

**UNIVERSITY OF NAIROBI**

**COLLEGE OF HUMANITIES AND SOCIAL SCIENCES**

**DEPARTMENT OF SOCIOLOGY AND SOCIAL WORK**

**PUBLIC PROCUREMENT PROCESS IN KENYA: A REVIEW OF ITS  
PERFORMANCE IN THE UNIVERSITY  
OF NAIROBI, KENYA**

**BY**

**FRANCIS KINYUA GATHUA**

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**NOVEMBER, 2015**

**DECLARATION**

I declare that this project report is my original work and has never been presented in any other university for any other award.

Signature.....

Date.....

**Francis Kinyua Gathua**

**C50/66004/2013**

I confirm that this Research Project Report has been prepared by the candidate and is being submitted for examination with my approval as University Supervisor.

Signature.....

Date.....

**Prof. Preston Chitere**

**Department of Sociology and Social Work,**

**University of Nairobi**

## **DEDICATION**

I wish to dedicate this work to my family, staff and students of the University of Nairobi who expect provision of excellent services from their institution.

## **ACKNOWLEDGEMENTS**

Many accolades go to my dear friends and the various individuals who have helped during the development and eventual publication of this work. I am greatly indebted to my supervisor, Prof. Chitere for his in valuable input in compiling this document due to his several, but necessary corrections. Many thanks also go to my dear spouse for typing, reviewing, editing and printing the contents and also for her moral, financial support and taking care of children while away for long hours. Finally, I wish to appreciate God for His immeasurable divine guidance and for giving me the spirit of commitment, patience and resilience in developing and eventual production of this piece of work. For my lecturers and colleagues at the University of Nairobi whom I may not be able to thank in person, I owe all of you lots of gratitude.

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## **ACRONYMS AND ABBREVIATIONS**

<b>AIBUMA</b>	Africa International Business and management Conference
<b>CIPS</b>	Chartered Institute of Procurement and Supply
<b>CHSS</b>	College of Humanities and Social Sciences
<b>IFMIS</b>	Integrated Financial Management Information System
<b>KACC</b>	Kenya Anti-Corruption Commission
<b>KEMSA</b>	Kenya Medical Supply Agency
<b>KISM</b>	Kenya Institute of Supply Management
<b>KNBS</b>	Kenya National Bureau of Statistics
<b>KPMG</b>	Kenya Procurement Management Group
<b>LPO</b>	Local Purchase Order
<b>NACOSTI</b>	National Commission for Science, Technology and Innovation
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>PE</b>	Procuring Entity
<b>PO</b>	Procurement Officer
<b>PPDA</b>	Public Procurement and Disposal Act
<b>PPDR</b>	Public Procurement Development Report
<b>PPOA</b>	Public Procurement Oversight Authority
<b>UON</b>	University of Nairobi

## ABSTRACT

In the past decades, the public procurement system in Kenya has undergone significant developments. From being a system with no regulations in the 1960s, and a system regulated by Treasury Circulars in the 1970s, 1980s and 1990s, the introduction of the PPDA Act of 2005 and the Procurement Regulations of 2006 has introduced new standards for public procurement in Kenya. Implementation of procurement process in public institutions has faced many hurdles and the levels of its performance have been wanting and this has been a concern to different stakeholders. Public procurement is a significant and yet understudied phenomenon. Thus, the study examined Public Procurement Process in Kenya: A Review of its Performance in the University of Nairobi, Kenya.

Literature review focused on adaption of Procurement Act and regulations, types of tendering procedures, procurement plans and tendering committees in relation to performance. Design/Methodology/Approach: The study adopted a qualitative research design because it provided flexibility and afforded the researcher the opportunity to conduct an in-depth research. Case study on the procurement for AIBUMA conference was also done.

A sample of 32 respondents was purposively selected from CHSS departments, Faculty, Schools Institutes, Centres and Procurement Management Unit from the UON. The finding shows that the majority of the respondents held the view that the Practice of Public Procurement Process in the University of Nairobi has been entrenched and there are structures in place to support the public procurement system but they face challenges. Over 11% of the respondents rated the performance of the procurement as below average and identified a number of challenges. The current legal framework provides for fully decentralized procurement process, leaving the full responsibility of undertaking procurement to the tender committee and the procurement unit at the level of CHSS public entity.

There is indication that UON being a public entity is governed by the PPDA Act 2005, its attendant Regulations 2006 and instructions issued by the PPOA and for effective implementation the political good will is needed. The Procurement planning and its implementation in UON is more affected by the lack of cooperation between Procurement Management Unit and user department. It's evident that UON does not carry out market capability analysis in order to determine where to procure from and at what price.

The study recommends UON should adhere to its service charter, procurement should be incorporated with the other aspects of functions within the organization, such as Finance, and human resources, execute the public procurement laws strictly and procurement staff be provided with training in order to improve their understanding and interpretation of the PPDA Act and Regulations. Perfect supervision and accountability mechanism, use of information technology to strengthen the supply side via E-procurement as it has a range of potential benefits for procurement processes.

Finally, the study recommends a further research to be carried out in other procuring entities to find out if the same results can be obtained.

## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Background to the Study**

According to Thomson and Jackson (2007), public procurement includes the process of acquiring goods, works and services involving the use of public money to accomplish specified public purposes, beginning with the identification of a need and ending with completion of the contract. In their longitudinal study done in United Kingdom about sustainable procurement practice, Thomson and Jackson (2007) asserted that ensuring efficiency, accountability and transparency in public procurement is critical to sustainable development. The study further asserted that public procurement is a key tool to the overall achievements of development goals such as reducing poverty and providing health, infrastructure, education and other services hence immensely contribute to best utilization of public resources. The limited public resources in developing countries especially in the Sub-Saharan Africa should be properly managed to get the most out of these resources. Similar findings in Mexico by Mendoza (2008) in their longitudinal study about challenges facing procurement organizations, the study was done amongst 111 respondents indicated that out of the total public resources, procurement of goods, services and works account for about 70% of public expenditure.

Efficient public procurement practices contribute towards the sound management of public expenditure (Agaba and Shipman, 2009) which in turn can contribute towards the effectiveness of public sector management, and promoting the private sector. Besides, the objective of public procurement is to provide quality goods and services through open and fair competition in the exact quantity and proper quality as specified, and has to be delivered at the time and place where needed (Basheka, 2010). The quality of goods, services, infrastructures, and the effectiveness of public services much depend on well-managed public procurement. However, these research studies have not revealed how improved efficiency enhances timeliness, empathy and responsiveness which are the variables which, to a great extent, contribute to improved service delivery. Despite showing effectiveness of efficient procurement process on good practices reduce costs and produce timely results, and poor practices lead to waste and delays, the research studies have not revealed how such processes highly affects development issues such as service delivery, economic growth, private sector

development and decentralization. The studies have not revealed how inefficient procurement process adversely affects professionalism and international trade and investment. Accountability is a standard of public life, where holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their offices (Armstrong, 2005). Fighting corruption is not only an end in itself. It is of fundamental value in all government reform, which may require changes to legal and policy frameworks for the control and expenditure of public monies and improved procurement practices (Armstrong, 2005). Accountability constitutes a central pillar of any public procurement system. Without transparent and accountable systems enabling governments and citizens to engage in a mutually responsive way, the vast resources channeled through public procurement systems run the danger of increased corruption and misuse of funds. Even in a system with low levels of corruption, public and civic oversight can help identify inefficiencies, thereby increasing procurement efficiency and effectiveness for the benefit of improved service delivery and ultimately citizens. According to Grierson and Needham, (2006) argue that demonstrated accountability and transparency reduces the likelihood of unethical behavior, reassures the community and instills confidence in all stakeholders concerning the integrity of decisions. A central theme of any procurement reform is the commitment to high standards for professional conduct of the public officers involved in procurement.

In study conducted in Rwanda amongst 213 respondents about internal control systems for public procurement, Mendoza (2008) intimated that level of accountability can be measured using clear chain of responsibility together with effective control mechanisms; handling complaints from suppliers; public review and scrutiny of procurement actions; commitments of public officers to high standards for professional conducts and principles; good conducts of suppliers and contractors; fairness and competition. The study further indicated that the basic principles of good procurement practice include accountability, where effective mechanisms must be in place in order to enable procuring entities spend the limited resources carefully, knowing clearly that they are accountable to members of the public; competitive supply, which requires the procurement be carried out by competition unless there are convincing reasons for single sourcing; and consistency, which emphasizes the equal treatment of all bidders irrespective of race, nationality or political affiliation. However, Seminiaga (2012) did not bring

out clearly the issue of how these factors affected effective management of the procurement function. It should be noted that these factors present themselves differently under different operational managerial environment.

In Kenya, public procurement include the process of acquiring goods, works and services involving the use of public money to accomplish specified public purposes, beginning with the identification of a need and ending with completion of the contract. PPDA of 2005 and Regulation of 2006 were enacted to introduce procedures for efficient public procurement, with the objectives of maximizing economy and efficiency, promote competition, promote integrity and fairness of procurement procedures, to enhance transparency and accountability, to restore public confidence in procurement process and to facilitate the promotion of local industries and economic development (PPOA, 2007). This has had has tremendous impact on the economy, social, political and legal environment (Kagendo, 2012). Public entities are the major purchasers of goods, works and services in a country hence influence the size, structure and performances of domestic industries. To this end, it is important for the government from time to time to review the effectiveness and efficiency of its procurement system. Knight, Harland, Telgen, Thai and Challender (2008) assert that if any weakness is identified, then reforms should be introduced to strengthen the procurement system in order to get value for money. According to Kagendo (2012) emergence of global economy, increased decentralization of government function, greater discretions power officials and weakness of the current procurement system have led to need of regulating procurement in new ways, hence need for reforms to solve these emerging challenges in the public procurement. Success of public procurement system reforms depends on a clear articulation and understanding of what the legal and regulatory framework seeks to achieve.

Universities are public entities to which the procurement Act and regulations apply. Universities are categorized under class “B” by Kenyan procurement regulations. The practice of public procurement process is wanting and efficiency, transparency and accountability have all taken back seat. This is despite the importance derived from the procurement function. The university management seems to ignore this fact and fail to monitor the functioning of the procurement system. Fair tendering has also not been given much consideration. Despite these observations,

little has been done to address them. This situation sustains the curiosity of the researcher and seeks to examine the practice of public procurement process.

## **1.2 Statement of the Problem**

Regardless of the effort by the governments of developing countries and development partners to improve performance of the public procurement function, public procurement is still marred by shoddy works, poor quality goods and services. Failure to implement or delayed implementation of recommended performance standards has resulted in unnecessarily high operation costs, uncoordinated business activities, and failure to attract and retain experienced and skilled personnel in the procurement positions, thus affecting the function's performance (Odhiambo and Kamua, 2006). In Kenya, it was reported in 2006 that the procurement functions of most public entities were not complying to set procurement process and performance procedures, this led to irregular and subjective decisions (Public Procurement Disposal Act, 2005). These decisions have had costly consequences for any public entity, and the country at large. University of Nairobi is categorized under class 'B' as a public entity hence making its procurement applies to the PPOA Act and regulations (PPOA 2009). Its performance has equally been below par. Intangible performances such as quality of procured goods and services, timely delivery of orders, student or customer satisfaction, dependability, flexibility and quality of employees have been wanting. Despite these observations, few studies have been conceptualized along the framework of procurement planning, tendering procedure, tendering committees and adaptation of government procurement policies, laws and regulations. These research and knowledge gaps sustain the curiosity of the researcher which this study seeks to fill.

## **1.3 Purpose of the Study**

The importance of public organizations as an entity designed to serve the public, along with the imperative for public accountability, makes studying the problems associated with the public sector essential (Trionfetti, 2000). Hence, purpose of the study will be to examine the practice and performance of public procurement process in the University of Nairobi, Kenya.

#### **1.4 Research Questions**

- i. To what level are the government procurement policies, laws and regulations adapted by the University of Nairobi, Kenya?
- ii. Which types of tendering procedures are practiced by the University of Nairobi, Kenya?
- iii. What is the procurement planning process adopted by the University of Nairobi, Kenya?
- iv. What is the level of Performance the UON tendering committee?

#### **1.5 Objectives of the Study**

- i. To examine the government procurement policies, laws and regulations, and adaptation by the University of Nairobi, Kenya;
- ii. To examine the types of tendering procedures practiced by the University of Nairobi, Kenya;
- iii. To examine the procurement planning process adopted by the University of Nairobi, Kenya;
- iv. Assess the performance of the tendering committee at the University of Nairobi, Kenya.

#### **1.6 Significance of the Study**

This study will be useful to UON procurement staff and management as they will be able to gain insight on the extent to which procurement best practices affects organization performance at UON. It will also help procurement departments know how to best deliver in order to improve their productivity, profitability and image. It will as well help the institution analyze on how the instituted procurement practices have contributed to their performance as well as identify the loop holes that may be of hindrance to performance.

Besides, the Public Procurement and Oversight Authority (PPOA) which is charged with the regulation of public procurement will benefit by understanding the effectiveness of public procurement system.

The findings will also bring to the fore new knowledge which policy makers, procurement practitioners and scholars will find useful in accelerating success in public projects implementation. It is also hoped that the research findings will be an eye opener to stimulate more research in the area of public procurement practices vis-à-vis its effectiveness.

### **1.7 Scope of the Study**

Due to diversity of public procurement process, the study exclusively focused on the practice and performance of procurement planning, tendering procedure, tendering committees and adaptation of government procurement policies, laws and regulation as the only procurement processes contributing to the performance of public procurement system and thus; any other variable will be out of scope. The study was carried out amongst procurement officers, tendering committee members and head of department of College of Humanities and Social Science in the University of Nairobi.

### **1.8 Limitation of the Study**

The study used interview schedule for data collection which were left with the respondents to be collected later after they were complete. The problems associated were loss of interview schedule, incomplete interview schedule and failure to give information. They were overcome by organizing meeting outside working hours, seeking for their personal contacts.

The researcher anticipated a challenge of staff not willing to give full information for fear of any adverse repercussions. This was overcome by allowing the respondents to administer the interview schedule themselves. The researcher also assured the respondents that the research was only for academic purposes and all the information obtained will be treated with outmost confidentiality.



## **1.9 Operational Definitions of Terms**

**Procurement regulations** refer to the laws and regulations governing public procurement in University of Nairobi.

**Performance** measures the extent to which purchasers obtain good value for money.

**Procurement practices** refers to how a buying firm conduct its procurement activities, in a way, this includes the way staff responsible for procurement goes about doing their duties.

**Procurement** is the process or act of obtaining or buying goods. The process includes preparation and processing of a demand as well as the end receipt and approval of payment.

**Procurement planning** is the process used by University of Nairobi to plan purchasing activity for a specific period of time. This is commonly completed during the University budgeting process. Each year, departments are required to request budget for staff, expenses, and purchases.

**Tendering committees** are those committees designed or constituted by the University of Nairobi to plan, design tender forms, call for tenders, select winners and close tenders.

**Procurement Procedures** are steps taken by the University of Nairobi to ensure smooth and transparent procurement of resources.

**Procurement cycle:** the cycle that starts with the initiation of the process of an individual procurement requirement and when the goods, works, services have been delivered and accepted.

