



**CONTRACT COMPLIANCE IN PROCURING AND DISPOSING ENTITIES  
(PDES) IN STATE DEPARTMENTS IN UGANDA**

**BY**

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## ABSTRACT

Contract compliance has continuously played a vital role in the development of nations globally. It is important, because it enhances the efficiency and success of projects; ensures value for money; mitigates risks and saves a considerable amount of time and resources. Despite its importance, projects continue to fail due to poor communication, untimely deliveries, poor quality deliveries and the lack of a suitable compliance environment. This study helped to address the aforementioned challenges by creating an enabling environment for contract compliance in procuring and disposing entities (PDEs) in state departments in Uganda.

The purpose of this study was to determine the enabling factors necessary for contract compliance and how it can be effectively used to assist PDEs in the Ugandan context. This purpose was achieved through a qualitative research approach that provided insights into the need for contract compliance among PDEs and the perceptions thereof; the contract compliance processes; challenges associated with contract compliance and the factors to be considered when creating an enabling environment for contract compliance. Data was gathered from telephonic interviews with twenty one participants and focus group discussions via the Zoom online platform with eight participants, bringing the total number of participants to twenty nine. Participants included auditors, accounting officers, heads of finance departments, heads of procurement departments and procurement officers. Data was collected using an interview guide and analysed by means of content and thematic analyses. A conceptual framework for creating a suitable environment for contract compliance in PDEs was developed.

Findings indicate that the critical factors for creating an enabling environment include: communication; reporting; records management; institutional structure; compliance checks; enforcement; a legal and regulatory framework; and evaluation. Other factors include: stakeholder involvement; contract management; funding; openness; ethical orientation; and capacity building. The proposed conceptual framework serves as a valuable resource for researchers and practitioners, especially those involved in public procurement.

**Key words:** communication, reporting, records management, institutional structure, compliance checks, enforcement, legal and regulatory framework, evaluation,

stakeholder involvement, contract management, funding, openness, ethical orientation, capacity building and contract compliance.

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## **CHAPTER ONE**

### **OVERVIEW OF THE STUDY**

#### **1.1 INTRODUCTION AND BACKGROUND TO THE STUDY**

Contract compliance has attracted much attention across the globe (Oluka & Basheka, 2014:109) and governments worldwide spend approximately US\$9.5 trillion each year on public procurement (Naidoo, Naidoo & Ambe, 2017:24). In the Philippines, public procurement accounts for close to US\$10 billion per year (Komakech & Machyo, 2015:2). In South Africa, it is estimated that R500 billion is spent on procurement of goods, services and works (Naidoo *et al.*, 2017:24). According to the Organisation for Economic Co-operation and Development Report (2017a:172), money spent on public procurement represents 47% in Belgium, 44.8% in Italy, 44.5% in Japan and 42% in Germany of each country's respective budget allocation. Komakech (2016:21) notes that Uganda spends approximately US\$700 million annually on public procurement.

Public procurement has a significant role in the generation of a country's wealth, as it accounts for approximately 16% of most countries' gross domestic product (Aketch & Karanja, 2013:42). Increasing amounts spent on public procurement by different countries indicate that there is a need for contract compliance, as it generates economic leverage in the procurement process (Shiwa, 2014:3). It also ensures that public funds are well utilised, guarantees the quality of services and reduces budgetary pressure on governments (Kavua & Ngugi, 2014:1). Compliance with contracts reduces the cost of doing business by following predetermined procurement procedures and guidelines (Office of the Auditor General, 2016:39). It also reduces the management cost of negotiating with various stakeholders and the risk of breached agreements (Shiwa, 2014:18).

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 (World Bank Group, 2017:32). Contract compliance aims at ensuring professionalism, value for money and competitiveness in the public sector procurement systems (Olajide, Deji

& Oluwaseyi, 2015:958) and ensures the equal treatment of bidders, irrespective of their tribe, race, nationality or political affiliation.

For decades, developing countries have been struggling to reform their public procurement systems to comply with the 2004 Johannesburg Declaration, the Organisation for Economic Cooperation and Development, the Development Assistance Committee (DAC) and the World Bank with regard to strengthening procurement capacities and sound governance (Komakech, 2016:20). In South Africa, such reforms included the Preferential Procurement Policy Framework Act (PPPFA), No.5 of 2000 and the Supply Chain Management Act (SCM) (Mong'areh & Mwang'angi, 2016:10). In Nigeria, the Public Procurement Act of 2007 and the Public Procurement Law based on the United Nations Commission on International Trade Law (UNCITRAL) were established (Olajide *et al.*, 2015:958). Despite a number of reforms, non-compliance has had a devastating effect on economies worldwide (Ahimbisibwe, Muhwezi & Nangoli, 2012:438). The World Bank estimates that 10 – 15% of the budget allocations for most countries is wasted due to weak procurement structures, policies and procedures and the failure to impose sanctions for violations (Komakech, 2016:21).

The United States of America, the world's largest public purchaser with a procurement budget of more than US\$200 billion has been rocked with endless protests arising from its public procurement contracts management, forcing the government to keep reviewing its procurement regulations (Emaru, 2016:2). In Kenya, institutions such as the National Police Service face non-compliance with the procurement law, political interference and embezzlement of state allocated resources (Mong'areh & Mwang'angi, 2016:11). In Ghana, weaknesses in procurement include the lack of a comprehensive policy and a central body with technical expertise and poorly defined roles, responsibilities, rules and regulations to guide and monitor public procurement (Olajide *et al.*, 2015:958). Generally, poor contracts can be attributed to the flouting of procurement regulations, poor records management, unauthorised contract variations, information gaps, lack of top management support and non-compliance (Office of the Auditor General, 2014:132; Office of the Auditor General, 2016:36). Biramata (2014:53) notes that lack of professionalism, political influence and corruption result in poor contracts and

Banyenzaki (2016:3) posits that lack of contract commitment by stakeholders is an important contributor to poor contract compliance.

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 (OAG), the Inspector General of Government (IGG), the Public Accounts Committee (PAC) and the Anticorruption Coalition (AC) to improve compliance and complement efforts towards achieving sustainable growth and development (The State of Uganda Population Report, 2012:12). 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 (Seppänen, 2016:6). Annually, 300 billion Ugandan shillings is lost due to poorly managed procurement processes (Eyaa & Oluca, 2011:35).

In 2015, 33 local government PDEs acquired items valued at approximately 27.5 billion Ugandan shillings without following public procurement regulations, which included missing records and breaches of procedures (OAG, 2016:36). Additionally, 4.7 billion Ugandan shillings were lost due to inadequate management of contracts and 315 million due to unauthorised contract variations. During 2013 the Uganda National Roads Authority (UNRA) lost a 24.8 billion Ugandan shillings advance payment on the Mukono-Kyetume-Katosi/Kisoga-Nyenge road upgrade contract due to political interference, limited advertising, inadequate information about the contractor and abuse of the due diligence process (Auditor General's Annual Report, 2014:6).

Due to its contribution to transparency and fairness in the procurement process, value for money and the attainment of strategic organisational goals, there is a need to study and understand contract compliance to curb such challenges (Biramata, 2014:4; Nsiah-Asare & Prempeh, 2016:2).

A number of concepts were referenced in this study and as various definitions can be found in the relevant literature, the central concepts are clarified in the ensuing section.

## **1.2 CONCEPT CLARIFICATION**

The concepts to be clarified are contract compliance, procuring and disposing entities (PDEs), moral obligation, enforcement, and disclosure and records management. These concepts are discussed in the ensuing sub-sections.

### **1.2.1 Contract compliance**

Contract compliance has been defined differently by a number of scholars. According to Brandon-Jones and Carey (2011:276), it refers to the extent to which individuals comply with mandated contracts. Muhwezi and Ahimbisibwe (2015:76) defined it as the management of the relationship between the contracting parties, the supervision of the delivery of services, works and goods in accordance with the contract and the directing of the contract itself. Seppänen (2016:14) asserts that an organisation that follows rules, norms and laws in its operations, including the placement of procurement contracts, is considered to be compliant. Biramata (2014:10) posits that it is the verification that an action, once accomplished, meets the requirements of established practices, prescribed laws, rules and regulations and the defined standards and terms of the contract.

Emaru (2016:15) observed that contract compliance comprises the administrative activities associated with handling procurement contracts, inclusive of the invitation to bid, evaluation of the bids, awarding the contract, implementation, the evaluation of work done and payments. Contract compliance is the act of checking and supervising the contract between the PDE and the provider to guarantee cost effective and reliable service delivery as agreed between the parties (Muhwezi & Ahimbisibwe, 2015:76).

Contract compliance is successful when the correct items, in the correct quantity, at the correct price, at the right time, of a high quality are received from the correct source (Oluka & Basheka, 2014:111). For the purpose of this study, contract compliance refers to carrying out 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.



### **1.2.2 Procuring and Disposing Entity (PDE)**

According to the Public Procurement and Disposal of Public Assets (PPDA) Act (2003:6), a PDE is a statutory institution, a department of the central or local government and any other organisation or division established and mandated by the government to perform a public function. A PDE is charged with the administration of the entire procurement and disposal process within its control, while following the provisions of the PPDA Act, regulations and guidelines (PPDA Act, 2003:13). Kawaddwa (2019:2) refers to PDEs as those institutions that have an accounting officer, a contracts committee, a procurement and disposal unit (PDU) and a user department.

### **1.2.3 Moral obligation**

Moral obligation refers to a public official's personal feelings of responsibility to adhere to rules, procedures and guidelines, to perform a duty with integrity and honesty, to treat customers and one another in a trustworthy and equitable manner, or to refuse to perform certain acts in a certain way (Bang, Odio & Reio, 2014:284). A moral obligation is a duty that an individual owes and ought to fulfil, but is not legally bound to perform. There are a number of dimensions of moral obligation and these include awareness, attitude and action. On the one hand, awareness is the familiarity of roles, procedures and regulations towards the fulfilment of the procurement exercise (Onyinkwa, 2013:571). On the other hand, attitude is formed within the individual employee, most probably reflecting past experiences or other influences that guided them to predict the outcome of a specific action (Bang *et al.*, 2014:284). Action is the process whereby an individual who is driven by behavioural intentions does something to achieve an aim or goal (Bang *et al.*, 2014:284).

### **1.2.4 Enforcement**

Enforcement is based on the quality, presence, convenience and usage of the legal and regulatory framework from the highest level (Act and Regulations) down to the more exhaustive operating procedures, guidelines, tender documents and standard conditions of contract (Awino & Marendi-Getuno, 2014:106). Enforcement refers to the design and manifestation of serious punitive measures by regulators, accompanied by the possibility of exposure that is aimed at enhancing compliance

(Ntayi, Ngoboka, Mutebi & Sitenda, 2012:905). Enforcement encompasses the act of effecting the successful implementation of policies by imposing existing laws and regulations.

### **1.2.5 Disclosure**

Disclosure is the admission of any substantial material that would be expected to have an impact on the value of the organisation's securities or influence investors' decisions (Russell, 2015:197). Disclosure is the act of making information known to others. For the purpose of this study, disclosure refers to attributes such as openness and publication. The performance of contracts through noticeable, detectable and visible tendering is summarised as openness and publication is the admittance and posting of information concerning procurements including advertisements, procurement plans and best evaluated bidder notices, among other information, as required by law (Awino & Marendi-Getuno, 2014:112). The following section deliberates on factors that contribute to contract compliance.

## **1.3 FACTORS CONTRIBUTING TO CONTRACT COMPLIANCE**

Contract compliance occurs when an individual accomplishes an action on request (Badaso, 2014:56). With origins based in the United States, contract compliance focuses on the extent to which individuals comply with mandated contracts within a system. However, as an organisational outcome, contract compliance is viewed as the conformity or obedience to regulations and legislation (Badaso, 2014:56). Contract compliance aims at ensuring that all PDEs are fully operational and functioning in line with government regulations, policies, procedures and laws.

Contract compliance includes monitoring the contract relationship, addressing related challenges, incorporating necessary amendments and modifications to the contract, guaranteeing that both parties meet or exceed their expectations and actively interacting with the provider to achieve the contract's objectives (Emaru, 2016:15). Despite its significance, the World Bank estimates that US\$100 million is lost every year due to contract non-compliance, thus the need to study the factors that influence contract compliance in PDEs in Uganda (Komakech, 2016:21). As contract compliance increases, so does the balance of power between the buyer and the supplier.

### **1.3.1 Moral duties of public officers**

Contract compliance is considered a moral obligation for reasons of justice, beneficence and self-development, and moral obligation is considered an ethical principle or value that directs all individuals, including government officials, in various aspects concerning their jobs. Good moral behaviour includes honesty, integrity, diligence, fairness, confidence, respectfulness and consistency. It also includes avoiding conflicts of interest and turning away from abuse of power for private benefit (Jacob, 2017:403). In the process of procurement, moral obligation is the decent behaviour presented by the stakeholders in the procedure with the objective of avoiding conflicts of interest (Jacob, 2017:403). Those decent behaviours include respectfulness towards the tasks and functions of others, performing tasks professionally and avoiding manipulation with immoral intentions of harming others for personal gain. Omagbon (2016:5) posits that the objectives of moral obligation vary from improving efficiency to avoiding financial loss and preventing individuals from colluding and abusing their power.

There are many significant benefits of compliance with contracts in PDEs and all those involved in the process are required to do their part in advancing contract compliance. With regard to service delivery, all stakeholders are essential for value creation and to create value one has to act for the benefit of others, helping them to further their important and legitimate interests, often by preventing or removing possible harm. In this regard, PDEs must source morally positive suppliers who have a positive effect on contract compliance and who will fulfil the PDE's needs. Naidoo *et al.* (2017:24) connected quality service delivery with positive morality and this was substantiated by Omagbon (2016:5), who asserts that moral obligation is a significant incentive of contract compliance behaviour and as moral obligation is weakened, contract compliance also weakens.

### **1.3.2 Awareness of external stakeholders and issues**

According to Namugenyi (2012:32), remaining alert to external stakeholders and issues, including procurement regulations and procedures, has an affirmative effect on contract compliance. Those who are involved in the public procurement process and are familiar with procurement regulations understand their roles and how

accountable they are for their decisions (Namugenyi, 2012:9). Awareness makes individuals who are engaged in the procurement process impervious to manipulation by management, suppliers and other parties, which results in improved contract compliance. This finding supports Yusuph and Guohua (2017:35), who affirm that with increased awareness, employees are positioned to resist the temptation to rubber stamp decisions taken outside the board.

### **1.3.3 Attitude towards compliance**

According to Mayanja (2016:131), to comply, individuals need to have a positive mind-set towards contract compliance. Attitude is influenced by the benefit, reward and cost of compliance or non-compliance and people will comply after assessing the consequences of compliance (Jin, Shu-Yuan, Hsien-Chun & Chih-Tang, 2016:218). Safa and Von Solms (2016:443) note that attitude is the degree to which the performance of the contract behaviour is positively valued. Individuals evaluate an event or object positively or negatively depending on their attitude. Therefore, it is assumed that individuals who have a favourable or a positive attitude towards compliance are likely to comply and individuals with an unfavourable or negative attitude will more likely fail to comply. One's attitude will determine whether to comply or not after evaluating the cost and consequences of compliance.

### **1.3.4 Actions of stakeholders**

Compliance requires that individuals be assigned particular duties and be held accountable for their actions (Yusuph & Guohua, 2017:35). It should be noted that moral obligation is highly dependent on the actions of stakeholders (Mashele & Chuchu, 2018:122). A legitimate stakeholder is one whose actions are seen as appropriate, proper and desirable in the context of the social system. PDEs act by providing quality, timely and appropriate service delivery to the public, with transparency and accountability. In order to do this, they must source credible, trustworthy suppliers.

Management acts to ensure that PDEs fulfil their mandate of delivering services to the public, while making sure that this is done within the law. These laws and regulations are enacted by the government and are aimed at guiding the public. All these actions affect a broad range of stakeholders (Yusuph & Guohua, 2017:35).

The assumption is that all those involved in the procurement process should comply with procurement contracts provided that each stakeholder acts dutifully.

### **1.3.5 Enforcement of procurement laws**

There are a number of processes that are used to ensure compliance with laws, rules, standards and social norms that entail carrying out an executive or judicial order for improved implementation of such laws. PDEs were created and are governed by a range of statutes, regulations, policies and directives (Eyaa & Oluka, 2011:35). Mbago, Ntayi and Muhwezi (2016:375) propose that conformance with procurement structures, policies and procedures will save Uganda from losing millions of dollars due to mishandled procurements. Compliance arises from a dynamic equilibrium between the various powers of the state and understanding their roles. Emaru (2016:34) emphasises that contract compliance can best be explained by the inclination to follow the legislative and regulatory framework involved in the procurement process. With well structured, extensively understood processes, compliance with procurement guidelines is enhanced, thus enabling organisations to realise increased savings (Cankwo, Obanda & Pule, 2015:22).

### **1.3.6 Legislative framework as an external driver**

Mbago *et al.* (2016:385) note that legislation is passed as law by parliament or another legislative arm of a government and denotes a directive placed by government or a governing body on an industry or a section of the community that is required to comply. Failure to comply will lead to prosecution. The legislative framework encompasses the laws, regulations and policies put in place to govern an organisation or an activity (Awino & Marendi-Getuno, 2014:104). In the public procurement domain, legislation serves as an external driver that requires compliance from all stakeholders (PPDA Amendment Act, 2011:4). Eyaa and Oluka (2011:39) contend that after legislation is passed, regulators (usually government bodies) such as the Public Procurement and Disposal of Assets (PPDA) Authority, examine the laws that have been passed and work out the details that need to be enforced for compliance. In Uganda currently, the procurement exercise follows procedures stipulated in the 2003 Public Procurement and Disposal of Assets (PPDA) Act and the 2011 PPDA Amendment Act.

### **1.3.7 Regulatory framework as an internal driver**

Regulations refer to the way that legislation is enforced and support the requirements of the legislation (Awino & Marende-Getuno, 2014:107). In Uganda, the enactment of the Procurement and Disposal of Assets Act (2003) led to the establishment of a policy regulation body known as the Public Procurement and Disposal of Assets Authority and the establishment of Contract Committees and Procurement Units in procuring entities, harmonisation of central and local government regulations, the incorporation of procurement plans in sector investment programs, the preparation of standard bidding documents, the establishment of a procurement cadre in the civil service and the restoration of professionalism in the procurement function.

Regulations specify particular legal requirements that need to be followed by PDEs, providers, employees and other stakeholders to create a level playing field within the market and within the entities themselves (PPDA Amendment Act, 2011:23). According to Emaru (2016:2), this is because they address product safety, consumer protection and other factors in the public interest. Regulations could either be internally or externally developed and as a means of compliance they may be developed through technical specifications or standards in the private sector (Mbago *et al.*, 2016:396).

### **1.3.8 Disclosure of specific documents**

Early disclosure of specific documents enables bidders and procurement officers in PDEs to make informed decisions pertaining to the procurement process. According to the Queensland Audit Report (2018:4), for disclosure to succeed, particular documents or categories of documents that are considered to be critical to procurement are identified and requests made to avail them in a timely manner. It is important for all bidders and procurement officers to have access to essential information and documentation relating to the procurement process and requirements so that the bidders have equal opportunities in the process. According to Komakech (2016:24), with disclosure, all parties are considered to be fair with one another and this enables them to avoid litigation and to save costs. This allows all parties to comply with the procurement contracts.

### **1.3.9 Openness**

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 (Komakech, 2016:25). It should however be noted that 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 (Mayanja, 2016:147). A PDE has to engage with stakeholders with openness in its transactions due to the potential impact on large groups of people. For instance, it is required that conflict of interest be declared by procurement officers prior to evaluation of a bid. An evaluation committee should consist of more than one party and include persons from other units, such as the user department, the finance office and the technical office, to increase the degree of openness and ensure compliance with contracts.

