

CONTRACT MANAGEMENT AND PROCUREMENT PERFORMANCE OF COUNTY GOVERNMENTS IN KENYA

Bett C. V., & Achuora, J.



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### <sup>1\*</sup> Bett C. V., & <sup>2</sup>Achuora, J.

<sup>1\*</sup> Masters Student, Jomo Kenyatta University of Agriculture and Technology [JKUAT], Kenya
<sup>2</sup> Doctor, Lecturer, Jomo Kenyatta University of Agriculture and Technology [JKUAT], Kenya

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#### ABSTRACT

County Government procurement entities performance is as important and critical to the overall thriving of the counties. County governments' activities may be at risk if its procurement is associated with poor quality, delays and high cost. This study looked at the effect of contract management on procurement performance in the County governments in Kenya. It specifically looked at the effect of contract monitoring and contract management team on procurement performance of county governments in Kenya. The study adopted transaction cost theory and agency theory. This study used a descriptive census research design. Population of the study was the 47 county governments. The study did a census on all the county government. The study used purposive sampling to sample the unit of observation based on knowledge on contract management and procurement performance of the county government. The unit of analysis was the County governments in Kenya. The unit of observation was procurement managers in the County governments. A pilot study was conducted to test for reliability and validity of the research instruments. Cronbach's alpha coefficient was used to test the reliability while relevant theoretical review and experts' views were used to ensure validity of the instrument. The data collected was analyzed with the assistant of statistical package for social science (SPSS) software. Descriptive statistics (mean, percentages and frequencies) was used to describe the data. Inferential statistic which is multiple regression model was used to test the effect of contract management on procurement performance in the county governments. The study used tables and figures to present the study findings. The study findings revealed that contract management has positive influence on procurement performance in county governments. Contract management team was the most important among the independent variables to the procurement performance of county governments contributing 26.3%. The study concluded that practicing contract management improves procurement performance of county governments in Kenya. The study recommended that county governments should have appropriate contract management teams who will be accountable on the contracts awarded to vendors. It furthermore recommended that County governments should have a robust dispute resolution framework that ensures dispute avoidance, management and resolution.

Key Words: Contract Monitoring, Contract Management Team

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#### INTRODUCTION

A contract is a legally binding agreement written or oral between parties to that agreement to accomplished the terms and conditions as specified in the agreement. According to Arrowsmith, (2017) among the conditions that enable contract to be enforceable is that parties to the contract must accept the terms and conditions to the said contract. There are many types of contract which include sales contract, purchasing contract, trade agreements, intellectual property agreements and partnership agreement (Arrowsmith, 2017). Willmott, (2019) describes the contract of purchase as a contract between a company and a supplier who agrees to deliver products, works or services in compliance with the terms and conditions agreed. The company would then be obliged to accept the products, works or services and pay for the liability generated.

Contract management as deeds of a purchaser during a specific period to guarantee that all gatherings satisfy their legally binding commitment (Bailey, 2018). According to Elsey, (2017) contract the managers for the most part involves arrangement to show up a worthy result that was less cost. This depends on actualities that contract management devours time and it is costly. Furthermore, overseeing agreements ought to envelop contract creation, procurement and investigated whose sole reason targets expanding money related activity while simultaneously lessening dangers.

According to Liberalism, (2016) in world nations, for example, United States of America and Canada, while a few risks can be moved to the contractual worker/sub-temporary workers like money related weight for unfinished task, the ultimate responsibility is with the contracting authority to ensure delivery. It is from this view that contract management is very important and thus contracting authority is needed to monitor vendor implementation to ensure timely delivery of quality goods works and services. Limberakis, (2016) noted that public contracting entities should make

contract management very important because of the unpredictable working condition.