## CHAPTER TWO

### LITERATURE REVIEW AND THEORETICAL FRAMEWORK

#### 2.1 Introduction

This chapter highlights the literature of the previous studies covered related to the researcher's area of study and will be based on the concept of performance of public procurement regulations, the concept of procurement process, procurement planning, Types of tendering procedures, tendering committees and adaptation of government procurement policies in relation to the performance of procurement regulations. The researcher provides divergent views that are critical to different authors who raised various versions related to the issues being investigated. It will also provide a summary of literature reviewed citing the gaps identified.

#### 2.2.1. The Concept of Performance of Procurement Regulations

According to Blanchard and Thacker (2000), the main tradition in the analysis of performance of public service provision has been to study how people respond to policies and to gauge who are the beneficiaries from various public programmes. There are some areas of economic policy where there is a fair degree of consensus on what constitutes good policy. For example, in macro policy, there is broad consensus that very large budget deficits, overvalued exchange rates and very high inflation rates are undesirable. Even then, the means to achieve these remains open to debate. For example, whether central banks should be independent is still debated. In the area of performance of procurement regulations, there is a broad consensus regarding the main policy objectives to seek adherence to different procurement acts and regulations. Here there are debates about the best way to incentivize teachers, whether to prioritize availability of textbooks. For this to be debated, it is necessary to have some persuasive evidence on the costs and benefits of particular intervention strategies. A good example is Galbraith (2003) who studies an Indonesian school construction program and estimates the effect on human capital attainment. In the last 20 years, Kenya's civil service has undergone a number of changes. Some of these changes include employee rationalization leading to wage bill reduction, performance improvement, structural adjustment program after aid cuts, and the institutionalization of results-based management. From 1993 to 2002, the Government retrenched more than 100,000 civil servants but had only a negligible impact on the effectiveness or efficiency of the civil service (GoK, 2012). The Government then introduced results-oriented management but by 2005

nothing much had come out of it. Later, between 2006 and 2008, the Government decided to shift the public service towards a results-orientation approach by introducing and facilitating the development and management of a holistic Results-Based Management system through the 'Results for Kenya' program. The aim was to enhance performance efficiency in all government ministries, departments and agencies. It also meant to reverse the negative image of the public service.

The Kenyan government needed transformation, particularly attitude change of civil servants. The Constitution has opened space for citizens' participation in public policy making process. In 2009, United Nations Development Programme (UNDP, 2009) supported the Kenyan government to step up public sector reforms to focus on national transformation. Before then, it was the Government that spearheaded institutionalization of results-based management in the public service but currently the focus is on transforming public service delivery through building partnerships. These efforts were boosted after the promulgation of the new Constitution of Kenya in 2010. Lubembe (2009) agrees that the changes were an ideal opportunity to tackle deep-rooted problems of inefficiency because citizens are increasingly becoming empowered to demand for better services. This will be achieved through implementing the new Constitution, attaining of the Kenya Vision 2030, transforming public service delivery and private-public dialogue to enhance good governance. The Rapid Results approach, launched in more than 38 ministries, 175 local authorities and more than 10 State corporations, improved service delivery in several areas, such as the processing and issuance of passports, national identity cards and birth certificates.

The State Law Office's Company Registry, for example following use of rapid results approach, improved staff and customer satisfaction levels by 80 per cent in about 100 days (Lubembe, 2009). This has reduced the time taken to register businesses from three weeks to one day and has helped reduce a backlog of 500,000 Annual Returns and other documents. At the Ministry of Immigration and Registration of Persons, the number of days it takes to issue a passport in Nairobi, Kisumu and Mombasa has reduced from 30 to 20 days in 100 days. In addition, the number of uncollected identity cards reduced by 50 per cent, from 195,479 to 100,368 in the eight districts hosting provincial headquarters in 100 days (Lubembe, 2009 &GoK,

2012). Elsewhere, rural nomadic Maasai women in Elangata Enteritin Village of Kajiado County are enjoying access to water provided during the 100 days, thanks to the Rapid Results Initiative. In 2013, the Government will establish citizen service centers as primary service delivery channels in all the 47 counties. These will be a one-stop shop down in the counties where citizens can obtain their passports, land title deeds, identity cards, Kenya Revenue Authority personal identification numbers and driving licenses without having to travel to Nairobi to get the services. Kenyans expect every civil servant whose role is to provide services such as education, healthcare, housing and other public services, to do so efficiently in the devolved governments.

### **2.2.2. The Concept of Public Procurement Process**

The Organization for Economic Cooperation and Development (OECD) estimated the value of the government procurement market to be US\$2,000 billion in 2008, which was equivalent to 7% of world Gross Domestic Product (GDP) and 30% of world merchandise trade (Devas and Grant, 2003). It has been estimated that between US\$30 to US\$43 billion could be available in the procurement marketplace in Sub-Saharan Africa, (World Bank Initiative, 2007). Most industrialized countries spend at least 10% of their GDP on public procurement, (Prichard, 2010). 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, for instance 40% in Malawi and 70% in Uganda, compared with a global average of 12-20% (World Bank, 2007).

In most developed countries, public procurement takes place within a framework of international obligations (Jespersen, 2010). An example is the World Trade Organization's Agreement on Government Procurement or the Procurement Directives made under regional agreements such as the European Union or the North America Free Trade Agreement. Public procurement in most developing countries does not have to meet these international requirements, (World Bank, 2007). Consequently, the pressure to reform may not have been as strong and some developing countries retained a procurement system that differed little from that which was in place during colonial times. However, in recent years, the momentum for

reform has increased, partly in consequence of requirements set by the World Bank and other donor organizations as conditions for providing development aid, but principally because the inefficiencies of the unreformed systems have become obvious (Lee, 2000). Procurement refers to the function of purchasing goods and services (Lee, 2000). Public procurement on the other hand is the acquisition by public bodies of the various goods and services that they need for their activities. Any procurement begins with planning, choosing a provider, and after the contract is made, there follows the process of contract administration. In all these stages, accountability should be taken into consideration which ensures that a body charged with a function, performs it or that the body gives reasons for failure to perform such tasks with prescribed repercussions. Regulation of public procurement is therefore very crucial and has recently undergone and continues to undergo significant development (Devas and Grant, 2003). Regulation provisions are usually put in place for domestic reasons where individual governments use them to promote domestic objectives (Lee, 2000). Most important reasons being, value for money, prevention of corruption, promotion of industrial or social policies in developing market economies. Various international organizations providing aid for state projects have also developed formal procurement rules for instance the European Union (McKenney, 2003).

A sound public procurement system can enhance accountability in the sense that procedures can be made clear, thus compliance can be monitored. This in return can give answers to questions touching on whether the right procedure has been complied with while failures are sanctioned. In addition to the above four principles, the principles of fairness and equity should be complied with in any procurement system (Devas and Grant, 2003). The Public Procurement Regulations of 2006 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. Closer home, in East African countries Uganda and Tanzania, the estimated size of government procurement in the year 2001 was about 35% and 9% respectively (Bofin, 2012). There is therefore the need to promote sound procurement system which in return enhances accountability in the sense that it promotes effective procurement. A primary impact of procurement is on public funds. It is important to

secure the best possible value for money in the way goods and services are obtained, to ensure that public money is not wasted (Bofin, 2012). All those who potentially benefit from government spending also have an interest in preventing waste in procurement, since money lost this way can mean higher taxes, or less to spend elsewhere on other important projects. The performance of contractors on the other hand, can have a direct and important impact on the government's ability to fulfill its responsibilities to its citizens. Effective management of the procurement process to ensure an appropriate choice of provider is therefore a key element in this process (Bgchi, Bajaj and Byrd, 2002). Public procurement has an aspect of offering significant opportunities for those involved in the process, to obtain political advantage or to dispense political patronage. Thus contracts can be given to firms in regions that are important for the government in a forthcoming election, or can be used to reward political supporters or 'buy' official opponents. Procurement contracts can also be placed to benefit the personal interests of politicians, officials or their family and friends or they can be given to those firms that are prepared to pay bribes (Cejudo, 2012). This may be prejudicial to effective and value for money, procurement as well as undermining the integrity of government; hence being important matters of concern to most procurement systems (Cejudo, 2012).

The public sector in any country is there to offer effective and efficient services like health, education, water, defense and public infrastructure, among others. Through public procurement, governments undertake public works; build roads, healthcare, education and public order (Schneider and Goldfrank, 2002). Public procurement or government procurement is increasingly recognized as essential in the delivery of services in developing countries (Shah, 2007). The need to strengthen the delivery of public services has in recent decades assumed great significance both in developed and developing countries (McGee and Gaventa, 2010). This development is very much linked to the doctrines of New Public Management which emphasize efficiency, value for money and managing for results, as well as elevating the citizens from mere consumers to citizens with broad social concerns and taking into account factors such as citizen voice, community building, equity and accountability (Schouten and Samolia, 2013). Public procurement process plays a critical role in public services delivery to citizens (Bellver and Kaufmann, 2005).

A report by Transparency International (2011) ranked Kenya as number 154 out of 178 of the world corruption index in the year 2010, and stated that Kenya had lost a lot of billions to shady procurement deals in the last seven years. The need for reform has thus become urgent, since the business community keeps complaining that inefficiencies in public procurement are contributing to an unsuitable business environment (World Bank, 2010). 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. However, studies reveal that even after the enactment of the Regulations, there are losses of public funds that can be attributed to public procurement.

In a study by KPMG International carried out after the introduction of the Regulations, it was still found out that public procurement still suffers from fraud and misconduct. In yet another study by KACC, it was noted that public officials distort the Regulations to restrict the participation of interested firms in procurement, or still direct the outcome of others. In a survey of public institutions by the KACC in 2007 after the PPDR had been implemented, it was revealed that procurement had become more transparent, formal and clearer. The introduction of the Procurement Regulations of 2006 brought new standards for public procurement in Kenya. Studies on effects of public procurement regulation on public procurement within public sector are not systematically documented. This study seeks to bridge this gap with a focus on the practice of public, which is similar to other institutions in the public sector.

### **2.2.3. Adaptation of procurement policies, laws and regulations**

Public procurement has a long history. Written on a red clay tablet, found in Syria, the earliest procurement order dates from between 2400 and 2800 B.C. The order was for “50 jars of fragrant smooth oil for 600 small weights in grain (Coe, 1989). Other evidence of historical procurement includes the development of the silk trade between China and a Greek colony in 800 B.C. In the United States, according to Page (1980), government procurement at the municipal level predates that of state and federal governments. In the settlements and colonies, printing was one of a few services contracted out by government. But there were no professional procurement officials; goods and services needed by government were supplied by commissioners or commissaries, who received a commission on what they bought for the militia

or other administrative units. It was not until the late 1800s that state legislatures began to create boards or bureaus responsible for purchasing, but central purchasing was hardly a practice at that time.

In 1810, Oklahoma was the first state government to create a board to procure centrally for all state departments and agencies (Page, 1980). Since then, centralized purchasing has gradually become common in state and local government. However, the centralization trend has been challenged in recent years. Many practitioners and researchers have contended that purchasing authority, especially in government, must be decentralized in order to provide more responsive support to end users, eliminate bureaucratic obstacles to program accomplishment, improve inter-departmental coordination, and empower service delivery managers to procure what they need without impediment by a centralized organization. In addition to centralized purchasing, there was a movement toward adopting a uniform government procurement code. Currently, there are 50 states and over 83,000 local procurement entities and as each governmental unit enjoys its autonomy, it is impossible to document various procurement laws and regulations in this article. In 1975, in a pioneering effort, the Council of State Governments published a report tabulating purchasing statutes and regulations of all states, major counties and cities. In the last 20 years, environmental changes have had or will have great impact on government procurement theories and practices. First, the movement toward deregulation, paperwork reduction, government reengineering, and performance and privatization has led to a renewed concern about the cost of regulations. According to the U.S. Office of Management and Budget (1988), rough estimates have suggested the burden of federal regulations on the American economy ranged from \$50 to \$150 billion a year. Government procurement regulations and procedures have been one of the reform areas. In the early 1990s, the National Performance Review focused on cutting federal government procurement red tape. Despite many government procurement reform efforts, it seems that all the following problems, as stated by Thomas (2000) over eighty years ago, are still similar today, and will persist forever due to lasting unfavorable public perceptions and the nature of government:

In Kenya, the Public Procurement System has evolved from a crude system with no regulations to a legally regulated procurement system in line with International Standards. Since the beginning of the millennium, Kenya has undertaken efforts to reform and modernize its Public



Procurement System. The evolution was through a system regulated by Treasury Circulars in the 1970s, 80s and 90s and further to an orderly legally regulated procurement system since March, 2001 under the Exchequer and Audit (Public Procurement) Regulations. Efforts made as part of the overall Public Finance Reform, a result of the implementation of this reform agenda a Public Procurement and Disposal Act (herein after referred to as PPD Act) was approved by parliament in 2005. In 2007 the PPD Act became into force and established the Public Procurement Oversight Authority as regulatory body for development and oversight of the Kenyan Public Procurement System. In general, government and public procurement professional organizations have worked to make the public procurement workforce more and more professional. Recently, the focus of these organizations has been on the professional status of public procurement in public institutions. In the University of Nairobi, the Public Procurement and Disposal Regulations of 2009 has been adopted to enhance economic stimulation; promoting investment and creation of value for money, which is a collection of several factors. The most important factors for the value for money drivers are; the transfer of risk, the output based specification, the long-term nature of contracts, the performance measures, the increased competition and the private sector management. Other important aspects of the regulations targets quicker delivery of projects, the improved incentives to market forces, the cost efficiencies, the broad support for Public-Private Partnerships and the improved cost calculations by the public sectors.

Despite the fact that such initiatives have been a great milestone, the system has not been able to forestall problems such as uncontrolled contract variations, overpricing (buying at inflated prices), lack of a structured authorization of expenditure levels, lack of fair and transparent competition, inappropriate application of procurement methods, air supply (meaning the non-delivery of goods), uncontrolled low value procurement of 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. It is against this background that the study seeks to assess the level of adoption of government policies on procurement by the University of Nairobi.

#### **2.2.4. Types of Tendering Procedures**

Regulation 29 of the Public Procurement and Disposal Act 2005 sets out the procurement procedures to be followed by a public procuring entity which include either Open Tendering or an alternative procurement procedure. In most procurement guidelines and manuals, tendering procedures or procurement methods are identified by different names for groups of procurement categories (Khagram, Fung and de Renzio, 2013). Generally, procurement of goods and works, sometimes including non-consultant services, are grouped separately from consultant services procurement. There are also specific procurement methods identified for each group. Under the procurement legislation, a contracting authority has a free choice between the open and restricted procedures. These procedures include; open tendering, restricted tendering, request for proposals, two-stage tendering, request for quotations, and single-source procurement.

Khagram et al (2013) indicated that tendering, request for proposals, and two-stage tendering are considered competitive procurement methods because the solicitation documents are advertised and open to any qualified firm interested in competing for the assignment. This contradicts a longitudinal study done in the US by Mansouri and Rao (2013) which indicated that request for quotations and single-source procurement are considered non-competitive procurement methods because the invitation to submit offers is not advertised, and it is sent only to firms or individuals specifically invited by the procuring entity. On the other hand, with respect to restricted tendering, there's debate as to whether it is a competitive or non-competitive procurement method. Most firms in China consider it a non-competitive procurement method because the solicitation documents are sent to a limited number of suppliers, contractors, or service providers (Da-dao and Sit, 2001).