### **1.3.10 Publication**

According to the PPDA Amendment Act (2011:27), public entities are required by law to circulate certain documents and information relevant to the procurement contract using avenues such as notice boards, websites and newspapers. These documents include an invitation to bid, best evaluated bidder notice, notice of expression of interest, administrative review decisions and contracts committee decisions, among others. The publication of procurement information makes such information easily accessible for decision making, driving change, improving a difficult situation and providing a solution (Mayanja, 2016:223). Publication of procurement information is relevant to government, bidders, media and citizens and is required by law. Mbago *et al.* (2016:375) assert that a Procuring and Disposing Entity's public outlook impacts on supplier selection decisions and compliance.

### **1.3.11 Records management**

A sound records management system contributes positively to contract compliance. According to Yusuph and Guohua (2017:38), well-managed records leave no room for fraud or conspiracy and data must be shielded against tampering. Records management has been defined as the systematic and efficient control of the lifecycle

of internal and external, physical or electronic documentation that is routinely generated as a result of activities and transactions from creation and receipt to distribution, organisation, storage, retrieval and disposal for purposes of accountability to stakeholders (Coetzer, 2012:12). According to Byaruhanga and Basheka (2017:36), poor records management can severely affect service delivery, compelling individuals to act on an ad hoc basis that makes it difficult to carry out meaningful audits and to prove fraud. Adequate data collection and record keeping by government entities will result in effective monitoring of the transparency of the tendering process (Komakech, 2016:28). In order to allow for proper accountability and transparency in the procurement process, details of procurements undertaken, together with all necessary documentation should be freely available (World Bank Group, 2017:32).

Well managed records are key drivers of positive transformation towards public accountability and transparency. There are a number of types of procurement records, including bid notices, invitations to bid, contract management plans, contracts and agreements and payment records (Tukamuhabwa, 2012:36). The Public Procurement and Disposal of Assets Authority, the Office of the Auditor General, the Inspector General of Government and other government advisory bodies have continuously advised that the records management systems in PDEs be improved, as they are currently inadequate (World Bank Group, 2017:218). Studies conducted of the effective implementation of rights and access to information through records consistently emphasise that well-managed records enhance PDEs' efficiency in responding to requests and improve the timeliness of responses (Byaruhanga & Basheka, 2017:42). A good records management system will make it easier for the government and other stakeholders to disclose and publish information as required.

The facets of records management are accessibility, accuracy and completeness. Accessibility refers to the availability, ease of use and safeguarding of documentation and information against any alteration (Tukamuhabwa, 2012:37). Accuracy is the condition or quality of being true, correct and exact (Tunji-Olayeni, Afolabi, Ojelabi & Ayim, 2017:1144). Completeness manifests itself in the procurement files comprising all the key records including the record of bid receipt



and bid opening, the approved evaluation report, the record of the contracts committee's award decision, the record of the contract document and the contract implementation plan (Naidoo *et al.*, 2017:27).

#### **1.3.12 Accessibility of key documents and records**

Banyenzaki (2016:68) suggests that the use of proper records management controls such as identifying who can access and modify key documents and records is an integral part of achieving contract compliance. Komakech and Machyo, (2015:11) allude that for a record to be considered accessible, it should be timely and adequate. Records should be accessible for upcoming contracts as well as contract notices and information about the status of ongoing procurement processes (Organisation for Economic Co-operation and Development, 2016a:9) and additional information such as the average procurement duration, justification of exceptions and specific overview records by type of bidding procedure should be key in enabling external parties to scrutinise contract compliance in the procuring and disposing processes (Tukamuhabwa, 2012:36).

#### **1.3.13 Accuracy**

According to the Queensland Audit Report (2018:8), government entities are required to maintain accurate public records of contracts that are awarded. The affected institutions must have authentication procedures in place to ensure that the data that is maintained is correct, meaningful and appropriate in accordance with the law and relevant guidelines. In the case of Uganda, these should be in line with the PPDA law and associated regulations (Namugenyi, 2012:20).

#### **1.3.14 Completeness**

Completeness is one of the main attributes of contract compliance. It manifests itself in the procurement files comprising all the key records, including the record of bid receipts and bid opening, approved evaluation reports, records of contracts, committee award decisions, records of the contract documents and records of contract implementation plans (Office of the Auditor General Performance Report, 2016:37). Komakech (2016:28) found that if a file is complete, the information

collected therein can be viewed as accurate. The ensuing section deliberates on the problem statement of the study.

#### **1.4 PROBLEM STATEMENT**

Despite the government's continued efforts to monitor the performance of PDEs in Uganda, compliance with the existing institutional and regulatory framework remains a challenge. Not much attention has been given to the reasons for contract non-compliance, even with the overwhelming evidence in the reports produced by the Public Procurement and Disposal of Public Assets Authority and the Office of the Auditor General (Eyaa & Oluka, 2011:36).

In 2015, the government lost 27.548 billion Ugandan shillings owing to delayed payments, breaches of procurement procedures, inadequate contract management, unauthorised contract variations and a lack of records (OAG, 2016:36). Due to the increasing internal and external pressures and given that the Ugandan Government was losing large sums of money that cost the taxpayer, the need for reforms to improve the management of procurement contracts became urgent (Eyaa & Oluka, 2011:36).

According to Mashele and Chuchu (2018:121), contract compliance is a vital driver of financial performance and a pertinent business activity with direct cost implications for improved service delivery. Records management, awarding contracts and procurement contracts management had the worst compliance scores in the area of both Central Government (CG) and Local Government (LG) Procurement and Disposal Entities in Uganda (Eyaa & Oluka, 2011:37). The poor records management was exhibited by 48.7% of the procurement files lacking documentation, including information pertaining to contract payments.

Adherence to the procurement laws and regulations with their inherent principles of transparency, efficiency and value for money has been a challenge. The majority of government contracts are granted and executed without complying with procurement law and procedures (Emaru, 2016:2). Proper and effective management and compliance with contracts improves the quality of goods, services and works in addition to reducing procurement costs. Consequently, the goals of improved quality,

timely delivery and cost effectiveness are achieved (Oluka & Basheka, 2014:851). Without contract compliance, government objectives may not be completely attained and this may lead to poor service delivery (Eyaa & Oluka, 2011:37).

A number of studies into contract compliance have focused on contract management (Byaruhanga & Basheka, 2017:42), acts, rules and regulations (Mbago *et al.*, 2016:396), inter-functional coordination, trust and contract performance (Muhwezi & Ahimbisibwe, 2015:76). Other authors have emphasised supply chain, leadership and sustainability (Mashele & Chuchu, 2018:121). Scholars have not fully explored how to create an enabling environment for contract compliance in PDEs in Uganda. This has led to the following research problem: What are the necessary factors to create an enabling environment for contract compliance in procuring and disposing entities (PDEs) in Uganda? 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 Uganda. The research objectives that were formulated to address the aforementioned problem are presented in the following section.

## **1.5 RESEARCH OBJECTIVES**

In the previous section, the problem statement indicated the need for PDEs to engage in contract compliance in Uganda, thus raising the question of how PDEs can create the necessary factors for contract compliance. The primary and secondary objectives of this study are now addressed.

### **1.5.1 Primary objective**

The primary objective of this study was to determine the enabling factors necessary for contract compliance and how they can be effectively used to assist PDEs in the Ugandan context.

### **1.5.2 Secondary objectives**

To help achieve the primary objective of the study, the following secondary objectives were identified:

- 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 the factors that influence contract compliance in PDEs in Uganda;
- to empirically establish what is regarded as important in the creation of an enabling environment for contract compliance;
- to provide recommendations and guidelines on how to create an enabling environment for contract compliance in PDEs in Uganda and
- to develop a conceptual framework for contract compliance in PDEs in Uganda.

The following section elaborates on the theoretical framework supporting this study.

## **1.6 THEORETICAL FRAMEWORK**

A number of theories were used in this study to present a conceptual framework for an enabling environment for contract compliance.

### **1.6.1 Principal-agent theory**

This theory was postulated by Alchian and Demsetz (1972:778) and it depicts the relationship between principals and agents. In this theory, institutional owners or shareholders hire agents to perform work on their behalf (Biramata, 2014:17). In PDEs, the government and stakeholders in the organisation hire institutional heads or accounting officers and managers, including the heads of procurement departments, to play the agent role and perform activities aimed at achieving the institution's objectives and delegation thus takes effect (Awino & Marendi-Getuno, 2014:105). Consequently, to effectively maximise the benefits to the principal, the agent and all the representatives of the agent must play the relationship role. The two parties have an agent relationship for as long as there is cooperation by one party delegating decisions or work to another to act on its behalf (Boulemlia & Moore, 2014:4). However, the principal-agent relationship is risky in that management shows apathy towards the principal's preferred outcomes and sometimes even overrides the principal's preferences, which can result in non-compliance.

It is assumed that potential goal conflicts exist between principals and agents and that each party acts with self-interest and that information asymmetry exists, with agents who are more risk averse than the principals and that efficiency is the criterion for effectiveness (Kibogo & Mwangangi, 2014:379). The PPDA Act (2003:14) bestows the responsibility of compliance with the public procurement legal framework on the accounting officers of the PDEs.

### **1.6.2 Legitimacy theory**

When there is an existing discrepancy between the two value systems, whether actual or potential, the institution's legitimacy is threatened. The theory suggests that institutions repeatedly make efforts to ensure that their operations are within the bounds and norms of their respective societies (Oliveira, Rodrigues & Craig, 2011:830). Consequently, an institution is accountable by disclosing its practices to the stakeholders, especially the public, and justifying its authenticity within society.

### **1.6.3 Stakeholder theory**

Stakeholder theory has previously been extensively used within the context of procurement (Genovese, Koh & Acquaye, 2013:23). This theory suggests that managers in organisations have a network of relationships to serve that include the suppliers, employees and business partners and holds that each stakeholder is encouraged to provide input into important decisions (Parmar, Freeman, Harrison, Wicks, Purnell & Simone, 2010:405).

As originated by Freeman (1984), the stakeholder theory advocates for the importance of a firm paying special attention to the various stakeholder groups that are deemed to have an interest in that firm's operations. The stakeholder theory was designed to solve problems and aims at improving the understanding of value creation and how it is traded, connecting ethics and capitalism, and assists managers in dealing with these matters (Parmar *et al.*, 2010:404).

Stakeholders are any groups or individuals who can affect or be affected by the institutional operations while in the process of achieving the institutional objectives (Freeman, 2010:49). There are four major stakeholder groups, namely shareholders, employees, customers and the general public (Boselie, 2010:14). For this study, the

government has a financial stake in the PDEs and expects efficient and effective service delivery and the employees have their jobs and in return for their labour they expect security, wages and benefits and their livelihood is usually at stake. In return, the employees are expected to follow management's instructions and be responsible citizens in the local community in which the institution operates. The providers have a financial stake and expect returns from dealing with PDEs in order to provide goods and services, as stipulated in their contracts.

#### **1.6.4 Institutional theory**

This theory adopts a sociological perspective to illuminate organisational behaviour and structures by depicting the social and cultural factors that stimulate decision-making in institutions, especially how rationalised activities are implemented (Ntayi *et al.*, 2012:904). This is the traditional approach cited when examining the elements of public procurement. According to this theory, the three pillars of institutions are cultural-cognitive, regulatory and normative. The cultural-cognitive pillar rests on shared understanding; the regulatory pillar on the use of rules, laws and sanctions as an enforcement mechanism, with expedience as the basis for compliance. The normative pillar emphasises norms and values, with a moral obligation as the basis of compliance (Eyaa & Oluka, 2011:37). The following section presents the research design and methodology that were followed in this study.

### **1.7 RESEARCH DESIGN AND METHODOLOGY**

In this section, the research design and methodology are discussed. A research design is defined as a blueprint for conducting the study that maximises control over factors that might impede the validity of the findings (Grove, Burns & Gray, 2013:214). Research designs are procedures for collecting, analysing, interpreting and reporting data in a research study (Creswell & Clark, 2011:53). Bryman and Bell (2014:382) assert that a research design refers to the structure for collecting and analysing data and information to better understand the phenomenon under investigation. A research design is important as it maximises the validity of the investigation by choosing the appropriate type of research that can effectively respond to the research question (Babbie & Mouton, 2010:73).

According to Rajasekar, Philominathan and Chinnathambi (2013:5), research methodology refers to the systematic manner in which attempts are made to investigate, obtain knowledge and solve a problem. Research methods are the procedures used to structure a study and gather and analyse the information relevant to the research questions (Polit & Beck, 2012:12).

### **1.7.1 Research paradigms and approaches**

According to Collis and Hussey (2014:46), the two main research paradigms are positivist and interpretivist, or phenomenological, research paradigms.

#### **1.7.1.1 *Positivistic research paradigm***

The positivist research paradigm is alternatively known as the quantitative, objectivist, scientific, experimentalist or traditionalist research paradigm (Harwell, 2011a:150). Quantitative or positivist research is a formal, objective, systematic process of obtaining information and describing variables and their relationships by using scientific methods (Pandey & Pandey, 2015:29).

#### **1.7.1.2 *Interpretivist research paradigm***

In interpretivist or qualitative research studies, the individual's behavioural experience is the focus and not the individual's behaviour. This paradigm focuses on discovering meanings and new insights into phenomena without relying on numerical data (Neuman, 2014:11). Qualitative research is subjective in nature as it encompasses the examination of and reflection on the views of humans in the understanding of the social and human activities under investigation (Pandey & Pandey, 2015:29).

#### **1.7.1.3 *Comparison of the positivist and interpretivist research paradigms***

Table 1.1 provides a summary of the distinctive characteristics of the interpretivist or qualitative research paradigm and the quantitative or positivist research paradigm.

**Table 1.1: Comparison of the interpretivist/qualitative research paradigm and the quantitative/positivist research paradigm**

Parameter/s	Qualitative / interpretivist research paradigm	Quantitative / positivist research paradigm
<b>Hypothesis</b>	Hypotheses are merely stated in the form of a research goal	Hypotheses are stated explicitly and formulated beforehand.
<b>Objective</b>	To gain insight and understanding of the underlying reasons and motivations.	To qualify the data and generalise the results from the sample to the population of interest.
<b>Purpose</b>	To explore the meaning of the people's experiences and their culture and how they view a particular issue or case.	To examine the relationships between variables, such as the dependent, independent and extraneous variables.
<b>Focus</b>	Concepts are in the form of themes, motives, generalisations and taxonomies. Concepts can be interpreted in a number of ways. Holistic and broad focus.	Concepts are in the form of distinct variables that have unambiguous meaning.
<b>Sample</b>	A small number of non-representative cases/observations.	A large number of representative cases.
<b>Perspective</b>	Insider focus, first-hand experience.	Outsider perspective, detached and objective.
<b>Reality</b>	Concerned with change or the dynamic nature of reality.	Focus on accumulation of facts within a stable milieu.
<b>Conditions</b>	Collected within the context of the natural occurrence.	Controlled to rule out extraneous variables.
<b>Data collection source</b>	Data usually comes from interviews, documents such as newspapers, journals, etc. observation, transcripts and audio visual materials such as videos or audio. Largely unstructured.	Data in the form of numbers from precise measurement. The data comes from a designed questionnaire that often contains Likert scales. Structured.
<b>Data analysis</b>	Analysis proceeds by extracting themes or generalisations from evidence and organising data to present a coherent, consistent picture. Non-statistical.	Analysis proceeds by using statistical methods, tables or charts and discusses how what they reveal relates to the hypotheses.
<b>Outcomes</b>	Develop an initial understanding of phenomena. A valid, representative picture emerges.	Reliability and replication of findings. Recommend a final course of action.

Source: Adapted from Bryman & Bell (2014:51); Collis & Hussey (2014:50).



#### **1.7.1.4 Paradigms and research approaches followed in this study**

In this study, the researcher chose to follow a qualitative approach, which was inductive and holistic, to explore how to create an enabling environment for contract compliance in PDEs in Uganda. The exploratory nature of this study suited the interpretivist or phenomenological research paradigm that emphasises a qualitative research approach, as it is subjective in nature. It also assisted in the examination of perceptions in an effort to gain a deeper understanding of social and human undertakings (Collis & Hussey, 2014:46). In terms of the objectives of this study, which sought to understand, reflect upon and describe the experiences of the selected participants, this form of research approach appeared to be the most appropriate choice.

The study's population, sample, sampling method, measuring instrument, data collection and data analysis pertaining to this study are discussed in the following sections.

#### **1.7.2 Population and sampling frame**

Quinlan (2011:206) defines a research study's population as all the individuals, members or units relevant to the study; the parent group with particular characteristics from which the sample is drawn (Pandey & Pandey, 2015:40). In this study, the population consisted of all PDEs located in Kampala, Uganda. The procuring and disposing entities were drawn from Kampala, because it is the most populated district and where the majority of the PDEs can be found. The population for this study was divided into two parts; the units of analysis (procuring and disposing entities in Uganda) and the units of inquiry (procurement officers, procurement managers and unit contract managers in procuring and disposing entities in Uganda).

The sampling frame comprised all the institutions of the Public Procurement and Disposal of Public Assets (PPDA) Authority; the Office of the Auditor General (OAG); various government ministries, departments and agencies (MDAs) and District Local Governments (DLGs). Senior civil servants/heads of units (including accounting officers, heads of procuring and disposing units, auditors, procurement officers and heads of finance departments), who understand and handle procurement contract

implementation issues on a daily basis and from whom compliance is expected by virtue of the delegated authority and public offices they hold, were selected to take part in the study. This was in line with the recommendations advanced by Babbie and Mouton (2010:174), who emphasise that the sampling frame has to be constructed and defined as the concrete group from which a sample is chosen. Telephone interviews and focus group discussions via the Zoom online platform were conducted with key procurement officers, heads of procurement and disposal units, heads of finance departments, accounting officers and auditors who had an understanding of contract compliance in PDEs in Uganda.

### **1.7.3 Sampling**

A sample frame is a display of units from which the actual sample is drawn (Ghauri & Grønhaug, 2010:138). Sampling is the selection of individual observations with the aim of yielding some knowledge about a population of concern, particularly for purposes of statistical interpretation and this should be characteristic of the population (Bryman & Bell, 2014:176). According to Struwig and Stead (2013:116), there are two main types of sampling techniques, namely probability and non-probability sampling.

#### ***1.7.3.1 Probability sampling techniques***

Probability sampling is when the researcher randomly selects samples from the population. Probability sampling uses methods such as simple random, systematic, cluster and stratified sampling (Bryman & Bell, 2014:176).

#### ***1.7.3.2 Non-probability sampling***

For non-probability sampling techniques, members of the sample are chosen based on convenience, judgement or quota (Struwig & Stead, 2013:116).

- **Convenience sampling**

Convenience sampling, alternatively known as haphazard, grab, accidental or opportunity sampling, is a non-probability sampling technique in which subjects are selected, because of their convenient accessibility, time and proximity to the researcher (Saunders, Lewis & Thornhill, 2012:131). This sampling method relies on

data collection from population members who are easily accessible to participate in the study. It also involves the choice of those cases that are easiest to obtain for the identified sample as long as they are available and willing to participate (Bhattacharjee, 2012:69).

- **Purposive sampling**

Purposive sampling, alternatively known as judgmental sampling, relies on the researcher's knowledge of the population to select sample members. This method was employed for selecting the research sample for this study (Polit & Beck, 2012:279). The researcher recruited participants with experience in procurement, particularly contract compliance, as that was the key concept being explored (Creswell & Clark, 2011:173). For this study, the participants were selected in accordance with their awareness and expertise in contract compliance. This enabled the researcher to obtain in-depth information and a deeper understanding of the basic themes of this study. For the purpose of this study, a combination of convenience and purposive sampling was applied.

### **1.7.3.3 Sample size**

It was necessary for interviews to be conducted to obtain sufficient information to attain the objectives and answer the questions. With this in mind, procurement officers, accounting officers, heads of procuring and disposing units, auditors and heads of finance departments were approached to take part in this study. Saturation occurred when adding more participants to the study would not have resulted in additional information being gained or any improved explanation of the themes. Data saturation is said to have been reached when there is enough information to replicate the study (Fusch & Ness, 2015:1409). 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, 2014:200; Morse, 1994). There are no specific rules when determining an appropriate sample size in qualitative research.