In India, Kumar and Markeset, (2017) on an examination on advancement of execution-based help systems for the Indian oil and gas industry found that an immediate connection among methodologies and agreement execution. In Hong Kong, where debasement has been adequately controlled, huge scale tasks have been overseen successfully. In a survey of the venture, a strategic Transparency International found that the tremendous task had been actualized to a great extent inside spending plan and with insignificant defilement. Among the elements in the accomplishment of the undertaking were: exacting enemy of defilement laws and solid requirement; and clear principles for acquirement of administrations and providers; checking of agreement execution; implementation of responsibility; and guestion goals. To push the significance of task, contract the managers, the universal study led by Aberdeen bunch among 36 organizations on the planet found that ineffectual control and the managers of contract agreements costs business \$153 billion every year (Prosidian Consulting, 2017).

In south Africa, Oliveira, (2015) in his study on management of construction agreements he described contract management as a process that enable parties to a contract to deliver on their obligations. Through contract management, parties can anticipate requirements and respond to situation that arise earlier.

In Uganda through a PPDA capacity building report, (2019) it noted with evidence that public procurement entities had serious constraints in execution and monitoring contracts. Training of personnel specifically on contract management was established. Public procurement entities were required to continuously developed and execute strategies to deal with shortages in contract management. In their exploration on acquisition procedures and execution led in Uganda, Kakwezi and Nyeko (2019) supported that to guarantee acquiring execution nature of obtained merchandise and ventures just as opportune conveyance ought not be overlooked as they are straightforwardly connected to terms and states of the undertaking contracts.

Waigwa and Njeru (2016) in their study in Kenya, found that to ensure contracts successful delivery in state agencies, procurement policy framework guideline must be adhered to. They added that, using of information and communication technology devices and training and motivation of to personnel contribute effective contract management. They concluded that it's a crucial requirement to have contract management on all contracts no matter the size and thus agencies must come up with effective policy framework.

Since the state requires to understand its incentive for cash during the time spent the serving its kin, each state enterprise is required to represent its costs (Contract Monitoring Kenya Network, 2016). Hence, contract the board is an important advance in open acquirement as it guarantees that administration or items conveyance is embraced according to the legally binding terms and conditions. The examination will help uncover the impact of compelling agreement the board practice on operational execution of the state organizations in Kenya.

The Constitution of Kenya 2010 created 47 County Government administrative structure. The figure was from the districts acts of 1992 as well as the outline of regulatory area as made under the region. The county government role is to implement development in partnership with the national government through annual budget apportionment. Devolution is intended to improve responsibility by carrying government officials and assets closer to the individuals they are proposed to serve.

According to fiscal strategy paper 2016, the county governments were focused at five broad areas set out in 2015. This was aimed at ensuring sustainable development and improving business environment through financial change and effective spending usage, modernizing the key beneficial parts of domesticated animals and farming, putting resources into productive transport, water and foundation, putting vitality resources into proficiency social administration conveyance and encouraging economic improvement through environmental change adjustment system and calamity administration. Through implementation of this programs county governments aimed at raising productivity and efficiency in the economy, creating productive jobs opportunities and secure livelihood of all citizens (GOK, 2013).

#### Statement of the Problem

ideal procurement system focuses An on effectiveness, where procuring entities meet the regulatory as well as the socio-development and financial objectives of government in a way that is suitable to the acquirement prerequisite. However according to the auditor general report for the financial year 2018/2019 there is widespread misappropriation of funds; for example, Busia County Government paid in excess of 35% for the projects amount which is equivalent to Ksh 691 million under departments of Agriculture and Health and Sanitation, yet by June 2015 which was the deadline for the project delivery, the project had not been completed. This denied the resident prompt and responsive services. Auditor general report for the financial year 2018/2019 indicated that, Meru county government had a pending bill of ksh. 2 billion in which ksh. 1.7 billion is reported to have been spent on construction of buildings and other civil works. These expenditures did not have any payment vouchers and completion certificate support documents. In the same financial year, the auditor general reported that Siava county government had more than ksh. 190 million of the ksh. 739 million development expenditure which was not supported by local purchase orders, invoices, delivery notes and work completion certificates. Institute of economic affairs, (2018) cited issues such as delay in delivery of goods and services by vendors, variation of prices for supply and project, delivery of poor-quality goods, project,

services and substituting of items in the orders of contract as rampant in county procurement which affect service delivery and value of money.