A decision to use a particular procurement method must be based primarily on the stipulations of the procurement guidelines, manuals and procedures; which necessarily stem from the procurement legal framework. In his longitudinal study done in London to ascertain the efficacy of tendering procedures and service delivery, Folscher (2010) asserted that it's also important to consider the value and complexity of the requirement, the degree to which the procuring entity is able to clearly define the requirement, if there is a need for prospective bidders to participate in finalizing the specifications of the requirement, the urgency of need and market availability.

Folscher (2010) holds to the fact that competitive dialogue can be used when the open or restricted procedure will not allow the award of the contract. Its use is intended where projects are highly complex and the legal and financial structure cannot be determined without a dialogue with suppliers. The dialogue will generate a number of diverse solutions to the requirement. Each of which is then evaluated against the published award criteria.

In Kenya, a report by Transparency International (2012) asserts that competitive dialogue should be considered before the negotiated procedure. In the negotiated procedure, a single solution is developed to meet the need; each tenderer then submits its bid to provide the identified solution. The dynamic purchasing system is considered by institutions that can manage the tender process by completely electronic means. It is likely to be of benefit where the supply market is reasonably static. This is due to the openness of the process where new suppliers can apply to join the system at any stage during its life. Under the open procedure any interested economic operator or supplier may submit a tender. All potential suppliers requesting tender documentation, if it is not available electronically, must be sent it within 6 days of their request (Goldfrank, 2006). The advertisement will state a date and time by which the tender submissions must be received by the contracting authority. When the stated date has passed, the submissions will be evaluated. Under the open procedure, all tender bids submitted must be considered unless they are excluded because the tenderer fails under the grounds for exclusion or does not meet one or more of the selection criteria stated in the contract notice. Both these steps must be completed before proceeding to evaluate the remaining submissions using the award criteria published in the contract notice or in the tender documentation. In the University of Nairobi, there are different types of tendering procedures which have been adopted to acquire goods and services through tenders. One of the most common procedures used is called an open tender. Open tendering is the preferred competitive public procurement method used for acquiring goods, services and infrastructure works. It is executed in accordance with established procedures set out in the procurement guidelines and detailed in the standard bidding documents. The University tender Committee advertises inviting providers to bid directly for a contract. All interested parties then submit a tender. Evaluation takes place and the successful organization is awarded the contract.

Most of the tenders at the University of Nairobi Tender Committee incorporate this kind of tender procedure. However, these research studies have not specifically identified the best tendering procedure to enhance service delivery. The studies have not indicated how open tendering adopted by institutions ensures provision of quality goods and services. It is not clear how the tenderers deal with the challenge of canvassing and subjecting open tendering as a mere display of openness and fairness. It is against this background that the study seeks to establish how choice of tendering procedures contributes to performance of public procurement system.

### **2.2.5 Participation of unit members in procurement planning process**

According to PPOA (2007) and PPDA (2006), a procurement plan defines the products and services that you will obtain from external suppliers. A good procurement plan will go one step further by describing the process you will go through to appoint those suppliers contractually. Whether you are embarking on a project procurement or organizational procurement planning exercise, the steps will be the same. First, define the items you need to procure. Next, define the process for acquiring those items, and finally, schedule the timeframes for delivery. Within the context of public procurement, section 26(3) of the Public Procurement and Disposal Act 2005 and Regulation 20 of the Public Procurement and Disposal Regulations 2006 provide for an elaborate structured mechanism for procurement planning for public entities. Of major significance is the requirement for the procurement plan to contain, among other things, a detailed breakdown of goods, works, or services required; a schedule of the planned delivery, implementation or completion dates for all goods, works, or services required; an indication and justification for whether it shall be procurement within a single year period or under a multiyear arrangement, an estimate of the value of each package of goods, works or services required, an indication of the budget available, sources of funding and an indication of the appropriate procurement method for each procurement requirement. Planning will also involve setting out goals, and also includes an outline of the time and cost. Well defined objectives and policies serve as the framework for the decisions to be made by the procurement manager. In his study in the US to establish the efficacy of planning on performance of institutions, Johan (2006) further came up with some important service delivery improvement slogans. He said that any institution which fails to plan for service delivery plans to fail delivering services to the public. And if it cannot be measured, it cannot be improved. He further asserted that if such institutions fail plan

to comply with regulations, then they are not managers, they are robots. Basheka (2009) argues that procurement planning is one of the primary functions of procurement with a potential to contribute to the success of local government operations and improved service delivery. It is a function that sets in motion the entire procurement process of acquiring services in local governments. Mullins (2003) asserts that the contribution of procurement planning in facilitating an efficient and effective service delivery in public sector organizations is generally undisputed in both developed and developing countries. Its contribution can be at both central and local government levels of public sector management. His findings revealed a significant positive relationship between procurement planning and service delivery in local government procurement systems in Uganda.

Procurement Policy Manual (2009) indicates that procurement planning drives different expected results which are different from business as usual such as: reduction in the number of overall contract awards, understanding and managing total cost of ownership, more purchasing options, data-driven decision making, improved risk mitigation prior to award, more identification of opportunities where suppliers can add value, improved relationships with suppliers which leads to improved performance. Caldwell (2009) further adds that effective procurement planning is an important route towards securing the right service to be delivered to the public, and also maximizing the level of service provision which can be achieved within the local supporting people. A procurement plan helps procuring entities to achieve maximum value for expenditures on services to be delivered and enables the entities to identify and address all relevant issues pertaining to a particular procurement before they publicize their procurement notices to potential suppliers of goods, works and services.

In Kenya, procurement planning is seen to be important, and even more so in large and complex, multi-year and/or multi-million dollar requirements, where people will change over time or requirements will evolve and where risk and scrutiny increases (Kovacs, 2004). Procurement Planning is supported and encouraged by project management experts and government departments because the procurement contract can lead to dissatisfaction and time-consuming detours when it is not done; and its absence is usually the causal factor identified when auditing the entrails as to what went wrong in the procurement process and government departments

(Agaba and Shipman, 2009). A number of studies relating to procurement planning and service delivery have been done. For instance, Gitonga (2007) perceived effectiveness of performance contracts on service delivery at the ministry of immigration and regulation of births. Budi (2012) studied challenges in the management of procurement process within Kenya Rural Roads. Munene (2012) studied the incorporation of green purchasing as a best practice in procurement of in-flight products at Kenya Airways Limited. Osemebe (2005) studied the effects of operational management practices on the procurement of pharmaceutical products in developing countries: a case of Kenya Medical Supplies Agency (KEMSA). These studies identified several critical problems with Kenya's procurement system; weak oversight institutions, poor linkages between procurements and expenditures, delays and inefficiencies and poor records management.

Pressure is growing on public bodies to improve performance of how they procure goods, services and works contracts. This cannot be achieved without proper procurement planning to avail facilities for institutions such as University of Nairobi to adequately provide these services to the citizens. Despite the numerous studies on procurement planning, the aspect of service delivery in relation to procurement planning has been largely neglected. Similarly, the research studies do not indicate how procurement planning influences the attitudes of procurement officers and how such planning determines performance of procurement regulations. This situation sustains the curiosity of the researcher and thus seeks to address the knowledge gap and seeks to determine how the two interrelates with reference to the University of Nairobi.

#### **2.2.6 Performance of Tendering Committees**

The main function of the tender committee is obtaining the most favorable terms for acquisition of goods, work and services required for the University's main activities on the principles of competitiveness, transparency and team decision making. According to Visser and Erasmus (2007), the main goal of the Procuring Committee is to cut budget expenses and secure corporate interests of the University of Nairobi as well as to strengthen image of the University of Nairobi as an accurate and transparent partner. In a longitudinal study done in the United Kingdom, Mullins (2003) asserted that the Tender Committee has the authority to pass a final resolution on approval of tender results and all material terms and conditions of agreements or contracts

within its competence. The study further asserts that the principal function of the tender committee is to see to the methodical adherence of the accorded procedures to ensure competitiveness and quality in the submissions. However, the tendering process and the subsequent evaluation of submissions will only commence after a project has been qualified and approved for tendering. The tender committee handles almost all the tenders issued by the departments. According to Gildenhuis (2002), submission to the tender committee must be in writing, and no tenderer is allowed to address these bodies during the adjustment of a specific tender. Any member of such a body, declare this and recuse themselves. And any person involved in the evaluation of a tender may not be part of the adjudication panel. The recommendations of the body must be based on the conditions, specifications, and criteria contained in the tender invitation. Visser and Erasmus (2007) further argue that the tenderer's own conditions of acceptance must also be submitted, should the body concerned differ from the recommendations of the user department, the recommendations should be referred back with an indication of their reservations. All the decisions of the board or committee must be minuted and forwarded to the administrative component of the relevant body responsible for the issuing of the acceptance. A department may, however, neither enter into a formal tender agreement without the approval of that body, nor conclude a contract without the consent of the user department. In Kenya and University of Nairobi in particular, in qualifying a project for open tender, the tender committee and the relevant division will jointly conduct a feasibility study on the project. Then upon reaching an agreement, the committee will present the proposal to the Board of Directors for approval before launching the invitation to tender. Tender assessment and contract award are also carried out collaboratively by the committee and the relevant division, following which all information and records will be handed over to the division for implementation of works. From this point on, the committee takes on a supporting role in the project by providing post-tender assessment to see to the orderly execution of the contract. However, tender has been riddled with numerous challenges such as lack of acceptance, lack of strategy, lack of methods of procurement, lack of trust, lack of know-how, lack of competence, the cost problem, the price problem and the innovation problem are amongst the some of the main contributors to tender process failure in national government. Similarly, the reviewed literature has not exhaustively examined the qualifications of the members for inclusion in the tender committee.

### **2.3 Summary of Literature Review and Research Gaps**

Despite appreciable literature on the practice and performance of procurement process, the reviewed literature has revealed numerous research and knowledge gaps. Research studies have not indicated how the adoption of procurement policies has been able to forestall problems such as uncontrolled contract variations, overpricing (buying at inflated prices), lack of a structured authorization of expenditure levels, lack of fair and transparent competition, inappropriate application of procurement methods, air supply (meaning the non-delivery of goods), uncontrolled low value procurement of 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. Research studies have indicated that the aspect of performance of procurement regulations in relation to procurement planning has been largely neglected. Similarly, the research studies do not indicate how procurement planning influences the attitudes of procurement officers and how such planning determines performance of procurement regulations. The research studies have not specifically identified the best tendering procedure to enhance performance of procurement regulations. The studies have not indicated how open tendering adopted by institutions ensures provision of quality goods and services. It is not clear how the tenderers deal with the challenge of canvassing and subjecting open tendering as a mere display of openness and fairness.

The reviewed research studies have not indicated how tender committees have been able to deal with numerous challenges such as lack of acceptance, lack of strategy, lack of methods of procurement, lack of trust, lack of know-how, lack of competence, the cost problem, the price problem and the innovation problem are amongst the some of the main contributors to tender process failure in national government. Similarly, the reviewed literature has not exhaustively examined the qualifications of the members for inclusion in the tender committee. These research and knowledge gaps trigger the curiosity of the researcher and seek to fill.



## **2.4.Theoretical Framework**

The theoretical framework of a research relates to the philosophical basis on which the research takes place, and forms the link between the theoretical aspects and practical components of the investigation undertaken. The theoretical framework has implication on every decision made in the research process.

### **2.4.1. Principal-Agency Theory**

The Principal-Agency Theory is the underpinning theory used to establish the framework for this study. The Principal-Agent Theory is an agency model developed by economists that deals with situations in which the principal is in position to induce the agent, to perform some task in the principal's interest, but not necessarily the agent's (Health & Norman, 2004). Several studies (Eisenhardt 1988; Bergen *et al.*, (1992); and Rokkan&Buvik (2003) have contributed to the literature on principal agent theory. All these contributions have one main theme which is the relationship between a principal and an agent.

The Principal-Agent Theory concerns with the arrangement that exists when one person or entity (called the agent) acts on behalf of another (called the Principal). The principals contract with the agent to perform some services on the principal's behalf. These contracts require the agent to exert effort and make decisions. In general, a contract is used to specify the terms of a principal – agent relationship. According to Eisenhardt (1989), Agency theory is directed at the ubiquitous agency relationship in which one party (the principal) delegates work or tasks to another party (the agent) who performs that work. Agency theory describes this type of relationship using the metaphor of a contract (Jensen &Meckling, 1976). Agency relationships are enacted in a broader social context for the adoption of policies about aligning incentives in order to discourage self-interested behaviour by managers and reducing agency costs. A number of studies have shown that procurement contributes about 60%-70% of an organization's expenditures.

In the public procurement the parties mainly are: the management, tendering committee, procurement department and supplier. Under centralized purchasing operating mechanism, these parties have formed a principal-agent chain in the process of public procurement management. The first agent relation of management and tendering committee is formed. Tendering committee

work out law and regulation; supervise the implementation, work out standard of supplier's qualification and so on. It is impossible that tendering committee takes on everything. So tendering/procurement committee sets up a special organization (procuring department/ unit) in its internal. Such the third agent relation of tendering committee and purchasing center formed. The concrete public procurement activity is skilled and experienced by official, such the fourth agent relation of purchasing center and purchasing official has formed.

The agency chain like "the management-the tendering committee-the procurement department-the purchasing official" is formed in the process of public procurement. The management is the initial principal, and the purchasing official is the ultimate agent. However, in fact the management who is the initial principal does not manage authority in the process, cannot make purchasing decision and gain profit in the progress. So the purchasing official who has professional knowledge is responsible for purchasing activity, and plays the decisive role in the chain. But the purchasing official is a rational economic man, he runs after the maximization of self-interest. It is difficult to execute public procurement law and realize the target of public procurement while conflicts are occurring between his benefit and the principal's benefit. The principal-agent problem is happening in the agency chain because of the inconformity of interests between the principal and the agent.

### **The causes of principal-agent dysfunction**

In fact, the principal-agent problem in the public procurement is dysfunction of principal-agency in public right. It has three causes as follows:

#### **Asymmetric information**

In principal-agent operation of public right, who owns the most information owns the latent advantage right. Because public procurement is highly professional, the agents such as purchasing officials, who propose the scheme of public procurement, own more private information than the principal in general. If the principal wants to gain the special information, he must cost more than the agent. Besides, it is difficult to check the conspiracy between the agents, even if the principal is not very keen to observe, the cost is much more. Therefore, decision-making of the principal in the public procurement is under the control of the agent who provides information. In fact, the range of public procurement, the way of public procurement and the quota standard of public procurement are all decided by the agent ultimately. The asymmetric information has provided possibility that the agent deflects the principal's target.