The decision for this study was to add participants until the saturation point had been reached, as per the recommendations advanced by Mason (2010:5) and Creswell (2014:200), who recommend at least 29 participants in PhD studies.

#### **1.7.4 Data collection processes**

To minimise errors, a data collection plan was required. As this study addressed a complex social reality, secondary and primary data sources were used to be in line with the research objectives.

##### **1.7.4.1 Secondary research**

Secondary data is that information that has already been gathered and recorded by another person (Blumberg, Cooper & Schindler, 2011:236). This data is important as it is readily available and saves time and money (Blumberg *et al.*, 2011:236) and enables the collection of appropriate and up to date data. This study undertook a comprehensive literature search from national and international databases including the Nelson Mandela University library, which includes Emerald Insight, NEXUS, EBSCOHOST and Google Scholar, among others.

##### **1.7.4.2 Primary research**

Primary data includes all data collected by means of the researcher's own effort and the researcher is responsible for the accuracy and completeness of the information gathered, instead of relying on someone else (Collis & Hussey, 2014:46). There are various means available for the gathering of primary data, namely case studies, action research, interviews, surveys, focus groups, observations and experiments (Quinlan, 2011:228) and these are summarised in this section.

When a case study method is utilised, the researcher studies one, or a few cases by means of an in-depth examination of the case(s) (Quinlan, 2011:225). According to Bryman and Bell (2014:117), a case can be a single business, a single location, a single event or an individual. Bryman and Bell (2014:113) assert that case studies can be related to both theory creation and theory testing, which assists in making generalisations. A survey is a research method in which data is gathered from a sample of individuals by means of a questionnaire (Eybers, 2010:30). Harwell (2011b:149) affirms that a survey is a method deemed suitable in cases where the study is quantitative in nature and when a representative sample of a large population is essential.

Action research is a method in which the researcher is a participant and collaborates with the other participants' business to establish a problem and develop a resolution based on the analysis (Bryman & Bell, 2014:256). According to Quinlan (2011:183), action research is utilised to promote change, improvement and development in the quality of a business. Action research is understood to be experiments based on real problems within a business environment, designed to assist in their solution (Bryman & Bell, 2014:256). An interview guide or schedule is the list of questions to be asked regarding the points or issues to be discussed in an interview or a series of interviews (Quinlan, 2011:303). Interviews are used to explore experiences, views, opinions or beliefs pertaining to specific matters and assist in the understanding of underlying beliefs.

A survey can be defined as a research method in which data is gathered from a sample of individuals by means of a questionnaire (Eybers, 2010:206). According to Harwell (2011b:149), a survey is a suitable method of data collection if the study is quantitative in nature and if a representative sample of a large population is required. Focus groups are typically used in qualitative research and are interviews conducted with a number of participants simultaneously. Struwig and Stead (2013:102) posit that a focus group is an organised conversation to obtain probable information on a subject in a non-judgemental, secure and accepting environment and that these discussions allow the participants to debate issues considered to be important. Focus groups are often used in management science to obtain a specific group's attitudes or opinions toward an advertised product.

Observation is another primary data collection method that can be utilised to record the observations of an occurrence (Quinlan, 2011:221). Sekaran (2006:34) refers to observation as the researcher's glimpse of and perspective on the existing scenario of the research setting. The manner in which observations can be performed can be structured, semi-structured or unstructured. For experiments, an empirical investigation is carried out under controlled conditions, designed to examine the properties and relationships between specific factors (Quinlan, 2011:228). Denscombe (2008:49) observes that experiments necessitate the identification of causal factors and the manipulation of significant variables through controls, empirical observation and measurement. Babbie and Mouton (2012:208) affirm that

experiments can be utilised for hypothesis testing and in the study of small group communication. The data collection methods and measuring instruments selected for the study are discussed next.

#### ***1.7.4.3 Data collection methods and measuring instruments chosen for the study***

There are a number of sources of evidence useful in qualitative research, namely documentation, archival records, interviews, direct observation, participant observation and physical artefacts (Yin, 2003:85). The data collection methods used in this study included telephone interviews and focus group discussions using an interview guide and documentary analysis. Due to the qualitative nature of the study, participant observation and in-depth telephone interviews were deemed the most suitable methods to explore the topic and the expertise of qualified personnel involved in contract compliance in PDEs. Detailed, in-depth telephone interviews and focus group discussions via Zoom online platform were conducted to gain an insight and understanding of the factors enabling contract compliance. During these interviews, close attention was paid to voice intonation, pauses or hurried answers in an effort to establish if participants were comfortable or hesitant (Gummesson, 2000:127). Personal interviews were used for deeper exploration, whereas focus group discussions were used to generate broad overviews of issues pertaining to contract compliance.

#### **1.7.5 Data analysis**

As discussed in Section 1.7.1, two major research approaches, namely the quantitative and qualitative approaches were used for data analysis.

##### ***1.7.5.1 Quantitative data analysis***

There are two types of statistics used in quantitative data analysis, namely descriptive and inferential statistics. Descriptive statistics utilise numerical and graphic procedures to summarise collected data in a clear and understandable way. The summaries offer a comprehensive picture of a large amount of data (Struwig & Stead, 2013:165). The mode refers to the most frequently occurring score; the median is the score that has an equal number of scores above and below it and the

mean is the average score (Quinlan, 2011:400). The standard deviation measures the deviation of each score from the mean and then averages the deviations (Struwig & Stead, 2013:165). Inferential statistics consist of methods for measuring the reliability of conclusions reached about the population based on information obtained from a sample of the population (Quinlan, 2011:399). Inferential statistics can be applied to deduce what the total population might think or do based on the study of a sample of the population. According to Quinlan (2011:401), there are a number of inferential statistical methods, namely correlation tests (measure the strength of association between two variables), regression analysis (estimates the relationships between a dependent variable and the independent variables), analysis of variance (ANOVA) (studies significant differences among means), and T-tests (used to decide if the means of two groups are statistically different from each other).

#### **1.7.5.2 Qualitative data analysis**

There are a number of processes and procedures that can be employed to obtain the perceptions, understanding, interpretation and explanations of the people in certain situations in qualitative research (Bryman & Bell, 2014:344-354). This follows the various forms of phenomenological research data analysis approaches, which include content analysis, case studies, the constant comparative method and grounded theory (Quinlan, 2011:182-185).

- **Content analysis**

This is a research method that is used for the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns (Hsieh & Shannon, 2005:1278). Interpreting data, identifying themes and designing models must be achieved without changing what people have said about the key issues (Bryman & Bell, 2014:305). In the analysis of content, two of the most widely used models to plan the data analysis process are Creswell's (2014:196–200) six-step model and Tesch's (1992:142-145) eight-step model. Creswell's (2014:196) model consists of interrelated steps that do not necessarily follow in the order they are given, namely:

- organise and formulate the data for analysis by recording interviews, and sort and arrange data if various sources of information are utilised;

- read through all the data to gain an overall sense of the information and possibly its overall importance and write down general ideas about the data;
- code the data by organising it into themes of information and write a word that embodies each theme in the margin;
- provide detailed accounts of the setting or the people involved as well as descriptions of the themes for analysis;
- present the outcomes of the analysis in a narrative passage to deliver the findings thereof, possibly including a chronology of events, a comprehensive discussion of several themes or a discussion of connecting themes and
- interpret the results of the analysis.

Tesch (1992:142) outlines an eight-step analysis process as follows:

- read carefully through all the records to gain a sense of the information and compose ideas as they come to mind;
- select one interview schedule and read through it methodically to comprehend the interview and the underlying significance of the information, making notes as thoughts come to mind;
- complete the same process for all interview schedules and compare all themes and group the themes together in three columns with headings indicating the major themes, unique themes and unrelated themes;
- allocate codes to the themes, code the appropriate sections in the interview schedules and check the data for new, developing themes or codes;
- identify the most expressive words to describe the themes while endeavouring to reduce the sub-themes by combining those related to one another;
- finalise the coding abbreviations for each theme/s and alphabetise the codes;
- combine sub-themes belonging to each primary theme and perform an initial analysis of each sub-theme to discard extraneous data; and
- recode existing data where needed and refine the structure of the examined data.

In this study, the data was collected during the interviews and analysed and coded using the six steps of data analysis described by Creswell (2014:200). After themes had been identified, several discussions were carried out between the researcher



and the promoters and consensus was reached on the final themes. Appropriate verbatim quotations from the collected data were used to substantiate the narratives provided by the researcher when discussing the themes and the sub-themes. Appropriate literature from related studies was used to compare and contrast the research findings relating to contract compliance, as well as the experiences of the participants.

- **Case studies**

Case studies can be in-depth examinations of people or groups of people and are widely used in business research and when a qualitative research design is preferred. A case study is a thorough and rigorous analysis of a solitary case that can be extended to include the study of more cases for comparative purposes (Bryman & Bell, 2014:374). Case studies are used when not much is known about an issue and deeper investigation is required for a certain concept (Crotty, 1998:12). Researchers use different kinds of evidence, for example, written and visual documents, archival records, interviews, field notes and recordings of direct observations and participant observations when using the case study method (Bryman & Bell, 2014:357). The in-depth analysis of a topic using multiple sources of evidence provides a variety of sources of information that indicates how something occurs or works in a real life situation. With this method it is easy to understand complex issues by exploring, describing and explaining the key concepts.

In this study, the biographical profiles of the procurement officials were recorded as case studies to provide a detailed background of each participant as well as key issues about compliance. This provided valuable input. The case studies also assisted in placing the information received from participants within the specific context; why is contract compliance necessary, factors for creating an enabling environment for contract compliance, challenges and how participants understand contract compliance.

- **Constant comparative method**

Constant comparative analysis is used when data is inductively examined and theories are not set at the start of the research (Struwig & Stead, 2013:179). This type of analysis helps to develop concepts emerging from the data by means of

simultaneous coding and analysis (Kolb, 2012:83). This method explores similarities and differences in the collected data (Quinlan, 2011:428). After coding, the process is repeated until core themes are identified and these themes become the foundation for emerging theory. To ensure the trustworthiness of the interpretation, an audit trail is generated to allow other researchers to check the process that was followed (Struwig & Stead, 2013:180).

- **Grounded theory**

Grounded theory is an inductive process of generating theory from data without relying on prior assumptions (Bryman & Bell, 2014:378). Grounded theory attempts to create a theory from the collected data, or to adapt or extend the existing theory from description to conceptualisation (Quinlan, 2011:427). An analysis of the results is performed concurrently with the gathering of the research data and the data collection and analysis proceeds simultaneously (Struwig & Stead, 2013:345). The grounded theory technique is used as part of qualitative data analysis. This is undertaken when the findings from the interviews are compared after each interview. As new information becomes available, the participants are probed for more information to add to the issues or themes that have emerged. All observations are recorded during the interviews and detailed notes are compiled based on the observations. Where there is more information than required, the researcher places the information in context to ensure that the data that is collected is relevant to the topic under investigation.

#### ***1.7.5.3 Qualitative data analysis techniques chosen for the study***

After gathering data, the next step in research is to interpret the information in line with the parameters set to capture the research objectives. In this study, content analysis was adopted to analyse the qualitative data. The information generated from in-depth interviews was transcribed and summarised in accordance with the themes and sub-themes that were developed and related to the study's objectives. The material was subjected to thematic analysis to establish possible disparities and nuances in meaning. The researcher compared the data across themes to discover connections between the themes, which offered a reliable and in-depth interpretation of the research into creating an enabling environment for contract compliance in

PDEs in Uganda. The analytical themes and sub-themes that were linked with the study's objectives were expanded by designing models that reflect the perceptions and interpretation of the findings.

#### **1.7.6 Trustworthiness of the research findings**

In this study, quality was established by ensuring trustworthiness, which refers to the neutrality of the findings (Babbie & Mouton, 2010:277). Trustworthiness refers to the degree of confidence that qualitative researchers have in the collection of data and this can be assessed by using the criteria of credibility, transferability, dependability, confirmability and authenticity (Polit & Beck, 2012:745). Trustworthiness is about establishing the validity and reliability of a qualitative research project. The findings should accurately reflect the perceptions, experiences and viewpoints of the participants (Streubert & Carpenter, 2011:455). The researcher judged the trustworthiness through credibility (analogues to internal validity), dependability (analogues to reliability), confirmability (analogous to objectivity) and transferability (analogous to external validity) (Babbie & Mouton, 2010:277).

##### **1.7.6.1 Credibility**

Credibility replaces the criterion of internal validity and assesses if the research findings make sense and if it is an accurate representation of the participants and/or the data (Mayan, 2009:102). Strategies that were used to assist in achieving credibility included member checks, which entailed the participants acknowledging the findings of the study as being true in their experience, prolonged engagement in the setting and triangulation of the data (Mayan, 2009:102). To achieve these objectives, the researcher ensured that engagement with the participants was sustained in order to confirm their initial statements. A minimum of forty five minutes was spent with each participant with the aim of maintaining rapport and building a trusting relationship to ensure the acquisition of credible data. A telephone recorder was used to record the information shared by the participants. A pilot study was conducted to ensure that the semi-structured interview guides were trustworthy and measured what they were intended to measure. An expert panel from appropriate disciplines was selected to review the guidelines.

#### **1.7.6.2 Dependability**

Dependability defines the opportunity post hoc to review how decisions were made throughout the research; this is achieved through the use of an audit trail (Polit & Beck, 2012:175). Dependability is the criterion met once the researcher has verified the credibility of the findings (Streubert & Carpenter, 2011:49). In this study, a stepwise, detailed description of the research method was provided to enable other researchers to replicate the study in a different setting to ensure dependability.

#### **1.7.6.3 Confirmability**

Confirmability is an alternative for objectivity. It is used during the data collection and analysis phase to ensure that the findings are logical (Mayan, 2009:102). Confirmability was ensured in this study through an audit trail and reflexivity. An audit trail comprises a variety of research-generated decisions that must be consistently and conscientiously recorded and skilfully organised throughout the research process (Mayan, 2009:102). The speedy recording of spontaneous notes and ideas generated during the planned analysis and note-generation sessions was performed. The interview recordings, the transcribed data and the field notes served as an audit trail for an objective assessment and confirmation of the documented information which was made available to the researcher's promotor.

#### **1.7.6.4 Transferability**

According to Streubert and Carpenter (2011:49), transferability refers to the probability that the study's findings would make sense to others in a similar situation. The findings should be applicable in other areas with similar settings to verify external validity. Transferability was ensured with the in-depth and accurate description of the selection and characteristics of the participants. The researcher described how the data was collected and analysed so that another researcher could replicate the study in a different setting. A rigorous presentation of the findings together with appropriate quotations was documented to enhance the transferability of the data.

#### **1.7.6.5 Authenticity**

The extent to which researchers fairly and faithfully show a range of reality is referred to as authenticity and emerges in a study when it conveys the tone of the lives of the participants as they are lived. With authenticity, readers are better equipped to comprehend the lives being portrayed (Polit & Beck, 2012:585). In this study, authenticity was achieved by portraying the experiences of public officers with regard to the contract compliance environment in PDEs in Uganda.

#### **1.7.7 Ethical considerations**

Ethical considerations allude to conforming to a code of conduct during research and bearing the responsibility of honesty and accuracy in mind (Creswell, 2014:200). According to Streubert and Carpenter (2011:56), distinct and conceivable, unanticipated ethical issues emanate from the unpredictable nature of qualitative research. The 1976 Belmont Report articulated three broad principles on which the standards of ethical conduct in research are based, namely beneficence, respect for human dignity and justice (Polit & Beck, 2012:152). Ethical principles such as non-maleficence, veracity, privacy and confidentiality were adhered to in this study. Ethical issues and standards must be critically considered in qualitative research.

To this end, the issues of informed consent were upheld and an ethical clearance letter was sent to the Research and Ethics Committee of Nelson Mandela University requesting permission to conduct the study and was granted. The Ethics clearance number is H20-BES-BMA-056. Informed consent was obtained from the participants by sending out the consent form online and also reading out the contents of the consent form to each participant before the interviews or discussions. Ethical considerations and the process pertaining to this research were explained to the participants, as well as the purpose and objectives of the study. The contribution of this study is highlighted next.

## **1.8 CONTRIBUTION OF THE STUDY**

This section presents the academic and societal significance of this study.

### **(a) Academic significance**

The study:

- explored how to create an enabling environment in PDEs in Uganda;
- contributed to literature about contract compliance in PDEs in Uganda; and
- followed a qualitative approach that was new, because many of the previous studies focused on quantitative approaches to contract compliance.

### **(b) Societal significance**

The study:

- empowered the stakeholders through their participation in the contract compliance process;
- contributed to third world and African literature, as Uganda is a third world country in Africa;
- gave the community a better picture of the benefits and challenges of compliance in countries such as Uganda that have high non-compliance rates;
- assisted in understanding the factors necessary for creating an enabling environment for contract compliance and provided guidelines for achieving compliance for the policy makers; and
- adopted a qualitative approach that was new, because many of the previous studies focused on quantitative approaches to contract compliance. Few studies have explored a multi-theoretical approach to attempt to explain this phenomenon.

## **1.9 STRUCTURE OF THE RESEARCH**

Chapter 1 serves as the introductory chapter in which the problem statement, research objectives and research methodology are outlined.

In Chapter 2, the global overview of the procuring and disposing entities is presented.

Chapter 3 explores the procurement and disposal landscape in Uganda.

Chapter 4 examines the nature and theoretical perspective of contract compliance in procuring and disposing entities.

Chapter 5 presents the research design and methodology adopted in this study, outlining aspects such as the research paradigm, approaches, study population, sampling, data collection and analysis, and the trustworthiness of the measuring instrument.

Chapter 6 presents the participants' demographic profile.

Chapter 7 presents the analysis and interpretation of the qualitative results.

Chapter 8 concludes the study by providing the main conclusions and recommendations on how to create an enabling environment for contract compliance.

## **CHAPTER TWO**

### **GLOBAL OVERVIEW OF PROCURING AND DISPOSING ENTITIES**

#### **2.1 INTRODUCTION**

Chapter 1 introduced contract compliance in procuring and disposing entities (PDEs) in state departments in Uganda with specific reference to the research problem that was investigated, the research questions that were posed and the subsequent primary and secondary objectives of the study. Major concepts used in the study were identified and defined. Reference was made to the theoretical framework that guided the study and brief outlines of the research design and methodology that were adopted in the study were provided.

This chapter commences with definitions of procurement, PDEs and public procurement, followed by the characteristics, goals and objectives of PDEs. A discussion follows on the globally accepted public procurement principles, including value for money, transparency, fairness and non-discrimination, competition and accountability. The global, regional and national frameworks for public procurement with particular reference to the agreements, laws, directives and recommendations of the World Trade Organisation, the European Union, the World Bank, the United Nations and the Organisation for Economic Co-operation and Development are summarised. The chapter concludes with the contribution of PDEs to sustainable development.

Continuous reference is made in this study to procurement, PDEs and public procurement and these terms are therefore defined in the following section.

#### **2.2 DEFINITION OF KEY TERMS**

The terms to be defined include: procurement, procuring and disposing entities (PDEs); and public procurement.

##### **2.2.1 Procurement**

The main avenue for the state to fulfil the needs of its citizens is through public procurement (Milani, 2019:11). According to Olumbe (2011:1), the procurement



function has evolved from being reactive to a top priority in institutions, mainly due to the significant amounts of money involved and the positive impact of effective public procurement systems. Milani (2019:11) posits that globally, 12% to 15% of the gross domestic product of a country, on average, is spent on public procurement. Procurement is the act of selecting and managing external service providers in line with the strategic goals and objectives of the institution (Driedonks, Gevers & Van Weele, 2014:289).

All undertakings that are performed by an entity while obtaining items from suppliers, including sourcing for bids, contract award, evaluation and payment, are referred to as procurement (Patel, 2017:3). Procurement is the process of sourcing for goods and services and guarantees delivery in accordance with the mutually agreed parameters (Aziz, 2014:7). Procurement refers to the entire sequence of securing external resources for the wellbeing of an institution from need identification to disposal (Mansaray, Lapkoff & Little, 2018:62). It is the coordination between buyers and sellers, where various activities are carried out to reach an end goal. Joesbury (2016:30) acknowledges that procurement is known by various names that include ordering, buying, purchasing, obtaining, sourcing, supply chain, strategic sourcing and commissioning.

