, the business community/suppliers, professional associations, academic entities and the general public. Unfortunately, for most developing countries, this is not the case.

Public procurement forms a big part of the economies of the developing countries accounting for over 50 % of all government expenditure in developing countries. Public procurement often constitutes the largest domestic market in developing countries (Wayne, 2002). Depending on how it is managed, the public procurement system can

thus contribute to the economic development of these countries (Sue, 1998). Indeed, public procurement is the principal means through which governments meet developmental needs such as the provision of physical infrastructure and the supply of essential medicines. With a more focused approach on the control and effective management of public resources, greater value and benefits can be derived in national spending. The aim of the Public Procurement Regulations of 2006 was to promote fairness, transparency and nondiscrimination in procurement in public institutions with the main aim of ensuring efficient use of public funds.

A survey carried by the Kenya Publishers Association on booksellers found how book distributors collude with school principals to embezzle money set aside for free education in public secondary schools in Kenya (Wanyama, 2010). Compliance levels continue to be low in public entities in Kenya despite efforts by the Public Procurement Oversight Authority (PPOA) to put in place measures to improve compliance (PPOA, 2012). Procurement audits carried out revealed non-compliance with procurement regulations in public institution in Kenya. Several studies have been conducted on challenges of procurement. For instance, Ngari (2012) examined the effects of public procurement and disposal act on procurement in Parastatals in Kenya. The study concluded that that PPDA improved the competitiveness of the procurement processes and the quality of services and goods delivered, and finally it promoted ethical standards among Parastatals in procurement. Muendo (2006) examined the critical success factors and challenges in e-procurement adoption among large scale manufacturing firms in Nairobi, Kenya. The study revealed that majority of the large scale manufacturers in Nairobi, Kenya had

adopted e-procurement with the following e-procurement practices: online advertisement of tenders, receiving online submission of proposals for the tenders, and short listing suppliers online among others. Moki (2012) examined the challenges of implementing Public Procurement and Disposal Act, 2005 in public secondary school using a case of selected public secondary schools in Mombasa District and found that there is lack of enough resources (cash) to implement the Act due to uncertainty of the flow of cash in the school, lack of trained staff in procurement department and lack of sensitization or training to tender committee members. From the above discussions, there is no study that has examined the challenges of Public Procurement and Disposal Act 2005 implementation at the Judicial Service Commission of Kenya especially considering that this is the custodial institution for the law. This study therefore sought to fill this research gap by answering the following research questions: What are the challenges facing the procurement and disposal Act implementation at JSC, Kenya? What are factors that might influence the effectiveness of the Procurement and Disposal Act 2005 in the Judicial Service Commission of Kenya?

1.3 Objectives of the study

- i. To determine the factors that might influence the effectiveness of the Procurement and Disposal Act 2005 in the Judicial Service Commission of Kenya.
- ii. To establish the challenges of the implementation of the procurement and disposal act 2005 in the Judicial Service Commission of Kenya.

1.4 Value of the Study

This study enhances the generation of knowledge useful in formulation of policy and a regulatory framework on procurement and disposal act implementation to the JSC, Kenya.

To managers in the procurement sector, these findings would also equip them with new comparative knowledge in the different institutions on the challenges of procurement and disposal Act implementation, which is necessary in improving their institution's performance.

To the researchers and academicians, they would find it relevant to add these findings to their understanding of the challenges of Procurement and Disposal Act implementation on the operations of various public institutions. The study findings would help provide other researchers with required literature for their research. This study would extent the existing literature on adherence to PDA and challenges in its implementation.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

This chapter presents a review of previous literature of public procurement relevant to the objectives of this study. This literature is reviewed from books, journals, newspapers, magazines and government statistical records.

2.2 Procurement Process

Public Procurement has been defined as the acquisition of goods, works or services, including the disposal of assets by a procuring entity (Odhiambo et al., 2003). Procurement process is the successive stages in the procurement cycle including planning, choice of procedure, means to solicit offers from bidders, examination and evaluation of those offers, award of contract and contract management. Procurement encompasses the whole process of acquiring property and/or services. It begins when an agency has identified a need and decided on its procurement requirement. Procurement continues through the processes of risk assessment, seeking and evaluating alternative solutions, contract award, delivery of and payment for the property and/or services and, where relevant, the ongoing management of a contract and consideration of options related to the contract. Procurement also extends to the ultimate disposal of property at the end of its useful life (Waters D., 2004).

Sound public procurement policies and practices are among the essential elements of good governance (KIPPRA, 2006; World Bank, 2002). Otieno (2004) notes the irregular procurement activities in public institutions provide the biggest loophole through which public resources are misappropriated. In some cases, tenders are awarded to firms either

through single sourcing or manipulation of bids; and worse still, full payments have often been made for projects that fail to take off or are abandoned half way. Still in other cases, tenders are awarded to un-competitive bidders through irregular disqualification of the lower bidders.

2.3 Public Procurement

Public sector procurement refers to procurement by or on behalf of ministries, departments of central government, organs of local government and state corporations. Procurement in the public sector aims to achieve multiple objectives. These include: economy, efficiency, fairness (i.e. non-discrimination among potential suppliers), accountability, transparency and, where more than one country is involved, respect for international obligations. Besides its business objectives, public procurement is an instrument for the attainment of broader national socio economic objectives such as supporting employment of citizens and income creation through preference for local suppliers; promotion of indigenous micro, small and medium enterprises (MSMEs); and enhancement of regional integration through improvement of cross-border trade.

Accordingly, public procurement is checked by various regulations including laws, statutes and ministerial decrees in form of regulations specifically enacted to protect public interest. It is also subject to scrutiny by the auditing arm of government, which in itself assumes ultimate responsibility for obligations incurred in relation to third parties. Procurement in the private sector, on the other hand, seeks merely to achieve efficiency and a good economic result for the buyer; securing the best price for goods and services is paramount. Consequently, procurement in the private sector does not follow any firm

procedure. As a result of these and other differences, the public procurement process is much more complicated and slower, and not always as efficient as private sector purchasing

2.4 Effects of the Implementation of the Procurement and Disposal Act

Public procurement, accounts for a big portion of both public expenditure and need for goods and services in the economy. The public sector being regarded as the largest buyer, it affects competition in some markets through its purchasing behaviour. The inception of legislation in different countries has had a number of effects. They include; promotion of effective competition, investments and innovations, cost effects, promotion of ethics and transparency. The public sector, by conformity of its overall demand in certain markets, may be in a position to protect and promote competition; this may be done by maintaining a competitive market structure through deliberately sourcing of its requirements from a different range of suppliers, by encouraging suppliers to invest and innovate, or by helping firms to overcome barriers to entry. According to (Michael D., et al., 2003) on the other hand, it can restrict and distort competition, e.g. by adopting procurement systems that have the result of restricting participation of certain entities in public tenders (Parry, 2003).

