

# **FACTORS AFFECTING IMPLEMENTATION OF PUBLIC PROCUREMENT PROCEDURES AND PRACTICES IN ELGEYO-MARAKWET COUNTY**

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**Received:** 3<sup>rd</sup> November 2015

**Accepted:** 10<sup>th</sup> November 2015

Full Length Research

**Available Online at:** [http://www.iajournals.org/articles/iajpscm\\_v1\\_i5\\_121\\_135.pdf](http://www.iajournals.org/articles/iajpscm_v1_i5_121_135.pdf)

**Citation:** Khadija, R. & Kibet, Y. (2015). Factors affecting implementation of public procurement procedures and practices in Elgeyo-Marakwet county. *International Academic Journal of Procurement and Supply Chain Management*, 1 (5), 121-135

**International Academic Journals**

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## **ABSTRACT**

The main purpose of the study was to examine the factors affecting implementation of public procurement procedures and practices in the devolved government structure. The specific objectives of the study were: to examine the contributions and roles of human capital competency, compliance strategies and leadership and training on the implementation of the public procurement procedures. This study utilized the descriptive design. The study area was Elgeyo-Marakwet. The population of this study consisted of the staff working in the procurement department within Elgeyo – Marakwet County, there are 105 staff working in procurement and the user departments Elgeyo -Marakwet County. The proportionate random sampling was employed in this study. A sample size of 83 was used for the study. The study used structured questionnaire with five point Likert scale questionnaires as the main data collection tool which was administered the questionnaire to the individual staff and collected the information to facilitate the study. The collected data was checked for completeness and consistency before being coded and fed into the Statistical Packages for Social Sciences (SPSS) package version 21. The qualitative data was analyzed and presented using descriptive statistics such as percentages, means, standard deviations and frequencies. The quantitative data was analyzed using the factor analysis. The study made the following conclusions: In the context of the examined Human Capital Comptency factors, the possession of the

requisite technical skills and the provision of the foundational skills by the county government were the top two aspects of HCC affecting the PPP. The technical skills are critical in the procurement officers being able to adhere to the PPP despite the challenges or complexity involved in the procurement process. On the other hand, the ability of the county government to give foundational skills to the procurement officers gives them awareness on what is expected of them. The ability of the county governments to ensure open and fair competition among the bidders was the most significant aspect of compliance strategy influencing implementation of PPP. The public procurement within the central and county governments have been mired with court cases on allegations of the tendering and contracting process not being above the board. Therefore, the county governments ought to put strategies to ensure that there is perception and actual open and fair tendering and procurement being done. The personal integrity of the leader sets the tone for the team member on how they should behave and as such is the most integral component in relations to leadership skills influence on PPP. The study recommended that the county government should pay keen attention to the technical skills of its procurement officials through recruitment, professional exposures in conferences and seminars, and in house training, this would enable the county government to be better equipped to execute prudent PPP, while compliance strategy should look for means to enhance the perception of open and fair competition within the tendering and

contract execution to prevent litigations that interfere with service delivery and lastly leadership skills within the county government; leaders should be vetted to have members of the highest integrity beyond reproach since they act as role models for their team members.

**Key Words:** *Human Capital Competency, Compliance Strategies, Leadership roles, Public procurement procedures and practices*

## **INTRODUCTION**

Public procurement is an area of increasing scrutiny around the world and more so in the developing countries due to its integral role in service delivery. Public procurement uses substantial amount of taxpayers' money further leading to increased public scrutiny. For example, the public procurement is estimated to consume 58% of the public spending in Angola, 60% in Kenya, 40% in Malawi and 70% in Uganda (Mwangi, 2014). These are extremely huge figures compared to the global average of 12-20%. The competitiveness of the government at both the central and in the devolved structure has affected the procurement function (Kariuki, 2013). The procurement function contributes to this competitiveness through the reduction of the operational costs and as a tactical function to a reengineering function within the organization to changes in the environment (Muange, 2013). In this context, Kasimila (2013) notes that efficient procurement process is essential to the success of government's programs as it provides a link between policy and delivery.