### **2.2.2 Procuring and Disposing Entities (PDEs)**

The World Bank Group (2016:11) contends that a PDE is any entity in which the government has a stake and that engages in purchasing goods and services with support from the existing legal and regulatory framework. It is an institution that is created by the government, such as a ministry, department, local government or municipal council that is envisioned to perform public functions (Colonnelli & Ntungire, 2018:11). The Public Procurement and Disposal of Public Assets Act (2003:6) defines a PDE as a statutory institution, a department of the central or local government and any other institution or division established and mandated by the government to perform a public function.

Some PDEs are fully owned by the government while others are hybrid in a way that each has shared capital with private institutions, individuals or consortiums. Brazil's Petro-bras and Vale is an example of a hybrid PDE in which the government and

private sector institutions have a shareholding (Inoue, Lazzarini & Musacchio, 2013:1776). Many names have been attributed to PDEs, such as state owned enterprises, government-linked companies, public entities, government institutions, government corporations, government business enterprises, parastatals, public enterprises and public sector units (Price Waterhouse Coopers, 2018:8). It is through PDEs that public procurement takes place.

### **2.2.3 Public procurement**

All procurement that is financed with public funds that are generated by PDEs is referred to as public procurement (Edquist, Vonortas, Zabala-Iturriagagoitia & Edler, 2015:6). Public procurement is the process that involves sourcing for service providers and ensuring the delivery and timely acquisition of goods, services and works in PDEs (Zadawa, Hussin & Osmadi, 2015:108). Public procurement occurs when the government purchases goods and services through legal procedures (Mäki, 2012:8). Broadly, public procurement involves the preparation, award, implementation and administration of contracts for goods and services (Milani, 2019:13). Public procurement is a strong lever for the accomplishment of social, environmental, economic and technological goals (World Bank Group, 2016:5). Sewpersadh and Mubangizi (2017:3) define public procurement as the process through which the government and its entities follow public laws and regulations while acquiring products, services and works. Well-managed public procurement is important, because it ensures fairness, competitiveness, transparency and non-discriminatory practices and guarantees value for money (Georghiou, Edler, Uyarra & Yeow, 2014:2). Public procurement enhances accountability, corporate governance and moral standards and caters for the public interest (Oluka & Basheka, 2014:105).

Various scholars, including Milani (2019:13); Colonnelli and Ntungire (2018:11); Sewpersadh and Mubangizi (2017:3); Georghiou *et al.* (2014:2); Oluka and Basheka (2014:105); Inoue *et al.* (2013:1776); Olumbe (2011:1); Driedonks *et al.* (2014:289); Patel (2017:3); Aziz (2014:7); Mansaray *et al.* (2018:62) and Joesbury (2016:30) have defined procurement, PDEs and public procurement in a broad context and these definitions have been presented. The characteristics, goals and objectives of PDEs are highlighted in the next section.

## **2.3 CHARACTERISTICS AND GOALS OF PDES**

It is estimated that 10% of the gross domestic product in the world is generated by PDEs (Bruton, Peng, Ahlstrom, Stan & Xu, 2015:92). In China, the government owns 51 000 PDEs worth US\$29.2 trillion that employ more than 20 million people (Organisation for Economic Co-operation and Development, 2017b:4). Government-owned PDEs in other Organisation for Economic Co-operation and Development member countries total 370 in Hungary, 270 in India, 134 in Brazil, 133 in the Czech Republic, 128 in Lithuania, 126 in Poland and 113 in the Slovak Republic (Organisation for Economic Co-operation and Development, 2017b:4). The characteristics, goals and objectives of PDEs can be combined in many ways and governments need to establish which policy to employ or action to take to efficiently and effectively fulfil their mandates. The characteristics and goals of PDEs are outlined in the following sections.

### **2.3.1 Characteristics of PDEs**

According to the World Bank Group (2012:12); Bruton *et al.* (2015:93); Inoue *et al.* (2013:1775); Pache and Santos (2013:3) and Musacchio and Lazzarini (2014:15), PDEs are characterised by their ownership, financing, management and activities performed.

According to Bruton *et al.* (2015:93), PDEs are primarily owned only by the government. Some PDEs are jointly owned by the government and private institutions and are sometimes referred to as hybrid institutions (Inoue *et al.*, 2013:1775; Pache & Santos, 2013:3). Ownership goes hand in hand with financing. Whereas most PDEs are strictly financed by the government, hybrid institutions are jointly financed. In cases where PDEs are financed by only the government, it is fully in charge of the governance and management of the institution and where there is joint financing with private institutions, there is joint management and governance (World Bank Group, 2012:12).

As PDEs are primarily government owned, the majority of the management is appointed by the government (Rudy, Miller & Wang, 2016:71). Government appointees include appointments to the Board of Directors, the Directors, Chief Executive Officers, Permanent Secretaries and Ministers. Askim, Karlsen and

Kolltveit (2017:4) reveal a government appointee to be an individual who is selected to perform specific duties on behalf of the state and to advise and aid in the running of the office in which the appointment is housed. Due to the private sector being a major stakeholder in government business, some members are appointed from the private sector to advise on the boards of the entities. Government institutions are funded by the government through the budgets of line ministries, departments or shareholding or directly from the treasury (Stewart, Hammon & Chapman, 2018:17).

Rudy *et al.* (2016:71) posit that government entities are established to perform various economic and social activities. Some entities collect revenue on behalf of the government and others are government watchdogs and projects (Caramanis, Dedoulis & Leventis, 2015:14). Characteristically, PDEs are mandated to provide basic services to the public at an affordable rate and do not seek profit as do private institutions (Chone & Peterson, 2017:4). Most often, PDEs are monopolies in their countries, charged with providing utility services to the people, for example, roads, railways, water and electricity (Woolcock & Grier, 2015:3). In some instances, the private sector is not allowed to operate similar services, for example, the supply of utilities, as it would be considered to be competing with the government (Organisation for Economic Co-operation and Development, 2011a:2).

### **2.3.2 Goals of PDEs**

The goals of PDEs include fostering economic growth, facilitating regional development, participating in sectors that require significant financial investment, offering employment and supporting and protecting the activities of its people (Bruton *et al.*, 2015:92; Kowalski, Büge, Sztajerowska & Egeland, 2013:1; Organisation of Economic Co-operation and Development, 2017b:10 and Rudy *et al.*, 2016:71).

Governments set up PDEs to increase their participation and to compete for resources (Alloghani, Hussain, Al-Jumeily, Aljaaf & Mustafina, 2017:176). Participation and competition for resources is achieved by fostering private and public investment in key growth areas such as agriculture, energy and infrastructure. Poverty and hunger are greatly reduced and the natural resources available in the country are optimally utilised as a result of government investment in the identified priority areas (Aji, 2015:5). Kowalski *et al.* (2013:1) posit that 10% of the world's

largest institutions are owned by governments. Price Waterhouse Coopers (2018:6) posits that between 2005 and 2014 the percentage of government-owned institutions among the Fortune Global 500 rose from 9% to 23%. This is an indication for governments to invest in PDEs as a way to accelerate economic growth (Bruton *et al.*, 2015:92).

Sectors such as utilities and energy require a large financial investment, which deters private institutions from investing in them (Woolcock & Greer, 2015:11). Given the government's resource envelope, its priority areas are those where there is an urgent need and only a few institutions are interested in investing. According to the Organisation of Economic Cooperation and Development (2017:10), more PDEs are created in transport and utilities than in other sectors and touch the very core of the ordinary people, although it is costly to invest in these sectors. In China, the government, through its PDEs, provides reduced prices in the electricity, water, coal, oil and transport sectors (Rudy *et al.*, 2016:71).

Governments finance PDEs to advance the welfare and overall livelihoods of the ordinary people by offering them improved access and affordable services in healthcare, education and security, among others (Bruton *et al.*, 2015:107). In the long run, the provision of basic and affordable services improves the wellbeing of citizens, facilitates them to make a living and provides them with their basic needs to promote economic development. PDEs offer employment to the public to contribute towards economic growth and gain a livelihood to sustain their families (Onuora, 2019:213). According to the Organisation for Economic Co-operation and Development (2017b:4), the PDEs owned by the Chinese Government employ more than 20 million people and are deployed strategically with representation from all regions in the country for regional balance.

A number of government entities are established specifically to support and protect the activities of its people, for example small businesses (Nyland, Forbes-Mewett & Thomson, 2011:611). In Uganda, the National Bureau of Standards and the Investment Authority provide guidance to potential and existing small business owners and investors on setting up and maintaining businesses and even provide opportunities for growth (Wakabala, Godfrey, Kizito & Samuel, 2017:12). Also, some PDEs are set up to exploit the natural resources of a country, for example, the Oil

and Natural Gas Commission in India brings several actors together and negotiates on behalf of the government in the oil and gas sector to maximise benefits (Dietl, 2016:156). In times of crisis in supply chains, government PDEs can be used to resolve stability challenges (Price Waterhouse Coopers, 2018:6). Faced with increasing costs of production, government PDEs will continue producing goods and services, but not for profit. PDEs manage risk and ensure continuous productivity, thus creating stability of delivery (Kapuscinska & Matejun, 2014:130).

It is important to note that procurement contributes to the successful achievement of institutional objectives (Loader, 2015:103). Basheka and Bisangabasaija (2010:92) posit that public procurement reform aims to advance proper governance in public institutions by enhancing participation levels among the public and improving harmony among procurement systems. According to Musanzikwa (2013:120), the objectives of public procurement include:

- purchasing good quality goods and services;
- ensuring that goods and services that have been procured are received on time;
- regular sourcing of highly effective, economical, skilled and dependable service providers;
- monitoring market trends, especially in terms of innovation and price; and
- acquiring materials and services in line with the already established legal and regulatory mechanisms.

The aforementioned are some of the objectives that form part of the overall objective of procurement, which is to ensure that the purchases are of the right quality, right cost, right quantity, delivered at the right time, from the right source (Lynch & Angel, 2013:1).

Globally, PDEs are established by governments to provide services that improve the wellbeing and livelihood of the people, including the alleviation of poverty, the eradication of diseases, security and improved access to education, medical services and infrastructure (African Peer Review Mechanism, 2017:305). Public procurement systems have to be fully executed when implementing government programmes and objectives (Sabiiti & Muhumuza, 2012:2049). Implementation of

government programmes and objectives can only be achieved once the PDEs have performed their functions in the procurement processes with the utmost efficiency and effectiveness (Pule, 2014:136). A successful public procurement process yields favourable donor perceptions, eliminates scandal, detects cost cutting areas, exposes unethical acts and improves service delivery (Bergman & Lundberg, 2013:75). Such a process also reduces the risk of breached agreements and the cost of negotiating with various stakeholders, especially when things go wrong (Shiwa, 2014:18). PDEs therefore enhance performance by achieving the desired government objectives.

Government objectives can be effectively achieved by following the principles of public procurement. These principles underpin public procurement in a way that the process is directed to improve and set the framework for a code of conduct for public procurement practitioners and all other officials associated with the public procurement process. Practitioners and all those associated with the procurement process are required to have total understanding of the procurement principles and how to integrate them into their daily activities. Integrating the principles into the activities will contribute positively to the public procurement goals. Globally accepted public procurement principles are highlighted in the next section.

## **2.4 GLOBALLY ACCEPTED PUBLIC PROCUREMENT PRINCIPLES**

According to the United Nations Environmental Programme, there are globally accepted principles that embrace the achievement of public procurement goals (United Nations Environmental Programme, 2013:12). A principle is defined as a fundamental quality or attribute influencing the nature of something (World Bank Group, 2013:9). Based on a review of sample policies from the World Bank, the European Union, the World Trade Organisation, Europe, North America, Africa and Asia, the globally accepted principles are summarised in Table 2.1.

**Table 2.1: Summary of globally accepted public procurement principles**

GLOBALLY ACCEPTED PUBLIC PROCUREMENT PRINCIPLES	
Principle/s	Relevant source/s
Value for money	Gafarua (2016:12); Marius (2017:64); Munzhedzi (2016:5); World Bank Group (2019:1); Adjei-Bamfo & Maloreh-Nyamekye (2019:2); Ibrahim, Bawole, Obuobisa-Darko, Abubakar & Kumasey (2017:5).
Transparency	Muñoz-Soro, Esteban, Corcho & Serón (2016:296); World Bank Group (2019:30); Thai (2017a:7); Chrysostom (2019:16).
Fairness and non-discrimination	Mungurusi, Ssetumba & Obicci, (2016:3); Israel & Kazungu (2019:23); Thai (2017b:294); Tanaka & Hayashi, (2016:298).
Competition	Thai (2017b:296); Mungurusi, Ssetumba & Obicci (2016:3); Saad, 2016:19); Chrysostom (2019:16).
Accountability	Muzaale, Basheka & Auriacombe (2017:93); Majam & Du Toit (2017:66); World Bank Group (2019:25); Israel & Kazungu (2019:23).
Harmonising of economic, environmental and social factors	European Union (2014:66); United Nations Environmental Programme (2013:12); Rudy et al. (2016:71); Bruton et al. (2015:92).
Generation of relevant benefits to society	Crowther & Seifi (2018:12); Aji (2015:5); Bohari, Skitmore, Xia & Teo (2017:691); World Bank Group (2019:2).
Creation of benefits to the environment	United Nations Environmental Programme (2013:12); Pacheco-Blanco & Bastante-Ceca (2016:10); Bohari <i>et al.</i> (2017:691).
Resource efficiency and subsequent savings arising from new product development	Edquist <i>et al.</i> (2015:68); Lozano & Witjes, 2016:46); Núñez-Cacho, Molina-Moreno, Corpas-Iglesias & Cortés-García, 2018:16.
Optimising costs and enhancing quality of products and services	United Nations Environmental Programme (2013:12); Núñez-Cacho et al. (2018:3).

Source: Adapted from: United Nations Environmental Programme (2013:12); Núñez-Cacho et al. (2018:3); Gafarua (2016:12); Marius (2017:64); Munzhedzi (2016:5); World Bank Group (2019:1); Adjei-Bamfo & Maloreh-Nyamekye (2019:2); Ibrahim et al. (2017:5); Muñoz-Soro et al. (2016:296); World Bank Group (2019:30); Thai (2017a:7) and Chrysostom (2019:16).

As indicated in Table 2.1, the globally accepted public procurement principles include value for money for government funds; transparency of public procurement procedures; fairness and non-discrimination in the process of procurement; competition in the bidding process and accountability for the activities and decisions of public officials (Ibrahim *et al.*, 2017:5; Gafarua, 2016:12; Munzhedzi, 2016:5). An effective public procurement system is one whose processes stimulate transparency, accountability and equity (Chrysostom, 2019:16). The World Bank Group (2019:25)



maintains that when sourcing for bids, transparency and accountability before, during and after the contract has been awarded are essential. With the professionalism of participants in the public procurement process, the system is able to eradicate fraud and the embezzlement of public funds and achieve quality service delivery (Rendon & Rendon, 2015:712).

In Ghana, the public procurement manual indicates that public procurement functions are aimed at achieving value for money by means of efficient, transparent and unbiased purchasing (Gafarua, 2016:12). At the World Bank, the vision for procurement financed by the bank is that borrowers are able to achieve value for money with integrity as a way to achieve sustainable development (World Bank Group, 2019:1). Value for money in procurement means that the criteria for selecting the best bidder are dependent on price, quality, time, accessibility, cost of maintenance, life cycle and compliance, among others (Marius, 2017:64). Within the law, the criteria for selection may be determined by an institution from time to time. Value for money takes into account the return on investment from the goods and services that are procured (Adjei-Bamfo & Maloreh-Nyamekye, 2019:2). Value for money also considers whether or not the procurement process is worthwhile and significant and if it offers a good return on investment (Munzhedzi, 2016:5).

Thai (2017a:7) argues that transparency in public procurement facilitates participation and public oversight of the procurement activities in the PDE. Transparency denotes the process of availing information to the public and other relevant entities as per the laws and policies governing procurement (Muñoz-Soro *et al.*, 2016:296). The information provided varies according to the category of people or institutions and the standards set for publishing the information. In managing the contractual relationship with service providers, it is required that all matters pertaining to the subject at hand be resolved in a manner that is transparent to enhance the results (World Bank Group, 2019:30). Tender advertising is one way of improving transparent practices in institutions (Chrysostom, 2019:16).

Fairness and non-discrimination can be combined to ensure that the process of procurement stays impartial and consistent so that every service provider who is interested in participating in the bidding process has an equal chance of being selected (Mungurusi, Ssetumba & Obicci, 2016:3). Public procurement is dominated

by large suppliers, global suppliers and non-minority suppliers and it is imperative that the playing field be levelled so that small, minority, local suppliers can compete (Thai, 2017b:294). With equal opportunities created for bidders, negotiations are an opportunity for the institution to improve the contract terms and conditions (Thai, 2017b:214). Conducting public procurement with fairness is vital for increased competition and this attracts private businesses to participate in the bidding process (Israel & Kazungu, 2019:23). Officials engaged in public procurement should be encouraged to refrain from collusion and punishment should be meted out to those who are found guilty, because such behaviour distorts the fairness principle in the public tendering process (Tanaka & Hayashi, 2016:298).

Thai (2017b:296) and Saad (2016:19) posit that the United States' 1984 Competition in Contracting Act provides guidelines for selecting service providers through full and open competition by advertising and publicising the criteria for the selection of the best bidders. Competition creates a state of contest among service providers where each bidder has the same opportunity to provide goods and services to an institution (Chrysostom, 2019:16). Competition enhances value for money, increases savings, increases the supplier base and boosts the development of local institutions and leads to economic development (Mungurusi, Ssetumba & Obicci, 2016:3). Economic development can be achieved by economic renewal, sustainable development, emerging markets, SMEs' development and poverty reduction (World Bank Group, 2019:2).

Muzaale, Basheka and Auriacombe (2017:93) note that accountability refers to the responsibility that an individual or institution has to justify the use of resources under their care. It is a lawful requirement of an administrative authority to offer testimony and justify its actions in relation to its mandate (Majam & Du Toit, 2017:66). Procurement officers, managers, users and accounting officers are among those individuals who must be held accountable for their activities and decisions. Lack of accountability discourages service providers from participating and accessing bidding opportunities. The provision of accountability checks prevents unscrupulous behaviour by public servants and the misuse of public funds (Israel & Kazungu, 2019:23).

A review of policies from different countries revealed that the United Nations Environmental Programme (2013:12) advanced a number of procurement principles that included the harmonising of economic, environmental and social factors; ensuring the generation of relevant benefits to society; achieving resource efficiency and subsequent savings arising from new product development; optimising costs and enhancing quality. Consideration for environmental regulations, economic and social policies is covered under the principle of harmonising economic, environmental and social factors. Such policies may be applicable to environmental resource management, urban planning, pollution reduction, alternative energies, water management, sustainable agriculture, marine resources management, ecosystems protection and waste management (World Bank Group, 2019:2). Implementation of the aforementioned policies is aimed at achieving sustainable procurement practice (European Union, 2014:66).

The generation of benefits relevant to society and the reduction of negative social outcomes are additional principles of acceptable public procurement practice. Remedial action is one of the avenues to encourage the conservation and the minimisation of further environmental impact and damage to generate benefits and reduce negative social outcomes (Bohari *et al.*, 2017:691). Consequently, public interests such as offering solutions to societal problems and community development are enhanced and taken care of (Crowther & Seifi, 2018:12). Societal problems and community development challenges may include human rights, food security, fair labour laws, fair trade, health and safety and gender equality (World Bank Group, 2019:2).

Creating benefits for the environment and the reduction of environmental impact are also principles of public procurement (United Nations Environmental Programme, 2013:12). Most developing countries are still in the massive physical infrastructure stage and environmental protection is threatened (Bohari *et al.*, 2017:691). Challenges include environmental pollution, an imbalanced ecosystem and climate and ozone depletion. Green procurement is one way to curb the aforementioned challenges as it provides for sustainable procurement practices that may be considered during the bidding process and contract implementation (Pacheco-Blanco & Bastante-Ceca, 2016:10).

