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Creating a suitable contract compliance environment in state departments in Uganda: A developing economy perspective

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ABSTRACT

Purpose of the study: The purpose of the study was to determine the enabling factors necessary for contract compliance and how they can be effectively used to assist Procuring and Disposing Entities (PDEs) in the Ugandan context.

Design/methodology/approach: The study adopted an interpretivist approach utilising the qualitative methodology that collected data from twenty one telephonic interviews and two focus group discussions via the Zoom online platform. Participants were purposefully selected based on their knowledge, experience and responsibilities. Thematic and content analysis were used to analyse data. This was done in sequential phases, namely: data familiarisation, generating codes, identifying themes, constructing thematic networks and drawing conclusions from the data.

Findings: Findings indicate that the critical factors for creating an enabling environment include: communication, openness, compliance checks, ethical orientation and stakeholder involvement.

Recommendations/value: Based on these findings, interventions are proposed that relate to how poor levels of contract compliance in state departments can be improved within a developing economy context.

Managerial implications: In addressing the poor contract compliance levels in state departments, the study encourages that PDU managers should establish information outreach centres and online platforms, cultivate a trusting information sharing environment, provide an online checklist and establish a verification system with

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secure log-ins and passcodes for authorised access to confidential documents.

Keywords

Communication; compliance checks; contract compliance; ethical orientation; openness; stakeholder involvement; procuring and disposing entities; state departments; Uganda

JEL Classification: H57

1. INTRODUCTION

Contract compliance has attracted much attention across the globe (Adeniyi *et al.,* 2020) and governments worldwide spend approximately US$9.5 trillion each year on public procurement (Laikram & Pathak, 2021). According to the Organisation for Economic Co-operation and Development Report (2017), money spent on public procurement represents 47 percent in Belgium, 44.8 percent in Italy, 44.5 percent in Japan and 42 percent in Germany of each country's respective budget allocation. Additionally, more than 15 percent of GDP in Czech Republic, Sweden, Netherlands and Finland is spent on public procurement contracts (Kyriacou & Roca-Sagalés, 2021). In United States, annual federal procurement stood at US$250 billion and US$367 billion in the United Kingdom (Basheka, 2021). In South Africa, public procurement expenditure topped R963 billion by 2017 (Brunette *et al.,* 2019) and Mutangili (2019a) notes that approximately 10percent of East African countries' Gross Domestic Product (GDP), where Uganda belongs is annually spent on public procurement contracts.

Contract compliance has been emphasised by procurement regulators worldwide due to its role in enhancing transparency, accountability, efficiency and resource usage in addition to improving performance in public service delivery (The World Bank Group, 2017a). Contract compliance aims at ensuring professionalism, value for money and competitiveness in the public sector procurement systems (Mutangili, 2019) and ensures the equal treatment of bidders, irrespective of their tribe, race, nationality or political affiliation.

The government of Uganda instituted a number of bodies, such as the Public Procurement and Disposal of Public Assets (PPDA) Authority, the Office of the Auditor General, the Inspector General of Government (IGG), the Public Accounts Committee and the Anticorruption Coalition to improve compliance and complement efforts towards achieving sustainable growth and development (Kawooya *et al.,* 2020). Despite Uganda being a leader in Africa in the implementation of public procurement reforms, the contract compliance levels

remain low, as evidenced by scandal and substantial loss of money (Olwor, 2021). Annually, 300 billion Ugandan shillings is lost due to poorly managed procurement processes (The World Bank Group, 2017b). In 2020, the Office of the Auditor General (2021) cited that the disregard of procurement laws and regulations led to the loss of 8.3 billion Ugandan shillings arising out of poor records management, 12.6 billion Uganda shillings from unjustified direct procurements and 1.6 billion Uganda shillings from poor market assessment. In the same report, five PDEs acquired items valued at 166 million Uganda shillings without signed contracts, having irregular use of direct procurements, late deliveries and payments made before receiving goods (Office of the Auditor General, 2021).

A number of studies into contract compliance have focused on contract management (Byaruhanga & Basheka, 2017), external stakeholders and green public procurement (Liu *et al.,* 2021); public procurement, corruption and poor service delivery in Africa (Dorasamy, 2021). Other authors have emphasised supply chain, leadership and sustainability (Mashele & Chuchu, 2018). Scholars have not fully explored how to create an enabling environment for contract compliance in PDEs in Uganda which this study addresses. The study adopted a multi-theoretical approach to understanding the factors that can assist in creating an enabling environment for contract compliance in PDEs in state departments in Uganda. The study explores some enabling factors necessary for contract compliance and how they can be effectively used to assist PDEs in the Ugandan context. The secondary objectives of the research are:

- to critically assess the literature on contract compliance;
- to identify and implement an appropriate research methodology for this study to assist with the achievement of the overall research objective;
- to empirically explore some critical factors that influence contract compliance in state departments in Uganda;
- to empirically establish what is regarded as important in the creation of an enabling environment for contract compliance; and
- to provide recommendations and guidelines on how to create an enabling environment for contract compliance in state departments in Uganda;

2. LITERATURE REVIEW

2.1 Defining contract compliance

Public procurement is one of the areas where contract compliance is not a common phenomenon. According to Kituyi and Makokha (2020), contract compliance refers to the extent to which individuals comply with mandated contracts. Matto (2021) cites that compliance is designated in terms of adherence, monitoring, enforcement and obedience. It is the failure to observe comprehensible rules and procedures for procurement entities (Chikwere *et al*., 2019). Larbi *et al.,* (2019 adds that it is conformance to the laws, rules, directives or other such frameworks and expectations that govern any procurement management regime. For the purpose of this study, contract compliance refers to implementing the correct process of placing the contract itself, management of the contractual relationship and delivery of goods, services and works in accordance with the public procurement laws.