Public procurement plays a critical role in the production and service delivery processes as public institutions must source the resources they need to function from third parties (Kariri, 2013). The efficiency of the public procurement plays a significant role in the quality of services provided by government institutions and in the responsiveness of the government to the public needs (Mauki, 2014). The public procurement has become under intense scrutiny due to the amount of the public money involved which is estimated to be between 9-13% of the Gross Domestic Product (GDP) (Muange, 2013). The intense scrutiny is effected through numerous statutes, regulations, policies and directives (Mutua, 2010). In this context, Mungai (2014) notes that the public procurement environment is of increasingly intense scrutiny and accelerated changes driven by technology, program reviews, and public and political expectations for service improvements (Mbae, 2014). Despite the numerous policies and regulations, Kulundu (2014) notes that taxpayers money goes to waste every year due to inefficient and ineffective procurement structures, policies and procedures as well as failure to impose sanctions for violation of procurement rules thus resulting in poor service delivery.

Several challenges affect the implementation of the public procurement practices and procedures. The public procurement involves massive use of resources and there is often a temptation of unethical behaviors. These unethical practices include the unlawful enrichment of the public officials and their friends or families using public resources.

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This leads to wastage of the public resources and procurement of substandard goods that do not serve the citizens appropriately. The unethical behaviors among the public procurement officials is determined by the organizational environment, top management, limited productive resources, lack of intellectual support in the organization, internal environment, legal environment, political environment and socio-economic environments. The lack of clear timelines on when the procurement system should be completed in terms of timely procurement, contract execution and payments makes the process wasteful and bureaucratic. The pay of the procurement officials is another challenge in the procurement profession. In this context, Mutua (2010) notes that the procurement professionals' reward (pay) affected the extent to which they adhered to the ethical code of ethics. The better pay for the procurement officials discourages unethical practices.

### **STATEMENT OF THE PROBLEM**

The creation of the devolved government structure by the Kenya's constitution of 2010 was based on principles of democracy, revenue reliability, gender equity, accountability and citizen participation. The concept of devolution was to bring resources and decision making within the reach of the local citizens for faster development and service delivery. The devolution has thus created the capacity for the county governments to be allocated development resources from the national resources as well as to collect revenues from the citizens in their jurisdiction. This is to enable the county government undertake developmental activities within their jurisdiction. The county governments are undertaking massive infrastructural developments within their areas that utilize significant taxpayer's resources. Because of the huge amounts involved, the transparency surrounding public procurements within the county government has emerged as a sensitive area due to the public scrutiny and the politicization of aspects involving public procurement. The devolved government structure and the public procurement in this structure has been viewed as a means of political patronage in awarding government tenders and a means to transfer public money into private hands at a local level. There has been accusation of imprudent usage of the public money and the lack of value for the projects undertaken with the public payers' money. (an example is where an 2009, anti-corruption body brought the charges against former Tourism Permanent Secretary Rebecca Nabutola and she was jailed for four years while ex-Kenya Tourism Board Managing Director Achieng Ong'ong'a served for three years in prison after they were found guilty of defrauding the ministry of Sh8.9 million. All this was a result of procurement procedures that was flouted in awarding the tender and failing to follow laid down regulations. A majority of the studies on public procurement have focused on the public procurement on the parastatals and the public learning institutions. These studies have not focused on the public procurement within the devolved government structure which is the knowledge gap that this study aims to fill.

### **GENERAL OBJECTIVE**

To find out factors affecting implementation of public procurement procedures and practices in Elgeyo-Marakwet County

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## **SPECIFIC OBJECTIVES**

1. To examine the contribution of Human Capital Competency in the implementation of the public procurement procedures.
2. To evaluate the compliance strategies to public procurement regulations in the implementation of public procurement procedures.
3. To determine the role of leadership in the implementation of public procurement procedures.

## **THEORETICAL FRAMEWORK**

### **Resource Based View**

Penrose developed the Resource Based View (RBV) in 1959 that argues that an organization is a collection of the physical and human resources (Mutua, 2010). The resources were further categorized as the physical and intellectual assets. The intellectual capital involves the employee skills, knowledge and individual competencies (Njoroge, 2012). The RBV theory advocates that a resource should provide economic value, should be scarce, and non-substitutable (Kariuki, 2013). This theory was applicable in this study in the context that the research is interested in establishing the role of the human capital (competence and training) on public procurement within the county government (Muange, 2013).

### **Ethics Based Theory**

This theory advocates for the self-regulation of entities such as the public procurement departments in the county government to ensure market efficiency (Mbae, 2014). The theory is the basis of the code of conduct among professionals such as the procurement officials (Mwangi, 2014). The efficient market functioning is negatively imparted by the unethical practices such as corruption. In the context of this study, the theory is applicable since the integrity of the public procurement process and the adherence to the laws concerned is dependent on the procurement officials acting in an ethical way (Njoroge, 2012).