The achievement of resource efficiency and subsequent savings arising from product development are also principles of public procurement (Edquist, *et al.*, 2015:68) that support new and innovative product development and if the product is bought, it should be able to increase the efficiency of the PDE's resources in addition to an increase in savings (Lozano & Witjes, 2016:46). Resource efficiency involves managing resources in a conservative way and may include the management and technological advancement of waste, water, energy and raw materials (Núñez-Cacho *et al.*, 2018:16). With regard to the optimisation of costs and improved quality of products and services available on the market, the principles promote enhanced quality with lower costs of procurement in order to create new market opportunities (United Nations Environmental Programme, 2013:12). Núñez-Cacho *et al.* (2018:3) propose that the production system should be able to manage its production inefficiencies so that better products are put on the market.

In line with the general principles, the majority of nations define and create their own public procurement approaches, policies, strategies and action plans while borrowing and benchmarking from other nations or even international agreements, policies and guidelines to improve their procurement processes (Musanzikwa, 2013:123). The United Nations Global Compact provides an agenda for institutions that are devoted to aligning their operational strategies with ten universally accepted principles in the areas of human rights, labour standards, environmental protection and anticorruption (Kell, 2013:32).

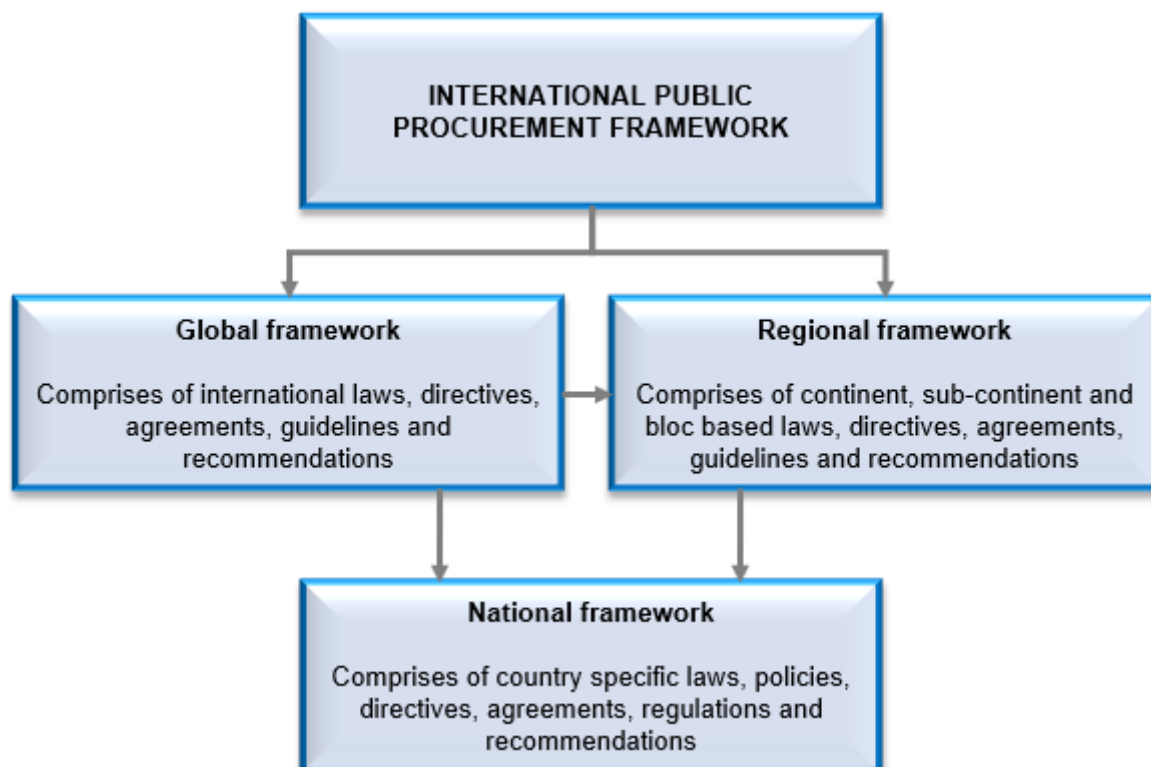
The aforementioned principles were extracted from literature pertaining to the public procurement and disposal process, laws, regulations, rules and manuals of different countries that are applicable worldwide. Whereas the formalities of following the principles in the procurement processes may be viewed as cumbersome and time wasting from procurement officials' point of view, a level playing field is created and legitimacy of the process is enhanced.

Legitimacy of the bidding process is possible after the application of the framework of public procurement, as the framework demands embracing the laws, policies, procedures, regulations, recommendations, guidelines, manuals, templates and even the directives that are used to call for bids. In essence, the framework provides a structure to govern the process and activities of procurement from planning and

budgeting to requisitioning goods and services, bidding and evaluation until contract closure. Major aspects in the procurement and disposal framework globally, regionally and nationally are presented in the following section.

## 2.5 FRAMEWORK FOR PUBLIC PROCUREMENT

Markets have become more international through global, regional and national agreements and treaties, which in turn influence public procurement (Thai, 2017a:7). Sewpersadh and Mubangizi (2017:4) support the view that public procurement is subjective to global, regional and national laws. Owing to the substantial investment in public procurement globally, there have been various efforts jointly and in individual countries to frame laws, policies, rules and regulations to govern the process through an international framework. Arrowsmith (2010:150) concurs that an international framework steers and guides the procurement activities of regions and individual nations. An overview of the international framework for public procurement is presented in Figure 2.1.



Source: Adapted from Allee, Elsig and Lugg (2017:335); United Nations Environmental Programme (2013:15) and Arrowsmith (2010:150).

**Figure 2.1: Overview of the international framework for public procurement**

The framework for public procurement incorporates the global, regional and national laws, policy commitments, directives, agreements, guidelines and recommendations that govern the entire procurement process. At the national level, individual countries are responsible for incorporating the global and regional laws, policies, agreements and regulations in order to inform the process of procurement at that level (Anderson, 2012:83). At times, the regional framework is shaped by guidance from the global framework after tailoring to suit the specific region.

### **2.5.1 Global framework**

Worldwide, public procurement consumes around €1,000 billion, which accounts for 12% of the gross domestic product across the Organisation for Economic Co-operation and Development countries, on average, annually (Martin-Ortega & Methven O'Brien, 2017:69). The international framework for public procurement offers extensive rules to guide procurement contracting at the national, regional and global levels (Yadav, Alphs, D'Souza, Comstock & Barton, 2018:574). Public procurement activities are organised through a series of complex processes and stages that often involve numerous institutions both private and public across countries and jurisdictions (Outhwaite & Martin-Ortega, 2016:42). Countries continuously struggle with budget constraints, substantial debts and increasing demand for accountability from the public (Thai, 2017a:1). With the use of the global procurement rules, a predictable legislative framework for public procurement is created with a strong foundation on the global principles (Munzhedzi, (2016:5). Sources for public procurement law at all levels are provided by the global framework.

According to Woolcock and Grier (2015:7), the first known, formal, international agreement on the exchange of goods and services was the 1947 General Agreement on Tariffs and Trade, although it did not cater for public procurement in any way. For decades, public procurement was challenged and resultantly, the World Trade Organisation Government Procurement Agreement, the United Nations Commission on International Trade Law, the European Union directives on public procurement, the World Bank procurement and consultant guidelines and the United Nations Convention against Corruption were formed (Turley & Perera, 2014:27). Global frameworks cut across nations and the policies, agreements and guidelines

have been referred to in the development of the national and regional procurement systems. According to Anderson and Muller (2016:3), a number of international procurement agreements provide rules for participation in the tender process, including the General Agreement on Tariffs and Trade; the World Trade Organisation Agreement on Government Procurement; the United Nations Commission on International Trade Law Model Law on Public Procurement; European Union procurement directives; World Bank procurement and consultant guidelines and the Organisation for Economic Co-operation and Development's council recommendations pertaining to public procurement.

#### **2.5.1.1 *General Agreement on Tariffs and Trade***

After gathering data, the next step in research is to interpret the information in line with the parameters set to capture the research objectives. Woolcock and Grier (2015:7) indicate that the General Agreement on Tariffs and Trade was formed after the Second World War to stimulate international trade by decreasing, and in some cases eradicating obstacles to trade, including tariffs, subsidies and quotas. It was an agreement among 23 countries during the United Nations Conference on Trade and Employment in Geneva in 1947 (Arpino, Benedictis & Mattei, 2017:537). The General Agreement on Tariffs and Trade was arrived at after failure to approve the intended International Trade Organisation and became law on January 1, 1948. Originally, the agreement was intended to hasten economic recovery after the war (Rodrik, 2018:82). After the war, the agreement provided arbitration of commercial disputes between countries (Böhringer, Carbone & Rutherford, 2018:4). A legally binding set of rules was agreed upon by members in the agreement and this provided a forum for discussion (Balistreri, Kaffine & Yonezawa, 2016:30).

A notable achievement of the General Agreement on Tariffs and Trade included trade without any discrimination, as all members were treated with equity (Arpino, Benedictis & Mattei, 2017:537). However, it was criticised for failing to incorporate public procurement due to its politically controversial nature of seemingly awarding contracts to foreign companies (Woolcock 2012:5). In 1994, the General Agreement on Tariffs and Trade was dissolved by a resolution of 123 countries in Marrakesh and the concept of establishing the World Trade Organisation was born on 14 April 1994 (Ladi & Tsarouhas, 2017:392).

### **2.5.1.2 World Trade Organisation Agreement on Government Procurement**

In 1994, the original agreement of the General Agreement on Tariffs and Trade was modified and maintained under the World Trade Organisation framework (Rodrik, 2018:82). Some members of the dissolved General Agreement on Tariffs and Trade such as Lebanon, Syria and Serbia have not yet joined the World Trade Organisation. After the signing of the Uruguay Round agreements by 123 nations in Marrakesh, the World Trade Organisation (WTO) was established in 1994 and came into effect in 1996 (Ladi & Tsarouhas, 2017:393). As of 2018, there were 164 member countries in the WTO, with Liberia and Afghanistan being the newest members.

Twenty eight World Trade Organisation members agreed on establishing the World Trade Organisation Government Procurement Agreement, laying a foundation for minimum requirements for achieving transparency and equity in awarding contracts (Turley & Perera, 2014:27). The World Trade Organisation negotiates agreements that safeguard free trade among the member countries (Allee, Elsig & Lugg, 2017:335). The purpose of the World Trade Organisation Government Procurement Agreement is mainly to subject public sector business to international competition and make the entire procurement process more transparent and equitable between all suppliers (Anderson, Schooner & Swan, 2012:2).

Ladi and Tsarouhas (2017:392) adduce that the World Trade Organisation Government Procurement Agreement is also known as the Marrakesh Agreement on Government Procurement. The World Trade Organisation Government Procurement Agreement is a treaty pertaining to procurement, whereas the World Trade Organisation is an institution with physical headquarters and staffing structures. According to Ladi and Tsarouhas (2017:392), the Government Procurement Agreement is the most notable agreement that is drawn on for public procurement. It is voluntary and shared among member countries. It has ably taken on the principles of the General Agreement on Tariffs and Trade, including equitable trade and procurement. A case in point, once a country successfully negotiates a cut in tariffs, the new tariff applies across the board (Rodrik, 2018:84). Turley and Perera (2014:27) posit that the provisions of the World Trade Organisation Government Procurement Agreement apply to competition for tenders in international bidding that



are issued by national and sub-national public institutions. Most developing countries are not greatly committed to the agreement due to the fear of being disadvantaged by the open market offered by the agreement.

### **2.5.1.3 *United Nations Commission on International Trade Law Model Law***

Sewpersadh and Mubangizi (2017:4) assert that the United Nations Commission on International Trade Law Model Law on Public Procurement is the most relevant international law on public procurement and has been endorsed by experts for its distinctiveness. Best practices in public procurement procedures and principles in the local setting have been laid down by the law and have enhanced harmony across countries (Anderson *et al.*, 2012:2). International Labour Organisation conventions and multi-lateral environmental agreements such as the United Nations Framework Convention on Climate Change are responsible for influencing policy commitments and regulations. Policy commitments such as green procurement have become popular and have benefited the environment (Pacheco-Blanco & Bastante-Ceca, 2016:10). Green procurement has attracted much attention and led to the increased adoption of more sustainable procurement methods among international development partners such as the World Bank and developed nations (United Nations Environmental Programme, 2013:15).

Martin-Ortega and Methven O'Brien (2017:72) recognise that the United Nations Commission on International Trade Law is an organ of the United Nations General Assembly that was established to harmonise and unify international trade. In 1994, the law was adopted and was revised in 2011 to boost countries that were interested in establishing new rules or reforming existing procurement rules. 2011 ushered in a model law with the aim of achieving value for money and closing the gaps in the public procurement process (Turley & Perera, 2014:27). Grace and John (2016:4) draw attention to the 2011 model law that was a replacement for the 1994 United Nations Commission on International Trade Law Model Law on Procurement of Goods, Construction and Services. A prototype to facilitate members is availed by the model law and its adoption is voluntary. It delivers a template for members to formulate rules to regulate public procurement by drawing on the past and recent experiences internationally (Ladi & Tsarouhas, 2017:392). Templates allow for

members to have a starting point when crafting procurement rules or instituting reform to improve the quality of procurement legislation in the country.

Chapman, Raj, Butler, Mason and Castle (2015:4) posit that through the United Nations Commission, four major principles are served: improved access to justice; accountability, efficiency and development of international trade; technological neutrality and integrity, fairness and equal treatment. In a basic sense, the model law facilitates the establishment of uniform national procurement laws that hinge on competitive practices and the achievement of value for money (Martin-Ortega & Methven O'Brien, 2017:72). The World Bank Group (2013:3) maintains that the United Nations Commission on International Trade Law is not a valid legislative act, but rather a guide for the improvement of existing laws or the establishment of new laws. It serves as a model for the development and implementation of procurement laws. The public procurement regimes of all signatories to the law, the Organisation of Security and Cooperation in Europe, the World Bank, the African, Asian and Inter-American Development Banks and the European Bank for Reconstruction and Development are derived from the model law. Six main objectives are set out by the law, namely: economy and efficiency; international trade; competition; fair and equitable treatment; integrity, fairness and public confidence in the procurement process and transparency (Martin-Ortega & Methven O'Brien, 2017:72).

Provisions for using particular procurement methods, such as framework agreements, guidance on procurement and draft legislative provisions are provided for by the law, for example by the 2001 legislative guide to privately financed infrastructure projects and the 2011 guide to public procurement (Nicholas & Müller, 2017:17). A proposal to amend the legislative guide to privately financed infrastructure projects was reviewed and approved by the 2017 session of the Commission (Harrington, 2018:777). Chapman *et al.* (2015:11) state that the Commission has been successful in creating a historical repository of information for consistency of the law to guide and encourage transparent resolution of disputes, prevent corruption and hold countries accountable for their commercial behaviour. The United Nations Commission for International Trade (2014:78) has been commended for integrating the social and economic criteria through endorsing the accessibility of procurement to small businesses and disadvantaged groups and

incorporating environmental and ethical criteria into procurement processes. Ladi and Tsarouhas (2017:392) posit that the model law sorts out the challenges of the European Union directives, such as the inclusion of low value purchases.

#### **2.5.1.4 *European Union procurement directives***

The European Union was established for the free movement of people, goods and services among primarily European countries (Amann, Roehrich, Essig & Harland, 2014:352). Martin-Ortega and Methven O'Brien (2017:72) indicate that the previous 2004 European Union directives were considered to be particularly restrictive in offering freedom to refer to secondary considerations. Subsequently, elaborate rules pertaining to the threshold values of public procurement for members of the European Union were developed and adopted, namely the 2014/24/EU, 2014/25/EU and 2014/23/EU (Thai, 2017a:11). Arrowsmith, Treumer, Fejø and Jiang (2011:187) draw attention to the members of the European Union who include Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Netherlands and United Kingdom. Members of the European Union have been able to adopt and operationalise the procurement directives by tailoring them to suit each individual country.

The European Union directives that were passed in 2014 came into effect in 2016 to modernise public procurement among the member states (Martin-Ortega & Methven O'Brien, 2017:72). Reforms in the European Union present an opportunity for members to optimise public procurement. Concrete procedural rules are set out with emphasis on competitiveness, transparency and non-discrimination of bidders (European Commission, 2018:67). Directive 2009/81/EU is reserved for special awards in defence and security. For legal protection, the 2014/24/EU, 2014/25/EU and 2014/23/EU directives are supplemented by the 2007/66/EU directive, which offers remedies for classical procurement contracts, and directive 2007/66/EU, which offers opportunities for incorporating social considerations and remedies for non-compliance (Outhwaite & Martin-Ortega, 2016:62). Woolcock and Grier, (2015:1) recognise that although the European Union and the United States differ on the procurement that is open to either party, the two share similar sentiments on

procurement rules to operate with transparency, equity and fairness. Liberalisation of the procurement market in the United States is a strong interest of the European Union, despite the United States' strong tradition of supporting local suppliers (Thai, 2017a:14). Transparency International (2018:27) shows that the sanctions for violating the procurement directives include contract cancellation; compensating the aggrieved; sacrificing bid security and suspension for a specific period.

Public procurement procedures in the European Union are performed on the basis of individual country rules, but the European Union directives apply to the higher value contracts (European Commission, 2018:12). Threshold values offered by the 2014/24/EU European Union public procurement directives are indicated in Table 2.2 below.

**Table 2.2: Threshold values of the European Union public procurement law**

THRESHOLD VALUES			
Categories of contracts		Central government PDEs	Sub-central PDEs
Works contracts		€5,548,000	€5,548,000
Supply contracts		€144,000	€221,000
Service contracts	Social and specific services	€750,000	€750,000
	Subsidised services	€221,000	€221,000
	All other services	€144,000	€221,000

Source: Adapted from the European Commission (2018:12) and Popescu, Onofrei and Kelley (2016:86).

European Union public procurement law does not apply to public procurement contracts that are below the threshold values (Popescu *et al.*, 2016:86). Table 2.2 above shows two categories of contracting authorities, that is, central government PDEs and sub-central PDEs. Central government PDEs are actually national public bodies, while the sub-central PDEs are the regional and local PDEs. Thresholds in terms of works, supplies and services are indicated for each type of PDE. In the case of supply contracts and all other service contracts other than subsidised services and social and specific services, the threshold is higher for sub-central PDEs. For works contracts, social and specific services and subsidised services, the threshold is the same for both the central government PDEs and the sub-central PDEs. The

European Commission (2018:12) warns that the thresholds vary, generally change every two years and can be found on the European Commission's website. Regional and national rules are regulated for smaller contracts. The applicability of the global framework for public procurement is that the provisions under the rules are transposed into the regional and national frameworks (United Nations Environmental Programme, 2013:16).

#### **2.5.1.5 World Bank procurement and consultant guidelines**

Annually, billions of dollars are offered by the World Bank to finance development projects around the globe (Harker & Castellano, 2017:1). In December 1945, the World Bank was established by sovereign member states, through articles of agreement, as a public international organisation (World Bank Group, 2013:3). Under the International Bank for Reconstruction and Development loans and International Development Association credits and grants, the bank issued its most recent procurement guidelines in 2011 with approval from the Board of Executive Directors. Rahman (2016:11) mentions that the guidelines for projects financed by the World Bank include the 2011 guidelines for the procurement of goods, works and non-consulting services and the 2011 guidelines for the selection and employment of consultants by World Bank borrowers, both of which were revised in 2014.