The implementation of the act has also been effective on the cause on investment, innovation and the competitiveness faced in the market, i.e. effects that makes changes in market structure and technology caused by public procurement, which would come out, in future tenders would improve effects in the supply of other buyers; who are, affected

by changes in competitiveness in the market or changes in technology (Gade et al., 2000). However, the effects can work in reverse. This may be due to strong promotion of short-term contracts amongst suppliers which reduces long-term competitiveness, and in turn discourages innovation and investment (Golder, 2004). Bid evaluation is costly, particularly where the buyer's needs are complex and requirements cannot be simplified. The buyer therefore has to trade off the higher costs of assessing a larger number of bids against the likely decrease in purchase cost as a result of fiercer competition amongst bidders (Leavey, 2001). Limiting the number of bidders in cases where the characteristics of the goods or services are hard to define, the use of reputation and a proven ability to meet the particular requirements may be efficient. In addition, we need to know that more bidders may not always lead to lower prices. This is due to an increase in the number of bidders, the prices can be high since the bids are done with more precaution. (Klaue A., *et al.*, 2002).

Generally, it is hard to support collusion when the number of bidders increases, this is due to the fact that bidders are more dissimilar (this may mitigate the positive impact on competition due to the similarity across the several bidders). Other factors that cause collusion include: Transparency this will lead to collusion since firms may not agree on the prices charged by other firms that may be below the agreed market rates. (Graue, 2004). In addition, another implication includes the exclusion of smaller firms since they do not have the same strengths as bigger organizations when they are participating in the same process. This puts them at a disadvantaged position in providing the goods or services required. For instance, competition is reduced, when SMEs are not able to tender

in instances where the buyer's specifications weighs more to strong economies of scale or they tend to cover a much bigger scope of works, or where size and reputation of the firm in previous works done are essential from the perspective of the public sector buyer. (John, 2003).

According to Christiansen (2002), where repeated award of contract to the same firm increases strong hold advantages (this is achieved through repetitive performance of the same job and as a result there is perfecting the investments made by the successful bidder), a buyer awarding a contract to the cheapest supplier in a series of tenders may find itself with a rather restricted choice of suppliers in the long term. To the extent that sector bidders anticipate such an outcome, they have an incentive to reduce their price when a new requirement is first put out to tender in the expectation of little competition and higher profits in the future (The Economist, 2004)

2.5 Challenges of the Implementation of the Procurement and Disposal Act

PPOA (2007) conducted a study to identify why there is a reluctance in the adoption and full implementation of the Procurement and Disposal Act despite the introduction of the legal and regulatory procurement framework; the establishment of the PPOA as an oversight body; the development of a framework for contract administration and the new appeals mechanism were among supportive measures. Development of institutional capacity in procuring and functioning of the procurement market were assessed as being among the weakest aspects of the system. The report noted that although procedures

supporting systematic procurement planning have been established, research showed that these are far from always being complied with.

KPMG (2008) studied how fast and efficient the procurement and disposal regulation were being adopted and implemented in Kenya after the introduction of the Regulations. The study found out that public procurement still suffers from fraud and misconduct. KACC (2008) also noted that public officials distort the Regulations to restrict the participation of interested firms in procurement, or still direct the outcome of others.

Onyinkwa (2013) studied factors influencing compliance to procurement regulations in public secondary schools in Kenya: a case of Nyamache District, Kisii County. The findings revealed that there was limited competence among staff. The training/capacity building programmer attended by committee members did not meet the schools needs on the procurement procedures. The findings also revealed that inadequate training of tendering committee members on procurement procedures has contributed to non-compliance of procurement regulations in public secondary schools.

2.5.1 Procurement Oversight and Enforcement

There are benefits of a centralized arrangement in 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 (Murray, 2001). 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 (Atkinson, 2003).

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. 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 (Phillips et al, 2007). 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.

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 (Soudry, 2007). 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. Public entities will go to lengths to create a semblance of formal compliance with procedural and other requirements while seriously compromising the intent and spirit of such rules (Porter, 2001). In severely compromised systems, even this veneer of formal compliance is not observed mainly because public officials and their private sector accomplices have no fear of retribution.

2.5.2 Non Transparency in the Procurement Practices

The function of transparency is also important in procurement and it refers to openness. Transparency therefore is an essential aspect of ensuring accountability and minimizing corruption, and has gained prominence in Organizations for Economic Cooperation and Development (OECD) countries, and is particularly associated with the rise of the governance agenda as transparency is a core governance value (Smith-Deighton, 2004). Government procurement is one area where corruption is rampant in both developing and developed countries. The recipients of clandestine payments may not only be the officials who are responsible for decision making but also ministers and political parties. Transparency requires governments to adhere to higher standards of conduct by ensuring that conduct will be open to scrutiny (Smith-Deighton, 2004).

But the obligation to invite tenders, the transparency of the procedures used in awarding contracts and the right which the agreement would give to aggrieved suppliers to challenge the decisions would restrain both domestic and foreign suppliers from making under-the table payments and deter public officials and political parties from receiving such payments (Rege, 2001.). Transparency in government procurement will provide an assurance for both domestic and foreign investors that contracts will be awarded in a fair and equitable manner.

In all markets These rules would also ensure that goods and services are obtained at the most economic prices and thus lead to a reduction in costs. According to Rege (2001) the

most important benefit of transparent and open procedures is the impact which their adoption may have on the level of corruption in countries where it is widespread.