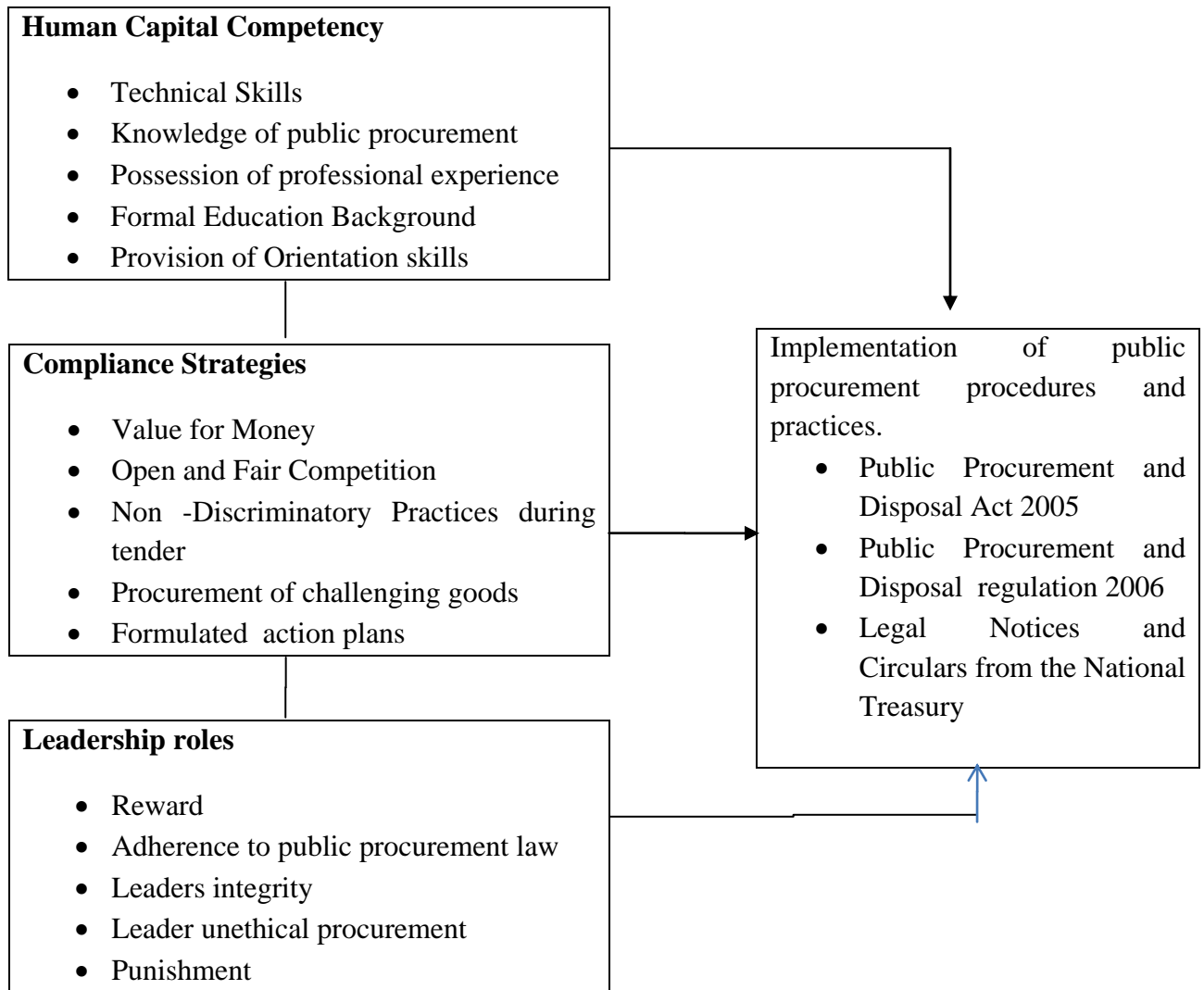
### **Theory of Internal Control**

The effective internal control mechanisms is an integral component of sustainable and efficient public procurement practices in an organization (Langat, 2012). The internal controls are defined as the whole systems of control, financial and otherwise established by management in order to carry on the business of the enterprises in an orderly and efficient manner (Ngotho, 2014). On the other hand, Mutua (2010) define internal control as all the policy and procedure adopted by the directors and management of an entity to assist in achieving their objectives, including adherence to internal policies and the safe-guarding of assets. The internal control also ensures the prevention and detection of fraud and error as well as the completeness and accuracy of records, with the timely preparation of reliable financial information (Njoroge, 2012). The internal control

systems in an organization such as the county government ensure there is compliance with the set public procurement rules and procedures (Kulundu, 2014).