2.2 Communication as enabling factor for contract compliance

Communication is the act of expressing ideas, thoughts, feelings and opinions. It involves a two-way transfer of information and messages from one person to another or one point to another. All individuals involved in the procurement process participate by means of communication. Messages may be shared and suppliers involved, by word of mouth, on paper or implied, through advertising or expression of interest, holding various meetings and making reports. Communication encompasses dissemination of information on websites, notice boards or newspapers. Some entities have a clearly spelt out procurement dissemination system and processes which parties involved are supposed to follow (Chikwere *et al.,* 2019). Effective communication generates common understanding, changes behaviour and advances information acquisition among PDEs and suppliers (Fakadu, 2018).

2.3 Openness as an enabling factor for contract compliance

It is advisable to provide relevant information and documents to bidders timeously so that they do not have to seek legal redress to obtain the information that they require. The more open the PDE and its officers in dealing with bidders, the better the chance of avoiding litigation and ensuring contract compliance (Kyriacou & Roca-Sagalés, 2021). Public authorities have a duty to be open and truthful in their dealings, especially with regard to procurement contracts, as this also creates opportunities for communication (Matto, 2021). A

PDE has to engage with stakeholders with openness in its transactions due to the potential impact on large groups of people.

2.4 Compliance checks as an enabling factor for contract compliance

Compliance checks may be internal or external, spanning from top level, at the level of the board and management, all the way to the bottom technical level (Dávid-Barrett & Fazekas, 2019). Internal checks are administrative procedures that are instituted to ensure that the right process is followed, and the laws and policies are not flouted. External compliance checks involve acts of the bodies mandated by law to oversee activities of PDEs from institutions such as the Office of the Auditor General, Parliament and Inspector General of Government in Uganda. Compliance checks include forms, authorisations, annual audits and institutional manuals, which if implemented, mitigate associated risks. The checks usually help to detect suspicious cases and fraud resulting from exploitation of procurement procedures (Westerski *et al*., 2021).

2.5 Ethical orientation as an enabling factor for contract compliance

Contract compliance is considered an ethical obligation on all individuals, including government officials, in various aspects concerning their jobs for reasons of justice, beneficence and self-development. Ethics are principles or conduct that governs and individual or group in regard to what is right or wrong and what is good or bad (Rustiarini *et al.,* 2019). Ethical behaviour includes valuing equality, integrity, confidentiality, honesty and freedom in addition to having a positive work attitude (Jacob, 2017). With ethical behaviour, public officials are detracted from abuse of power, avoid conflict, which results in improved efficiency, avoids financial loss and prevents individuals from colluding and abusing their power (Shava & Mazenda, 2021).

2.6 Stakeholder involvement as an enabling factor for contract compliance

Compliance requires that stakeholders are assigned particular duties and held accountable for their actions (Song *et al.,* 2017). Actions of stakeholders involved in the procurement system must be perceived to be appropriate and desirable. For example, PDEs fulfil their mandate of delivering services to the public within the law, with transparency and accountability by sourcing credible, trustworthy suppliers. On the other hand, laws and regulations are enacted by the government to guide the public (Rustiarini *et al.*, 2019). With transparency, stakeholders are provided with opportunities to monitor performance and review decisions made by procurement officials. It is therefore vital that all essential stakeholders including government, civil society organisations, non-governmental

organisations, the private sector, the media and other key players are involved in the contract compliance process.

3. METHODOLOGY

This study was descriptive and exploratory and it used a qualitative approach. A specific situation was studied to see if it gives rise to any general theories and also it was exploratory because it explored an area where little is known. The devised research methodology of the study covered the following:

3.1 Approach

The study was qualitative and based within the confines of the interpretivist paradigm. The qualitative research process is mainly inductive in the way of categorising data and detecting patterns or relationships, outcomes and behaviours among the categories in order to draw conclusions about the empirical data (Pandey & Pandey, 2021). The study explored the participants' perceptions and views regarding creating an enabling environment for contract compliance. Semi-structured interviews and focus group discussions were conducted with auditors, accounting officers, procurement officers, heads of finance departments and heads of procurement departments from PDEs in state departments located in Kampala, Uganda.

3.2 Research participants

In this study, the population consisted of all PDEs located in Kampala, Uganda because it is the most populated district and where the majority of the PDEs are found. For qualitative studies, scholars have differing opinions with regard to the number of participants they recommend, either between 30 and 50 depending on the study (Morse, 1994) or between 20 and 30 (Creswell, 2014). For this study, the sample size was 29 participants from 21 interviews and two focus groups. Information-rich participants who were available and willing to communicate about contract compliance experiences and opinions in an articulate, expressive and reflective manner were selected by purposive and convenience sampling (Creswell & Clark, 2011). Table 1 presents a summary profile of participants.

Table 1: Summary profile of participants

BIOGRAPHICAL DATA	DESCRIPTION	FREQUENCY
Gender	Male	19
	Female	10
Working experience	0-5 years	6
	6-10 years	14
	11-15 years	6
	16-20 years	2
	21-25 years	0
	26 years and above	1
Position in the institution	Procurement Officer	6
	Head, Procurement and Disposal Unit	3
	Head, Finance Department	5
	Auditor	12
	Accounting Officer	3
Level of Education	Bachelors degree	10
	Postgraduate Diploma	1
	Masters degree	15
	PhD	3

Source: Researcher's own construction.