2.5.3 Procurement and Poor Financial Management

Financial Management is putting together the economic resources at hand to make efficient use of them and taking decisions that can successfully culminate in acquiring more assets for the business. With effective Financial Management you can even attract finance to meet the short term and long term requirement of the family or firm. The whole process is intense and deals with the selection of specific or a combination of assets to deal with a financial issue, if any. The aim of Financial Management is to reduce the size of a problem and ensure fiscal growth of the enterprise (Rosen, 2002). In government public financial management concerns the taxing and spending of government, which in turn influences resource allocation and income distribution (Rosen, 2002).

The planning and financial framework does not include clear links to procurement planning and, consequently, procuring entities are not required to prepare procurement plans. In addition, the procurement oversight arrangements do not generate the information that would be required to fully integrate procurement planning into corporate plans. Established international practice considers procurement planning as a key activity within the public financial management system to enhance the transparency and economy of procurement processes as well as the quality of the goods, services and works procured (Warkentin, 2002).

2.5.4 Poor Records Management and Filing Systems

Record management is a crucial aspect of survival for any company, no matter the size. Not only is keeping track of important information vital to the smooth operations of a company, trying to track down and find documents (both paper and electronic) can be a very costly process. Having a system in place to manage the classification, storage, archiving, and destruction of company records can help avert a costly and potentially damaging situation. One of the best ways to implement a record management policy is utilizing a business that specializes in it; there are a myriad of companies that offer record management solutions for both paper and electronic documents. Such solutions make it easy to track, retrieve, and securely store important documents (Bolton, 2006).

A record keeping system is a day to day method by which a business manager records the financial transactions of the business. These business records let the manager analyze where the business is and where it is going. Keeping records is crucial for the successful management of any business. A comprehensive record-keeping system makes it possible for business managers to develop accurate and timely financial reports that show the progress and current condition of the business. With the financial report generated from a good record-keeping system, they can compare performance during one period of time (month, quarter or year) with another period, calculate trends and plan for the business's future (Robek, B., *et al.*, 1995).

An appropriate record-keeping system can determine the survival or failure of a business. For those already in businesses, good record keeping systems can increase the chances of

staying in business and the opportunity to earn larger profits. Complete records will keep you in touch with your business's operations and obligations and help you see problems before they occur (Robek *et al*, 1995). A basic record-keeping system should be easy to use, understand, reliable, accurate and timely. The business needs some type of business journal to record transactions and a well-organized filing system. The system should also be generating monthly financial statements that include cash flow, accounts receivable, accounts payable, payroll, overall income statement and balance statement (Kautz, 1998).

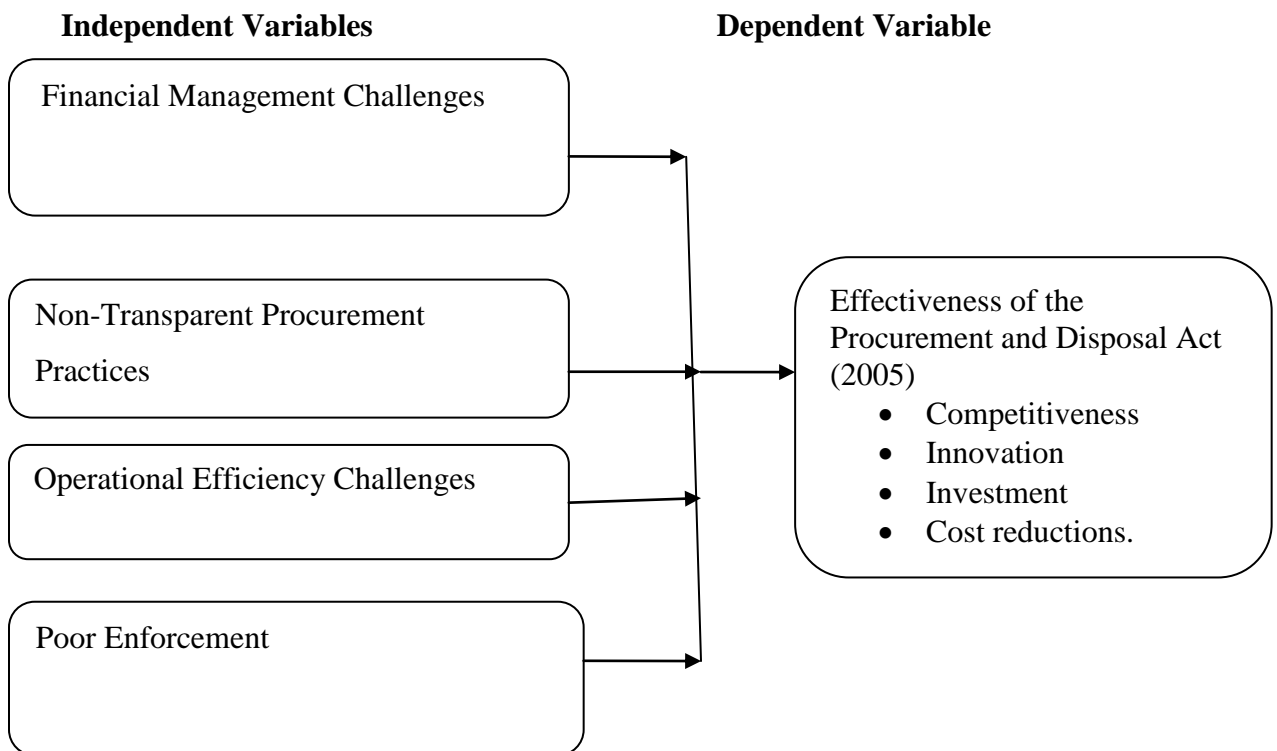
2.5.5 PPOA Delays and Inefficiencies

Efficiency in procurement includes lower procurement costs, faster cycle times, reduced maverick or unauthorized buying, more highly organized information, and tighter integration of the procurement function with key back-office systems. Effectiveness includes increased control over the supply chain, proactive management of key procurement data, and higher-quality purchasing decisions within organizations (Harrington, 1999). Efficiency in procurement is more evident and has been reported as the number one reason for utilizing e-business tools (Harrington, 1999; Kalakota and Whinston, 1996). Efficiency is realized through lower costs (including the opportunity cost of time) in performing various facets of the purchasing task. E-commerce tools reduce transaction costs between organizations by facilitating communications and enabling tasks to be completed more rapidly.