### **Incomplete contracts**

The principal-agent relation is a kind of contract relation essentially; principal and agent can standardize both sides' behavior by the way of signing a contract when they are practicing public procurement. The principal-agent relation is a long-term contract. But the contract is incomplete, it cannot anticipate all possible scenarios, neither can it standardize the responsibility of each side under any circumstances. So official must give sufficient liberty right for dealing with various kinds of unexpected things. As the asymmetric information of the management, the tendering committee, the procuring department/unit, the purchasing official and the supplier, the agent can run after the maximization of self-interest through incomplete contracts, and then damage the management's interests.

### **Opportunism in the supervision of Principals**

The principal must conduct supervision to ensure procurement official carries out purchasing right according to the wish of the principal. But the purchasing right already becomes the public product from private product, and the principal's supervision to the agent is inefficient.

### **2.4.2. Institutional Theory**

Institutional theory describes the effects of external institutional pressures on organizations and defines institutions as regulatory structures, government agencies, laws, courts, and professions, as well as interest groups and public opinion (Lowell, 1994). The rules and norms set out by the institutions in an environment are endorsed by various actors. When speaking of actors and institutional environment in this research project, reference is made to the norms represented by the actors in the environment and the pressure that these norms exert on other actors in the environment. A strength attributed to institutional theory is its ability to explain non-choice behaviour of organizations how they conform to norms without questioning them and undertaking public function (Lowell, 1994).

According to Scott (2003), institutions are composed of cultural-cognitive and regulative elements that together with associated activities and resources give meaning to life. The author explains the three pillars of institutions as regulatory (policy), normative and cultural cognitive. The regulatory (policy) pillar emphasizes the use of rules, laws and sanctions as enforcement mechanism with emphasis on compliance. The normative pillar refers to norms-how things

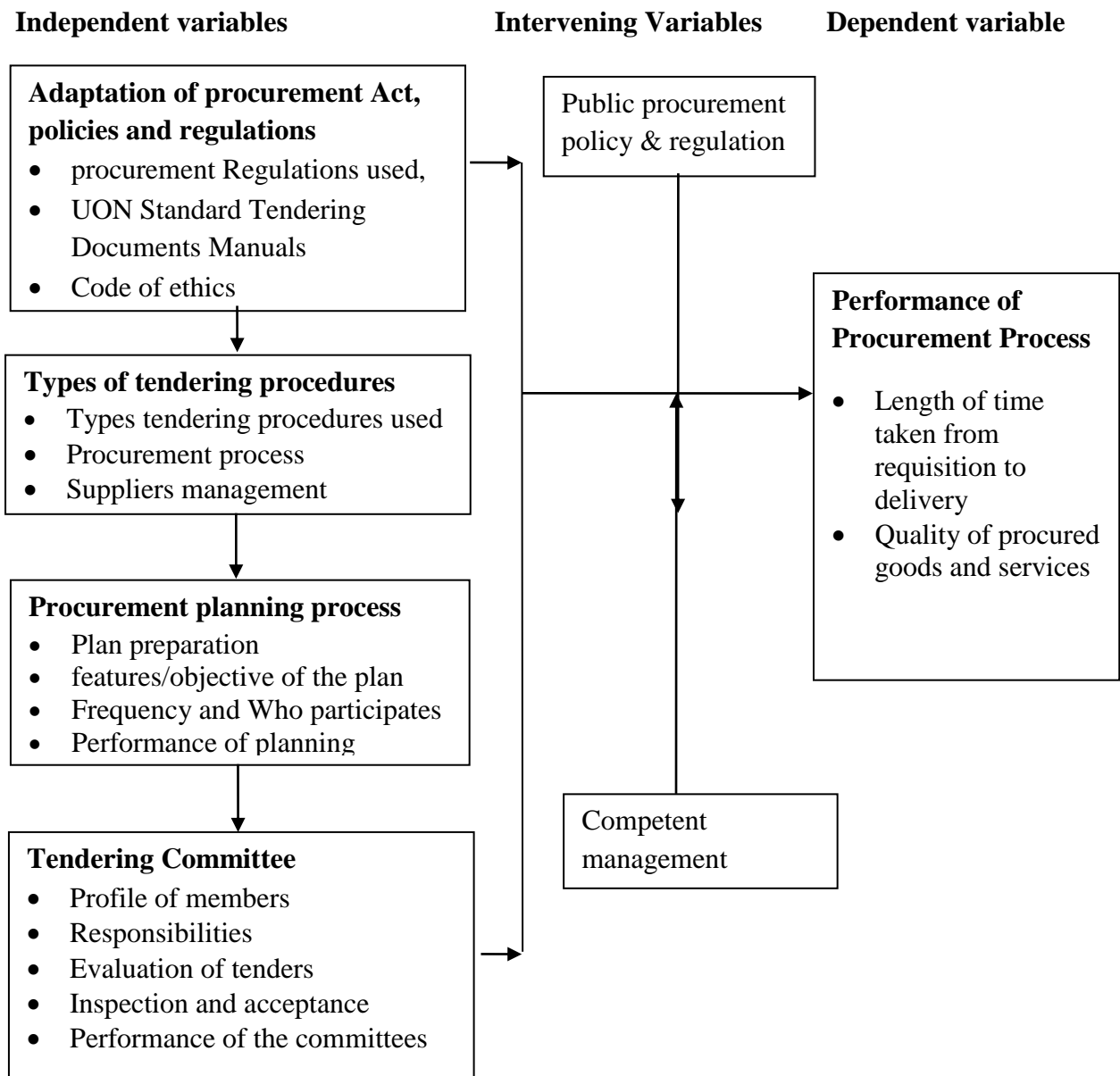
should be done and the values preferred desired. The cultural pillar rests on shared understanding (common beliefs, symbols, shared understanding).

The PPDA (2005) requires that proper maintenance and keeping of records be implemented in all public procuring entities hence need to have policies, norms and rules to the effect. Borrowing from this theory, public procuring entities are guided by rules and regulations like the PPDA (2005), PPDR (2006) and policies to be used in implementing the act as well as the regulations hence policies on records management. From the three pillars of institutions propounded by Scot (2003) such as organizational culture, social influence, organizational incentives and enforcement are identified as antecedents of compliance to procurement records management.

## 2.5. The Conceptual Framework

In this study, the conceptual framework will be based on the practice and performance of procurement process reflected through adoption of government policies on procurement, types of tendering procedures, procurement plans and effectiveness of procuring committees which will constitute independent variables whereas performance will constitute the dependent variables. The intervening variables for this study will include the government policy and competent management as shown in Figure 1 below;

**Figure 2.1: The Conceptual Framework of the Present Study**



## **CHAPTER THREE**

### **RESEARCH DESIGN AND METHODOLOGY**

#### **3.1 Introduction**

This chapter presents the research techniques that the researcher adopted in an attempt to achieve the study objectives and answer the research questions. These include the research design, research site, unit of analysis & observation, target population, sampling technique, sample size, data collection methods, ethical considerations and data analysis procedures.

#### **3.2 Site and Institution of the Study**

The research study was carried out in the University of Nairobi which is a public entity hence making its procurement applicable to the PPDA Act 2005 and regulations 2006. Universities are categorized under class B. (PPDA Act 2005). University, just like other government organizations, participates in nation building through science and technology. Currently, the university has a student population of 70,000 and close to 5,500 teaching staff and covers an area of 936.82 km<sup>2</sup>. The university prides itself as one of the best amongst public and private universities in East and Central Africa and 7<sup>th</sup> in Africa and 855 in the world. (Webometric Ranking). Furthermore, the university has adopted the public procurement process on which this study focuses.

#### **3.3 Units of Analysis and Units of Observation**

The unit of analysis is the major entity that is being analyzed in a study. It is the 'what' or 'who' that is being studied. In social science research, typical units of analysis include individuals (most common), groups, social organizations and social artifacts. The units of analysis for this study are staff at the Central Unit and College of Humanities & Social Sciences (CHSS) involved in procurement process. The units of observation are staff and secondary data such as records at the College of Humanities and Social Sciences one of the colleges at UON where procurement process takes place.

### **3.4. Research Design**

According to Yin (1994), a research design is a blue print of research, dealing with four problems: what questions to study; what data are relevant; what data to collect and how to analyze the results. It is much more than a work plan because the main purpose is to help to avoid the situation in which the evidence does not address the initial research questions. Furthermore, the research design deals with logical problems and also specifies how the investigator will address the critical issues of generalization and legitimization (Yin, 2003). The design covers methods of the study and also deals with data collection and covers how primary and secondary data is collected. This study adopted a qualitative research approach in collecting the data, analyzing and interpreting the data from the finding of the study, as it provides flexibility and affords the researcher the opportunity to conduct an in-depth research. This study is also descriptive as it describes the Public Procurement Process in Kenya. It is also exploratory as it aims to identify its practice at UON. According to Saunders et al (2009) there are five research strategies underpinning qualitative research design. These include: experiment, survey, qualitative research, case study, and action research. For this research, a case study and survey on Practice and Performance of procurement system in the University of Nairobi was conducted.

### **3.5 Target Population**

Target population refers to the total number of persons that a researcher seeks to contact for the study (Denscombe, 2002). The population refers to the whole collection of cases that meet a specified set of criteria (Polit et al., 2001). The population for the study was made up of staff from CHSS procurement entity, Faculty of Arts, Institutes, schools and centres within the CHSS. The college has the Faculty of Arts; 4 schools of Journalism, Business, Economics and Laws; 3 Institutes of Population Studies and Research, Development Studies and Diplomacy and International Studies; 3 Centre of Advanced Studies in Environmental Law and Policy, African Women's Studies Translation and Interpretation. The college has also 2 campuses in Mombasa and Kisumu. Further the Faculty of Arts and schools are sub-divided into departments. The faculty of Arts is one of the largest units at UON having 11 departments.

### 3.6 Sampling size and Sampling Procedure

A sample is a part of the population that is carefully selected to represent the whole population (Cohen et al., 2007). According to Polit et al. (2001) sampling is the process of selection of individuals, behaviours, events and organizations for a study. Sampling criterion is defined as the characteristic essential for inclusion of individuals in the target population (Burns and Grove, 2001).

There are two categories of sampling techniques: probability and non-probability sampling techniques. The probability techniques enable the researcher to give respondents equal chances of inclusion in the sample. On the other hand, non-probability techniques do not provide equal chances for the respondents to be included in the sample. The study used purposive and snow ball sampling to select sampling units that are representative of the population. The sample was selected based on their knowledge on the purpose of the study and after the interview the subjects were requested to nominate another person with the same trait as the next subject

**Table 1: Sample Size**

<b>Main responsibility</b>	<b>Population</b>	<b>Sample</b>
Principal/Deputy	2	1
Procurement staff	46	21
Chairpersons/ Deans/Directors	27	12
Administrative Staff	12	6
<b>Total</b>	<b>87</b>	<b>40</b>

A sample size of 40 respondents was arrived from a population of 87 consisting of principal/Deputy Principal, Procurement Staff, Chairpersons/Deans/Directors' and administrative staffs at the Central Unit and the college. Further the researcher documented a case study of a specific tender that have been conducted: AIBUMA Conference in the school of Business.

### 3.7 Data Collection and Analysis

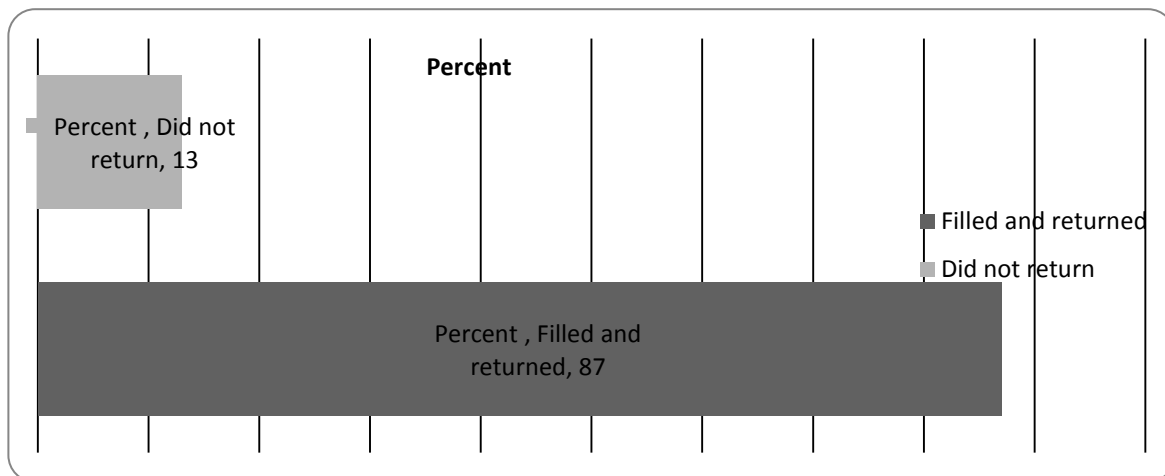
Primary data was gathered through interviewing key informant within CHSS and UON tendering committee using an interview schedule or unstructured questionnaires. An interview schedule is schedule with open-ended questions which allowed the respondent to use his/her own words in



answering the questions. The respondents were permitted to provide in-depth information to the greatest extent possible based on their knowledge about the issue being asked about (Mugenda&Mugenda 2003).

The study distributed 40 interview schedules to sampled staff working at the College of Humanities and Social Sciences and Central Unit, University of Nairobi. Out of those, 32 sample respondents filled in and returned the interview schedule while 8 respondents did not return the interview schedule contributing to 75% response rate. This high response rate was attributed to the data collection procedure, where the interview schedule was self-administered and waited for respondents to fill in, and picked the interview schedule once fully filled. The response rate demonstrates a willingness of the respondents to participate in the study.

**Chart 1: Analysis of responses**



The researcher also developed a case study of the AIBUMA conference procurement process to investigate trends and specific situations in procurement process. However, while this approach produces no quantitative data, it is chosen for this study because; it gives some useful pointers and indications relevant to this study (Leedy and Ormrod, 2005; Yin; 2003) and also allows further elaborations and according to Yin (2003), the case study research method provides more realistic and detailed response.

Secondary data was obtained through reviewing documents and reports obtained from the CHSS procurement department, UON tendering unit and from PPOA and other Government reports

especially from Ministry of Finance. This supplemented the primary data received from case study and interviews.

Subsequently, data was analyzed using content analysis. Ritchie and Lewis (2003) argue that qualitative content analysis involves a process designed to condense raw data into categories or themes based on valid inference and interpretation. The researcher made use of manual data coding system and the formal process of developing the coding scheme began after the first few interviews. After coding the entire dataset, the researcher rechecked the consistency of coding. It is not safe to assume that, if data is coded in a consistent and reliable manner, the coding of the whole quantity of text will also be consistent. Human coders are subject to fatigue and are likely to make more mistakes as the coding proceeds (Kothari, 2004). For all these reasons, the researcher rechecked coding consistency. After rechecking coding consistency, the researcher made inferences and presented reconstructions of meanings derived from the data.

### **3.8 Ethical Considerations**

Ethics is a branch of philosophy, said to have been initiated by Aristotle, which takes human action as its subject matter (Seale et al, 2004). In order to establish ethical issue in research, the respondents were assured of their confidentiality and anonymity of any information provided and justifying that the study was only for academic purposes. The researcher also obtained a letter of authorization from the university on the data collection process.