3.3 Data collection

The study explored a phenomenon that required personal perspectives and experiences of participants, therefore a semi-structured interview guide comprising of 26 questions was developed. Twenty one telephonic interviews and two focus group discussions on the Zoom online platform were conducted. The interviews lasted between one to two hours. Participants were asked for their consent and presented with an ethical clearance.

Proceedings were recorded via Otter.ai application and later transcribed verbatim. Transcripts were reviewed while listening to the corresponding recordings to ensure the accuracy of information.

3.4 Data analysis

Data analysis is the process of studying the organised material from various angles in order to discover inherent facts (Pandey & Pandey, 2021). For this study, thematic data analysis and content analysis were employed, to provide an in-depth description and interpretation of participant perspectives captured and converted into verbatim text by means of the Otter.ai application. Deeper meaning from the participants' responses was extracted by replaying the audio recordings, subsequently increasing the accuracy, completeness and reliability of the data. Thematic analysis was done in five phases, namely, data familiarisation, generating initial codes, identifying themes, constructing thematic networks and integration and interpretation. Transcribed interviews were coded into themes proposed by the theories, employed as analytical lenses. The researcher became familiar with the data by reading the transcripts while listening to the audio recordings. Content analysis was used to analyse the data that was gathered from the interviews to develop a better understanding of how to create an enabling environment for contract compliance among PDEs and it was analysed and coded using the six steps of data analysis described by Creswell (2014). The codes were analysed and categorised into themes and sub-themes by identifying patterns across data sets in accordance to the overall research aim (Crilly *et al.,* 2020).

3.5 Trustworthiness of the study

In this study, the researcher ensured the trustworthiness through credibility, dependability, confirmability and transferability (Rose & Johnson, 2020). To obtain credibility, the researcher employed purposive sampling and thematic analysis of the data to ensure accuracy. Transferability was ensured by using an existing methodology that can be replicated for different situations, practices, contexts and future research. For dependability, open ended questions were used in the interviews and focus group discussions. This allowed participants to share their experiences and opinions in own way. Transcripts of interview recordings were also read at least twice, while listening to the audio recordings.

3.6 Ethical considerations

This study considered the issues of informed consent and an ethical clearance number was received from the Nelson Mandela University. Informed consent was also obtained from the participants online and the contents of the consent form were read to the participants before

conducting the interviews or discussions. Ethical considerations, purpose and objectives of the study and the process pertaining to this research were explained to the participants. Ethical principles such as non-maleficence, veracity, privacy and confidentiality were furthermore adhered to.

4. FINDINGS AND DISCUSSION

Five themes namely communication, compliance checks, stakeholder involvement, openness, and ethical orientation were identified and extracted from the data collected. The related subthemes are discussed under each theme in Table 2.

Table 2: Main themes and sub-themes emerging from participant interviews

MAIN THEMES	SUB-THEMES
Communication	• Information sharing • Feedback • Open engagement • Communication channels • Continuous updates
Compliance checks	• Internal controls and external controls • Supplier checks • Whistle blowing
Stakeholder involvement	• Team work • Coordination • Responsibility • Flexibility
Openness	• Advertising • Shortlisting • Open bidding • Transparency • Fairness • Open door policy
Ethical orientation	• Equality • Positive work attitude • Integrity • Confidentiality • Honesty • Freedom

Source: Researcher's own construction

4.1 Communication

To address the research question, communication was identified as the first theme that creates an enabling environment for contract compliance to occur. The sub-themes that

were identified are information sharing, feedback, open engagement, communication channels and continuous updates.

4.1.1 Information sharing

The interview participants noted that exchange of information concerning the law, regulations, policies and the process is vital throughout the contract process. Procurement officers need to give equal access to information for all bidders during the contract process. All facts about the contract are supposed to be provided before, during and after the bidding. Yoon *et al.,* (2020) contend that information sharing eases suppliers' access to information and thereby assist in decision making. Stakeholders have to be provided with relevant information throughout the pre-tender phase during the procurement process (Holma*et al.* 2020).

As noted by a telephone interview participant:

> HPT2: *"…the right action is reporting periodically. So, these reports should be provided and information sharing"*

As confirmed by a specialist in the focus group discussions:

> POF5*: "We are supposed to give equal access to information to all bidders."*

It emerged that sharing of information between the various stakeholders including the suppliers is a crucial step in achieving an appropriate contract compliance environment. Information such as opportunities available, bidding process, outcomes of the bidding process and payment need to be made available to suppliers and user departments, as this improves the contractual relationship and boosts contract compliance.

4.1.2 Feedback

Participants noted that giving and receiving feedback between the entity and the service providers or the suppliers is crucial to the didactic process of communication within the contract process. Concerns, challenges and issues raised by parties to contract are heard and addressed through feedback. Suppliers should be provided with feedback regarding their performance, payments and communication received continuously, from sourcing for bids to payment to contract closure as asserted by Komora and Kavale (2020).

As noted by two telephone interview participants:

> HPT2: *"Have constant feedback from suppliers and also fulfil your obligation".*

POF4: *"…and then giving them feedback about how they fared in an evaluation process."*

It was identified that providing suppliers with feedback at all stages of the contract compliance process is an effective strategy of establishing and maintaining a good relationship between the supplier and the procuring entity, which ultimately leads to improved contract compliance.