The conversion of paper documents for ordering, invoicing, and tracking into electronic documents lowers expenses associated with accounting, record keeping, and the various

archival tasks associated with procurement (Ramusson, 1999). Other cost savings include economies gained from reduced order cycle time and greater timeliness in ordering and delivery (Peters and Hogenson, 1999). Order cycle cost reductions occur when Internet-based buying lowers managerial involvement in purchase activities and in the number of separate buying tasks and procedures that must be carried out (Kalakota and Robinson, 1999). E-commerce tools offer the opportunity to group tasks such as vendor identification, specification transfer, and pricing into a seamless communication stream, lowering time and cost investments (Solomon, 1999).

2.6 Conceptual Framework



Source: (Author, 2014)

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

The chapter discusses the methodologies that were used in gathering the data, analyzing the data and reporting the results. Here the researcher aimed at explaining the methods and tools used to collect and analyze data to get proper information related to the challenges of Procurement and Disposal Act implementation at the Judicial Service Commission of Kenya (Mugenda and Mugenda, 2003).

3.2 Research Design

The study adopted a case study descriptive research design which includes making inferences about relationships between variables from concomitant variables. This method is chosen because it best provides a large pool of information which will otherwise take long to collect if it is collected through observation. According to Cooper and Schindler (2003), a descriptive study is concerned with finding out the what, where and how of a phenomenon. Descriptive research design was chosen because it enables the researcher to generalise the findings to a larger population. Further, the design is suitable for collecting data across many units in the organization at one point in time.

3.3 Sample Design and Sample Size

According to Mugenda and Mugenda (2003), a sample of between 10%-30% is considered adequate for generalization of the findings to the whole population if the sample is well chosen. Following the high level of homogeneity among the target population, the study selected 20% of the sample size which is within the acceptable

ranges according to Mugenda and Mugenda (2003). The sampling frames comprised the section of the staff at the Judicial Service Commission. A representative sample of 100 (20%) of the population were selected using stratified sampling technique based on departments in which they work. Simple random sampling was used to select employees that would participate in the study from each department. The sample is distributed as shown in the Table 3.2 below:

Table 3.2 Sample Size

Population category	Population	Sample proportion	Sample Size
Judicial Service Commission	94	20%	19
PPOA	90	20%	18
Office of the Attorney General	110	20%	22
Office of the Chief Registrar	112	20%	22
Procurement Department of JSC	97	20%	19
Total	503		100

Source: Author (2014).

3.4 Data Collection

The target population for this study was all the staff and managers working at the procurement department at JSC, Kenya headquarters in Nairobi. The researcher divided the target population into three categories as: senior managers, managers and staff members, the study used stratified random sampling technique to choose which members to include into the sample.

The researcher intends to use a sample of 100 respondents in this study as shown in the table below. Primary data was collected using a semi structured questionnaire. The open ended questions were used in order to allow respondents to provide information which

they may deem relevant for the study. Closed ended questions were used in order to standardize the responses and save on the respondents' time taken to fill in the questionnaire. The researcher maintained a register of questionnaires, which were sent, and which were received.

The researcher interviewed about 15 respondents cutting across all the three categories to obtain data necessary for achieving the objectives of the study. Interviews were used to gather data from people about opinions, beliefs and feelings about situations in their own words. According to (Donald Ary, Lucy Jacobs, Asghar Razavieh, Christine Sorensen, 2009), interviews will be good for this purpose.

In preparation for the data collection exercise, the researcher feels that it was necessary to conduct a pretest on the instruments of collecting data (Ary et al., 2009). He therefore conducted a pilot study to test the level of clarity, efficiency and effectiveness of the data collection instruments to enable early preparations before the real study and to give room for any possible correction that may be necessary. The pilot study was therefore very necessary in minimizing the difficulties that may arise during the study.

3.5 Data Analysis

The data collected was grouped into two categories and analyzed differently and separately depending on the category. The data was then categorized as either qualitative or quantitative. Data analysis tools used were dependent on the type of data to be analyzed, whether qualitative or quantitative. The quantitative data in this research was analyzed by descriptive statistics using statistical package for social sciences (SPSS V 21.0). Descriptive statistics includes mean, frequency, standard deviation and percentages

to profile sample characteristics and major patterns emerging from the data. Factor analysis was used in the analysis of the data. According to Cooper and Schindler (2003) factor analysis is used to determine if any of the independent variables comprise common underlying dimensions called factors. Through factor analysis, you can find variables that are correlated with each other, but relatively independent of other sets of data. In addition to measures of central tendencies, measures of dispersion were used to gain insight into the data on the challenges of Procurement and Disposal Act implementation at the Judicial Service Commission of Kenya. Data was presented using graphs, charts and table to present the findings of this study before drawing conclusions and making necessary recommendations.

CHAPTER FOUR: DATA ANALYSIS, FINDINGS AND DISCUSSIONS

4.1 Introduction

The chapter presents the findings from the responses given in the questionnaires. The findings are presented in tables and charts.

4.2 Response Rate

The study targeted a sample size of 100 respondents. Of the targeted 100 respondents, 63 filled and returned their questionnaires. This gave a response rate of 63%. According to Mugenda and Mugenda (2003) the statistically significant response rate for research analysis should be at least 50%.

4.3 Demographic Information

The study sought to find out the gender of the respondents. The respondents who were male were 60% while the respondents who were female were 40%. The study involved both genders in the study although the majority of the respondents were males. The respondents were asked to state their age category. Table 4.1 shows the responses.

Table 4.1: Age of the Respondents

	Frequency	Percentage
25 - 30 Years	8	12
31 - 34 years	12	18
35 – 40 years	7	10
41-44 years	15	22
45 – 50 years	13	19
Over 51 years	12	18
Total	67	100

The study showed that all the respondents' were mature to understand the content and purpose of the study. The study sought to establish the education level of the respondents.