However, a number of solutions have been suggested (outsourcing, use of information communication technology, supplier management, procurement planning and many more) but with minimal success. According to Prosidian Consulting, (2016) effective contract management has emerged as vital practice to guarantee improve profitability, support compliance, manage risk in public procurement and ensure achievement of value for money. Aluonzi, Oluka & Nduhura, (2016) did a research on the role of contract management on performance of road maintenance projects. Dmaidi, Dwaikat & Shweiki, (2017) also conducted a study obstacles of construction contracting on management while Marco, (2017) examined contract management process in Tanzania. However, while these studies touch on the subject of contract management none is about contract management and procurement performance in county governments in Kenya. Hence this study was conducted to determine the influence of contract management on procurement performance in the county governments in Kenya.

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

- To establish the effect of contract monitoring on procurement performance in county governments.
- To investigate the impact of contract management team on procurement performance in county governments.

#### LITERATURE REVIEW

#### **Theoretical Framework**

#### **Transaction Cost Theory**

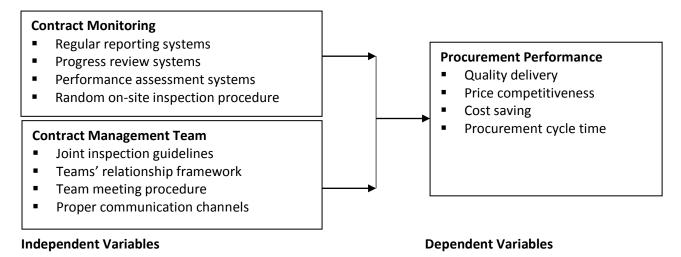
Coase in 1937 developed transactional cost theory. Transaction costs are the comparative cost of planning for project, adapting to any changes and monitoring to ensure its accomplishment in alternative governing structure (Williamson, 1981). Transaction cost are generally the cost incurred in management to deliver task and exist both on contracted services and in-house delivery. According to Williamson (1997), the future uncertainty, limited availability of information and the opportunistic behavior of people as they interact with others causes transaction cost. In contracting, parties to a contract cannot predict all future outcomes hence unable to fully specify the contract. During implementation the supplier may take advantage of the ambiguities in the contract at the expense of the procuring organization. This opportunistic behavior is a risk which increases with increase in ambiguities in the contract. To counter this the procuring entity will have to incur transaction cost by monitoring the contractor performance as per laid down performance measures and by effecting appropriate penalties.

#### Agency theory

Agency theory was developed by Meckling in 1976. The Agency theory is about relationship between two parties to a contract, the principle and the agent. According the Eisenhardt, (2014) the agency relationship arises when one party to a contract called the principle contract another party called the agent to perform a task on his behalf. The principle will therefore delegate his powers of decision making to the agent to ensure that the task is perform as per the principle will. This will also enhance efficiency and productivity of the gent. The agent should thus be a person with specific knowledge and capability to effectively improve the principle asset value. The principle should also have confidence on the agent in order for delegation of decision-making powers to occur.

The agency theory assumes that there is potential conflict of interest between the agent and the principle. The difference in goals will make each party to act in his own self-interest (Xingxing, 2012). This agency problem emanates when the agent goals are different from the principle and it is hard to verify if the agent has carried out the task appropriately. This problem may also come when it is hard to verify if the agent has carried out the task with the expected expertise as they claimed to

have. This agency theory assumption naturally matches with the issues in vendors quality management. Contracting organization faces potential problems when managing vendor quality. The contracting organization will expect the vendor to provide better quality in terms of goods and services. On the other hand, the vendor was reluctant to invest in quality especially if they think the purchasing firm is getting all the benefits.