4.1.3 Open engagement

One of the most significant actions in compliance is to create opportunities for open dialogue and engagement. The participants mentioned that stakeholders including the entity management, contract managers, PDU, auditors and the public need to be involved by having frequent discussions, monitoring projects and implementing planning and performance reviews. This creates equal opportunities for suppliers to easily compete. This is supported by Adam *et al.,* 2021) who cited that open dialogue can be viewed as the most important avenue for creating an enabling environment for contract compliance to occur.

As mentioned by two telephone interview participants:

ADT7: *"…have open engagement and communication. You don't have to be militaristic; you have to be a good listener as well…"*

AOF1: *"…a lot of engagement, a lot of communication, a lot of reviews, monitoring, how are we doing, how do we improve?"*

From the interviews it was noted that all stakeholders including suppliers, procurement officers, procurement managers and contract managers need to be openly engaged by providing each other with relevant information from the start, during and after the contract is placed. Open engagement increases chances of compliance with contracts by both parties.

4.1.4 Communication channels

Interview participants mentioned that the existence and usage of proper, clear communication channels is vital in the development and maintenance of relationships within and outside the entity. Communication channels involve face-to-face communication, broadcast media, mobile channels, electronic communication and written communication. Public officials and suppliers need to use the right communication channels to achieve a cohesive purchasing environment of satisfactory sourcing, tendering, award and implementation (Frimpong *et al.,* 2020). Stakeholders can be effectively involved through clear communication channels (Akaba *et al.,* 2020).

As noted by a telephone interview participant:

ADT3: *"… there should be mostly communication channels that are clearly spelt out".*

It emerged that management in procuring entities needs to establish and maintain clear, well laid out communication channels which are known to all individuals involved in the procurement process in order to advance contract compliance.

4.1.5 Continuous updates

Interview participants identified that providing and receiving constant updates is important in the procurement process. Internal and external stakeholders need to be in constant communication about emerging issues and information concerning policies, expectations and processes to ensure that all stakeholders are on the same page. Officers in the procurement office, contract managers and accounting officers have to stay in touch with bidders and suppliers and provide updates on matters regarding the bidding process and the contract. For a competitive tendering process, procurement plans have to be reviewed and updated (Ottou *et al.,* 2020). Information needs to be strategically shared with suppliers and other indirect stakeholders and updated to improve the process and maximise the entity's procurement opportunities.

As noted by two telephone interview participants:

ADT8: *"…there is continuous updates of the new developments…."*

AOF2: *"…the contract manager gives updates or reports on the performance."*

Participants emphasised that parties continuously updating each other on the procurement process and contract through reports, meetings, forums and conferences is important for contract compliance to occur.

4.2 Openness

To address the research question, openness was identified as the second theme that creates an enabling environment for contract compliance to occur. The sub-themes that were identified are advertising, shortlisting, open bidding, transparency, fairness and open-door policy.

4.2.1 Advertising

Interview participants mentioned that advertising tenders is a foundation stone of public procurement. It is a requirement that tenders are floated on the website, in the national papers and on noticeboards for the public to know. Advertisements are notices to the public

to publicise an opportunity. Entities through the accounting officer and procurement manager advertise opportunities for bidders to participate in provision of services or goods. This is in line with Kinuthia *et al.* (2019) who relate that advertising all tenders is a regulatory requirement and fosters transparency and competitiveness.

As suggested by two telephone interview participants:

> ADT4: *"I think they advertise in the papers so everyone who is eligible knows…"*
>
> HFD4: "*If you go open competitive by advertising in public media, you display the evaluation criteria and you stick to that…"*

From the telephone interviews with the procurement officer, auditor and head of finance department, it emerged that advertising all services, goods and works on the notice boards, entity websites and newspapers is vital for increased openness which enhances contract compliance.

4.2.2 Shortlisting of bidders

Interview participants identified that shortlisting of bidders is a key issue of prequalification to determine capacity of suppliers. It is a pre-tender process that provides for a selection of possible providers to submit bids. Short listing is used for routine works, services or supplies. The shortlist is published on noticeboards or entity websites for the public to see. Procurement officers and Heads of PDUs are required by law to shortlist bidders who have shown interest in providing the services or products. This is in line with Manika (2020) who relates that shortlisting bidders is an avenue of qualifying bidders to ensure a sufficient level of capability.

As conveyed by two telephone interview participants:

> POF3: *"…we shortlist bidders and we have to display it on the notice board".*
>
> AOF2: "*They display the award, shortlisting awards".*

From the telephone interviews with the procurement officer, auditor and accounting officer, it was established that shortlisting of bidders is important in the prequalification phase to identify suitable providers of services, goods and works that are required by an entity, thus improving contract compliance.

4.2.3 Open bidding

Interview participants noted that open bidding is one of the fundamentals of competitiveness in public procurement contracting. It is a process in which interested applicants offer to

supply goods or services at a specific price, or offer to pay a particular price in exchange for something and this offer is made public. It is considered the ideal bidding process as it fosters competition, creates transparency and offers reduced costs. The law provides the situations under which open bidding is used and procurement officers and procurement managers must therefore follow the law. This is in line with Medzhybovska and Lew (2019) who affirm that open bidding reduces the possibility of illegal actions such as corruption tendencies as it engages all stakeholders including bidders, user departments and procurement departments at once.