The findings are shown in table 4.2

Table 4.2: Education level of the Respondents

	Frequency	Percentage
Primary	2	3
Secondary	4	6
College	13	21
Bachelors' degree	18	29
Masters	14	22
PhD	6	10
Other	6	10
Total	63	100

Those who had other qualifications listed professional courses such as CPA and ACCA as their qualifications. The study sought to establish the number of years the respondents had worked at the JSC. The findings are shown in the table.

Table 4.3: Years Worked at JSC

	Frequency	Percentage
Less than 1 year	6	10
1-5 years	19	30
6-10 years	23	37
Over 10 years	15	24
Total	63	100

From the responses shown above, all the respondents were in a position to correctly answer the research questions as they were familiar with the operations at the JSC.

The study sought to establish the respondents' designation at JSC. Table 4.4 shows the responses.

Table 4.4: Designation at the JSC

	Frequency	Percentage
Head of department/unit/division	15	24
Assistant head	12	19
Human Resource	18	29
Supervisor	11	17
Other	7	11
Total	63	100

The respondents who said they had other designations were either the administrative, support staff and accounts clerks.

4.4 Financial Management Challenges

The respondents were asked to rate the extent to which the following were challenges being faced at the JSC and the extent to which the lack of effective links between procurement and financial management affected the implementation of the 2005 Procurement Act in the JSC

These findings are consistent with those of Warkentin (2002) who concluded that the planning and financial framework does not include clear links to procurement planning and, consequently, procuring entities are not required to prepare procurement plans.

Table 4.5: Financial Management Challenges in the implementation

Challenges	Mean	Std.Dev
Ineffective financial management	2.345	0.002
Difficulty in finance decision making process	3.045	0.124
Combination of assets to deal with a financial issue	1.244	0.521
Taxing and spending on the public	1.342	0.625
Challenge of budget preparation	2.987	0.114
Hardships in internal controls	3.421	0.624
Problems in accounting	3.682	0.165
Challenges of internal and external auditing	3.442	0.132
Challenges in monitoring and reporting arrangements	2.462	0.448
Unclear links to procurement planning	1.421	0.721

On whether JSC faced ineffective financial management the respondents agreed to a great extent with a mean of 2.345 and said it faces difficulty in finance decision making process to a moderate extent with a mean of 3.045. Financial management is putting together the economic resources at hand to make efficient use of them and taking decisions that can successfully culminate in acquiring more assets for the business. Rosen (2002) further stated that if the management does not have the correct knowledge skills and expertise then there will be challenges in making the effective decisions that will ensure efficient utilization of the economic resources. The statement on combination of assets to deal with a financial issue and on taxing and spending on the public scored means of 1.244 and 1.342 an indication that JSC faces this challenges to a very great extent. According to Rosen (2002), in government public financial management concerns the taxing and spending of government, which in turn influences resource allocation and income distribution. The commission is also challenge in budget preparation to a moderate extent with a mean of 2.987 and also faces hardships in internal controls moderately with a mean of 3.421.

4.4.1 Extent of Influence of Financial Management Challenges

The study sought to establish the extent to which the above challenges of financial management affected the implementation of the 2005 procurement act in the company.

The responses are shown in table 4.6.

Table 4.6: Extent of Influence of Financial Management Challenges

Challenges	Mean	Std. Dev
Challenges in keeping track of important information	1.244	0.012
Comparison with the current operations	3.421	0.452
Failure in knowing the amount owed to creditors or customers and the due dates	3.021	0.114
Failure of knowing when to place orders and amount of cash required for purchases	3.115	0.621
Challenges of obtaining data in a timely and orderly manner	1.422	0.425
There is maximized litigation risks	3.256	0.114
There has been reduced management decision making	3.652	0.631

On whether the challenges of financial management contributed to challenges in keeping track of important information scored a mean of 1.244 an indication that it affected to a very great extent. On whether the challenges resulted on comparison with the current operations and Failure in knowing the amount owed to creditors or customers and the due dates scored means of 3.421 and 3.021 respectively an indication that it did to a moderate extent. According to Warkentin (2002) there is need for organizations to adopt international financial management practices. Failure of knowing when to place orders and amount of cash required for purchases scored a mean a mean of 3.115 implying that the challenges influenced it to a moderate extent. The statement on challenges of obtaining data in a timely and orderly manner scored a mean of 1.422 an indication that the challenges affected it to a very great extent. Keeping track of important information is vital for the efficient running of the organization and thus there should be ease of storage and retrieval of such information (Warkentin (2002). The statements on whether challenges of financial management influenced maximized litigation risks and reduced management decision making scored a mean of 3.256 and 3.652 respectively implying that they were influenced to a moderate extent and a little extent.

4.5 Non-Transparent Procurement Practices challenges at the JSC

The study sought to establish the extent to which non transparency influenced the implementation of the of the 2005 procurement Act at the JSC. The responses are shown in the table 4.8

The respondents who said that non transparency influences the implementation of the of the 2005 procurement Act at the JSC to a very great extent were 29%, 57% said to a great extent, 8% said to a moderate extent.3% said to a little extent and another 3% said to no extent at all. According to Smith-Deighton (2004), transparency in procurement is important since it contributes to openness and scrutiny.

Table 4.7: Challenges of Non transparency at JSC

Challenges	Mean	Std. Dev
Accountability levels have improved	2.874	0.002
Corruption levels have immensely declined	3.041	0.421
Governance has been streamlined	2.984	0.118

On whether accountability levels have improved at the JSC scored a mean of 2.874 implying that they had moderately improved. Whether corruption levels have immensely declined scored a mean of 3.041 implying that it had reduced moderately and that governance has been streamlined to a moderate extent with a mean of 2.984. Transparency therefore is an essential aspect of ensuring accountability and minimizing corruption, and has gained prominence in Organizations for Economic Cooperation and Development (OECD) countries, and is particularly associated with the rise of the governance agenda as transparency is a core governance value (Smith-Deighton, 2004).