## CHAPTER FOUR

### DATA ANALYSIS, PRESENTATION AND INTERPRETATION

#### 4.1. Introduction

This chapter contains presentation, analysis and discussion of the data collected by the researcher. The data is analyzed using the content analysis and presented both in table and graphical forms. The frequency tables show the findings as derived from the responses by respondents to the various questions contained in the interview schedule followed by discussions.

#### 4.2. The College Humanities and Social Sciences

The College of Humanities and Social Sciences (CHSS) is one of the six Colleges of the University of Nairobi which is a public entity. Like the other five colleges, it was established following the recommendations of the 1985 Presidential Visitation Committee headed by Mr. Geoffrey Kariithi. CHSS is the largest College of the University with over fifty percent of the total student enrolment and staff. It is headed by a Principal. The College operates in several locations namely, Main Campus, Parklands, Lower Kabete, Mombasa and Kisumu and at the National Museum. The CHSS has a Faculty, Schools, Institutes and Centres as depicted in Table 2 that offer a wide array of academic and research programs. The mandate of the College is to coordinate the implementation of university's policies and programs in the Humanities and Social Sciences.

The procurement department is in the Office of Deputy Vice Chancellor (Administration and Finance), which is one of the top key offices established by the University of Nairobi Charter and Statutes. He is appointed by the Council from among the Professors of the University on permanent and pensionable terms and is the Head of Administration and Finance Divisions of the University whose functions include management of personnel matters, finance, procurement and assets. He is also the Chairman University Tender Committees. The procurement department is one of the departments in the Central Administration that deals with acquisition of goods, services and works for the University and coordinates disposal of unserviceable, obsolete or surplus stores, assets and equipment. In order to carry out the above function the department is guided by the public procurement and disposal Act, 2005, regulations, 2006 and procurement

manual. The current Procurement Department was established in 2003 when it became mandatory that each Public Procuring entity should have a separate procurement unit. Before then Procurement function used to be discharged by the tender office that was under Personnel while the rest was carried out by Finance Department. At its inception the department had a skeleton staff; currently the department has forty two (42) members of staff.

**Table2: College of Humanities and Social Sciences**

<b>Faculty/Schools/Centres</b>	<b>Departments</b>
Faculty of Arts	<ol style="list-style-type: none"> <li>1. Geography &amp; Environmental Studies</li> <li>2. Sociology &amp; Social Work</li> <li>3. Political Science &amp; Public Administration</li> <li>4. Psychology</li> <li>5. Communication Skills &amp; Studies</li> <li>6. Library &amp; Information Sciences</li> <li>7. History &amp; Archaeological Studies</li> <li>8. Centre for Translation and Interpretation</li> <li>9. Philosophy and Religious Studies including Centre for Human Rights &amp; Peace</li> <li>10. Literature</li> <li>11. Kiswahili</li> <li>12. linguistics &amp; languages               <ol style="list-style-type: none"> <li>a) French</li> <li>b) German studies</li> <li>c) Confucius</li> <li>d) Korean Centre</li> <li>e) Arabic</li> </ol> </li> </ol>
School of Laws	<ol style="list-style-type: none"> <li>a) Commercial law</li> <li>b) Public law</li> <li>c) Private law</li> </ol>
School of Business.	<ol style="list-style-type: none"> <li>a) Business Administration</li> <li>b) Finance and Accounting</li> <li>c) Management Sciences</li> </ol>
School of Journalism	
School of Economics	
Institute of Anthropology, Gender & African studies	
Centre for Advanced Studies in Environmental Law and Policy Centre	
African Women's Studies Centre	
Centre for translation and Interpretation	

Source: CHSS website

The department is headed by the Procurement Manager whose main responsibility is to Coordinate Procurement and disposal activities as well as offer professional advice to the University. The department has two deputy procurement managers one at the tender secretariat and the other in charge of the student welfare Authority. The Department is both centralized and decentralized with procurement units in all the six colleges, Central Administration and the Student Welfare Authority.

The College of Humanities and Social Sciences has a Procurement unit that handles all Procurement of up to Kshs. 500,000. The unit is headed by a procurement officer and handles all procurement issues at the college. The principal of the college is the chair of the procurement committee and its members are: Registrar, Internal Auditor, Bursar, Dean, School of business, Dean, Faculty of Arts, Dean School of Law, ICT officer, Maintenance Officer, Procurement Officer and 3 staff of the college procurement college secretariat. The membership of the procurement committee is tandem with the first schedule of the Regulation 2006 on the composition of the procurement committee.

#### **4.1.1. ISO 9001 – 2000 Quality Management System (QMS) and other Prescription for Procurement and Recruitment Processes**

#### **4.1.2. Recruitment Process**

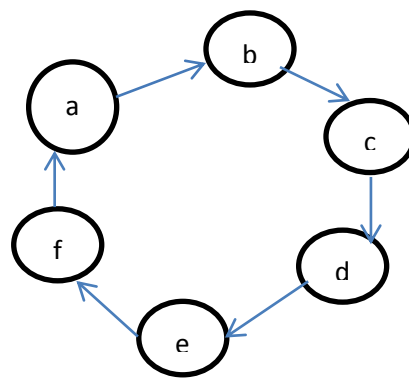
Staff recruitment is a service that is constantly procured by the UON management. The researcher examined recruitment of staff to assess the process. The UON's recruitment policies have policies and procedures to be followed in the recruitment and selection of employees and offers equal employment opportunities to all people regardless of where you come from in Kenya.

The recruitment process begins with the Personnel Department receiving requisitions for recruitment from any department through the principal of the college in case of a vacancy. As the requirement to fill a new position arises, the concerned head of department look into the matter. He/she takes all particulars regarding the position and prepares a manpower form, which contains all the particulars regarding the position, all the specifications are made and approved by the concerned principal and that form is sent to personnel department. Personnel department

begins to fill up that position by considering all the specification. The particulars like the position experience, qualification skill set, budget, time limit, No. of positions and location. With all the above particulars the requisition form is prepared and authorized by the Deputy Vice Chancellor Finance and Administration.

Personnel department advertises the vacancy in the university's website and in the local newspapers. This is meant to give equal opportunities to all applicants who may be interested in the vacancy advertised and to collect adequate number of applicants from which they will select qualified employees to fill the vacancy advertised. Application is done manually

**Figure 4.2: Recruitment Process at UON**



Source: author

- a) Identify vacancy
- b) Prepare job description and position's specification
- c) Advertising the vacancy
- d) Managing the responses
- e) Arrange interviews
- f) Conducting interview and decision marking

#### **4.1.3. Procurement process**

Regulations 2006 define procurement cycle as the cycle that starts with the initiation of the process of an individual procurement requirement and when the goods, works, services have been delivered and accepted. The procurement staff stated that the procurement cycles consist of the preparation stage, advertising, bid evaluation, tender award and contract management. The positive benefits from one stage will lead to stronger results in the next. This continuous' chain

of success' results in increasingly beneficial outcomes and stronger overall results hence value for money to the procuring entity.

According to PPOA Journal 2010 the following are steps, responsibility and timelines that are supposed to be followed in public procurement process.

**Table 3: Steps in procurement Process**

<b>No.</b>	<b>Steps of description</b>	<b>Responsibility</b>	<b>Timelines</b>
1.	Prepare procurement plan	Head of Department	1 week
2.	Consolidate and present procurement plan containing details of the goods, works or services required to the head of procuring entity for approval	Head of Procurement Unit	3 days
3.	Review and if satisfied, approve procurement plan	Head of the institution	5 days
4.	Invite quotations from at least 3 suppliers appearing in the register of prequalified / known suppliers or invite bids through open or restricted tenders in line with PPD Act and regulations	Head of procurement unit	14 days
5.	Evaluate bids and recommend for selection of the best in terms of price and quality	Evaluation committee	28 days
6.	Make award to the lowest evaluated bidder	Tender/ procurement committee	2 days
7.	Communicate award to successful bidders and debrief unsuccessful bidders simultaneously	Head of procurement unit	7 days
8.	Prepare the contract for supply of goods, works or services and the arrangement for the signing between the selected supplier and the institution	Head of procurement unit	1 day
9.	The written contract shall be signed after an elapse of the 14 days from the date of award notification	Head of procuring entity and supplier	14 days
10.	Contract administration	Representatives of procuring entity and the supplier	2 days
11.	Supply of goods and services or completion of works as per terms and conditions of contract	Supplier/ contractors	7 days
12.	Inspection and verification of rendered services or completed works or goods	Inspection and acceptance committee	2 days
13.	Payment of suppliers and contractors	Procurement unit and accounts department	7 days
14.	Record keeping	Procurement unit and all departments	1 day

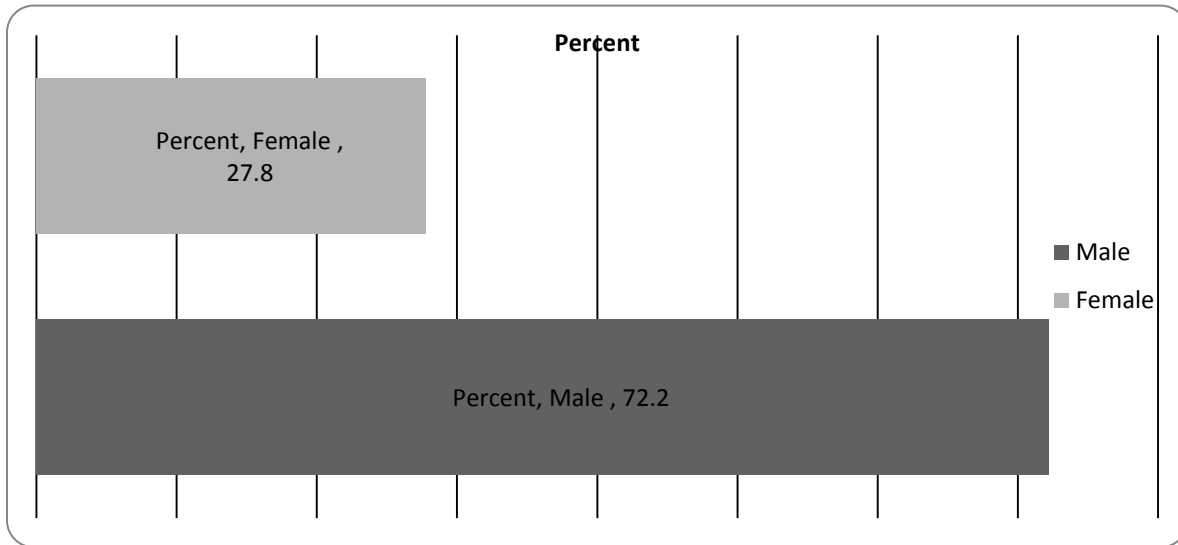
**Source; PPOA Journal June (2010)**

### 4.3. Characteristics of the Respondents

#### 4.3.1. Gender of the respondents:

The study sought to find out the gender of the respondents. According to the findings, 72.2% of the respondents were male while 27.8% of the respondents were female. The finding indicates the majority were men. The results were as shown in chart 2.

**Chart 2: Gender of the respondents (N=32)**

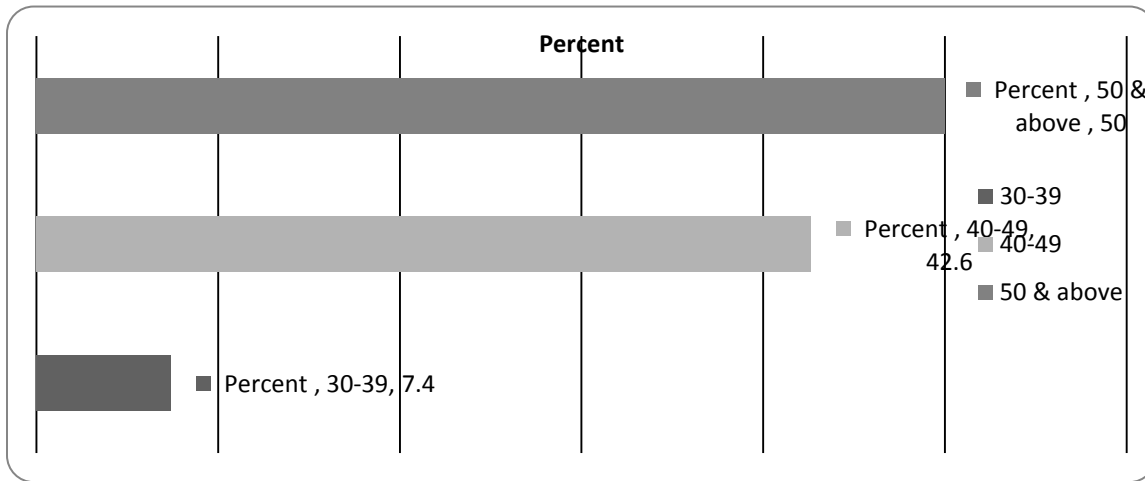


#### 4.3.2. Age Bracket of the Respondents

The study sought to find out the age of the respondents. According to findings 50% of the respondents were aged 50 and above, 7.4% of the respondents were aged between 30 and 39 years while 42.6 of the respondents were aged between 40 and 49 years. These findings indicate that majority of the employees at UON were middle aged and elderly. This implies that they are experienced employees who could give relevant information on the study area. The results were as shown in Chart 3



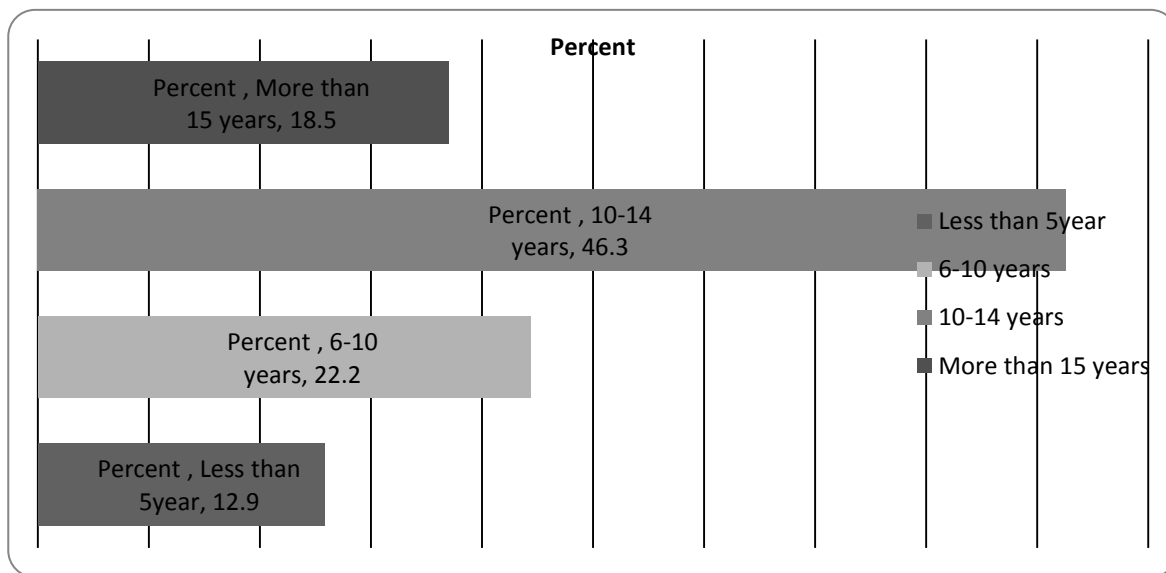
**Chart 3: Age Distribution of Respondents (N=32)**



**4.3.3. Years of service reported by respondents**

From the chart below, 87% of respondents have worked for UON for a period of more than six (6) years. The majority of the respondents therefore have a good understanding of the procurement process of the organization.