As indicated by a telephone interview participant:

> ADT1: *"…in open bidding, you just open the bidding to everyone".*

It was emphasised from the telephone interviews with the procurement officer and auditor that carrying out open bidding is crucial in the sourcing of bidders to allow for competition and adds value for money, which subsequently improves contract compliance.

4.2.4 Transparency

Interview participants mentioned that transparency is of paramount importance since public procurement involves vast amounts of money. Transparency is usually exhibited through making information available to everyone via forums, noticeboards, websites, press releases and adverts. Procurement officers and procurement managers must therefore be viewed to be transparent in contracting. This is in line with Yustiarini and Soemardi (2020) who affirm that transparency increases community participation in government projects, more inclusive procurement and high accountability.

As noted by a telephone interview participant:

> HPT2: *"…if you are to prepare a good contract, is that there should be transparency with government money".*

It emerged from the telephone interviews that transparency in the entire process from pre-contracting, during contracting to post-contract is vital for creating a suitable contract compliance environment. This is reflected in the emphasis of being transparent with government money.

4.2.5 Fairness

It transpired that upholding the fairness principle is key in achieving efficiency and effectiveness of contracting. It is a requirement that activities are carried out with fairness in mind. Fairness involves making decisions and taking actions with the view of remaining

unbiased, complying with the existing laws, policies and procedures and agreeing on what needs to be done to fulfil each party's obligations. Procurement officers and procurement managers must therefore be viewed to be fair to bidders both prospective and existing. This is in line with Yustiarini and Soemardi (2020) who relate that by being fair, one does not discriminate but is accountable for individual actions. Equality eliminates discrimination and creates equal opportunity for all bidders, which in turn fosters competition.

As highlighted by a telephone interview participant:

> HFD1: *"…make sure that every supplier gets a fair chance…"*

As substantiated by an auditor in the focus group discussion:

> ADT11: *"I think if you are transparent in the bidding and you are fair, the suppliers will trust what you do".*

From the telephone interviews and focus group discussions, it emerged that procurement officers should not be biased or engage in any preferential treatment towards any provider while carrying out contract compliance activities. This will be ensured through open bidding and this creates an enabling environment for contract compliance.

4.2.6 Open door policy

Interview participants noted the need for having an open door policy as a strategy to receive and act on feedback, develop trust and improve overall compliance. It is a strategy of encouraging openness and transparency between suppliers, the accounting officer and procurement manager. It is an indication that the parties to the contract have a relationship of mutual understanding and listening to each other. The findings are in line with Harland, Telgen *et al.,* (2019) who noted that to be effective, each party to the contract needs to have an open door policy of voicing their views and concerns and cooperating on the process of the contract.

As noted by a telephone interview participant:

> ADT7: *"The open door policy: each time you come, I'll listen to you".*

An auditor in a telephone interview highlighted that having an open door policy between suppliers and the procuring entity is a strategy that encourages openness and increased trust by engaging and updating all suppliers on the process and outcomes of the bidding process, which ultimately creates an enabling environment for contract compliance.

4.3 Compliance checks

To address the research question, compliance checks was identified as the third theme that creates an enabling environment for contract compliance to occur. The sub-themes that were identified are internal controls and external controls, supplier checks and whistle blowing.

4.3.1 Internal and external controls

Interview participants observed that having internal and external controls in place is important in contract compliance. Controls such as having regular audits, filling in procurement forms, checking funds availability and having restricted access to documents are put in place to guide the process on its rightful path, while at the same time manage associated risks. Controls involve institutional mechanisms, rules and procedures implemented with the aim of increasing transparency and integrity of finances and documents. Auditors, Heads of Finance departments, Heads of Procurement departments and Procurement officers perform relevant checks on the documentations, project sites and deliveries made, against the existing internal and external policies and systems of the institution. This is in line with Dávid-Barrett and Fazekas (2019) who indicate that internal and external controls streamline the process by standardising it to ensure that the law is not violated.

As noted by a telephone interview participant:

> HFD4: *"…we have internal control systems in place like the PPDA Act and regulations which depict a number of them."*

Controls involving internal and external audits from the PPDA authority and performance and contract reviews are vital in mitigating risks associated with non-compliance hence ensuring safety and confidentiality within the contract compliance process.

4.3.2 Supplier checks

Participants indicated that the entity needs to carry out due diligence to really know who the suppliers are, their prices, quality of products or services and the capability to supply goods or provide products. Procurement officers are obligated to establish the financial health of bidders against the required and submitted documents. Sometimes, physical site visits and checking references are part of the supplier checks that are conducted by the entity to establish the truth of information provided and capacity of the supplier to deliver. This is in line with Boadu*et al.,* (2021) who affirm that PDEs need to understand the suppliers to

determine their capacity to deliver and the quality of service they may offer to gauge their performance.

As noted by a telephone interview participant:

> ADT6: *"…checking the quality of the materials or services delivered, what was requested for…"*

Participants noted that performing supplier checks against the ongoing contracts by the various individuals including auditors, stores and contract manager is vital in the realisation of contract compliance aims.

4.3.3 Whistle blowing

Participants agreed that whistleblowing is done to check the credibility of the procurement system. If anything goes wrong, a whistle blower may share confidential information of the anomaly in the state department for the intervention of the Ombudsman. Confidential reporting on illegal and unethical practices is an essential system to affirm integrity of public accountability. Whistleblowing is a highly effective mechanism of providing information on unlawful activities within the contracting phase (Rustiarini *et al.*, 2019).