Table 4.8: Extent of Influence of Non-transparency on Procurement Practices

Statement	Mean	Std. Dev
Corruption is rampant hindering the implementation of the 2005 procurement act	1.421	0.014
Officials are responsible for decision making	2.452	0.114
Governments to adhere to higher standards of conduct by ensuring that conduct will be open to scrutiny	2.443	0.321
Right procedures are used in awarding contracts	3.521	0.624
Challenges in decision making restrain suppliers	2.441	0.924
Lack of transparency due to absence of information on rules and practices operate as a barrier to the implementation	2.351	0.118

On whether corruption is rampant and thus hindering the implementation of the 2005 procurement act scored a mean of 1.421 implying that it was to a very great extent. Government procurement is one area where corruption is rampant in both developing and developed countries (Smith –Deighton 2004). On whether the officials are responsible for decision making and that Governments need to adhere to higher standards of conduct by ensuring that conduct will be open to scrutiny scored means of 2.452 and 2.443 respectively an indication that they were influenced to a great extent. Smith –Deighton (2004) cited that the Transparency requires governments to adhere to higher standards of conduct by ensuring that conduct will be open to scrutiny .Right procedures are used in awarding contracts was influenced to a moderate extent since it scored a mean of 3.521. On whether challenges in decision making restrain suppliers scored a mean of 2.441 an indication it did to a great extent. Rege (2001) concluded that the transparency of the procedures used in awarding contracts and the right which the agreement would give to aggrieved suppliers to challenge the decisions would restrain both domestic and foreign suppliers from making under-the table payments and deter public officials and political parties from receiving such payments. Whether lack of transparency due to absence of information on rules and practices operate as a barrier to the implementation scored a

mean of 2.351 an indication it did to a great extent. Lack of transparency in the sense of absence of information on rules and practices operates as a barrier to trade and may affect foreign suppliers more than local ones (Arrowsmith, 2003).

4.6 Operational Efficiency Challenges

The study sought to establish the extent to which do delays and inefficiencies challenge the implementation of the 2005 Procurement Act at JSC.

The respondents who said that delays and inefficiencies challenge the implementation of the 2005 Procurement Act at JSC to a very great extent were 30%, 49% said to a great extent, 14% said to a moderate extent, 2% said to a little extent and 5% said to no extent at all.

Table 4.9: Inefficiency in Procurement

Challenges	Mean	Std. Dev
Inefficiency in procurement leads increased procurement costs	1.224	0.145
Failure to order through approved suppliers	2.031	0.321
Lack of control of the procurement procedures	2.422	0.625
Inefficiency causes longer cycle times	1.221	0.114
Inefficiencies result to high error rates	1.331	0.952
Reducing the ability to negotiate lower prices	1.121	0.224
Inefficiencies lead to loss of public properties	2.031	0.321
More highly unorganized information pose a challenge to the implementation of the 2005 procurement act in the ministry	2.228	0.654
Decreased control over the supply chain	1.231	0.224
Lower quality purchasing decisions within the ministry	1.551	0.421
Inefficiencies are brought by ordering unapproved or nonessential items	1.103	0.225
Inefficiencies are experienced due to poor compliance with corporate contracts leading to unnecessary administrative overhead	1.621	0.442

Efficiency in procurement includes lower procurement costs, faster cycle times, reduced maverick or unauthorized buying, more highly organized information, and tighter integration of the procurement function with key back-office systems. Thus there is need for organizations to be efficient in procurement so as to benefit.

Harrington (1999) concluded that Efficiency in procurement includes lower procurement costs and that inefficiency leads to increased costs. These findings are consistent with those of Peters and Hogenson (1999) who cited that, other cost savings from efficiency in procurement include economies gained from reduced order cycle time and greater timeliness in ordering and delivery. Effectiveness includes increased control over the supply chain, proactive management of key procurement data, and higher-quality purchasing decisions within organizations (Harrington, 1999).

4.7 Influence and benefits of Poor Enforcement on Procurement

The study sought to establish to what extent weak oversight and enforcement challenges the implementation of the 2005 procurement act at JSC. The findings are shown in the table 4.10

Table 4.10: Benefits of the implementation of the act

Benefits	Mean	Std.Dev
Removes the diffusion of accountability for procurement decisions	1.445	0.142
Management of oversight over the decentralized system	1.621	0.221
Enables capacity to be built in the user agencies where there is a greater need	1.031	0.652

According to Murray (2001) there are benefits of a centralized arrangement in 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.

4.8 Oversight Challenges at JSC

The study sought to establish the oversight challenges faced by JSC. The findings are shown in table 4.11

Table 4.11: Oversight Challenges at JSC

Challenges	Mean	Std. Dev
Mismanagement of oversight over the decentralized system	2.564	0.231
Leverage on the buying power that comes with centralized purchasing	1.234	0.452
Creation of adequate capacity in the buying agencies to tackle types of procurement	2.421	0.146
Powers and responsibilities	2.014	0.421
Endowment with operational independence	2.663	0.245
Existing government structures	3.412	0.412
Abuse of the procurement system	2.448	0.321
Inconsistent enforcement of the prevailing rules	2.552	0.551
Compliance with procedural requirements	2.621	0.321
Compromise on the intent and spirit of rules	2.554	0.426
Ambiguities and gaps in the rules	2.341	0.524
Institutional oversight mechanisms such as procurement audits	2.552	0.369
Inefficient and costly system	2.875	0.357

Atkinson (2003) concluded that in the move to such a decentralized system, there has been a number of challenges that have been faced. 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 (Atkinson, 2003).

4.8.1: Measures Taken to Overcome Challenges

The study sought to establish the measures that have been taken by JSC to overcome the challenges of implementing the 2005 Act. The responses are shown in Table 4.12.

Table 4.12: Measures Taken to Overcome Challenges at JSC

Measures	Mean	Std.Dev
Recruiting qualified employees to handle procurement processes	1.237	0.214
Training the available employees on accountability, Ethic and procurement management	1.521	0.624
Formation of committees to handle different aspects of procurement	2.036	0.145
Organizing seminars and workshop for employees working in procurement department	2.422	0.552
Insisting on adherence to order through approved suppliers	2.221	0.334
Introducing e-commerce thereby reducing the contact between the tendering committee and the suppliers	2.364	0.228
Training employees on the importance of record keeping	1.982	0.432

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the discussions of the findings, conclusion drawn from the findings and the recommendation made for the study.