#### Empirical Review

**Figure 1: Conceptual Framework** 

Tallam and Yusuf (2018) did a study about the influence that monitoring intensity has on performance of procurement. The evidence for the study was collected from public institution in Elgeyo Marakwet County. Relational contract theory and principal agent theory steered the research. It used descriptive research design as a methodology for the study and questionnaires was adopted in collection of data. Data was analyzed using Quantitative data analysis with both descriptive and inferential statistics being used. Descriptive statistics like frequencies, percentages, means and cross tabulation was used to describe the data collected while multiple regression was used to test the hypothesis. The study found that the organizations were able to practice monitoring intensity with the view to enhance procurement performance. The results established a positive but weak correlation between the variables. The strength of association was weak. The study concluded that monitoring intensity was a factor that influences procurement performance in organizations. However, it was noted that other factors were needed to support this practice. It was

recommended that contractors should be allocated with the right amount of resources to complete the projects assigned to them.

Joyce, (2017) focused on contract management practice and operational performance of state corporations in Kenya. The study used a descriptive, cross-sectional survey research design. Data was collected using questionnaires, analyzed using SPSS and presented using charts, tables, and graphs. She concluded that effective contract management is also characterized by a contract management team that has the necessary relevant qualifications, skills, knowledge and experiences for the job. It is also vital to clearly specify the roles and competencies involved in the contract management process. The officials charged with the responsibility should be selected based on objective criteria so as to ensure they have the required technical knowledge as well as skills, such as, negotiation skills, cooperation skills, and communication skills.

#### METHODOLOGY

The study adopted a descriptive research design. The target population for this study was 47 procurement managers from the 47 county governments' procurement units. The unit of analysis for the study was 47 county governments in Kenya. This study however used census technique. Census is the study of every unit, everyone or everything in a population. This study used questionnaires to collect primary data. The researcher dropped the questionnaires and gathered them later. Data collected was first cleaned, classified and then coded to facilitate analysis. They were then analyzed using descriptive and inferential statistics with the help of statistical package for social science (SPSS) version 23.0.

#### **RESULTS AND DISCUSSION**

Fowler (2016) defined the response rate as the number of people who responded to questions divided by the total number of respondents in the survey. A total of 47 questionnaires were administered to procurement managers from each of the 47 county governments that did not participate in the pilot study. Out of the 47 questionnaires administered, 45 were correctly filled and returned representing a 95.2 percent response rate. The results of the research were adequate enough to be used to draw credible conclusion on the study.

#### **Descriptive Statistic Results**

#### Contract Monitoring

The study on this section, aimed at establishing the extent to which contract monitoring is practiced in the counties. The questionnaire focused on set measures of contract monitoring which included regular reporting systems, progress review systems, performance assessment systems and random onsite inspection procedure. The study findings were as shown in Table 1.

As per the findings, majority of the respondents moderately agreed that county governments used regular reporting system for vendors' progress on every contract shown by a mean of 3.82. Most of the respondents strongly agreed that county governments conduct regular review meetings on the progress of contractors (M=4.54). There was a moderate agreement that the county governments systems of assessing performance of vendors is effective (M=3.67). On whether the county governments conduct random onsite visit to inspect the delivery of works by the contractors most of the respondent strongly agreed with as shown by a mean of 4.53.

Table 1: Contract Monitoring and Procu	rement Performance
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Statements		1	2	3	4	5	Total	Mean	StdDev
The county uses a regular reporting	F	2	4	7	19	13	45	3.82	1.047
system for vendors' progress in every contract	%	5	8.6	15.8	42.4	28.1	100	76.4	
The county conducts regular review	F	0	18	6	6	16	45	4.54	0.342
meetings on the progress of contractors	%	0	39.6	14.4	14.4	35.2	100	90.8	
The county system of assessing the	F	0	1	6	28	10	45	3.67	1.074
performance of the vendors is effective	%	0	2.2	13.7	61.9	22.3	100	73.4	
	F	2	4	8	13	19	45	4.53	0.316
visit to inspect the delivery of works by the contractors	%	5	7.9	17.3	28.1	41.7	100	90.6	

#### **Contract Management Team**

The study sought to establish the extent to which county governments uses contract management teams. The respondents were asked to give their views on a number of measures for contract management team in their counties. The focused measures for contract management team included joint inspection guidelines; teams' relationship framework, team meeting procedure and proper communication channels. The study findings were as shown in Table 2.