As noted by a telephone interview participant:

> ADT1*: "…there is the Inspector General of Government (IGG), of course that is after maybe whistleblowing…"*

Whistleblowing is unavoidable in institutions and is provided for within the Whistle blowers Act, to check that the operations of procurement and other related activities are in compliance with the existing legal and regulatory framework and the contracts, which enhances contract compliance.

4.4 Ethical orientation

To address the research question, ethical orientation was identified as the fourth theme that creates an enabling environment for contract compliance to occur. The sub-themes that were identified are equality, positive work attitude, integrity, confidentiality, honesty and freedom.

4.4.1 Equality

Interview participants suggested that equality is a necessary foundation for sustainable procurement. It is about making sure that each individual has the same chance of participating in the bidding and contracting process. It is a principle that procurement officers

and procurement managers must follow while contracting. This is in line with Sarter (2020) who relates that equality eliminates discrimination and creates equal opportunity for all bidders, which in turn fosters competition.

As noted by two telephone interview participants:

> POF2: *"…there is equality, which are some of the things stipulated in the regulations".*
>
> ADT3: *"…it is important to have a rotation in the selection of suppliers so that everyone has an equal chance".*

Participants noted that equality is manifested in the provision of equal opportunity, equal access to information and rotation of suppliers, which enables the entity to choose the right, capable supplier and this in turn leads to the creation of an enabling environment for contract compliance.

4.4.2 Positive work attitude

Interview participants noted that a positive attitude is fundamental in public sector procurement. It is a psychological construct, mentally and emotionally that is inherent and characterises an individual. Procurement officers with the right attitude of being optimistic, working hard and caring for others are more satisfied with their jobs and have enhanced performance than others. This is in line with Suliantoro*et al.* (2019) who relate to positive attitude being a dampening factor for illegalities such as bribery, which stifles competition and hampers service delivery.

As demonstrated by two telephone interview participants:

> POF2: *"…you should have the patience and the positive attitude to know that this is what I have to do and it's the right thing to do".*
>
> ADT7: *"…your attitude towards dealing with their challenges or acting on the feedback is another issue".*

Within the process, there has to be enthusiasm, job commitment, loyalty and commitment to institutional goals by delivering on time, submitting the correct information, using the correct documents laid out in the law and following the public procurement laws because this enables contract compliance.

4.4.3 Integrity

Interview participants observed that integrity in the public procurement process is essential for all stakeholders involved in the process. Integrity involves being reliable by first understanding the contract requirements, determining individual interests and qualifications for the contract to be performed by all contracting parties. Procurement officers and procurement managers should uphold integrity above all, in order to realise the objectives of the contracting process. This is emphasised by Mutangili (2019b) who state that integrity in operations increased accountability and reduced resistance to change.

As noted by two telephone interview participants:

> AOF2*: "They are supposed be people of integrity. They are supposed to have integrity".*
>
> ADT6: *"You sign an oath that you will keep your integrity…"*

It emerged that bidders and other stakeholders need to have confidence in the system to rely on the information provided by the procuring entity and the outcome of the procurement process, which advances contract compliance.

4.4.4 Confidentiality

Interview participants noted that confidentiality is an important obligation for officers involved in the process. Some documents or information in the process for example trade secrets and financial information are protected from the public including bidders and staff in public institutions as it could be used to skew the outcomes of the process and stifle competition. Procurement officers and procurement managers are bound to maintain confidentiality in the process to enhance innovation and competition. This is emphasised by Gad *et al.* (2020) who state that entities should have confidential mechanisms of dealing with suppliers to mitigate risks associated with disclosure of confidential information. In this regard, procurement officers in PDEs are required to sign confidentiality forms to ensure that this is upheld.

As noted by two telephone interview participants:

> ADT6: *"…I was telling you for every officer involved, the limit is confidentiality…"*
>
> HPT1: *"An officer should work with confidentiality…"*

Participants emphasise that whereas providing information is important to all involved in the procurement process, it is even more crucial that sensitive information including trade

secrets solicited from bidders is protected from the public, which improves contract compliance.

4.4.5 Honesty

Interview participants mentioned that honesty on the part of the contracting parties is an important ethical consideration while contracting. It is a moral obligation that entails providing the correct information. It offers assurance to the contracting parties that they can rely on the given information to make decisions. Procurement officers and procurement managers are bound to be honest in executing their duties to achieve value for money, efficiency and effectiveness in the process. This is emphasised by Barfort *et al.* (2019) who state that dishonest individuals are more abnormally motivated, heighten risk in contracting and detract from the achievement of entity objectives.

As stated by two telephone interview participants:

> ADT6: *"…there are so many people involved in that procurement process but whoever is involved is obligated to uphold honesty…"*
>
> POF4: *"I could say I'm very honest…"*

It was highlighted that procurement professionals need to be seen as being trustworthy in their dealings. This is reflected in the telephone interviews, where participants emphasise that honesty by providing the right information is required at every stage of the procurement process, to create an enabling environment for contract compliance.

4.4.6 Freedom

Interview participants considered that the independence of parties to freely participate in the contracting process without external influence is in effect provided for by the law. It allows auditors, procurement officers, bidders, procurement managers and committee members to provide for, follow up and adhere to agreed terms and conditions that are within the capacity of parties to fulfil contractual obligations. The findings are in line with Saputri (2018) who noted that giving autonomy to a supplier creates opportunity to easily resolve unforeseen circumstances which occur during the performance of the contract.