5.2 Summary of Findings

On the challenges the study established that JSC faced Ineffective financial management to a great extent and difficulty in finance decision making process to a moderate extent. Financial management is putting together the economic resources at hand to make efficient use of them and taking decisions that can successfully culminate in acquiring more assets for the business. Rosen (2002) further stated that if the management does not have the correct knowledge skills and expertise then there will be challenges in making the effective decisions that will ensure efficient utilization of the economic resources. The study also established that combination of assets to deal with a financial issue and taxing and spending on the public were challenges to very great extent. According to Rosen (2002), in government public financial management concerns the taxing and spending of government, which in turn influences resource allocation and income distribution. The commission is also challenge in budget preparation to a moderate extent and also JSC faces hardships in internal controls moderately. The study found out that JSC has problems in accounting and has challenges of internal and external auditing to a moderate extent. According to Warkentin (2002), international practices such as auditing and budget controls within public financial management systems enhance the transparency and economy of the procurement processes as well as the quality of the

goods, services and works procured. The commission also faces challenges in monitoring and reporting arrangements to a great extent and faces unclear links to procurement planning to a very great extent. The planning and financial framework does not include clear links to procurement planning and, consequently, procuring entities are not required to prepare procurement plans. In addition, the procurement oversight arrangements do not generate the information that would be required to fully integrate procurement planning into corporate plans (Warkentin, 2002).

The study established that the above challenges had influences on the procurement process. The study established that the challenges of financial management contributed to challenges in keeping track of important to a very great extent and also resulted on comparison with the current operations and Failure in knowing the amount owed to creditors or customers and the due dates to a moderate extent.

The study also established that corruption is rampant and thus hindering the implementation of the public procurement and disposal act (2005) to a very great extent. Government procurement is one area where corruption is rampant in both developing and developed countries (Smith –Deighton 2004). The study established that inefficiency in procurement leads to increased procurement costs to a very great extent. Harrington (1999) concluded that Efficiency in procurement includes lower procurement costs and that inefficiency leads to increased costs.

5.3 Conclusions

The study concludes that JSC faces various challenges in the implementation of the 2005 Act. The study concludes that the commission faces difficulty in finance making decisions on taxation and spending on the public. The study also concludes that the

commission is challenged in budget controls, external and internal accounting. The study also concludes that these financial management challenges influence keeping track of important information, contributes to failure of knowing when to place orders and amount of cash required for purchases and also challenges in obtaining data in a timely and orderly manner.

The study also concludes that non transparency is a challenge faced by JSC in the implementation of the 2005 Act. The study also concludes that there has been slight improvement in the accountability, reduction in corruption and governance has been streamlined. The study also concludes that lack of transparency due to absence of information on rules and practices operate as a barrier to the implementation.

The study concludes that there are operational inefficiencies faced by the commission in its implementation of the 2005 Act. The study concludes that inefficiency in procurement has led to increased costs; it has also resulted in high error rates and also leads to loss of public properties. The study also concludes that inefficiencies are experienced due to poor compliance with corporate contracts leading to unnecessary administrative overhead.

On enforcement, the study concludes that weak oversight is a challenge to the implementation of the 2005 Act at the JSC. The study concludes that JSC has also benefited from the implementation of the act by ensuring proper management of oversight over the decentralized system and removes the diffusion of accountability for procurement decisions. The study also concludes that JSC faces oversight challenges in Inconsistent enforcement of the prevailing rules, compliance with procedural

requirements, compromise on the intent and spirit of rules, ambiguities and gaps in the rules and Inefficient and costly system.

The study concludes that JSC has taken up measures to overcome challenges at JSC. The commission recruits qualified employees as well as trains them on accountability ethics and procurement management. The study also concludes that the commission organizes seminars and workshops for employees as well as training employees on the importance of record keeping.

5.4 Recommendations

The study established that JSC faces challenges in the financial management. This study therefore recommends that the institution comes up with policies that will govern management of financial resources to ensure their efficient and effective utilization. The study also recommends that JSC updates its ICT infrastructure so as to adopt better financial integrated management systems that will be more effective accurate and easier to retrieve and access data.

The study also recommends that the JSC comes up with management policies and strict penalties for officers found to have engaged in corruption deals. This is after the study concluded that the commission faces challenges in accountability and corruption cases. These strict penalties will discourage employees from engaging in corruption for fear of repercussions.

The study also recommends that JSC comes up with operational management strategies and implement them. The study established that inefficiency in operations has led to increased costs; it has also resulted in high error rates. The implementation of the

operations management strategies will enable the commission to be more effective in its operations and thus reduce the losses and delays that emanate from inefficiency.

5.5 Limitations on the Study

This study tried to establish challenges and effectiveness in implementing the public procurement and disposal act 2005 at the JSC of Kenya. The researchers encountered problems of non cooperation from relevant quarters citing sensitivity of the institution in the country, hence a level of suspicion.

Time constraint was also a factor that impacted negatively on the data collection process and study.

5.6 Suggestions for further Study

This study sought to investigate the implementation of the public procurement and disposal act 2005 and effectiveness in Judicial Service Commission of Kenya. This study therefore recommends that in the future a similar study be conducted in other public organizations and ministries

The study also suggests that in the future a similar study be conducted on the effectiveness of procurement disposal Act in the procurement process in public institutions. This will enable organizations to evaluate the effectiveness of the act and whether it has any impact on procurement in an organization.

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APPENDICES

Appendix I: Questionnaire

This questionnaire consists of two parts; kindly answer all the questions by ticking in the appropriate box or filling in the spaces provided.

SECTION A: GENERAL INFORMATION

1. Gender.....
2. Your age bracket (Tick whichever appropriate)

18 – 24 Years	[]	25 - 30 Years	[]
31 - 34 years	[]	35 – 40 years	[]
41 – 44 years	[]	45 – 50 years	[]
Over 51 years	[]		
3. What is your education level? (Tick as applicable)

Primary	[]	Secondary	[]
College	[]	Bachelors' degree	[]
Masters	[]	PhD	[]
Others-specify.....			
4. Years of service/working period (Tick as applicable)

Less than 1 year	[]	6-10 years	[]
1-5 years	[]	Over 10 years	[]
5. Please indicate your designation at the JSC?

Head of department/unit/division	[]	Assistant head	[]
Human Resource Supervisor	[]		
Other (specify).....			