## CONCEPTUAL FRAMEWORK

### Public Procurement Procedures and Practices



Source: Elgeyo-Marakwet County (2015)

**Figure 1: Conceptual Framework**

### Human Capital Competency on public procurement

According to Mungai (2014), competency refers to the specified skills, knowledge, attitudes and behavior necessary to achieve a task, activity or career. Organizations may sometimes distinguish between competencies and competences with the former indicating the desired personal attributes and behaviors while the latter referring to the knowledge and skill required to



bring about improved performance (Telewa, 2014). Within the context of the technical competencies, they are divided into practical competence, foundational competence, reflexive competence and applied competence (Mbae, 2014). The practical competence refers the demonstrated ability to perform a set of tasks while the foundational competencies show the demonstrated ability of what and why to carry out tasks (K. Njoroge, 2012). The reflexive competence explains the ability to integrate actions with an understanding of action while applied competence shows a demonstrated ability to perform a set of tasks with understanding and reflexivity (Kulundu, 2014).

The human capital competency affects the performance of the public procurement within the county government procurement officials (Mbae, 2014). The human capital competence can be assessed through the level of education (diploma, degree, post graduate etc.), education specialization, procurement knowledge, professional experience and the technical skills (Mauki, 2014). The efficiency of the staff on the public performance is enhanced by the superior and specialized level of education qualification. In this context, Muange (2013) argues that the possibility of the increase in motivation and subsequent performance lies with having staff with superior level of education which is an aspect of staff competency.

Despite the procurement practice is changing around the world and there new dynamics every day, the need for professional experience is of critical concern to the public procurement professionals (Mungai, 2014). According to Langat (2012) professional experience is paramount in enhancing the performance and competitiveness of an organization. This is because the public procurement officials who have the requisite procurement and supply skills are able to execute their duties in a knowledgeable, empowered and motivated to carry out their duties (Muange, 2013). The technical skills are an important element in getting things right first time in the quest towards Total Quality Management that ensures efficiency and effectiveness of the purchasing function (Ngotho, 2014). It can be inferred that purchasers getting things right first time for continuous improvement characterize the performance of the procurement function (Simbiri, 2010).

### **Compliance Strategies Used on Public Procurement**

The firms that utilize the public funds in the public procurement such as the county governments must embrace compliance strategies and other strategies to ensure that the public procurement policies and principles are adhered to (Kariuki, 2013). The procurement principles include value for money, open and fair competition, accountability and due process, fair dealing and non-discrimination (Muange, 2013). To ensure the value for money, there is need to maintain a delicate balance between the bidding administrative costs and the value of the goods being procured (Mbae, 2014). Therefore, the concept of protecting the cost structure and the minimization of costs is of integral importance to the public procurement (Mutua, 2010).

Several strategies can be put in place to ensure adherence to the spirit and requirements of the public procurement (Mutua, 2010). These may include sourcing, developing and maintaining good relationships with suppliers, developing suppliers, and adopting short to medium term contracts to take advantage of competing offers (Mauki, 2014). Other strategies include using standard inputs so that suppliers can be switched easily, centralized procurement to use purchase leverage, negotiation, and supplier segmentation among others (Kulundu, 2014). One of the major strategy used in public procurement include the use of the Kraljic supplier positioning model that group items dependent on the procurement difficulty and relative expenditure (Chirchir, 2013).

The items under the group one that are easy to procure and are of relatively low cost should have the public procurement officials looking for efficiency and cost minimization (Mungai, 2014). This is because the items are relatively standardized, easily available and low switching costs (Simbiri, 2010). In this context, the suitable methods of public procurement include quotation's request, low value procurement methods and term contracts (Telewa, 2014). Under the group 2 category, the items are easy to procure but of relatively high cost.

The public procurement officials have the potential to get massive discounts if the procurement process is well managed (Oyugi, 2012). The methods suitable for the public procurement include open tendering, restricted tendering and request for projects (Wekesa, 2012). The group 3 category has the potential to sabotage the work that need be achieved thus requiring open tendering, restricted tendering, direct procurement and requests for quotations (Mwangi, 2014). The group 4 items require open tender or prequalification tender on the account of the difficulties in procurement. These may be emergency items or highly specialized items (Mungai, 2014).