As pronounced by two telephone interview participants:

> ADT7: *"…give them the freedom without any due influence from within to execute in line with the mandate you've given them as the terms of reference."*

ADT1: *"…there has to be a kind of independence that PDU can implement whatever they are supposed to do without influence".*

As accentuated by a focus group discussion participant:

POF5: *"There should be independence of functions right from the provider, internally in terms of the institution, the user, contracts committee, they should have independent minds as they are executing their duties…"*

It emerged that independence of parties to contract without interference is vital for creating an enabling environment for contract compliance.

4.5 Stakeholder involvement

To address the research question, stakeholder involvement was identified as the final theme that creates an enabling environment for contract compliance to occur. The sub-themes that were identified are team work, coordination, responsibility and flexibility.

4.5.1 Team work

Participants observed that for effective contract compliance there is need of team work among different players. Procurement officers, procurement managers, heads of finance departments, accounting officers and auditors need to work together and establish new ways of fitting into the procurement activities. This is in line with Rustiarini *et al.,* (2019) who contend that it is important for public procurement professionals to communicate effectively with professionals of multiple disciplines such as engineering, economics, accounting and law. If there is a difficulty in the procurement process, team members will provide mutual support to get the most feasible solution.

As noted by a telephone interview participant:

HFD2: *"If there is really teamwork in the people who manage contracts, then of course, there will be effective contract compliance."*

As emphasised by a specialist in the focus group discussion:

ADT10: *"…contract managers are the ones running with the contract and galvanising their teams to do their part".*

It transpired that having teamwork within the entity among users, procurement officers, procurement managers, contract managers, accounting officers and finance managers while executing procurement activities accelerated the process, minimised the bureaucracies and reduced administrative challenges, which enhances contract compliance.

4.5.2 Coordination

Participants mentioned that many activities are carried out in contract compliance such as drafting relevant documents, designing adverts or call for bids, calling bidders to witness bid opening, evaluating bids and monitoring deliveries that required the contribution of more than one individual. Different officials like the accounting officer, PDU managers, contract managers and user departments work together to realise a successful contract. This is in line with Jamal (2017) who contends that institutions need well-coordinated models to harmonise various activities of the procurement process both horizontally and vertically.

As noted by a telephone interview participant:

> ADT4: *"…there is that poor coordination…"*

As highlighted by a specialist in the focus group discussion:

> POF5: *"…where need arises that there should be coordination."*

It transpired that coordination among the different offices helps to sort out administrative issues especially in regard to contracting, which increases contract compliance.

4.5.3 Responsibility

Participants emphasised that all the individuals in the process of contracting need to fulfil particular duties to ensure contract compliance. Responsibilities of the contract manager involve overseeing the contract and ensuring that the terms and conditions or terms of references are met; the Head of the PDU manages the entire procurement process by ensuring that the procurement practices are in line with the law, regulations and policies; and auditors check deliveries and implementation of the contract. Accounting officers on the other hand carry out approvals of documents such as requisitions from the users, procurement plans and award of contracts. Boadu *et al.*, (2021) indicate that procurement and disposal activities are managed through well-established structures with clearly defined responsibilities for all players.

As shared by one of the telephone interview participants:

> HFD1: *"…it is also the responsibility of the manager to see that the service provider fulfils the conditions put in the contract."*

As emphasised by a specialist in the focus group discussion:

> ADT12: *"I think as officers in the procurement process, it is your duty to execute every responsibility in the process in the most ethical conduct".*

It emerged that individuals involved in contracting need to take responsibility for individual actions while performing procurement activities dutifully to ensure contract compliance. This will be done by accepting any faults and correcting the errors accordingly.

4.5.4 Flexibility

Interview participants contended that flexibility in contracting is vital to develop and maintain suppliers. Flexibility is also provided for in the procurement laws and allows the procurement officers, managers and the accounting officers to speedily respond and take advantage of opportunities arising from foreseen and unforeseen changes in the contracting environment. This is in line with Wren (2019) who indicates that PDEs offered flexibility in the contract compliance process in order to take into consideration new practices or market reality.

As noted by a telephone interview participant:

> ADT8: *"…flexibility is that if there is any change in prices, then it is put in the terms that it is subject to change, even if it is a fixed price contract".*

It transpired that flexibility in the contracting process is vital as it creates alternatives for suppliers to fulfil the contractual objectives, which shapes an enabling environment for contract compliance.

5. CONCLUSION

5.1. Managerial implications

Contract compliance is important among PDEs in state departments in Uganda. However, the literature review and the empirical results indicate that the level of contract compliance remains low. Based on the results from the five identified themes, the following explains the managerial implications in regard to ***communication:***

- PDU managers should cultivate a trusting information sharing environment by providing equal access to information to all bidders regarding the law, regulations, policies, procurement process, opportunities available and outcomes.
- PDE contract managers should use current technology tools to provide periodic, regular reports and share information concerning contracts with relevant offices and suppliers.
- PDE management should engage suppliers to address salient issues regarding their performance, payments and communication received through providing timely feedback.
- PDE management should fulfil stipulated contractual obligations such as timely payments, advance payments and making necessary arrangements to ensure that the contractors operate smoothly.