**Chart 4: Years of service (N=32)**



**4.3.4. Respondent Main responsibilities**

The study results revealed that 43.8% of the respondents were Academic Chairpersons of Departments, Director, Deans of Faculty, Institutes and schools while 31.2 % were in

procurement department both at the college and the central unit, and 21.9% were others, who included the internal auditor, bursar, anti-corruption department, staff in the department involved in procurement. It is clear that the levels of distribution of responsibilities indicate that the respondents could give responses that were factual. The results are as shown in table3.

**Table 4: Respondent’s Main responsibilities (N=32)**

<b>Main responsibility</b>	<b>Number</b>	<b>Percent</b>
Principal/Deputy	1	3.1
Procurement staff	14	43.8
Chairpersons/ Deans/Directors	10	31.2
Administrative Staff	7	21.9
<b>Total</b>	<b>32</b>	<b>100</b>

It is clear that the 72.2% of the selected respondents were men while 92.6% of the respondents were middle aged and elderly hence could give relevant information on the study. 87% of the respondents had worked for UON for a period of more than six years; therefore they had a good understanding of the procurement process and all the respondents were sampled from individual involved in procurement process.

#### **4.4.Adaptation of public procurement policies, laws and regulations**

The first objective of this study was to examine procurement policies, laws and regulations, and adaptation by University of Nairobi, Kenya.

##### **4.4.1. Legal framework:**

Patrick, Mamati, and Jonathan (2010) state that the public procurement system in Kenya has evolved to an orderly and legally regulated system governed by PPD Act, and that prior to the procurement law central procurement 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. It further indicates that the aforesaid reform initiatives were geared towards improving the public procurement system by enhancing accountability and transparency with the aim of achieving value for public funds, and attracting investments by

creating a sound business climate. According to Patrick, Mamati, and Jonathan (2010) these reforms have ensured fairness and competition among suppliers of goods, works and services, thereby restoring the confidence of Kenyans in the public procurement process while at the same time ensuring that the government gets value for its money. The same journal also asserts that the total value of public procurement in central government is currently estimated at 10 percent of the GDP. In 2008, Kenya's GDP was estimated at KShs. 2.1 billion putting the total expenditure on procurement by the government at KShs. 209.9 billion annually.

The introduction of the PPD Act of 2005 and the Procurement Regulations of 2006 has introduced new standards for public procurement in Kenya.(PPOA 2007) The Public Procurement and Disposal Act (PPDA), effective as of 1<sup>st</sup>January 2007, applies to all procurement of goods, works and services, as well as the disposal of assets by public entities. According to the Act and the Regulation all public universities, colleges are classified as class 'B'. The regulations, read together with the PPDA and procurement manual, outline the various processes and procedures to be followed when goods, services or works are procured, it also outlines how public procuring entities are set up, their membership and qualifications. The PPDA Act 2005 and Regulation 2006 further specify that the following structures should be in place for all procuring public entities:

- a) A procurement committee[Regulation 13 (1)]
- b) A procurement unit (Regulation 8)
- c) A tender opening committee with a minimum of 3 persons (Regulation 10)
- d) A tender committee consisting of 5 or more persons, with the procurement officer as Secretary [Regulation, Second Schedule (4)]
- e) A record keeping structure to ensure that procurement records are kept for 6 years [PPDA 45 (1)]
- f) A finance liaison structure to ensure that sufficient funds are available for procurement. [Regulation, Second Schedule (4)]

Procurement officer stated "*UON is a public Institution that is governed by public laws and regulation*" The procurement staffs and the deputy principal stated that procurement is governed by the Public Procurement Act as UON is a public entity classified as class "B" in the First

Schedule, of Regulation 2006. The key informants identified the PPDA Act 2005, PPDA regulation 2006 and manual as the laws that governs procurement at UON.

UON does not have its own manual but is guided by PPOA's Public Procurement and Disposal General Manual which states that all actors in the procurement process must apply prudence, probity and transparency at each stage of the process. Procurement staff and committee members were in agreement that the manual cover the relevant components of procurement process; preparation stage, advertising, bid evaluation, tender award and contract management.

The procurement officer stated "*The head of the institution, who is also the accounting officer of the college also oversees the procurement matter at college*" hence the Principal who is the accounting officer of CHSS has the mandate to oversee the implementation of procurement rules and regulation at the college and Vice Chancellor has the final say to overrule them but this should be done in accordance to the PPDA Act 2005.

Procurement manager stated that "*procurement at UON is very dynamic and adaptive to changes*" this portrays the UON procurement system as innovative and flexible as it allows/facilitate the introduction of new and innovative techniques and contracting practices for goods, without compromising basic principles. The respondents identified e-procurement whereby the UON procurement system has been linked to IFMIS hence one can tender online, continuous training of procurement staff on the Act, regulations and procurement related topics and decentralization of procurement systems to colleges that manages bids below Kshs, 500,000 as new and innovative techniques and contracting practices introduced in the procurement unit. This portrays that the system is innovative and adaptive to change but when the researcher visited the procurement secretariat the manual system still exist where there is a lot of paper work to be done.

#### **4.4.2. Code of Ethics**

Ethics are the principles which define behavior as right, good and appropriate (Seale et al, 2004). PPDA (139) states that all procurement and disposal should be carried out in accordance with the codes of ethics that are specified by the Authority. Employees in public service are bound to uphold certain values. Any attempt to realize personal gain by conduct inconsistent with the proper discharge of the employee's duties is a breach of the public trust. Procurement staffs

stated that, the PPDA Act 2005 mandates the PPOA to issue Code of Ethics for procurement officials which states that the Procuring Entity (PE) and its staff will be held accountable for non-compliance with the general principles as stipulated in PPOA's Public Procurement and Disposal General Manual hence UON uses the regulation provided by PPOA. The procurement manager used a quote Prince Pritchett "*You can't put someone else in charge of your morals. Ethics is a personal discipline*" to show that integrity is a personal hence all procurement staff should maintain integrity and transparency at all times.

Procurement staff and committee members identified the following as the ways UON is enforcing the code of ethics:

- a) signing of the code of ethic by the procurement staff
- b) By conducting internal and/or external audits by accounting officer and PPOA.
- c) continuous training of the employees on the code of ethics, Act and Regulation 2006
- d) Encouraging internal reporting of violations of the Code of Ethics, within an atmosphere free of fear of retribution;
- e) Disciplinary action for improper conduct by the staff.
- f) Voluntary disclosure to appropriate university officials of suspected violations of law.

The study reveals that procurement staffs are signatory of the Public Procurement and Disposal General Manual that has been prepared by the PPOA but enforcement of the code of ethics is still wanting as systems are not in place to enforce it.

### **Summary of findings of objective one**

The data shows that UON is a public entity classified as class "B" in the First Schedule, of Regulation 2006 and the key informants identified the PPDA Act 2005, regulation 2006 and standard tendering manual as the laws that govern procurement at UON. Lack of understanding of PPD Act 2005 and its Public Procurement Regulations of 2006 by user department was also observed from the findings. The data further shows that the procurement process is manual with a lot of bureaucracy where a lot of paper work is involved. In addition there is a code of ethics for procurement staff but its enforcement is wanting as systems are not in place to enforce it.

#### 4.5.Types of Tendering Procedures

The second objective of this study was to examine the types of tendering procedures practiced by the University of Nairobi, Kenya.

##### 4.5.1. Procurement methods

Procurement staff and committee members stated that procurement methods at UON promote competition specifically competitive bidding is the default procurement method in practice this is in agreement with the PPDA Act 2005 and Regulation 2006 which has made provision for competitive bidding to be the default procurement method.

**Table 5: procurement procedures**

Procurement procedure	Frequency	Percent
Open tendering	32	100
Restricted tendering	14	41
Direct tendering	16	50
Others	9	27

Source: author

From the table 3 above, the study established that all procurement (100%) applied open tendering system, 41% operated restricted tendering where they from time to time send request for proposals to only the suppliers in their database. 11% also applied direct tendering systems in addition to open tendering system. This provided them with leeway to reduce costs of tendering especially where the contract values were small. 27% operated other tendering systems as situations demanded from time to time. This is supported by the case study on AIBUMA Conference whereby most of the goods, work and services were procured through request for quotation.

The study has revealed that competitive bidding is the default procurement method while other procedures may be employed as an alternative to the open tender process if specific conditions are present. The underlying principal is that alternative methods should not be used to obviate competition.

#### 4.5.2. Factor affecting the use of a procurement method

The study sought to find out the factors that affect the use of a procurement method, table 4 indicates that provisions and guidelines of Public procurement and Disposal Act was very important factor that affected the use of procurement methods as supported by 100%. Commitment to continuous improvement by the supplier was an important factor as supported by 87.5%. On whether past performance of the supplier affected procurement, respondents stated it was an important factor to the process with 43%. Influence by senior management was an important factor to the process as supported by 81.2%. On whether the number of suppliers in the market affected the process; respondents were neutral with 50%. On whether the lead times allowable affected the process, respondents indicated it as important as supported by 67%. Finally the purchasing budget was an important factor as supported by 93.8%.

**Table 6: Factor affecting the use of a procurement method**

<b>Factors</b>	<b>Frequency</b>	<b>Percent</b>
The provision and guidelines of PPDA	32	100
Commitment to continuous improvement by the supplier	28	87.5
Past performance of the supplier	14	43
Influence by senior management	14	43
The number of suppliers in the market	16	50
The lead times allowable	15	67
The purchasing budget	30	93.8

The study has revealed that procurement methods used by UON are largely determined by the thresholds outlined in the Regulations (The Public Procurement Act and Disposal Regulations, 2006) though other factors play a role.

#### 4.5.3. Staff recruitment

Application is done manually as a key informant stated:

*“Applicants for academic posts should forward ten (10) copies of their application letters accompanied by similar number of certified copies of certificates and C.Vs giving details of their qualifications, experience, research activities and publications they appear in.*

*Applicants for non-academic posts should submit seven (7) of the above supporting documents and applications letter”*

The copies are necessary for the selection process. Once the documents have been submitted, the personnel department recruitment staff scrutinizes the information given by the applicants against the required description. This assists the recruitment and selection staff to select qualified candidates, shortlist and later call them for interviews. A panel of interviewers is allocated the duty of interviewing the short listed candidates to choose the best among them who will fill the vacancy. According to a respondent from the Personnel Department of the UON, they are mandated to process appointments within a period of less than one month but findings reveals that appointments takes longer time. A key informant stated *“I applied for an Associate Professor position in 2013 which was vacant in my department, interviewed and to date, the position has never been filled, I don’t understand why? But there are position which are filled immediately”* this was the feeling across the key informants interviewed. From the discussions with key informants there were feelings of favoritism in the appointment and promotion of staff.

The finding reveals that UON recruitment process has a policy which guides recruitment activities although it is not adhered to. The recruitment begins immediately positions are declared vacant. The staffs and the public are made aware of an existing vacancy or vacancies through website and newspapers advertisement. The selection process does not necessarily depend on the job profile and its requirement but other factors such as tribalism, nepotism, favouritism among others. The recruitment and selection process at UON shows that procurement of staff does not fully adheres to the procurement procedures and at times take longer without any explanation contrary to the service that states *“The process of recruitment and promotion shall be completed within three months, from advertisement to issuance of letters”*.

#### **4.5.4. The Procurement Process**

In comparison to the ISO 9001 – 2000 Quality Management System (QMS) the study reveals procurement process is long, tedious and bureaucratic and this affects timely delivery of services/goods. The timelines set by the PPOA are rarely met in the procurement process at UON as delivery of requisitioned goods takes as long as 2 years to be delivered contrary to timelines set by PPOA contrary to the service charter that states *“Procurement of goods and services shall*



be done within one month, and in line with the University and government procurement laws and regulations”.

#### **4.5.5. Transparency and accountability in the procurement process**

In respect of whether there is transparency and accountability in the procurement process, from the responses received about 22% agreed that there is transparency and accountability in the procurement process while 40.7% stated they disagreed to the assertion that there is transparency and accountability in the process of procurement.

**Table 7: There is transparency and accountability in the procurement process**

<b>Respondents</b>	<b>Frequency</b>	<b>Percent</b>
Strongly agree	2	6.3
Agree	5	15.6
Neutral	12	37.5
Disagree	11	34.4
Strongly disagree	2	6.3
<b>Total</b>	<b>32</b>	<b>100</b>

The above findings seems to be in conformity with Thai (2009), who explains that “ a series of weaknesses including abuse and mismanagement of contract variations, lack of effective checks and balances with respect to authorizing the different procurement and expenditure steps, lack of fair and transparent competition...”. The findings shows there no transparency and accountability in the procurement process.

#### **Summary of findings of objective two**

The data shows that competitive bidding is the default procurement method for procurement while other procedures may be employed as an alternative to the open tender process if specific conditions are present. Further, the study shows that procurement methods used by UON are largely determined by the thresholds outlined in the regulations although other factors such as influence by senior management, the lead times allowable and the purchasing budget plays an important part in deciding the procurement procedure to be used, further, the study shows that recruitment and selection of staff does not necessarily depend on the job profile and its

requirement but other factors such as tribalism, nepotism, favouritism among others. In conclusion, the data shows competitive bidding is the default method of procurement but is also influenced by other personal factors. The study shows procurement process is, long, tedious and bureaucratic and this affects timely delivery of services/goods this is contrary to the UON service charter that states that “Procurement of goods and services shall be done within one month”. The process lacks transparency and accountability.

#### **4.6. Procurement Planning Process**

The third objective of this study was to examine the procurement planning process adopted by the University of Nairobi, Kenya. The PPDA stipulates that all procurement should be done in accordance with an annual procurement plan.

##### **4.6.1. Preparation of Annual Procurement Plans**

A procurement plan describes and documents all of the purchases from outside suppliers that will be needed to support the needs of a particular department. A department may need computers, cabinets, paper or other supplies depending on the tasks of the department. Outlining the needs of the project and how the supplies will be procured allow for adequate budget and proper planning. Annual procurement plans draw departments' early attention to potential procurement opportunities through a strategic procurement outlook statement, supported by details of planned procurements. Because of this, the study sought to find out whether the departments prepared annual procurement plans. About 65% of the head of departments, procurement staff in the study indicated that the departments prepared annual procurement plans. Further 86% of them further indicated that the procurement plans were prepared in a participatory manner and in line with the goals set.

##### **4.6.2. Frequency of Formulation of Procurement Plans**

The study sought to find out how frequent the procurement plans were formulated in the departments. Results indicated that procurement plans are formulated and reviewed bi-annually as evidenced by an uploaded copy of 2015-16 UON integrated procurement plan in the UON website. Procurement planning and its implementation in UON is more affected by the lack of cooperation between Procurement Management Unit and user department because, in order for

Procurement Management Unit to prepare a comprehensive procurement plan it depends more on the submission of schedule of requirements on time from user departments. However, it was also disclosed that lack of support from user departments is caused by lack of understanding of Public Procurement Act No.21 of 2004 which states the responsibility of each section clearly.