### **Role of Leadership on Implementation of Public Procurement Procedures**

Leadership has been defined as the process of social influence in which one person is able to enlist the aid and support of others in the accomplishment of a common task (Irungu, 2010). On the other hand, Gikunda (2014) argues that leadership is the art or process of influencing people so that they strive willingly and enthusiastically towards achievement of group goals. The role of the leadership on the implementation of the public procurement procedures is linked to the wider concept of the role of the leadership on organizational performance (Mwangi, 2014). There are different leadership styles such as the transformational leaders, transactional leaders, democratic leadership and autocratic leaders amongst others.

The transformational leadership is perceived to have an influence on an organizations' performance (Muthike, 2014). Transformational leaders are those who stimulate and inspire followers to both achieve extraordinary outcomes and, in the process, develop their own leadership (Leparleen, 2014). Transformational leaders' help followers grow and develop into leaders by responding to individual followers' needs by empowering them and by aligning the objectives and goals of the individual followers, the leader, the group, and the larger organization (Ngunjiri, 2013). Evidence has accumulated to demonstrate that transformational leadership can



move followers to exceed expected performance, as well as lead to high levels of follower satisfaction and commitment to the group and organization (Muhia, 2014). This kind of leadership is critical in a struggling branches or departments or where there is weak teamwork.

Nkirote (2013) describes three forms of transactional leadership: active management by-exception, passive management by-exception, and constructive transactional. Passive management-by-exception involves setting standards but waiting for major problems to occur before exerting leadership behavior (Nyongesa, 2014). Leaders who demonstrate active management-by-exception pay attention to issues that arise, set standards, and carefully monitor behavior (Wangithi, 2014). A constructive transactional leadership leader set goals, clarifies desires outcome, exchange rewards and recognition for accomplishment, suggest and consults, provides feedback and give employees praise when it is observed.

The democratic leader considers the ideas and opinions of workers but still makes the final decision. The leader thus allows the staff to participate in the decision-making within the framework of the mission and objectives of the bank (Langat, 2012). The leader must get the views of the group while maintaining the control of the group. The leader who is democratic allows his team to decide how the task should be tackled and who should perform which task. Mungai (2014)notes three advantages of democratic leadership style. They include promoting high morale among workers, freedom workers to exercise their responsibilities and flexibility in organizations. He further notes that one disadvantage of democratic leadership is the delay in decision-making.

## **RESEARCH METHODOLOGY**

### **Research Design**

This study utilized the descriptive design. The survey descriptive design involve posing a series of questions to willing participants, summarizing their responses with percentages, frequency counts, and other statistical indexes and then drawing inferences about a particular population from the responses of the sample. This research design was ideal for this study as the researcher was interested in gaining knowledge on the factors affecting the implementation of procurement procedures and practices in county government of Elgeyo-marakwet.

### **Target Population**

The population of this study consists of the staff working in the procurement department and user departments within Elgeyo –Marakwet County, there are 105 staff working in procurement and the user departments within the Elgeyo -Marakwet County.

### **Sample Size and Sampling Techniques**

The Yaro Yamane’s simplified formula as provided by Njiru (2012) was used for the calculation of the sample size. The proportionate random sampling was utilized for the study. This means

that the sample size used in the County was proportional to its numerical strength in the population. However, within the counties the sample members was randomly selected.

### **Data Collection**

The data was collected using a structured questionnaire with five point likert scale questionnaires. The likert scales are ideal measurements of the level of agreement or disagreements as such are used in the measurement of perception, attitude, values or behaviours. The questionnaire was divided into five subsections these were Parts A, B, C, D and E. The first part consisted of the demographic information would the rest of the sections would each examine a specific research objective. The pretesting of the questionnaire was conducted using 11 respondents that constitute 10% of the sample respondents. The sample constituted different department and user that worked close with procurement department. The piloting test was conducted to Nandi county government.

The cronbach alpha coefficient of 0.7 and above was used to test the reliability of the questionnaire. The content validity was used for ensuring validity in this study. The researcher sought permission from the relevant Elgeyo-Marakwet County authorities to conduct the research. Then visited Elgeyo-MarakwetCounty notifying them of the research intentions. The researcher administered the questionnaire to the individual staff and collected the information to facilitate the study.