According to Williams-Elegbe (2016:23), the World Bank requires that the procurement process for the projects that it funds is conducted in accordance with its laid down procedures. Several policies and procedures have been developed by the bank from time to time to guide the procurement and selection of goods, works and services (World Bank Procurement Guidelines, 2014:1). Articles of agreement of the International Bank for Reconstruction and Development require that the World Bank makes every effort to ensure that the proceeds of loans are used for only that purpose for which the loan was granted, with efficiency and economy (Gorski, 2016:302). Community participation in procurement, joint ventures, bidding, shopping, framework agreements, direct contracting, force account, performance based procurement and inspection services are some of the areas covered by the World Bank guidelines for procurement (Rahman, 2016:11). In addition, the methodology for assessment of a country's procurement system and guidelines for upgrading the system were designed (Gorski, 2016:303). Under its procurement

department, the World Bank has fashioned lists of standards, policies, guidance notes, samples and trial documents (Harker & Castellano, 2017:1).

#### ***2.5.1.6 Organisation for Economic Co-operation and Development recommendation of the Council on public procurement***

The 2008 Organisation for Economic Co-operation and Development's recommendation for enhancing integrity in public procurement aimed to ensure accountability, transparency, integrity, good management, risk prevention and control. In 2015, the Organisation for Economic Co-operation and Development's recommendation of the Council on Public Procurement was introduced to enhance the strategic and holistic use of public procurement (Organisation for Economic Co-operation and Development, 2016b:11). It modernises procurement systems and can be applied across all levels of PDEs. Additional principles such as efficiency, participation, integration, access, evaluation, balance, e-procurement and capacity were incorporated (Organisation for Economic Co-operation and Development, 2015a:4).

The 2015 recommendation requires governments to link public procurement with financial systems so that its doctrines can be realised. With its adoption, the recommendation facilitates the development of procurement officials to become more knowledgeable and deliver value for money efficiently, effectively and with integrity (Organisation for Economic Co-operation and Development, 2016a:17). Equity and fair treatment of potential service providers during all phases of the procurement cycle is provided for under the recommendation (Organisation for Economic Co-operation and Development, 2015a:8). Also, online access for all stakeholders and visibility of flow of public funds from planning and budgeting, to requisition and contract implementation should be catered for by all signatories to the recommendation. Countries should therefore adopt digital technologies to replace paper-based procedures in the process of procurement (Organisation for Economic Co-operation and Development, 2015b:10). In Mexico for example, documents used in the tendering process are moved electronically through CompraNet, an online portal, so that it is more difficult for collusion between public officials and private firms (World Bank Group, 2016:30).

It should be noted that the international legal frameworks are followed by many countries in the world irrespective of region or continent and are drawn on to guide national and regional procurement policies (Anderson, 2012:83). Mubangizi and Sewpersadh (2017:75) indicate that other instruments that support public procurement include the UN Convention against Corruption, which focuses on international cooperation, the recovery of assets and averting corrupt tendencies. It is mainly through political will and mutual trust among member countries that the global framework can be successfully adopted and implemented to achieve the intended objectives. Mutual trust can be built by starting with the adoption of less intensive procurement laws or guidelines, for example exchanging information and experiences. Good governance is another way to achieve the goals of the global framework of public procurement. With effective adherence to the global framework, the objectives of public procurement can be achieved to a great extent. The regional framework for PDEs is discussed in the following section.

## **2.5.2 Regional framework**

Most regions have instituted reforms in public procurement with the aim to realise the principles of competitiveness, fairness, transparency, accountability and value for money. Reforms have subsequently ushered in improved administrative and structural systems. A number of regional frameworks are discussed in the ensuing sections.

### **2.5.2.1 *European region***

According to the United Nations Environmental Programme, PDEs within the European Union spend more than £2000 billion on supplies, works and services every year, which is equivalent to 17% of the gross domestic product (Distinto, d'Aquin & Motta, 2016:2). It is important to note that the procurement policy within the European Union has evolved, resulting in the establishment of the European Commission procurement directives (Bergman & Lundberg, 2013:73). These directives offer a reference point for procurement in government entities after their transposition into national regulations (United Nations Environmental Programme, 2013:16). In 2014, newer directives, namely the 2014/24/EU, 2014/25/EU and 2014/23/EU were passed to replace the 2004 and 2007 directives, aimed at

improving the existing public procurement systems of member states. Among other provisions, the directives necessitate that at the stage of invitation to bid, the bids evaluation process must be stipulated, with hardly any possibility for discretion, which lowers the risk of discrimination and reduces corruption (Arrowsmith, 2010:155).

To ensure more sustainable procurement practices, the amalgamation of environmental, economic or social oriented criteria into the product specification is permitted (European Union, 2014:66). The European Union directives stipulate that the procurer has to award a contract to the best selected tender that is economically the most advantageous, based either on the lowest price and cost, or the best value for money (European Union, 2014:66). The most economically advantageous tender criterion permits the contracting authority to use criteria that reflect the qualitative, technical and sustainable characteristics of the tender submission in addition to price, to reach an award decision (Bergman & Lundberg, 2013:73).

In 2011, it was agreed that the European Union directives continue and the use of the most economically advantageous tender was made mandatory for all members (United Nations Environmental Programme, 2013:62). In October, 2010 the Single Market Act was passed, with a declaration by the European Commission to create legislative proposals to simplify and update the procurement establishment of the European Union (Bergman & Lundberg, 2013:73). Contracts were to be awarded in a more flexible manner, while at the same time supporting public contracts to achieve more value in line with other European Union policies. In 2014, more directives pertaining to procurement were adopted by the Council and Parliament of the European Union and consequently, members of the European Union were directed to transpose the new rules into the laws of individual countries (Thai, 2017a:11). New directives were expected to commence in October 2018 for e-procurement. Under the law, the provisions of the European Union allow member states to exclude institutions with criminal convictions from participating in major government procurements. Nonetheless, the member states are not allowed to disregard institutions for non-compliance with government policies that are not incorporated in the general regulatory legislation (Arrowsmith, 2010:156). Contrary to the position of the European Union, the World Bank's rules provide for the exclusion



of bank financed contractors who have engaged in corruption without a criminal conviction (Arrowsmith, 2010:156).

There has been growing interest in further developing procurement laws, policies and guidelines both on a bilateral and multilateral level in Europe in order to maximise benefits accruing from public procurement, given the amounts of money involved. Needless to say, European countries are considered to be ahead of many other countries, but they are still affected by corruption, restricted competition and wastage of resources. Consequently, revisions to the existing framework have been continually made to keep up with the ever changing public procurement environment. The next section presents a discussion of the Asian-Pacific region.

#### **2.5.2.2 *Asian-Pacific region***

Generally, the adoption of reforms in public procurement is slow and fraught with problems, especially in the developing economies (Avotri, 2012:35). In the fight against corruption, the Asian-Pacific region has enjoyed massive attention by establishing an anti-corruption action plan that was endorsed in 2006 by 27 member states. Endorsing the 2006 action plan meant that members were committed to establishing transparent procurement procedures that promote competition, equity and fairness and that deter corruption. As a result, members were required to review their laws and regulations so that sanctions could be enforced in the event of poor management of public procurement. Subsequent reforms led to the advancement of several countries by forming and strengthening regulations, institutions, practices and procedures, especially in the field of public procurement (Awino & Marendi-Getuno, 2014:113). Significant progress has thus been made in making processes more transparent and reducing discretionary tendencies, among other achievements.

Countries in the region have increased the adoption of information technology to improve service delivery, especially in public procurement (Neupane, Soar, Vaidya & Yong, 2012:305). Australia, Bangladesh, China, Hong Kong, Singapore and Vietnam are some of the countries in the region that have established more comprehensive procurement laws and rules, inspired mainly by the United Nations Commission on International Trade Law model law on public procurement. Much concern has also

been raised about the withering relationship between the United States of America and various European economies in regard to their capacity to reduce the performance of China, the principal powerhouse economy in the Asian-Pacific region (Harland, Telgen & Callender, 2012:389).

### **2.5.2.3 African region**

African nations took over and adopted the procurement practices of their respective colonial masters, where procurement was regulated by ministerial directives rather than a fully-fledged procurement system (Dza, Fisher & Gapp, 2013:51). Since then, most countries in Africa have instituted measures to promote contract compliance that are formal, transparent and follow fair procedures (Ameyaw, Mensah & Osei-Tutu, 2012:55). Reforms in Africa have taken place at country and regional level with the objective to deliver regional coherence and uniformity in procurement regulation (Williams-Elegbe, 2015:11). Since 2003 in East Africa, various laws to guide public procurement have been drafted and approved (Muange & Chirchir, 2016:20). The Common Market for East and Southern Africa guidelines of 2009, the Common Market for East and Southern Africa Procurement Directive, the West African Monetary Union and the United Nations Commission on International Trade Law are only a few of the benchmarks and guidelines followed while conducting public procurement in Africa (Oluka & Basheka, 2014:105).

Additional efforts have been exerted into the provision of guidance material and templates to ensure accountability and transparency while reducing costs and the complexity of conducting business with governments. According to Dza *et al.* (2013:50), African countries spend 10% of their gross domestic product and up to 70% of public expenditure on public procurement, which implies that systems have to be streamlined so that the money is well spent. Corruption and insufficient budget funding are significant contributors to the slow development of African economies (Williams-Elegbe, 2015:11). It has also been observed that as the African context of procurement differs from that of other continents, for example, Europe and Asia, the United Nations Commission on International Trade Law and the 2009 Common Market for East and Southern Africa guidelines and procurement directives have been criticised for failing to adequately address the subject of public procurement contract compliance in Africa (Oluka & Basheka, 2014:105). Evidently, much has

been achieved in the area of public procurement in Africa and some challenges such as poor record keeping, lack of transparency, weak enforcement and unethical practices in the procurement processes persist. Due to the magnitude of the scandals in public procurement in Africa, there are unfavourable donor perceptions and lack of trust from the public. As such, there are still some gaps in the implementation of public procurement in African countries.

### **2.5.3 National framework**

Several countries have made efforts to define and harmonise the development of procurement policies and standard documents and manuals in addition to providing oversight of the implementation of public procurement activities. Importantly, sound legal and regulatory frameworks as well as boosting integrity within entities and among staff are key factors in ensuring that regulations are strictly followed.

#### **2.5.3.1 Japan**

According to the United Nations Environmental Programme (2013:56), Japan spent 14 trillion yen on central government procurements and 44 trillion yen on local government procurements, representing 17.6% of the country's gross domestic product in 2010. Japan's public procurement dates as far back as a century ago. The main laws that guide local and national procurement in Japan, namely the 1947 Accounting Act and the 1947 Local Autonomy Act, were established during the Showa period (Sorte Junior, 2016:34). Other laws have been enacted since then, such as the 1947 Local Autonomy Law No. 67, the 1947 Imperial Ordinance No. 165 and the 2005 Act for Ensuring the Quality of Public Works. Open competitive bidding, designated competitive bidding and non-competitive bidding are the basic procedures for the selection of bidders and the award of contracts provided by the laws. Contracts are typically awarded to the tender with the lowest bid price in accordance with the World Trade Organisation's Government Procurement Agreement that Japan signed in 1995. The institution of laws guiding procurement in Japan was as a result of the mounting pressure for reforms owing to reports of bribery, high priced contracts and bid manipulation by some politicians, public officials and service providers (Sorte Junior, 2016:37). In Japan, there are no specialised procurement bodies and each PDE is in charge of its own procurement

process. Japan has greatly improved and is lauded to have high quality standards due to the high commitment of service providers (Sorte Junior, 2016:37). Uganda needs to adopt such strategies to improve contract compliance among PDEs.

### **2.5.3.2 India**

According to Lewis-Faupel, Neggers, Olken and Pande (2016:2), India spent in excess of US\$21 billion on public procurement which was over 200% of its expenditure in 2000. Despite the amounts involved, India is faced with corruption and a poor attitude exhibited by officials involved in the procurement process. In some cases, contractors have been deterred from submitting bids and bullied, while others report bid tampering and inspection before evaluation, which compromises the fairness principle (Lewis-Faupel *et al.*, 2016:6). In 2005, India revised its general financial rules, which lay down the principles for public procurement. Some of the changes effected in 2005 provided for the publishing of procurement plans to increase transparency of the procurement process. The contents of bid documentation and considerations for bidding and delivery are all published, which allows for post-tender negotiations with potential suppliers to save on costs, but the reasons for selecting the best bidder are not made public. The situation in India is similar to that in Indonesia, where the problem of corrupt procurement officials with poor attitudes in the procurement process arise (Lewis-Faupel *et al.*, 2016:8). India and Uganda face similar challenges pertaining to corruption and poor ethics and it is imperative that approaches that can improve contract compliance in PDEs are adopted.

### **2.5.3.3 Indonesia**

Public procurement in Indonesia was laid out in many presidential decrees such as decree 18/2000, which contains relevant regulations on contracting. Much as the current laws offer guidance at all levels, the security sensitive and emergency procurements do not follow the laid down procedures and are often exploited by corrupt officials. According to House (2012:2), the area of public procurement is seen to be one of the most corrupt in Indonesia and 25% of the central government's expenditure in the country is on public procurement. Efforts to combat corruption in Indonesia resulted in the establishment of a semi-electronic procurement system in

2004 in the central ministry in Jakarta, prior to which the procurement process followed the 2003 presidential guidelines. Lack of a centralised procurement entity to monitor and ensure uniformity of policies and practices among PDEs has also weakened the public procurement system in the country. Efforts have been made by the Ministry of Finance to train officials in public procurement, and tender opportunities are published in the media to increase competition, which must be commended. Uganda spends more on public procurement than does Indonesia, but both countries face challenges regarding non-adherence to procurement guidelines and high corruption rates, which calls for stringent enforcement of the legal and regulatory measures aimed at contract compliance among PDEs.

#### **2.5.3.4 *Sri Lanka***

In Sri Lanka, bureaucracy is predominant and challenging for procurement professionals and service providers who continuously make efforts to ensure contract compliance (Avotri, 2012:35). PDEs in Sri Lanka are allowed more freedom to handle the institution's finances, but the Central Audit Unit operated by the Ministry of Finance and the Auditor's Office remain in charge. On many occasions such power has been misused, mainly by politicians, which has had disastrous consequences for the country (Avotri, 2012:35). Uganda and Sri Lanka are different, but share striking similarities such as poor ethical behaviour in the procurement process, which calls for strategies aimed at contract compliance among PDEs.

#### **2.5.3.5 *United Arab Emirates***

Generally, the adoption of reforms in the economy of the United Arab Emirates has realised tremendous growth, from US\$27,545 billion in 1972 to US\$249,578 billion in 2014 (Delgado, 2016:17). The United Nations (United Nations Office for Project Services, 2018:15) posits that the United Arab Emirates was its largest supplier country of fuels and lubricants and second largest supplier of food and beverages. Despite the institution of various reforms to guide procurement, the United Arab Emirates has been plagued by unskilled labour, high project values, lack of credibility, poor communication among service providers, long procurement and negotiation processes, inefficient leadership and poor quality of materials (Basheka & Tumutegyeize, 2012:9212). Public procurement in the country is still approached

in a traditional way (United Nations Office for Project Services, 2018:15). Delays in the delivery of goods, services and projects have increased the overall cost of management and this is attributed to the traditional ways of doing things (Khalifa, Farrell & Emam, 2015:2). A difference exists in economic development between United Arab Emirates and Uganda, but both face similar challenges with regard to poor service delivery, which calls for contract compliance.

### **2.5.3.6 United Kingdom**

Between 2012 and 2013, the United Kingdom Government spent an estimated £230 billion on public procurement purchasing (Loader, 2015:103). According to Uyarra, Edler, Garcia-Estevez, Georghiou and Yeow (2014:2), the United Kingdom has been extremely active in reforming its public procurement sector through initiatives to mobilise the use of procurement to support competitiveness and innovation. Zadawa *et al.* (2015:108) state that the 2015 Public Contracts Regulations for England and Wales and the 1998 Fair and Equal Treatment Order are a few of the regulations for public procurement in the country. Centralising some common goods and services, renegotiating contracts and reducing expenditure in the United Kingdom led to the realisation of savings worth £5.4 billion in 2013 (Loader, 2015:104).

According to the United Kingdom Office for Government Commerce, the public sector has been criticised for its failure to capture procurement innovation that was compounded by the fragmented nature of procurement (Uyarra *et al.*, 2014:632). Northern Ireland Government's policy on procurement is governed under the 1998 Fair and Equal Treatment Order (Arrowsmith, 2010:153), which forbids discrimination, institutes corrective measures and requires both public and private sector institutions to secure fair opportunities. Historically, the need for fairness and equity dates back to the religious and political divisions between the Roman Catholic and Protestant communities of Northern Ireland. Corrective measures include disqualification from public contracting as a result of poor contract compliance (Arrowsmith, 2010:153). The United Kingdom is far more developed than Uganda and its procurement processes and laws are more advanced and effective than those of Uganda, which makes this a good case for referral to improve contract compliance among PDEs in Uganda.

### **2.5.3.7 Australia**

According to the Organisation for Economic Co-operation and Development (2011:1), 20% of the economy of Australia is attributed to public procurement, which is less than the 23% average for all Organisation for Economic Co-operation and Development member states. Ahsan and Rahman (2017:182) note that over AU\$1.6 billion per annum is spent by government on public healthcare in the state of Victoria in Australia, which is estimated to be 20% of the total budget of Victoria. Public procurement expenditure is therefore very high and requires stringent regulations. Commonwealth Procurement Rules and the Public Governance, Performance and Accountability Act of 2013 form the backbone of the procurement policy framework of Australia (Podger, Su, Wanna, Chan & Niu, 2020:46). Developed by the Department of Finance, the Commonwealth Procurement Rules provide guidance material and templates to ensure accountability and transparency while reducing costs and the complexity of conducting business with the government.

Subject to the Commonwealth Procurement Rules, all potential suppliers to the Australian Government must be treated equitably based on their commercial, legal, technical and financial abilities without discrimination arising due to their size, degree of foreign affiliation, ownership, location and origin of their goods and services (Commonwealth Procurement Rules, 2018:13). For purposes of monitoring, assessment and reporting on compliance, the Department for Finance and Deregulation was established. Unlike other members of the Organisation for Economic Co-operation and Development, the Australian Government's procurement policies do not provide justification for the award of contracts (Organisation for Economic Co-operation and Development, 2011b:3). Uganda and Australia differ in that Australia spends less of its budget on public procurement, but shares some aspects, such as the establishment of a central body to monitor, assess and report on compliance, which indicates that there is hope for improving contract compliance in the Uganda.

### **2.5.3.8 United States of America**

The United States of America is the leading purchaser of goods and services in the world (Vonortas, Edquist, Zabala-Iturriagagoitia & Edler, 2015:150). Ferguson

(2018:6) identified that the annual expenditure on procurement in the United States of America is US\$530 billion. According to Lewis and Bajari (2011:1173), the public procurement system of the United States of America (USA) is conservatively and stringently regulated and the majority of procurement contracts are awarded to the most qualified bidder with the lowest price. Government procurement is directed by statutes such as the United States Code and is mentioned in Article 1 of the country's constitution (Grace & John, 2016:1). Public procurement is carried out at the federal and state levels, yet the largest share of public procurement lies with federal agencies such as the Departments of Defence and Energy (Vonortas *et al.*, 2015:150).

Vonortas *et al.* (2015:150) maintain that the procurement activities in the country are guided by the Federal Acquisition Regulation, the Office of Management and Budget, circulars, memoranda and executive orders issued by the White House. Federal Acquisition Regulation 9.202 provides the procedures for the qualification of bidders and the evaluation criteria are left to the discretion of the PDE. Originally, the US Department of Defence issued comprehensive and complex product specifications, which led to a surge in the cost of doing business and reduced competition. In 1993, the Winter Commission in the USA proposed fundamental reforms of the procurement practices with the aim of providing management with the tools to pursue public utility, including procurement (Coggburn, 2017:8).

The Organisation for Economic Co-operation and Development (2011:3) maintains that the 1996 Freedom of Information Act of America allows for withholding certain information from the public, such as the list of public servants and their salaries, but permits the publication of some information, such as budget information and audit reports. The government adopted the federal procurement data system's new generation website and the fedbizopps.gov website to provide information pertaining to expenses, bidders, applications, plans, bidding, evaluation and the awarding of contracts (Organisation for Economic Co-operation and Development, 2011c:2).