#### **4.6.3. Procurement Plans influence Procurement Performance**

The results revealed that 61% of the chairpersons, directors' respondents indicated that procurement plans in the department impacted positively on procurement performance while the rest (39%) of them indicated that the procurement plans did not affect procurement performance. They stated that the procurement plans influenced procurement in the sense that they provided focused and efficient utilization of the available resources, helped in budgeting and planning and therefore with adequate provision of funds due to procurement plans, performance is assured. More so, the respondents indicated that procurement plans helped to know what to buy, when, how and using which method of procurement. A chairman in a department stated "*good plans result to effectiveness and efficiency in attaining projected results*". He emphasized the importance of planning in realization of procurement goals and objectives.

The study shows that plans are formulated and reviewed bi-annually by heads of departments submitting the needs to the college procuring entity and procurement plans affects performance and are basic in the realization of procurement goals and objectives.

#### **4.7. Performance of Tendering Committee**

The fourth objective of this study was to assess the composition and performance of the tendering committee in the CHSS.

##### **4.7.1 Committee membership and functions**

Procurement staff, heads of department and directors stated that there was a procurement committee in place at CHSS and further identified the following as members as Principal (chairman), Internal auditor, Registrar, Bursar, Procurement Officer- Secretary, Dean, Faculty of Arts, Dean, School of Business, Dean School of Law, ICT officer, Maintenance officer and 3 procurement secretariat Staff. This is in agreement with Public Procurement Regulation 2006

(13) that states that the committee should consist of more than 5 members drawn from different departments.

#### **4.7.2 Responsibilities of the Tendering committee**

The following were identified as the responsibilities of the Procurement Committee; summarized as follows; enforcement PPDA Act 2005 and Regulation 2006; organize the receiving and opening of tender documents; to keep and preserve procurement and disposal documents and records; to advertise procurement opportunities; to form evaluation committee; organize the evaluation of tenders, quotations and proposals; prepare contract documents in line with the award decision; prepare and issue rejection and debriefing letters; execute the decisions of the procurement, tender and disposal committee; conduct periodic market surveys to inform the placing of orders or adjudication by the relevant award committee. All this functions are in agreement with the functions stated in the public procurement Regulation 2006.

#### **4.7.3 Tendering committee meetings**

Procurement staff and members stated that procurement committee hold meeting on regular basis depending on the bid to be discussed. The quorum for a meeting of the procurement committee is the chairman and at least two other members and when a member is unable to attend the procurement committee, s/he is supposed to delegate authority to an appropriate official, who attends the meeting in his or her place. A member of the procurement committee ensures that he delegates his authority to officials with appropriate skills and experience to represent him/her at the meeting. Decisions of the procurement committee are made through consensus and in absence of consensus, the decision is through voting by simple majority and in case of a tie, the chairman has a second or casting vote. If a procurement committee member has a direct or indirect interest in any matter, he or she declares his or her interest in the matter and shall not participate in the deliberations or decision-making process of the committee in relation to that particular matter. At times, the committee may invite independent advisers or members of the procurement unit to explain submissions or provide technical advice, where necessary. From the observed minutes of the procurement committee meeting, the following sub headings were observed—

- a) Date, time and venue of the meeting

- b) A register of members present
- c) Agenda of all matters to be considered;
- d) Any conflicts of interest declared by members
- e) The decision made for each matter, including any major issues discussed, the reasons for any rejections and any clarifications or minor amendments to which the approval is subject;
- f) A note on the basis of any evaluation made
- g) Any dissenting opinions among procurement committee members
- h) Any other business as may be necessary.
- i) Adjournment

#### **4.7.4 Evaluation of tenders**

Evaluation of bids before they are awarded is a key component in the procurement process. The Procurement officer stated that *“The tender box should be opened by more than one person and the proceedings recorded, the criteria used to evaluate bids should be tested and validated by the committee before reception of bids”*. He went further and stated, *“After the bids have been received the procuring entity establishes an evaluation committee to carry out technical and financial evaluation of the tender or proposal”*, this is in agreement with Regulation 2006 10 (1). This committee comprises of a chairman and at least two other members all appointed by the Principal of CHSS upon recommendation by the procurement unit.

The purpose of a tender evaluation process is to identify which bid offers the best value for money i.e. the most economically advantageous tender or proposal as per the criteria that were specified in the invitation to tender document forms the basis for the buying decision. [PPOA 2005 66 (2)]. The importance of tender evaluation stated by 70% of the respondents agrees with Maurer who stated that the evaluation of tenders and awarding of contracts to suppliers is an important phase of the procurement process (Maurer, 2004). Despite the importance of evaluation process the procurement manager stated *“there is always delay in submission of technical evaluation reports, for tenders to be approved a technical evaluation report is mandatory; this delay in submission affects service delivery in procurement”*. He further said *“tender committee cannot arbitrate on any procurement matter unless there is a report to approve, disapprove or refer back for correction”*. The study reveals that the technical

evaluation Committees take too long to submit reports and many a times a good number of reports come in after expiry period hence delaying the procurement process.

#### **4.7.5 Requisition of goods and services**

The study had sought to establish if departments had requisitioned for any goods/services. It was established about 92% of the chairpersons, Deans and directors had requisitioned for the computers, stationeries, cabinets, printer, copier, toner/cartridges, or other supplies depending on the tasks of the department but only 30% of them had received the items. A chairperson of a department stated that *“I requisitioned for cabinets, computers and its appliances in January 2014 but received them in July 2015, this delayed the refurbishment of the department library”* this quote illustrates the frustration by head of department’s with the procurement unit as it take longer time to procure and deliver goods and services hence affecting their performance. The study shows that procurement unit takes longer period (about 2 years to deliver requisitioned goods) to deliver requisitioned goods and services hence affecting the delivery of services.

#### **4.7.6 Inspection and acceptance**

*“After goods/services have been procured, there are supposed to be inspected before they are accepted by the department that had requisitioned for them”*...Procurement officer. Inspection and acceptance is done by the inspection and acceptance committee set up by the college principal [Regulation 17 (1)].The committee ensures that the correct quality and quantity is received and the technical standards have been met. The appointment letter for the inspection and acceptance committee members’ states clearly the duties of the members and insist that they satisfy themselves personally that goods delivered or work has been done in accordance with the contract before authorizing payment.

Despite the elaborate plan for the inspection and acceptance of goods/ services, 45% of the heads of departments stated that good and services were inspected first before they were received while 55% of them disagreed stating that they only received the goods. 60% of the heads of departments felt that majority of times they are not satisfied with the goods or services provided. The study reveals that inspection of goods is not sufficiently done for all delivered goods or

services hence the quality and quantity of goods and services is compromised as goods are not delivered as per the specification set prior to purchase.

#### **4.7.7 Supplier's management**

According to procurement officers and manager, UON has a data base of pre-qualified Supplier that has been uploaded in the UON website. Procurement manager stated that *“UON is an organization that frequently makes repeat purchases hence developing a preferred supplier list definitely help cut costs.”* Further he said *“by finding suppliers who are willing to negotiate on your terms, you eliminate surprises, random price increases, and able to accurately project costs for the future.”* He said that the suppliers' list was developed through gathering detailed and accurate information about suppliers who bid during the annual advertisement of prequalification of suppliers. Prior to this, various departments provide information on what goods, services and works they require and to what specification. Procurement staff stated that the list of suppliers is varied/mixed and that the supplier performance is not routinely evaluated. The procurement staffs stated that the procurement department has never conducted any market surveys to update their knowledge of prevailing sources and prices for products despite the fact that market survey forms a basis for effective source decisions as a strategic approach. Effective source decisions will only be made when relevant factors have been considered and weighted against the risks and opportunities which apply (Bailey,et al, 2005pg 178).

On the question of challenges faced by suppliers the 4 suppliers interviewed alleged that delayed payment as major complaints by suppliers. Suppliers reported that corrupt practices are clearly evident in the procurement process. These practices permeate the systems and occur at every level. A supplier stated *“it is the only way they are able to participate in the process”* this shows how corruption has pervaded the procurement process. Procurement staff gives the impression that their procurement processes are above board, yet meetings with suppliers gives a totally different perspective. The suppliers stated *“this is the cost of doing business with public entities, and the amounts we pay are all factored into their quotations hence the inflated prices of goods and services”*. It is also clear that corruption happens on many levels and a single transaction may involve three or more payments. In the case of pre-qualified suppliers, the supplier may work at the department level with an official to ensure that its quote is the lowest (after the

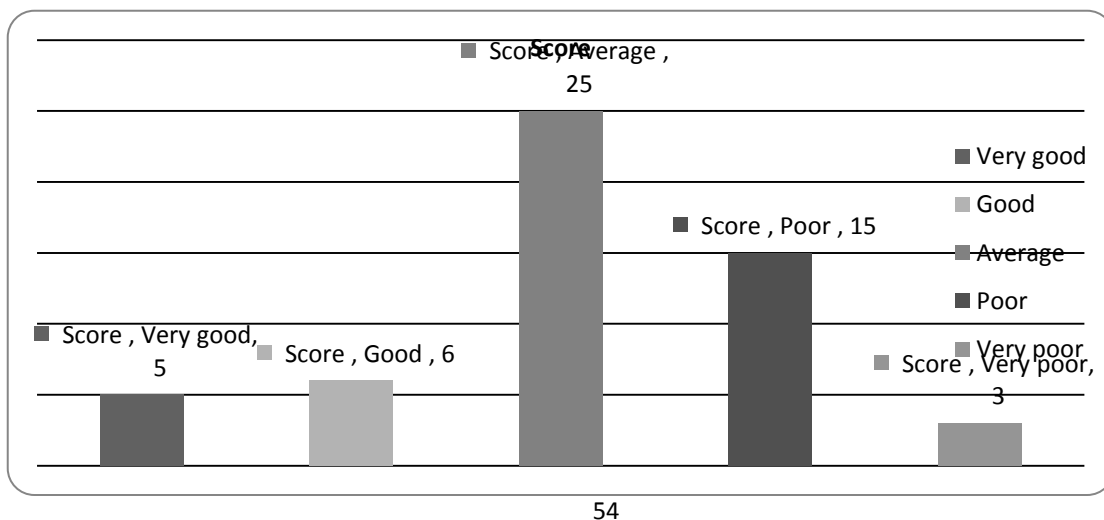
official has had sight of the other quotes) to ensure he wins the bid. This aspect is a flaw in the procurement process, as there do not seem to be controls in place at this point. For instance, a procurement official merely has to select three quotes from approved suppliers, and there is no control on the quote process, thus an official may inform a supplier of the prices, etc. so it may submit a competitive quote. The bidder may have colluded with the Procurement staff to either get short-listed originally or to expedite this particular order. On delivery, the supplier may have to work at the accounting level to expedite payment for the goods, service or works. Given the current delays in payment, this is becoming more prevalent. A supplier indicated that *“it is cheaper to expedite the payment than to raise a bank loan.”* This reveals how suppliers are forced to engage in corrupt practices due to win bids and expedite payment.

Interviews with suppliers established that despite the annually advertisement of prequalification of suppliers the same suppliers are picked each year and are rarely evaluated. They accused the procurement staff of colluding with few suppliers and alleged that the procurement process at the university is flawed. It was observed that suppliers who are engaged by the college lack established offices.

#### 4.7.8 Performance of the UON Tendering Committee

On the rating of the performance of the procurement committee, the data obtained shows 11% of the department heads rated the performance of the procurement committee as above average while 18% rated as below average. This shows that majority of respondents are unhappy with the performance of the college procurement committee as shown in graph 6.

**Chart 5: Performance of the CHSS tendering Committee**





#### 4.7.9 Challenges of the Procurement Committee

In respect of whether there the procurement entity faced challenges, the data obtained from the research conducted depict 75 percent of the respondents are in agreement that they do have challenges in procuring goods and services. A further 18.7 percentages of the respondents said they agreed that, they do not have challenges in procuring goods and services.

**Table 8: Does the entity face challenges**

<b>Respondents</b>	<b>Frequency</b>	<b>Percentage</b>
Strongly agree	11	34.4
Agree	13	40.6
Neutral	2	6.2
Disagree	5	15.6
Strongly disagree	1	3.1
<b>Total</b>	<b>32</b>	<b>100</b>

These tell the story that there are problems faced during by procurement committee in the procurement of goods and service as depicted in table 7above. Further in table 8, corruption was identified as the major challenge, followed by limited use of information technology 75%, personnel constraints 68.8%, weak coordination with suppliers 68.8%, poor planning 62.5%, Fear of the Public Procurement Law 56.6% while Delay in submission of technical evaluation reports score 53.1%. These findings show that corruption, limited use of technology, personnel constraints and weak coordination with suppliers as major challenges facing the procurement committee. This is also in agreement with challenges identified by suppliers especially corruption.

**Table 9: Challenges faced by the procurement committee**

<b>Challenges</b>	<b>Frequency</b>	<b>Percent</b>
Personnel constraints	<b>22</b>	<b>68.8</b>
Limited use of information technology	<b>24</b>	<b>75</b>
Poor planning	<b>20</b>	<b>62.5</b>
Corruption	<b>32</b>	<b>100</b>
Weak coordination with suppliers	<b>20</b>	<b>68.8</b>
Fear of the Public Procurement Law (Act, 2005 and Regulations, 2006)	<b>18</b>	<b>56.3</b>
Delay in submission of technical evaluation reports	<b>17</b>	<b>53.1</b>

**Summary of Findings of Objective 4**

The study shows that UON has established procurement structure i.e. procurement committee, evaluation committee and inspection and acceptance committee whose membership is drawn from different departments. The meetings of the committee are held on a need basis and there is an enshrined procedure during meetings as evidenced in minutes of the procurement committee meetings. Further there is delay in the submission of evaluation report and inspection of delivered goods and services is not sufficiently done for all delivered goods or services hence the quality and quantity of goods and services is compromised as goods are not delivered as per the specification set prior to purchase. The study further shows collusion between suppliers and procurement staff to win bids and expedite payments hence procurement process is flawed despite procurement staff insisting that their activities are above board, also majority of respondents are unhappy with the performance of the college procurement committee, further the procurement committee faces a number of challenges.

## CHAPTER FIVE

### SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

#### 5.1 Introduction

This chapter deals with the summaries, conclusions derived from the study findings and finally come up with recommendations based on the findings of the research study. The general objective of the study was to examine the Practice and Performance of Public Procurement Process in the University of Nairobi, Kenya.

#### 5.2 Summary

The College of Humanities and Social Sciences is one of the six colleges at UON. It has a Procurement unit that handles all Procurement of up to Kshs. 500,000. The unit is headed by a procurement officer and handles all procurement issues at the college. The principal of the college is the chair of the procurement committee and its members are: Registrar, Internal Auditor, Bursar, Dean, School of business, Dean, Faculty of Arts, Dean School of Law, ICT officer, Maintenance Officer, Procurement Officer and 3 staff of the college procurement college secretariat. The membership of the procurement committee is tandem with the first schedule of the Regulation 2006 on the composition of the procurement committee.