### **Data Processing**

The collected data was checked for completeness and consistency before being coded and fed into the Statistical Packages for Social Sciences (SPSS) package version 21. The qualitative data was analyzed and presented using descriptive statistics such as percentages, means, standard deviations and frequencies. In addition, to determine the level of significance between the independent variables and the dependent variable, thus Multiple Regressions test was carried out. The study also adopted a Fixed-effects model which assumes that the data came from normal populations which may differ only in their means.

## **RESEARCH RESULTS**

The multiple regression analysis was undertaken to examine the manner in which the independent variables influenced the dependent variable, adherence to the implementation of public procurement procedures and practices in the county governments is only cumulatively accounted for by the human capital competence, leadership skills and compliance strategies to a tune of 14.3%.

**Table 1: Model Summary for Multiple Regressions**

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.378 <sup>a</sup>	.143	.116	.52179

a. Predictors: (Constant), Human Capital Competence, leadership skills, Compliance Strategies

**Table 2: Coefficients**

Model		Unstandardized Coefficients		Standardized Coefficients		
		B	Std. Error	Beta	t	Sig.
1	(Constant)	1.091	.289	-	3.775	.000
	Leadership skills	.440	.122	.410	3.614	.000
	Compliance Strategies	-.264	.120	-.263	-2.194	.031
	Human Capital Competence	-.251	.126	-.203	-2.001	.048

a. Dependent Variable: Implementation of Public Procurement procedures and Practices in County Government.

Therefore, the equation for predicting the implementation of public procurement practices in county government (y) is determined by the below equation:

$$Y = 1.091 + 0.440 (\text{leadership skills}) - 0.264 (\text{Compliance Strategies}) - 0.251 (\text{Human Capital Competence}).$$

**Human Capital Competency and Public Procurement Procedures and practices**

The human capital competency had five components that is possession of the technical skills, knowledge of the public procurement procedures and practices, possession of sufficient professional experience, formal education background, and the provision of required foundational and orientation skills within Elgeyo-Marakwet county governments.

**Compliance Strategies and Public Procurement Procedures and practices**

The compliance strategies had five components that are strategies to ensure value for money for procured goods, open and fair competition, and non-discriminatory practices during tendering, procurement of challenging goods, and follow ups on formulated action plans.

**Leadership Skills and Public Procurement Procedures and practices**

The leadership skills had five components that is reward for good work done, team leader’s emphasis on need to adhere to public procurement laws, team leader’s personal integrity

inspiring team members to shun unethical behaviors, un conducive environment for unethical procurement practices and punishment of the errant procurement staff.

## **CONCLUSIONS**

In the context of the examined Human Capital Competency factors, the possession of the requisite technical skills and the provision of the foundational skills by the county government were the top two aspects of HCC affecting the PPP. The technical skills are critical in the procurement officers being able to adhere to the PPP despite the challenges or complexity involved in the procurement process. On the other hand, the ability of the county government to give foundational skills to the procurement officers gives them awareness on what is expected of them. The ability of the county governments to ensure open and fair competition among the bidders was the most significant aspect of compliance strategy influencing implementation of PPP. The public procurement within the central and county governments have been mired with court cases on allegations of the tendering and contracting process not being above the board. Therefore, the county governments ought to put strategies to ensure that there is perception and actual open and fair tendering and procurement being done. The personal integrity of the team leader is the most significant factor in the context of the leadership skills critical for implementation of the PPP. The personal integrity of the leader sets the tone for the team member on how they should behave and as such is the most integral component in relations to leadership skills influence on PPP.

## **RECOMMENDATIONS**

The study recommends that with establishment of HCC within the Elgeyo-Marakwet county government they should equip the procurement staff with required technical skills, ensure that recruitment of procurement staff is done competitively, professional exposures in conferences and seminars, and in house training this will enable procurement staff to execute prudent Public procurement procedures and practices.

The study also recommends that with the establishment of Compliance strategy, procurement officer within the county should adhere to Public Procurement and Disposal Act 2005, Public procurement and Disposal regulation 2006 when they are undertaking the procurement process and contract, this will enable the Elgeyo-Marakwet county government to give open and fair competition within their tendering process, this will lead to cost saving, quality commodity, efficient and effective service delivery and lastly prevent litigations that interfere with service delivery.

The study recommends that with establishment of leadership within Elgeyo-Marakwet vetting should be conducted to all the team leaders to ensure their suitability to lead and influence their team, also proper training should be conducted to the members so that they can understand the consequences of not adhering to Public Procurement. This will ensure that they engage members

of high integrity beyond reproach, and it will also reduce pressure of internal factors within procurement.

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