The respondents were asked to give their views on whether contract management team has guidelines on conducting joint inspection. The study results indicated that majority of the respondents moderately agreed that contract management team has guidelines on conducting joint inspection by a mean of 3.52. The study findings also revealed that most respondents moderately agreed that contract management team has laid down procedures for conducting meetings (Mean=3.91). The study results indicated that most respondents strongly agreed that contract management team has an effective framework to ensure good relationship between the vendors and the county government shown by a mean of 4.77. Lastly, the study findings showed that most respondents strongly agreed that there is proper communication channel between the county and the contractor by a mean of 4.58.

Statements		1	2	3	4	5	Total	Mean	Std. Dev.
Contract management team has	F	28	12	0	0	5	45	3.52	1.115
guidelines on conducting joint inspection	%	62.6	26.6		0	10.8	100	70.4	
Contract management team has laid	F	0	12	5	28	0	45	3.91	0.275
down procedures for conducting meetings	; %	0	26.6	10.8	62.6	0	100	78.2	
Contract management team has an	F	0	0	5	27	13	45	4.77	0.350
effective framework to ensure good relationship	%	0	0	10.8	59.7	29.5	100	95.4	
There is proper communication channel	F	0	0	5	19	21	45	4.58	0.223
between the county and the contractor	%	0	0	11.7	42.4	46	100	91.6	

#### **Inferential Statistics Results**

#### **Multiple Regression Model**

The total variation (the adjusted  $R^2$  of the study model was 0.812 with the  $R^2 = 0.891$ ) in the procurement performance of county governments was 89.1% explained by contract management (R Square=0.891, Standard Error=0.0812). This means that the linear regression explained 89.1% of the variance in the data hence 89.1% of the variation in procurement performance is accounted for by contract management (Contract monitoring, Contract management team). Consequently, 10.9% of change in procurement performance was accounted for by other factors out of the study.

Analysis of variance was used to determine if the multiple regression model was fit for the data. The F critical at 5% level of significance was 3.23. Since F

calculated is greater than the F critical (value = 16.853), this showed that the overall model was significant. The significance value was 0.001 which was less than 0.05 thus the model was statistically significant in predicting how contract monitoring and contract management team affects procurement performance of county governments.

T-test of the statistical significance of each regression coefficient was conducted in order to determine the beta which indicates how strongly each independent variable affects the dependent variable. The results showed that contract monitoring had a positive and significant effect on procurement performance of county governments ( $\beta$ =0.170, p<0.05). Contract management team had a positive and significant effect on procurement performance of county governments performance of county governments ( $\beta$ =0.263, p<0.05).

#### **Table 3: Multiple Regression Model Analysis**

Model	R	R Square	,		Std. Error of the Estimate			
1	.921 <sup>ª</sup>	0.891	0.812	0.0812				
ANOVA		_	_		_			
Model		Sum of	df	Mean	F	Sig.		
		Squares		Square				
1	Regression	15.338	4	3.835	16.853	.001 <sup>ª</sup>		
	Residual	4.302	149	0.057				
	Total	19.64	45					
Coefficients <sup>a</sup>								
Model	Unstandardize Coefficients	ed	Standardized Coefficients	Т	Sig.			
	В	Std. Error	Beta					
(Constant)	0.369	0.224		1.648	0.007			
Contract monitoring	0.17	0.026	0.304	6.604	0.001			
Contract management team	0.263	0.024	0.445	10.744	0.001			

From the findings, the statistical significance of each of the independent variable showed that the variables were statistically significant in their effects in procurement performance of County governments.