Bergman and Lundberg (2013:73) contend that the stringent regulation of public procurement in the United States of America and the buy-low-bid rule shaped an environment in which suppliers cut costs and offer the bare minimum acceptable quality, which is not always the most suitable. Quality and durability are thus



sacrificed, contrary to the European Union's directives stipulating that the combination of price and quality is a priority. Corruption remains a challenge despite the existing laws and regulations (Ferguson, 2018:6). Uganda is a small purchaser and has less stringent rules for procurement than the United States of America, but both countries face corruption and require strategies that are aimed at improving contract compliance among PDEs.

#### **2.5.3.9 Kenya**

Since the 1960s, the public procurement system in Kenya has undergone several changes, from lacking regulations to a system regulated by treasury circulars (Koech, 2018:18). Procurement reforms in Kenya started in 1978, when a supplies manual, inclusive of policies and circulars, was developed. In 1998, a more rigorous reform programme was launched in Kenya, resulting in the passing of the public procurement regulations under the Exchequer and Audit Act. Still, there were some institutional weaknesses that necessitated laws to direct and strengthen the system. The Public Procurement and Disposal Act of Kenya was enacted by parliament in 2005 and established the Public Procurement Oversight Authority, the Public Procurement Oversight Advisory Board and the Public Procurement Administrative Review Board.

New standards for public procurement in Kenya were introduced by the 2006 regulations. Koech (2018:16) alludes that various audit checks performed by the Public Procurement Oversight Authority and the World Bank indicate that the compliance levels of PDEs in Kenya remain low. Cherono and Patrick (2019:135) attribute the low levels of compliance to mismanagement of projects and procurement processes, inadequate planning and poor contract administration. Several similarities exist between Kenya and Uganda, as both are developing economies in East Africa and reformed their public procurement laws and regulations within the same period, but still face challenges of poor contract compliance and thus require strategies for improving contract compliance to be designed and adopted by PDEs.

#### **2.5.3.10 Tanzania**

Kikwasi and Escalante (2018:5) mention that public procurement in Tanzania has undergone tremendous changes, especially since the 2004 Public Procurement Act of Tanzania was repealed in 2011. Such changes include the enforcement of the 2013 public procurement regulations, the establishment of the Public Procurement Regulatory Authority as an oversight body in the Ministry of Finance, the establishment of the Public Procurement Appeals Authority as an independent mechanism for complaints and appeals and the establishment of the National Audit Office to carry out performance audits (Sospeter & Li, 2018:216). Prior to the repealing of the 2004 Public Procurement Act, the 1961 CAP 439 Exchequer and Audit Ordinance, the 1977 constitution and the 2001 Public Procurement Act were some of the laws guiding public procurement in the country (Sospeter & Li, 2018:215).

Dello and Yoshida (2017:138) posit that the 2011 regulations introduced a framework for the procurement process that included methods of procurement, procedures for contract management, e-procurement, public-private partnerships and principles of procurement. Despite the existing framework, in 2014 the Auditor General alluded that the government had lost US\$30 million due to inflated costs, bureaucracy, corruption and project delays (Dello & Yoshida, 2017:137). Sospeter and Li (2018:214) posit that in one case, US\$65.8 million was lost due to the rigidity of Tanzania's Public Procurement Act of 2011. Tanzania, like Uganda has embarked on improving its laws, which has led to an improvement in procurement processes. Non-compliance remains a problem and strategies for improvement are required.

#### **2.5.3.11 Rwanda**

Compared to other developing countries, Rwanda has had some success in public sector reform, especially in the area of public procurement (Andrews, 2013:12). After the genocide, efforts to standardise public procurement commenced with the establishment of the National Tender Board in 1997. Following the procurement issues that were paper funded by the World Bank and based on the 1994 United Nations Commission on International Trade Law, a presidential order providing a framework for procurement was passed in 2004 (Chemouni, 2017:14). Due to the

significant workload, the National Tender Board lobbied the government to decentralise the public procurement system and this came into effect in 2007.

Charged with the supervision and control of the procurement processes, the Rwandan Public Procurement Authority replaced the National Tender Board. Kalyongwe, Macwan'gi, Mwiya, Muya, Tambatamba, Matakala, Milapo, Kazungu and Byusa (2018:681) explain that Transparency International, in their 2015 report, rated Rwanda as the fourth least corrupt country in Africa, which was attributed to strong leadership, political will and commitment to enhancing sound governance. The establishment of the Office of the Ombudsman, the passing of laws and policies to curb non-compliance and the zero tolerance approach to corruption have consequently attracted more foreign investors (Basheka, 2021:130). Despite the successful reform, the country has been criticised for its preference for transparency and competition at the cost of economic efficiency (Chemouni, 2017:15). Poor quality service, weak procurement laws and poor enforcement are other challenges that persist in Rwanda (Kalyongwe *et al.*, 2018:679). Lessons for Uganda can be drawn from Rwanda, especially in regard to the anti-corruption fight, given its benefits of improving value for money, reduced cost of doing business, transparency and non-discrimination.

### **2.5.3.12 Ghana**

Public procurement accounts for between 50% and 70% of the national budget in Ghana (Avotri, 2012:19). Sumaila, Alhassan and Sakara (2014:6) add that Ghana spends about 14% of its gross domestic product on public procurement. In 1996, the Public Financial Management Reform Programme was launched by the Ghanaian Government in an attempt to advance the management and accountability of finances (Awino & Marendi-Getuno, 2014:110). Nevertheless, the Public Financial Management Reform Programme identified a lapse in comprehensive public procurement policy and the absence of a central body with technical expertise. The programme also observed the absence of clearly defined roles and responsibilities for institutions and the lack of a comprehensive legal and regulatory framework to guide public procurement.

Originally, Ghana had no independent appeals process to address complaints from bidders (Ameyaw *et al.*, 2012:55). Consequently, the Public Procurement Oversight Group was established in 1999 to address the challenges in the procurement process and improve contract compliance. Ameyaw *et al.* (2012:56) attribute the design of the comprehensive public procurement reform programme to the oversight group and as a result, the public procurement bill was passed into law on 31 December 2003. Aimed at making administrative and institutional arrangements, the 2003 Public Procurement Act of Ghana established the Public Procurement Board (Akrong, 2014:13). Chikwere, Dzandu and Dza, (2019:1) postulate that the 2003 Public Procurement Act, No. 663 was established to harmonise public procurement to protect state resources and ensure that the process is carried out in a fair, transparent and non-discriminatory manner.

Adinyira, Manu, Mahamadu, Olomolaiye and Agyekum (2018:2) indicate that in 2016 the Public Procurement Act was amended to deal with loopholes that existed in the earlier law of 2003. Even with the existing legal and regulatory framework that lays down ample rules and procedures for PDEs to follow, the country has witnessed high rates of corruption, unethical practices and non-compliance (Chikwere *et al.*, 2019:1). Non-compliance was attributed to incompetent staff, political interference and inadequate monitoring (Adinyira *et al.*, 2018:2). As Ghana and Uganda face similar challenges that include corruption and poor ethics, it is crucial that approaches be adopted that can contribute towards improving contract compliance.

#### **2.5.3.13 Sierra Leone**

In 2004, the Public Procurement Act of Sierra Leone was passed. Arising out of the 2004 Act was the establishment of the National Public Procurement Authority to perform oversight functions and advise government on public procurement. Since its establishment, the authority has embarked on a rigorous campaign to deliver value for money. In 2016, the Public Procurement Act was amended to address weakness in public procurement in the country (Sumaila *et al.*, 2014:2).

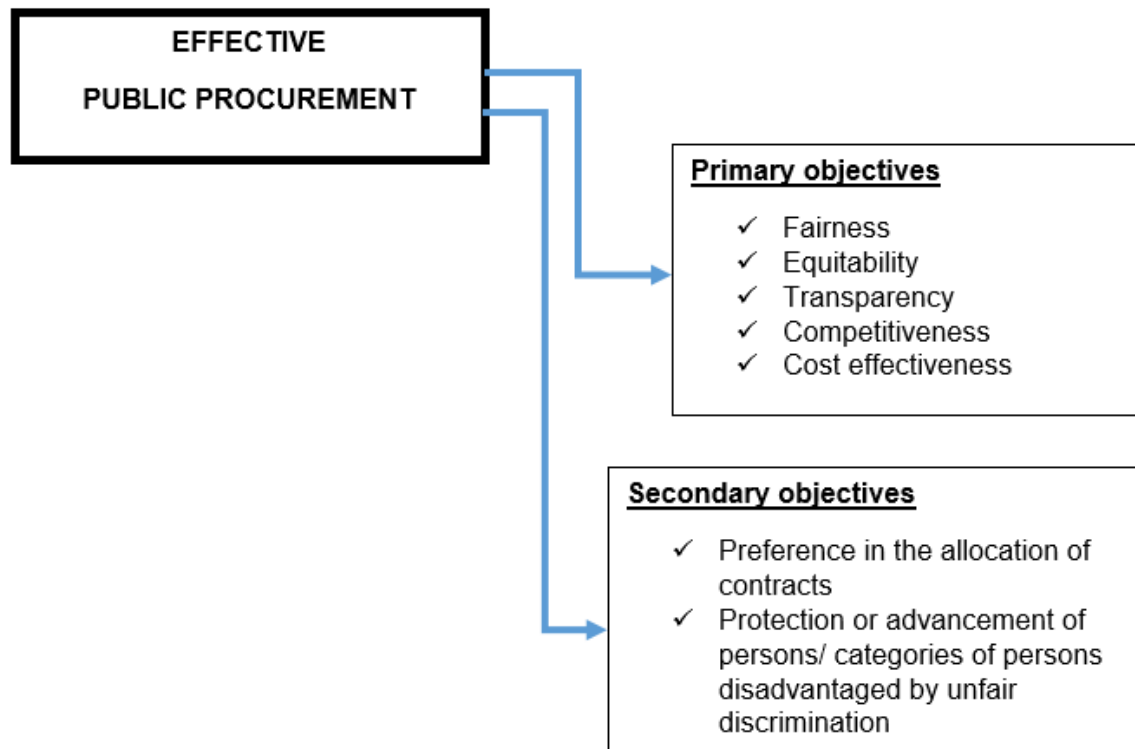
According to the Sierra Leone Government (2016:1), the Public Procurement Act of 2016 was enacted to facilitate the Public Procurement Authority in the performance of its mandate, which was to regulate and harmonise public procurement processes

and to decentralise public procurement to PDEs. Capacity building in the field of public procurement, attracting qualified bidders and ensuring value for money are provided for under the Public Procurement Act of 2016 (Government of Sierra Leone, 2016:1). Ameyaw *et al.* (2012:56) note that the National Public Procurement Authority of Sierra Leone identified corruption and lack of political will in public procurement.

Corruption skews competition, makes the public lose trust in the government and distorts government spending for the benefit of a few individuals (Dello & Yoshida, 2017:139). As a result, the goals of public procurement cannot be met (Neupane *et al.*, 2012:306). Full commitment has not yet been shown by politicians who are responsible to pass laws to check corruption and improve the process, which has slowed the success of public procurement in Sierra Leone. Sierra Leone and Uganda's expenditure on public procurement are similar and face the same challenges, therefore it is important that strategies to improve contract compliance are designed and adopted.

#### **2.5.3.14 South Africa**

Expenditure on public procurement in South Africa is evaluated at approximately 22% of the country's gross domestic product and R500 billion annually (Bolton, 2016:8). Due to its magnitude, the country has taken measures to streamline and regulate the process through which PDEs acquire goods and services. According to Ambe and Badenhorst-Weiss (2012:247), Section 217, Act No. 108 of the 1996 Constitution of the Republic of South Africa provides for procurement principles and objectives in South Africa. Figure 2.2 summarises the objectives of public procurement in South Africa.



Source: Adapted from Ambe and Badenhorst-Weiss (2012:247) and Munzhedzi (2016:5).

**Figure 2.2: Objectives of public procurement in South Africa**

Figure 2.2 denotes that the process of public procurement is driven by the core principles of fairness, equity and transparency, in addition to increased competitiveness and optimal cost (Ambe & Badenhorst-Weiss, 2012:247). To supplement the core principles is preference in the allocation of contracts, bearing in mind that the protection of disadvantaged individuals is also pertinent, as outlined in the 1996 South African Constitution, to avoid unfair discrimination. Equal opportunity for disadvantaged individuals to compete for contracts in public institutions is provided for in the law (Munzhedzi, 2016:4). No segregation of individuals with regards to language, race, gender, sexual orientation, ethnicity, colour, religion, culture, disability, pregnancy, age and birth is allowed in the bidding process. The South African legal and regulatory framework revolves around laws, regulations and policies; governs all stages of the procurement process and provides for the methods and principles of procurement.

Previously, public procurement in South Africa was fraught with challenges of inconsistent application of policy, lack of accountability and poor structures (Ambe & Badenhorst-Weiss, 2012:24). For government to curb the challenges, there was a need for reforms in public procurement. According to Ambe (2016:277), the reform of public procurement in South Africa aimed at enhancing good governance and commenced by instituting a preferential system of fulfilling the country's socio-economic objectives in 1996. Endorsement of the Constitution of the Republic of South Africa occurred in 1996, which made provisions for executing the preferential procurement policy by establishing principles of public procurement. Fairness, equity, transparency, competitiveness and cost-effectiveness are a few of the principles of public procurement in South Africa. The 1999 Public Finance Management Act was drawn from Section 217(1) of the 1996 Constitution (Munzhedzi, 2016:3). Section 1 of the 1999 Public Finance Management Act tasks the National Treasury with developing an agenda to guide and regulate supply chain management among PDEs (Watermeyer, 2011:3).

In 2000, other Acts to support the public procurement process were enacted, such as the Promotion of Administrative Justice Act, No. 3; the Promotion of Equality and the Prevention of Unfair Discrimination Act, No. 4; the Preferential Procurement Policy Framework Act, No. 5 and the Construction Industry Development Board Act, No. 38 (Munzhedzi, 2016:4). The Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 provided for improved access to contractual opportunities and instituted measures to rationally accommodate the needs of marginalised individuals and groups. Processes through which the Board promotes and implements policies, programmes and projects were laid down by the Construction Industry Development Board Act. Procurement reform, standardisation and uniformity through the establishment of a national register of providers and large projects, best practices and code of conduct are some of the processes that are specified. All efforts were aimed at facilitating justice, administrative action, non-discriminatory and fair practices and the result was reform, standardisation and uniformity (Ambe, 2016:277).

The Broad-based Black Economic Empowerment Act established the code of good practice to guide the development of qualification criteria for issuing licenses and

concessions, the sale of PDEs and partnering with the private sector and the development and implementation of a preferential procurement policy. Local government procurement is regulated by the Local Government Municipal Finance Management Act and guidance with regard to corruption is provided by the Prevention and Combating of Corrupt Activities Act. The government established the Office of the Chief Procurement Officer at the National Treasury to address the challenges in the process of procurement (Gordhan, 2014:28). Reviewing and developing standards in contracts, leases and projects is the responsibility of the Office of the Chief Procurement Officer. Some of the government's efforts towards realising strategic policy outcomes are through public procurement.

Despite the reforms, the country remains plagued by numerous challenges such as corruption and inefficiencies in the procurement processes, let-downs in service delivery and poor financial management (Ambe, 2016:278). The Public Service Commission (2013:18) alludes to the conviction of 2,202 officials on corruption and fraud related charges from 2004 to 2013. Munzhedzi (2016:1) posits that South Africa lost R26.4 billion in 2010 due to breaches of laws and regulations applicable in the procurement process. South African citizens were denied several services and benefits that would have improved their livelihood due to the money that was lost. Several similarities exist between South Africa and Uganda as both reformed their public procurement laws, but still face the challenge of corruption, and strategies should therefore be designed to improve contract compliance.

As many countries move towards the adoption of the global economy, practitioners in the public procurement realm face the challenge of complying with the government's laws and goals without violation of the national, regional or international trade laws and agreements. Owing to the significant investment in public procurement the world over, there have been various efforts jointly and individually to frame laws, policies, regulations and rules to govern the process. Public procurement is subject to national and international legal frameworks such as the Government Procurement Agreement and the European Union and the United Nations Commission on International Trade Law (Sewpersadh & Mubangizi, 2017:4). Guidelines for one country may not work in another and are in many cases country specific. Importantly, bidders, whether global or national, should be aware of the



laws guiding procurement. Procurement practitioners should critically familiarise themselves with trade agreements and the provisions thereof. The benefits of complying with the procurement framework include enjoying economies of scale, improved market efficiency, removal of tariffs and the reduced cost of imports, which provide a basis for the establishment of the national framework (Meyer & Su, 2015:150). In the next section, the contribution of PDEs to sustainable development is discussed.

## **2.6 CONTRIBUTION OF PDES TO SUSTAINABLE DEVELOPMENT**

China alone owns 51 000 revenue generating PDEs valued at US\$29.2 trillion with 20.2 million employees, which is an indication of the impact of government entities on the overall development of the country (Kane, 2017:4). According to Kutosi, Moses and Eya (2015:3), the main contributions of PDEs are indicated as developing strategic sectors in a country and facilitating regional development.

Governments invest heavily in PDEs and subsidises some by buying shares so that institutions can provide a steady supply of the basic services such as water and electricity, which are a resource for business establishment and growth (Rudy *et al.*, 2016:72). Government comes in to moderate the cost and avoid monopolistic tendencies that can substantially drive up costs, especially in services that are usually beyond the means of private institutions (Narodowski, Gottau & Moschetti, 2016:694). Norway's Government Pension Fund Global was established in 1990 to allow the government room to flex the fiscal policy in instances when there is a decrease in oil prices (Price Waterhouse Coopers, 2018:13). Public universities and schools contribute towards bridging the skills gap in various economies as a way of contributing to development (Breznitz & Noonan, 2018:1049).

Through its PDEs, governments mobilise funds from foreign investments and create job and wealth opportunities (Porter & Kramer, 2019:6). Some PDEs are income generating and are responsible to manage social challenges in society, so their activities are geared towards benefitting the citizens and society as a whole. Resources are well utilised to the advantage of the whole country when the activities are run by PDEs (Breznitz & Noonan, 2018:1052). Government plans and policies are implemented using PDEs, which operate as a vehicle for achieving the

government's targets, such as increased productivity, employment and service delivery (Price Waterhouse Coopers, 2018:14). Once the PDEs' and the government's goals have been achieved, there is an equitable distribution of wealth and the gap between the poor and the rich is greatly reduced (Arsenio & Willems, 2017:464). The government establishes its own undertakings and participates in public procurement to promote economic growth in the country.

A summary of the contribution of PDEs to sustainable development has been presented, with particular emphasis on increased employment opportunities, enhanced productivity and effective and efficient service delivery. Internationally, governments spend an estimated 15% of their gross domestic product on procurement (Bergman & Lundberg, 2013:75). Due to its importance, several countries have collaborated through various fora to devise means of improving and streamlining their international public procurement practices and improving contract compliance.

## **2.7 SUMMARY**

A detailed account of the global procurement and disposal landscape was provided in this chapter as well as descriptions of procurement, PDEs and public procurement. The characteristics and goals of PDEs were highlighted. A discussion of the globally accepted principles was presented, which include value for money; transparency; fairness and non-discrimination; competition; accountability; harmonising economic, environmental and social factors; generation of benefits relevant to the environment; resource efficiency and subsequent savings from new product development; optimising costs and enhancing the quality of products and services. As part of the framework for public procurement, the global framework, the regional framework and the national framework for public procurement, including the international, regional and local politics, laws, guidelines and directives from the various fora and countries were comparatively discussed. Chapter two concluded by clarifying the contribution of PDEs to sustainable development.

## **CHAPTER THREE**

### **PROCUREMENT AND DISPOSAL IN UGANDA**

#### **3.1 INTRODUCTION**

Chapter 2 provided a detailed account of the global, regional and national procurement and disposal landscape. Key terms were defined and the characteristics and goals of procuring and disposing entities (PDEs) were elucidated. Particular reference was made to the PDE agreements, recommendations, laws, directives, guidelines and regulations applicable on a global, regional and national scale. Chapter 2 concluded with a discourse on the contribution of PDEs to sustainable development.