SECTION B: CHALLENGES FACING THE PROCUREMENT AND DISPOSAL ACT IMPLEMENTATION

FINANCIAL MANAGEMENT CHALLENGES

1) To what extent does lack of effective links between procurement and financial management challenge affect the implementation of the 2005 Procurement Act in the JSC?

To a very great extent []

To a great extent []

To a moderate extent []

To a little extent []

To no extent []

2) To what extent does the Judiciary face the following challenges in the implementation of the 2005 procurement act in the company? Use a scale of 1 to 5 where 1 is to a very great extent and 5 is to no extent

Challenges	1	2	3	4	5
Ineffective financial management					
Difficult finance decision making process					
Combination of assets to deal with a financial issue					
Taxing and spending on the public					

Challenge of budget preparation					
Hardships in internal controls					
Problems in accounting					
Challenges of internal and external auditing					
Challenges in monitoring and reporting arrangements					
Unclear links to procurement planning					
Other (specify.....)					

3) To what extent do the following challenges of financial management systems affect the implementation of the 2005 procurement act in the company? Use a scale of 1 to 5 where 1 is to a very great extent and 5 is to no extent

Challenges	1	2	3	4	5
Challenges in keeping track of important information					
Comparison with the current operations					
Failure in knowing the amount owed to creditors or customers and the due dates					
Failure of knowing when to place orders and amount of cash required for purchases					
Challenges of obtaining data in a timely and orderly manner					
There is maximized litigation risks					
There has been reduced management decision making					
Other (specify.....)					

NON-TRANSPARENT PROCUREMENT PRACTICES

4) To what extent do non-transparent procurement practices pose a challenge to the implementation of the 2005 procurement Act at the JSC?

To a very great extent []

To a great extent []

To a moderate extent []

To a little extent []

To no extent []

5) Rate the extent to which the JSC faces the following challenges in the implementation of the 2005 procurement act? Use a scale of 1 to 5 where 1 is to a very great extent and 5 is to no extent

Challenges	1	2	3	4	5
Accountability levels has improved					
Corruption levels have immensely declined					
Governance has been streamlined					
Other (specify.....)					

6) To what extent do you agree with the following as the challenges of non-transparent procurement practices faced in the implementation of the 2005 procurement act? Use a scale of 1 to 5 where 1 is strongly agree and 5 is strongly disagree.

Statement	1	2	3	4	5
Corruption is rampant hindering the implementation of the 2005 procurement act					
Officials are responsible for decision making					
Governments to adhere to higher standards of conduct by ensuring that conduct will be open to scrutiny					

Right procedures are used in awarding contracts					
Challenges in decision making restrain suppliers					
Lack of transparency due to absence of information on rules and practices operate as a barrier to the implementation					
Others, (Specify.....)					

OPERATIONAL EFFICIENCY CHALLENGES

7) To what extent do delays and inefficiencies challenge the implementation of the 2005 Procurement Act at JSC?

- To a very great extent []
- To a great extent []
- To a moderate extent []
- To a little extent []
- To no extent []

8) Rate the extent to which the following challenges are experience in the implementation of the 2005 procurement Act at JSC? Use a scale of 1 to 5 where 1 is to a very great extent and 5 is to no extent

Challenges	1	2	3	4	5
Inefficiency in procurement leads increased procurement costs					
Failure to order through approved suppliers					
Lack of control of the procurement procedures					
Inefficiency causes longer cycle times					
Inefficiencies result to high error rates					

Reducing the ability to negotiate lower prices					
Inefficiencies lead to loss of public properties					
More highly unorganized information pose a challenge to the implementation of the 2005 procurement act in the ministry					
Decreased control over the supply chain					
Lower quality purchasing decisions within the ministry					
Inefficiencies are brought by ordering unapproved or nonessential items					
Inefficiencies are experienced due to poor compliance with corporate contracts leading to unnecessary administrative overhead					
Other (specify.....)					

POOR ENFORCEMENT

9) To what extent do weak oversight and enforcement challenge the implementation of the 2005 procurement act Act at JSC?

To a very great extent []

To a great extent []

To a moderate extent []

To a little extent []

To no extent []

10) To what extent does the implementation of the 2005 Procurement Act benefit JSC in the following ways? Use a scale of 1 to 5 where 1 is to a very great extent and 5 is to no extent

Benefits	1	2	3	4	5
Removes the diffusion of accountability for procurement decisions					
Management of oversight over the decentralized system					
Enables capacity to be built in the user agencies where there is a greater need					
Other (specify.....)					

11) To what extent does the JSC face the following challenges in the implementation of the 2005 procurement Act? Use a scale of 1 to 5 where 1 is to a very great extent and 5 is to no extent

Challenges	1	2	3	4	5
Mismanagement of oversight over the decentralized system					
Leverage on the buying power that comes with centralized purchasing					
Creation of adequate capacity in the buying agencies to tackle types of procurement					
Powers and responsibilities					
Endowment with operational independence					
Existing government structures					
Abuse of the procurement system					
Inconsistent enforcement of the prevailing rules					

Compliance with procedural requirements					
Compromise on the intent and spirit of rules					
Ambiguities and gaps in the rules					
Institutional oversight mechanisms such as procurement audits					
Inefficient and costly system					
Other (specify.....)					

12) Below is a list of several measures that organizations take to overcome the challenges of procurement. Kindly indicate the extent to which the Judiciary has made use of each of them. Use a scale of 1 to 5 where 1 is to a very great extent and 5 is to no extent

Measures	1	2	3	4	5
Recruiting qualified employees to handle procurement processes					
Training the available employees on accountability, Ethic and procurement management					
Formation of committees to handle different aspects of procurement					
Organizing seminars and workshop for employees working in procurement department					
Insisting on adherence to order through approved suppliers					
Introducing e-commerce thereby reducing the contact between the tendering committee and the suppliers					
Training employees on the importance of record keeping					
Other (specify					

.....)

Please indicate the impact of PDA on procurement performance at the Judicial Service Commission before and after the year 2007

	Before 2007		After 2007	
	Improved	Not improved	Improved	Not improved
Amount spent				
Corruption Practices				
Procurement cycle				
Stock outs				
Quality of goods delivered				
Level of compliance				

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THANK YOU!!