#### **Table 4: Optimal Model**

Variables in the Equation

	В	S.E.	Wald	df	Sig.
Step 1a			0.101	2	0.041
Contract monitoring	0.017	0.433	2.318	1	0.028
Contract management team	0.263	0.428	0.004	1	0.002
Constant	0.369	2.217	0.486	1	0.048

## Contract Monitoring and Procurement Performance

The first study objective was to examine the effect of contract monitoring on the procurement performance of county governments. The results of the regression analysis were ( $\beta$ =0.170, p<0.05). This implied that contract monitoring had a positive and significant effect on procurement performance of county government. It means that every adjustment in one unit of contract monitoring would results in a 0.170 change in procurement performance when all other variables are kept constant. Similarly, Pimpong and Laryea (2016) in their study revealed that contract monitoring has a statistically substantial positive relationship with performance of the firm. Contract monitoring offers beneficial information on the performance of the firm at different sectors and thus gives an important guide on the allocation of resources. Therefore, county governments that practice regular reporting systems realize effective procurement performance by providing useful information for procurement managers to evaluate performance. Progress review systems enable the procurement entity to focus its energies on areas that need improvement. These results were also in agreement with results by Cruz and Marques, (2016) who indicated that a firm is said to practice contract management if it conducts effective appraisal on deliverables. Agreement checking might be seen as a safeguard work; a chance to decide contractual worker's requirements for specialized help; and a significant hotspot for data concerning the adequacy and nature of products/administrations gave.

# Contract Management Team and Procurement Performance

On contract management team the results of the regression analysis were ( $\beta$ =0.263, p<0.05). The results showed that contract management team had a positive and significant effect on procurement performance of county governments. Coefficient parameter of contract management team is 0.263 meaning that for every change in one unit of contract management would results in a 0.263 change in the procurement performance of county government while all other variables are kept constant. These findings concurred with Muthoka and Ogutu (2017) who noted that effective communication contract in management, particularly between clients and contractors is vital as these provide a valuable contribution during implementation of projects.

#### CONCLUSIONS AND RECOMMENDATIONS

The study concluded that contract management has influence on procurement performance in county governments. The study revealed that contract monitoring has a significant effect on procurement performance. When a county government has effective regular reporting systems, progress review systems, performance assessment systems as well as random on-site inspection procedure, it will enhance its procurement performance. Contract monitoring ensures that all parties to the contract fully meet their respective obligations as efficiently and effectively as possible, delivering the business and operational outputs required from the contract and providing value for money.

Furthermore, contract management team had a significant effect on procurement performance. This implies that having joint inspection teams; teams relationship framework, team meeting procedure

and proper communication channels impacts positively on procurement performance in county governments. The outcome of the study illustrates that contract management team has had a critical positive impact on procurement performance within Kenya's devolved governments.

#### **Recommendations of the Study**

In this part, the study made and presents the recommendations for practice and policy as well as suggestion for further studies. The study made the following recommendations as per the conclusion of the study.

On contract monitoring the study recommended that contract monitoring should be practiced within the county governments. This can be achieved by ensuring that county governments have regular reporting systems, progress review systems, performance assessment systems as well as random on-site inspection procedure.

As regards contract management team, the study recommended the management of the county governments to ensure that they have appropriate contract management teams who will be accountable on the county governments' contracts. Moreover, they should put in place proper communication channels to ensure smooth exchange of information between the contractors and county governments. There should be an effective framework for ensuring good relationship with the vendors. The county governments should have existing laid down procedures for conducting meetings with suppliers and guidelines for joint inspections. The devolved governments to form contract management team in accordance with PPADA 2015 that will coordinate and delegate the various contract activities, ensure experts are properly engaged, delegation of duties to sub committees and actively engaging Inspection and Acceptance Committees to ensure delivery of the correct goods and services when needed and to enhance transparency and accountability. This will help to enhance procurement performance in county governments.

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