The study distributed 40 interview schedules to sampled staff working at the College of Humanities and Social Sciences and Central Unit, University of Nairobi with 75% response rate. The response rate demonstrates a willingness of the respondents to participate in the study. The researcher also developed a case study of the AIBUMA conference procurement process to investigate trends and specific situations in procurement process.

It is clear that the 72.2% of the selected respondents were men while 92.6% of the respondents were middle aged and elderly hence could give relevant information on the study. 87% of the respondents had worked for UON for a period of more than six years; therefore they had a good understanding of the procurement process and all sampled respondents were drawn from individual involved in procurement process.

### **5.2.1. Adaptation of procurement policies, Act and regulations**

The first objective was to examine the government procurement policies laws and regulation and adaptation by the University of Nairobi. It was established that the Practice of Public Procurement Process in the University of Nairobi has been entrenched and there are structures in place to support the public procurement system at UON though facing challenges. The data shows that UON is a public entity classified as class “B” in the First Schedule, of Regulation 2006 and procurement process at UON is governed by the Constitution of Kenya Article 227, PPDA Act 2005, and the Public procurement Regulation 2006, standard tendering manual and the rules set Public Procurement Oversight Authority. In addition, the findings established that procurement process is manual with a lot of bureaucracy where a lot of paper work is involved. In addition there is a code of ethics for procurement staff but its enforcement is wanting as systems are not in place to enforce it.

### **5.2.2. Types of tendering procedures**

The second objective was to examine the types of tendering procedures practiced by the University of Nairobi, according to the findings competitive bidding is the default procurement method for procurement while other procedures may be employed as an alternative to the open tender process if specific conditions are present; this is supported by the case study that was written about procurement during the AIBUMA conference that is organized annually by the School of Business. Further, the study has established that procurement methods used by UON are largely determined by the thresholds outlined in the regulations although other factors such as influence by senior management, the lead times allowable and the purchasing budget plays an important part in deciding the procurement procedure to be used.

In addition, the findings established that recruitment and selection of staff does not necessarily depend on the job profile and its requirement but other factors such as tribalism, nepotism, favouritism among others. In conclusion, the data shows competitive bidding is the default method of procurement but is also influenced by other personal factors.

The findings also established that procurement process is, long, tedious and bureaucratic and this affects timely delivery of services/goods contrary to the service charter that states “procurement

of goods and services shall be done within one month, and the process lacks transparency and accountability.

### **5.2.3. Procurement Planning Process**

The third objective was to examine Public Procurement planning process. Procurement function plays a key support role in the operations of the college hence the process must be well thought through action plans which are not static. The findings established that plans are formulated and reviewed bi-annually. The findings further show that there is no good cooperation between Procurement Management Unit and user departments in preparation and implementation of the annual procurement plan. Another issue from the findings is that user departments do not know what procurement planning is and its importance to the organization as they think it is the responsibility of the Procurement Management Unit.

Procurement planning and its implementation in UON is more affected by the lack of cooperation between Procurement Management Unit and user department because, in order for Procurement Management Unit to prepare a comprehensive procurement plan it depends more on the submission of schedule of requirements on time from user departments. However, it was also disclosed that lack of support from user departments is caused by lack of understanding of Public Procurement Act 2005 which states the responsibility of each section clearly.

The respondents also agreed that annual procurement plan is an important tool in UON organizations as it assists the organization to conduct its activities effectively and efficiently hence meeting the intended objectives.

### **5.2.4. Performance and structure of Tendering Committee**

The fourth objective assess the performance of the tendering committee in the UON; the finding has established that UON has established procurement structure i.e. procurement committee, evaluation committee and inspection and acceptance committee whose membership is drawn from different departments. The meetings of the committee are held on a need basis and there is an enshrined procedure during meetings as evidenced in minutes of the procurement committee meetings.

In addition the finding has established that there is delay in the submission of evaluation report and inspection of delivered goods and services is not sufficiently done for all delivered goods or services hence the quality and quantity of goods and services is compromised as goods are not delivered as per the specification set prior to purchase.

The study has established that prequalified suppliers are not appraised and rated, collusion between suppliers and procurement staff to win bids and expedite payments hence procurement process is flawed despite procurement staff insisting that their activities are above board. The study has established that staff are unhappy with the performance of the college procurement committee and further stated that the committee faces a number of challenges.

### **5.3 Conclusions**

The study concludes that Procurement is one area that needs careful attention from all stakeholders at the UON because it has a huge budget and if managed in a transparent and accountable manner there will be improved service delivery.

That study concludes procurement methods used by UON are not only determined by the thresholds outlined in the Act and regulations but by other factors such as influence by senior management, the lead times allowable and the purchasing budget which plays an important part in deciding the procurement procedure to be used.

The study concludes that legislation as it stands is effective and reflects best practice processes. However, its implementation will only be effective if there is the political will to enforce it is in place by the management.

The study concludes that UON does not seriously carry out market capability analysis in order to determine where to procure from and at what price. This is contrary to a study by (Byokusheka 2010) that to secure goods and services at competitive prices requires accurate planning and involvement of a number of stakeholders.

The study concludes that Procurement planning and its implementation in UON is more affected by the lack of cooperation between Procurement Management Unit and user department because, in order for Procurement Management Unit to prepare a comprehensive procurement plan it depends more on the submission of schedule of requirements on time from user departments. However, it was also disclosed that lack of support from user departments is caused by lack of understanding of PPD Act 2005 which states the responsibility of each section clearly.

The researcher came up with recommendations that are elaborated in the following section.

#### **5.4 Recommendations**

The study recommends that UON should adhere to its service charter that states “Procurement of goods and services shall be done within one month, and in line with the University and government procurement regulations” in order to enhance service delivery to their clients.

The study recommends that UON to incorporate procurement with the other aspects of functions within the organization, such as Finance, and human resources. An incorporated approach to service delivery will no doubt contribute to the timely, competent and effective delivery of services. Clear communication lines, timely flow of documentation and constant feedback will facilitate the procurement process (Shaw, 2010).

The study recommends that UON should execute the public procurement laws strictly and procurement staff be provided with training in order to improve their understanding and interpretation of the PPDA Act and Regulations.

The study recommends that UON should develop a perfect supervision and accountability mechanism, use of information technology to strengthen the supply side via E-procurement as it has a range of potential benefits for procurement processes.

The study recommends that UON should enforce the code of ethics for procurement staff provided by PPOA

Finally, the study recommends a further research to be carried out in other public procuring entities to find out if the same results can be obtained.

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## APPENDICES

### APPENDIX 1

#### LETTER OF INTRODUCTION

January, 2015

Dear Sir/Madam,

**RE: PERMISSION TO CARRY OUT RESEARCH AT THE UNIVERSITY OF NAIROBI**

I am a student taking a course in Master of Arts in Rural Sociology and Community Development in University of Nairobi. I am required to submit as part of my research work assessment, a research project on “**Public Procurement Process in Kenya: A Review of its Practice in the University Of Nairobi**”. To achieve this, you have been selected to participate in the study to help generate data required for this study. The information provided will be used purely for academic purpose and your name will not be mentioned in the report. Findings of the study, shall upon request, be availed to you.

Your assistance and cooperation will be highly appreciated.

Thank you in advance.

Yours faithfully,

Francis Kinyua Gathua

## APPENDIX 2

### INTERVIEW SCHEDULE FOR NON-COMMITTEE MEMBERS

Dear respondent,

Am a student undertaking a degree course in Master of Arts in Sociology -Rural Sociology and Community development in University of Nairobi carrying out a research on The Public Procurement Process in Kenya: A Case study of its Practice in the University of Nairobi, Kenya. The information you provide will be treated with confidentiality and entirely used for academic purposes.

#### Section A: Background Information

1. Gender: Male  Female
2. What is your age bracket  
 Below 29  
 30-39  
 40-49  
 50& above
3. College/Faculty/ School/Department/ Institute.....
4. Current Position.....
5. How long have you held the above position  
 Less than 5years  
 6-10 years  
 10-14 years  
 More than 15 years
6. What are your main responsibilities  
 Teaching  
 Research  
 Teaching and research  
 Administration

**Section B: Procurement Plans and Performance**

7. Does the unit prepare procurement plan?  yes  No  
8. If yes when did your unit prepare and submit the current plan \_\_\_\_\_

9. What three main items did you include in the current plan?  
\_\_\_\_\_  
\_\_\_\_\_

10. How was the procurement plans prepared in the unit?  
 By self  
 By a committee in the department  
 others (state) \_\_\_\_\_

11. In either case above (10), was the plan discussed in a meeting of your unit  
 Yes  No

12. If No why? \_\_\_\_\_

13. What is the main objective of the current procurement plan \_\_\_\_\_

14. Has the current Procurement Plan been approved by the procurement committee?  
 Yes  No

If No why? \_\_\_\_\_  
\_\_\_\_\_

15. Have you initiated Procurement of goods or services?  Yes  No  
If yes, which three items have you requisitioned?

i) \_\_\_\_\_  
ii) \_\_\_\_\_  
iii) \_\_\_\_\_

16. When did you submit your request?  
\_\_\_\_\_

17. Have you received the items/services requisitioned?  Yes  No



18. If, yes which? a) \_\_\_\_\_ when \_\_\_\_\_  
b) \_\_\_\_\_ when \_\_\_\_\_  
c) \_\_\_\_\_ when \_\_\_\_\_

19. If, \_\_\_\_\_ No \_\_\_\_\_ why?  
\_\_\_\_\_  
\_\_\_\_\_

20. How are the procured good/services by the unit inspected to ensure quality? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

21. Was the inspection done for last goods you received?  Yes  No  
If No, why? \_\_\_\_\_  
\_\_\_\_\_

22. Were you satisfied with the quality of goods/services?  Yes  No  
Why? \_\_\_\_\_  
\_\_\_\_\_

23. How would you rate the performance of the CHSS Procurement Committee?

Very good

Good

Average

Poor

Very poor

24. What problems/challenges have you been facing with procurement in your unit?  
\_\_\_\_\_  
\_\_\_\_\_

**Thank you**  
**Gathua Francis Kinyua**

**APPENDIX 3**

**INTERVIEW SCHEDULE FOR MEMBERS PROCUREMENT COMMITTEE OF CHSS  
/ CENTRAL UNIT**

Dear respondent,

Am a student undertaking a degree course in Master of Arts in Sociology -Rural Sociology and Community development in University of Nairobi carrying out a research on The Public Procurement Process in Kenya: A Case study of its Practice in the University of Nairobi, Kenya. The information you provide will be treated with confidentiality and entirely used for academic purposes.

**Section A: Background Information**

1. Gender: Male  Female
2. What is your age bracket  
 Below 29  
 30-39  
 40-49  
 50 & above
3. College/Faculty/ School/ Department/ Institute .....
4. Current Position.....
5. How long have you held the above position  
 Less than 5years  
 6-10 years  
 10-14 years  
 More than 15 years
6. What are your main responsibilities  
 Teaching  
 Research  
 Teaching and research  
 Administration

**B: Adaptation of procurement Act and regulations**

7. Do the national policies, laws, and regulations regarding procurement of goods/services apply to UON procurement?  Yes  No

If Yes, state the laws, policies and regulations used \_\_\_\_\_  
\_\_\_\_\_

8. Does the UON have its own regulations or procurement procedural manual?  
 Yes  No

9. Do the regulations cover the relevant components of procurement process for goods/services?  Yes  No  
if yes, state the components that are covered

\_\_\_\_\_

10. Is the hierarchy of the sources of procurement rules for procurement of goods well established?  Yes  No

11. Who has the authority to determine procurement rules? \_\_\_\_\_  
\_\_\_\_\_

12. Who has the authority to interpret them? \_\_\_\_\_  
\_\_\_\_\_

13. Who has the authority to overrule them? \_\_\_\_\_  
\_\_\_\_\_

14. Does the system allow/facilitate the introduction of new and innovative techniques and contracting practices for goods, such as e-procurement without compromising basic principles?  Yes  No

If yes, which new and innovative techniques and contracting practices have been introduced?  
\_\_\_\_\_

\_\_\_\_\_ Is

there a published code of ethics for procurement personnel to follow?  Yes  No

If yes, describe its basic features. \_\_\_\_\_  
\_\_\_\_\_

How is the code enforced? \_\_\_\_\_  
\_\_\_\_\_

15. Have there been complaints by suppliers?  Yes  No

If yes, what were the complaints

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How were the complaints resolved?

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16. Are there measures to curb corruption (e.g., anticorruption statutes and/or bodies, whistle blower statutes, anti-bribery provisions, etc.)?

Yes  No

If yes, describe the measures. \_\_\_\_\_

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### **Section C: Procurement methods and Performance**

1. Do procurement methods being used promote competition?  Yes  No

2. List types of procurement methods commonly adopted by the University of Nairobi

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Why are the above tendering procedures selected? \_\_\_\_\_

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3. What is the process of procuring/recruiting staff at UON

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4. Is recruitment done on request or is it an on-going process \_\_\_\_\_

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5. How do you initiate the recruitment process for a position? \_\_\_\_\_

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6. Were all the steps of recruitment followed?  Yes  No

If yes state the steps followed \_\_\_\_\_

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7. If no, why? \_\_\_\_\_

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**Section D: Tendering Committee and Performance**

17. Who are the members of the procurement committee? \_\_\_\_\_

What are the responsibilities of the Procurement Committee? \_\_\_\_\_

Does the procurement committee hold meeting? [ ] Yes [ ] No

If yes, how frequently \_\_\_\_\_

18. What are the procedures of the meeting? \_\_\_\_\_

19. What is the quorum of the meeting? \_\_\_\_\_

20. What is the process of procuring goods / services? (procurement cycle); explain the steps followed \_\_\_\_\_

How is evaluation of tender conducted? \_\_\_\_\_

21. Does the procuring entities maintain an updated list of qualified suppliers

[ ] Yes [ ] No (provide a list)

If yes, how was the list of qualified supplier initially established \_\_\_\_\_

Are suppliers [ ] varied/mixed [ ] fixed?

If fixed why? \_\_\_\_\_

22. Is supplier performance routinely evaluated? [ ] Yes [ ] No

If yes, what criteria are used to assess their performance? \_\_\_\_\_

Does the procurement unit regularly conduct market surveys to update their knowledge of prevailing sources and prices for products? [ ] Yes [ ] No

If yes, when was it conducted \_\_\_\_\_

23. Are suppliers paid on time? [ ] Yes [ ] No

If no, what causes delay in payments? \_\_\_\_\_

24. What is the normal time period from invoice submission to final payment?

25. Has the committee realized any achievements [ ] Yes [ ] No

If yes, what achievements are you proud of as a committee? \_\_\_\_\_

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What challenges/problems does the committee encounter in procurement work?

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**Thank you**  
**Gathua Francis Kinyua**

## **APPENDIX 4**

### **DOCUMENT CHECKLIST**

- Public Procurement and Disposal Act
- UON/CHSS Procurement or procedure manual/ guidelines
- Regulatory authority policies
- List of suppliers
- Procurement committee minutes
- Code of ethics for procurement personnel
- Minutes of tendering committee
- Minutes of evaluation committee
- Inspection and acceptance committee report