- PDE management should establish information outreach centres and online platforms to inform the public and create opportunities for open dialogue and engagement with suppliers.
- PDE management should engage suppliers through periodic meetings, monitoring projects and carrying out reviews.
- Management of PDEs should create, maintain and ensure the usage of proper, varied and clear communication channels including face-to-face communication, broadcast media, mobile channels, electronic communication and written communication among all stakeholders.
- PDU managers should provide constant updates to users and bidders on the procurement process, emerging issues and information concerning policies, expectations and processes via reports, meetings, forums and conferences.
- PDU managers should work with user departments to review and update unit procurement plans in addition to frequent updating of the entity websites and the PPDA Authority on on-going contracts.

The following explains the managerial implications of the study in regard to ***openness***:

- Management of PDEs should float tenders on the entity website, in the national papers, social media and on entity noticeboards with all the relevant information including evaluation criteria for the public to know and participate in the provision of services or goods.
- PDU managers should prequalify bidders and develop a shortlist of capable suppliers who have shown interest in providing the services or products especially the routine ones.
- PPDA Authority should train bidders on preparation, submission of bids and performance.
- PDU managers should publish the shortlist of prequalified suppliers on the entity noticeboards and online for the public to see.
- PDE employees should maintain an open door policy where walk-ins and feedback from suppliers is welcome and acted on fast, both parties to the contract listen to each other and have mutual trust.
- PDE management should encourage community participation in government projects and procurements by organising forums for discussion.

- PDE employees should remain unbiased when making decisions and participating in the procurement activities by complying with the existing laws, policies and procedures and agreeing on what needs to be done to fulfil contract obligations.

The following explains the managerial implications of the study in regard to ***compliance checks***:

- Management in PDEs should ensure that institutional mechanisms, rules and procedures are implemented by having regular audits, meetings, use of procurement forms, funds availability checks, restricted access to key documents and performance and contract reviews.
- PDE management should develop an online checklist to detect fraud and corrupt tendencies.
- PDE contract managers should develop an online checklist with pre-set goals, objectives and timelines to monitor performance of contracts.
- PDU managers should carry out due diligence on suppliers' credibility and capacity to perform.
- PPDA Authority and IGG should create confidential channels such as whistle blowing hotlines for reporting unlawful activities, encourage and strengthen policies on retaliation against protect whistle blowers.

The following explains the managerial implications of the study in regard to ***ethical orientation***:

- PDU managers should eliminate discriminatory tendencies and create equal opportunity for bidders by providing same information on the tender and also rotate the supplier selection.
- PDU management should establish an ethical committee to ensure equal treatment of bidders.
- PDE employees should maintain a positive work attitude of being optimistic, patient, hardworking, caring for others and doing the right thing.
- PDE management should train staff and reward those with positive work attitude, who are ethical and honest.
- PDE management should appoint contract managers who understand the contract requirements and have no individual interests in the contract.
- PDE employees should sign an oath to uphold integrity in procurement activities.

- PDE management should establish a verification system with secure log-ins and passcodes for authorised access to confidential documents such as bid documents, financial information and trade secrets.
- PDE employees should sign confidentiality forms and maintain confidentiality.
- PDE management should recruit honest employees who provide true information regarding the procurement process.
- PDE employees should freely express their opinions and feelings on contracts using an online checklist to reduce external influence.

The following explains the managerial implications of the study in regard to ***stakeholder involvement***:

- PDE employees should work together with professionals of multiple disciplines such as engineering, economics, accounting and law and establish new ways of fitting into the procurement activities such as using online platforms.
- PDU managers should coordinate procurement activities including drafting of relevant documents, designing adverts or call for bids, calling bidders to witness bid opening, evaluating bids and monitoring deliveries.
- PDU managers should create avenues for discussion between management, contract managers and suppliers.
- PDE management should motivate employees and ensure that particular designated duties including authorisation, preparation of documents, evaluations and approvals in relation to the contract are fulfilled.
- PPDA Authority should train entity staff including contract managers and technical staff to take responsibility for contractual duties.
- PDE employees should be able to quickly respond and take advantage of opportunities arising from foreseen and unforeseen changes in the contracting environment.
- PDU managers should continuously guide suppliers and contract managers and help to identify feasible alternatives within the law, to fulfill the contract.
- PDE management should create a complaints and feedback platform for suppliers.

5.2 Theoretical implications

The findings of this study contribute to the academic body of knowledge by identifying some critical factors necessary for creating a suitable contract compliance environment. The findings also corroborate the literature which suggests a poor understanding of contract

compliance. Themes such as communication, compliance checks, openness, stakeholder engagement and ethical consideration were identified.

5.3 Limitations

This study was qualitative in nature and because of the small sample size that was used, this study limits the generalisability of its findings. Future studies should be conducted using mixed methods or quantitative methodology to compare the research findings and on different sectors other than state departments. Another limitation was that the study had to make use of interviews via telephone and the Zoom online platform due to the restrictions imposed by the COVID pandemic. Participants were thus not physically seen and interviewed. Observing the participants physically through face-to-face interviews, the participant might have achieved different findings and more insights.

5.4 Conclusion

This study attempted to determine some critical enabling factors necessary for contract compliance in state departments in Uganda. In developed countries, there are number of issues that are considered to be critical in procurement such as sustainability, staff competence, contracting rules and regulations and monitoring mechanisms. However, this study concludes that communication, compliance checks, openness, stakeholder engagement and ethical consideration can influence contract compliance among state departments in Uganda, a developing country. It is therefore recommended that further research be undertaken to investigate other factors that influence contract compliance in Uganda. Knowing the root causes of poor contract compliance will assist policy makers and managers to direct policies towards addressing and improving contract compliance in Uganda.

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