An overview of PDEs in Uganda is presented in Chapter 3. The chapter commences with the history of procurement reform in Uganda and the basic principles provided for by law for public procurement are highlighted. Major trends in PDEs inclusive of framework contracting, green procurement, e-procurement, public-private partnerships, cognitive procurement, cyber security, cloud technologies, corporate social responsibility, innovation, simplicity, nearshoring and reshoring are discussed. The structure and responsibilities and the legal and regulatory framework for public procurement in Uganda are presented. PDEs are categorised into government ministries, departments and agencies; commissions and statutory authorities and local government institutions. External and internal stakeholders are elucidated. Procurement methods including domestic and international bidding, requests for quotations, force account, micro and direct procurement are discussed. The procurement and disposal process, e-procurement, records management and the financial framework followed in public procurement in Uganda is also presented. Chapter 3 concludes with the challenges and key success factors for public procurement in Uganda.

#### **3.2 HISTORY OF PROCUREMENT REFORMS**

Uganda's public procurement landscape has evolved with a series of significant reviews and reforms. Eyaa and Oluka (2011:35) posit that Uganda is considered among the leading African nations in the implementation of public procurement

reforms. In 1964, the journey of procurement reform in Uganda began and a timeline of Uganda's public sector reforms from 1964 to 2015 is presented in Table 3.1.

**Table 3.1: Timeline of Uganda's public sector reforms, 1964 to 2015**

Events/Activities	Date/s
Centralisation of procurement activities by Crown Agents on behalf of government	1964
Introduction of the Central Tender Board regulations	1977
Enactment of the 1995 Ugandan Constitution with more public procurement reforms	1995
Establishment of a task force with members including the central government ministries, private sector and the donor community by the World Bank in conjunction with the Ugandan Government	1998
Submission of the report by the task force	1999
Removal of the Central Tender Board and the transformation of the National Public Procurement Unit into the Reformed Central Tender Board	2000
Introduction of the 2000 regulations that decentralised public procurement	2001
Passing of the Public Procurement and Disposal of Public Assets Act No. 1 of 2003 by parliament after approval by the president	2002
Gazetting of the Public Procurement and Disposal of Public Assets Act No. 1 of 2003 by the Minister of Finance, Planning and Economic Development	2003
Review of the Public Procurement and Disposal of Assets Act No. 1 of 2003	2008
Public Procurement and Disposal of Public Assets Authority adopted the procurement performance measurement system	2009
Passing of the Public Procurement and Disposal of Public Assets Regulations	2014
Public Procurement and Disposal of Public Assets Authority developed the government procurement portal that created a platform for the procurement performance measurement system, the register of providers and the tender portal	2015

Source: Adapted from Tumutegereize (2013:4).

Prior to the reforms, Uganda's public procurement activities were handled by Crown Agents on behalf of the British Government, as Uganda was a British colony (Wanyama, 2016:203). Uganda attained full independence from the British Government in 1962 and in 1964 the journey of reforming the public procurement sector began. A decision to centralise procurement activities was taken in 1964 and the function was performed by Crown Agents on behalf of the Ugandan Government (Tumutegereize, 2013:4).

In 1977, the Central Tender Board Regulations were introduced to guide and regulate the process of procurement between the government and service providers (Maholo, 2018:2). 1995 ushered in a new constitution and two decades later more public procurement reforms were initiated (Andrews, 2018:164). These were in response to pleas for enhanced public sector governance with intentions of increased fairness, accountability, competitiveness, impartiality, transparency and value for money (Obote, 2013:1). In 1998, the World Bank collaborated with the Ugandan Government to establish a task force with members of the central government ministries, the private sector and the donor community. Thorough consultations were held and in March 1999 the task force submitted its report (Wanyama, 2016:2015), which included the findings mentioned in the following list.

- A lack of capacity that has resulted in limited participation of the private sector in the supply of goods and services to government entities.
- High interest rates of between 18% and 25% that denied service providers access to credit despite the requirement that letters of credit, bid bonds and other guarantees are part of the bid submission documents.
- Obsolete procurement regulations and procedures.
- Inconsistent responsibilities and lack of coordination among entities involved with the procurement function.
- Poor management practices that affect the procurement system.
- Bureaucracy, unethical conduct and procurement malpractice.
- Inadequate knowledge and expertise at the policy and operational levels.

In line with the recommendations advanced in the taskforce report, the National Public Procurement Unit was transformed into the Reformed Central Tender Board in March 2000 and the Central Tender Board was removed (Maholo, 2018:2). Subsequently, the Public Procurement and Disposal of Public Assets Authority, which is currently the procurement regulatory body for Uganda, was established (Tumutegyeize, 2013:4). Operations carried out by PDEs at the central and local government levels were decentralised and procurement and disposal units and contract committees were established, which simplified the daily procurement activities (Andrews, 2018:171). A legal framework, public procurement operations and market practices were established to regulate procurement and disposal

practices. Processes to strengthen the transparency and integrity of public procurement were designed (Kivumbi, 2013:23). Regulations to guide the decentralisation of public procurement were formulated in 2000 and came into effect in 2001. After it was passed by Parliament in November 2002, the Public Procurement and Disposal of Public Assets Act No. 1 of 2003 was approved by the President of Uganda in December 2002 (Maholo, 2018:2). The Public Procurement and Disposal of Public Assets law was gazetted and brought into effect by the Minister of Finance, Planning and Economic Development in 2003. In governing the public procurement practices, the Public Procurement and Disposal of Public Assets Act serves as the foundation for the institutional framework in Uganda.

All government departments and bodies are obligated to follow the law, with an emphasis on best practices. All participants in the public procurement process are required to follow the principles, rules and codes of conduct (Maholo, 2018:2). A fair, transparent system is provided for under the law, which allows for complaints, appeals and reviews, the results of which can lead to the suspension of service providers and prosecution of public officials (Okello, 2013:40). Disciplinary measures for non-compliance exist in the law, although in Uganda there is still a challenge with enforcement (Muzaale, Basheka & Picho Odubaker, 2017:33). The Public Procurement and Disposal of Public Assets Act is complemented by regulations, guidelines, forms and standard bidding documentation designed by the Public Procurement and Disposal of Public Assets Authority.

In 2008, reviews of the Public Procurement and Disposal of Public Assets Act were undertaken with regard to the Companies Act and the Code of Corporate Governance (African Peer Review Mechanism, 2017:170). In 2009, the Public Procurement and Disposal of Public Assets Authority adopted the procurement performance measurement system as a way to track the effectiveness, efficiency, transparency and compliance of the public procurement and disposal system in Uganda (Public Procurement and Disposal of Public Assets Authority, 2010:1). Adoption of the procurement performance measurement system enables the collection of procurement data and systematic assessment to check for compliance. Public Procurement and Disposal of Public Assets Regulations were passed in 2014 (Wanyama, 2016:204). These regulations contained guidelines, protocols, principles,

rules, codes of conduct and procedures for public officials to follow while in the process of public procurement. In May 2015, the Public Procurement and Disposal of Public Assets Authority developed the government procurement portal, which hosted the procurement performance measurement system, the register of providers and the tender portal. As part of the broader strategic objective of adopting an e-government, the government procurement portal was introduced and has been gradually rolled out to PDEs since 2015 (Olumbe, 2011:1).

The design and implementation of various reforms in Uganda has all been aimed at the successful establishment of a strong and well-functioning procurement system that is both transparent and highly effective (Koul, Kumar, Kumar & Verma, 2017:105). However, the challenge of poor contract compliance remains and the effects of non-compliance have deterred the government from fulfilling its public procurement objectives. Despite the challenges, the public procurement system in Uganda is governed by a sturdy legal and regulatory framework. With globalisation and the digitisation of processes, the world is now a borderless marketplace. Continuous improvements of the procurement system that are well aligned with the procurement principles are required to harness the opportunities at hand for both government and private institutions. The following section presents the basic principles of procurement in Uganda.

### **3.3 BASIC PRINCIPLES OF PROCUREMENT IN UGANDA**

At the foundation of cost control in the public sector lies public procurement. Control cannot be effective without consideration of the principles, which provide guidance rather than rigid rules for procurement activity (Koech, 2018:3). Underpinning the public procurement system of the country are the basic principles governing the process (Lynch & Angel, 2013:8). These basic principles lay a foundation for a code of conduct for parties engaged in the procurement process. Sections 44-47 of the Public Procurement and Disposal of Public Assets Act and the local government public procurement and disposal of public assets regulations 43 stipulate the basic principles of procurement in Uganda (Wanyama, 2016:215). First, is the consideration of equality, transparency, accountability and fairness (Mubangizi & Sewpersadh, 2017:67). Competitiveness, value for money and confidentiality are also important. Equality is a major consideration in the procurement process and

guarantees open competition among the selected providers (Akrong, 2014:20). With the continued practice of ensuring transparency, accountability and fairness of the procurement and disposal process, there is more openness, justice, rationality and equality in the tendering process (United Nations Environmental Programme, 2013:12).

PDEs are under an obligation for all procurements to be conducted in a competitive manner to achieve value for money (Basheka, Oluka & Mugurusi, 2015:454). Value for money is achieved when goods or services are purchased at minimum cost, but maximum benefits and efficiency accrue from the use thereof (Avotri, 2012:36). Price, the best quality service and the product that is most effective in the achievement of the procurement goal are considered (Loader, 2015:104). Procurement professionals must maintain confidentiality with regard to their work. Confidentiality of submitted documents, for example, must be maintained except in cases where there is applicable freedom of information or public records legislation. Effective application of public procurement principles guarantees a fair, non-discriminatory process (Koech, 2018:27).

Although value for money, accountability and fairness are major outcomes that contract compliance aims to achieve, it should be noted that Uganda has been plagued by non-compliance (Eyaa & Oluka, 2011:36). In 2015, the Auditor General reported that the government had lost 27.548 billion Ugandan shillings due to delayed payments, breaches of procurement procedures, inadequate contract management, unauthorised contract variations and lack of records (Office of the Auditor General, 2016:36). Contract compliance in public procurement is essential, as it promotes the private sector by creating business opportunities and the public sector is facilitated to achieve its objectives. Uganda has been criticised for the failure to attain value for money, accountability, transparency and fairness (Cankwo, Obanda & Pule, 2015:13).

Contract compliance has become crucial due to its benefits towards the achievement of efficiency, effectiveness, equality, transparency and value for money in public procurement (Lohmann, 2010:4). Each person engaged in the procurement process needs to become more knowledgeable and be aware of the principles of public



procurement. New emerging trends in public procurement in Uganda are presented in the following section.

### **3.4 MAJOR TRENDS IN PUBLIC PROCUREMENT IN UGANDA**

The trail of procurement records has been transformed from manual to electronic, the legal and regulatory framework has evolved and a borderless market has been created as a result of globalisation (Wagner, 2015:1). More skills are required to perform the procurement function and more roles and responsibilities have been generated. Various countries have been creative, while others have been adapting to the emerging trends with support from institutions such as the World Bank, the World Trade Organisation, the Common Market for Eastern and Southern Africa and the European Union (Arrowsmith, 2010:150).

#### **3.4.1 Framework contracting**

The Public Procurement and Disposal of Public Assets Act of Uganda identifies framework contracting as a method for procuring goods and services in PDEs (Kosgei & Kinoti, 2018:61). Framework contracting involves the advertisement of an opportunity by the contracting authority, which enters into a contract with one or more suppliers to provide specified goods or services within a stipulated period (Nyongesa & Wagoki, 2015:2097). Framework contracts are otherwise referred to as multiple award contracts. The adoption of framework contracts has increased in popularity and has resulted in faster, more efficient procurement processes that utilise streamlined procedures. Gur, Lu and Weintraub (2017:2) note that framework contracts maximise the benefits of competition by obtaining lower overall prices. During the period of the framework contract, the procurement and disposal unit may choose to procure the desired products or services within a short period using call off orders (Andrecka, 2015:231). Rather than starting the process afresh, the contracted provider is aware of the pre-existing framework agreement and simply awaits the issuance of a call off order to deliver. PDEs can award contracts to more than one provider, which aggregates demand without compromising competition and diminishes administrative costs (Organisation for Economic Co-operation and Development, 2014:87). With framework arrangement, continuity of supply and sustenance of working relationships between PDEs and the contracted providers is

assured. The challenge is that after the contract has been entered into, the terms of the agreement cannot be changed and new service providers are denied entry (Andrecka, 2015:231).

### **3.4.2 Green procurement**

Alternatively known as sustainable procurement, green procurement is slowly increasing in importance in the realm of public procurement. Green procurement is the process of purchasing goods and services with reduced undesirable effects on the environment, such as those with reduced carbon dioxide emissions, waste and toxic materials (Diófási-Kovács & Valkó, 2014:21). Generally, PDEs have spearheaded the consumption of more environmentally friendly products (Pacheco-Blanco & Bastante-Ceca, 2016:1). With green procurement, entities design and implement policies pushing for the procurement of goods or services with environmental and social considerations (United Nations Environmental Programme, 2013:60). Such considerations may comprise the modes of manufacture, transport, packaging and disposal of the goods. Green procurement guarantees that the current generation secures resources for the use of future generations.

Depletion of the natural habitat and ecosystems and extinction and pollution are minimised by green procurement. According to Felman (2015:45), green procurement alleviates poverty, because most of the people who live below the poverty line survive on nature. Governments strive to ensure that there are policies in place to protect the environment and that the wealthy segment of the population participates in ensuring that nature is preserved (World Bank Group, 2012:14). The challenge is that not many procurement officials and providers in developing countries are aware of how the green procurement concept works, both in terms of the environmental issues and the criteria adopted in procurement.

### **3.4.3 Electronic procurement**

E-procurement has been increasingly adopted as a solution to manual record keeping in government entities (Neupane *et al.*, 2012:306). Electronic procurement, otherwise known as e-procurement is performed via the internet using the World Wide Web and e-mail platforms (Ibem, Aduwo, Tunji-Olayeni, Ayo-Vaughan & Uwakonye, 2016:53). Lewis-Faupel, Neggers, Olken and Pande (2016:2) and Ibem

and Laryea (2015:365) note that e-procurement encompasses the usage of electronic media communications in the process of procurement. E-procurement follows the same steps as the manual, traditional procurement system in which bids are solicited, received and evaluated and contracts awarded (Narang & Narang, 2017:186). E-procurement provides a virtual meeting point for consumers and vendors.

Due to globalisation and stakeholders' dynamic needs, developing nations have increasingly adopted e-procurement and have realised improved, speedier service delivery (Pule, 2014:136). Government has not been left behind with regard to the adoption of e-procurement. According to Narang and Narang (2017:186), the government e-marketplace is one of the forms of e-procurement where PDEs and service providers can transact business through a web platform that is moderated by the government. Systems of e-procurement permit stakeholders to share and manage valuable data online. Despite the sizeable investment required to train people and provide infrastructure, e-procurement is effective in global sourcing, averts fraud and increases competition (Setiani, Huda, Pulungan & Winarko, 2017:1).

#### **3.4.4 Public-private partnerships**

Worldwide, there has been growing interest in public-private partnerships, where the public and private sectors come together to collaborate on an activity or project and share services (Osei-Kyei & Chan, 2015:2). Public-private partnerships offer an alternative for the traditional forms of procurement, with the realisation of economies of scale, cost efficiency and greater negotiating power (World Bank Group, 2012:12). Besides economies of scale, numerous other benefits are gained by the parties involved, who must agree on the period within which the investment by the private partner or consortium is to be recovered and the property taken over by the government (Lee & Kim, 2018:2). Usually, these public-private partnerships offer long term contracts of 5 – 30 years (World Bank Group, 2012:12).

Wagner (2015:3) cites the World Bank and the European Union among the institutions that have made progress in implementing public-private partnerships across the globe, as they require substantial investments (Iossa & Martimort,

2015:2). In the United States of America, the projects that are most frequently carried out involve infrastructural development of highways, roads, railways, water supply and waste treatment plants (Iossa & Martimort, 2015:2). Osei-Kyei and Chan (2015:2) posit that these partnerships intensify the risk for service providers as they face the challenges and bear the costs of project implementation, such as staffing and equipment, without input from the government.

#### **3.4.5 Cognitive procurement**

Procurement practitioners operate in a complex, dynamic environment and there is a need to consult widely and make the right decision at the right time and the solution lies with cognitive procurement, which is the process of applying rational computing systems that involve big data analytics, natural language processing and machine learning for analysing and processing large volumes of data (Khuan & Swee, 2018:57). Cognitive procurement applies self-learning systems that use data mining and pattern recognition and incorporates natural language processing to simulate the human brain to perform the tasks of contract sourcing and placement. Bienhaus and Haddud (2018: 636) propose that cognitive procurement analyses texts in contract documents and uses relevant policies to enhance intelligence and guide the procurement process. Manual and repetitive tasks such as the analysis of expenditure, the management of suppliers and contract compliance are automated by cognitive procurement (Maltaverne, 2017). Procurement practitioners must be imparted with specialised skills and knowledge; its advantages include faster, more accurate decision making in sourcing goods and services with the best value for money (Bienhaus & Haddud, 2018: 636).

#### **3.4.6 Cyber security**

Attention has moved from physical to cyber security, as the failure of some large markets and institutions has been attributed to inadequate cyber security control (Hoeve, Portela & Luijkx, 2017:1508). Cyber security embodies the technologies, processes and people that are put in place to defend purchasing systems (Spear, 2015:4). Without cyber security control, systems, including public procurement, can be attacked and records manipulated for various purposes that suit the perpetrators of the attack. Cyber-attacks go beyond malware and ransomware and have become

detrimental to e-procurement, digital technology and records management. Some notable cyber-attacks include Shadow Brokers, WannaCry, Petya and Cloudbleed (Office of the Chief Information Officer, 2018:2).

Gupta, Agrawal and Yamaguchi (2016:481) propose security measures that include the creation of more than one layer of security, establishing an audit trail, secure identification and privileges. Training users to defend themselves while using the system, encrypting data, monitoring and investigating suspicious activity are some additional measures for institutions to curb cybercrime. However, when instituting the aforementioned measures, it is important that the appropriate infrastructure be put in place to support the system, such as anti-virus software scanners or intrusion detecting systems. In the digital age, cyber security is a key defensive mechanism that can be relied on by institutions to restrict unauthorised access and use, misdirection, modification and disruption of resources. Over a period of four years, the United Kingdom has taken the lead by investing £650 million in improving cyber security (Von Solms & Van Niekerk, 2013:97). In the United States of America, measures to improve cyber security include the establishment of the Food and Drug Administration to monitor and report on the cyber security of medical devices (Treacy & McCaffery, 2016:147). Despite efforts to take charge of cyber security, the privacy of individuals and institutions remains compromised (Treacy & McCaffery, 2016:147).

#### **3.4.7 Cloud technologies**

Cloud technologies are models that are deployed to enable convenient access to a shared pool of computing resources that can be configured, for example, networks, servers, storage, applications and services (Garrison, Kim & Wakefield, 2012:62). Well utilised cloud technologies eliminate physical boundaries, enhance the efficiency of the procurement function and productivity, thus creating a more centralised system in which computing resources are shared. Various software applications have emerged from cloud computing, bringing different stakeholders together to benefit from reduced costs and increased efficiency (Aubakirov & Nikulchev, 2016:253). The World Bank Group (2017:14) contends that many economies do not yet have an online portal dedicated to public procurement and therefore lose out on the benefits of cloud procurement.

### **3.4.8 Corporate social responsibility**

There is growing interest among institutions to increase their involvement in sustainability practices, which is part of corporate social responsibility. By definition, corporate social responsibility is a voluntary contribution by an institution towards the local communities and society at large as a way of giving back (Hassel & Helmerich, 2016:8). It is important for institutions to participate in activities that create corporate social responsibility, as consumers have a preference for brands that are presumed to be doing well environmentally or socially. Institutions generate a positive perception in the minds of clients when they engage in activities geared towards corporate social responsibility, as they are perceived to see beyond realising profits. Teixeira (2019:7) alludes that such institutions are beheld as considerate and caring of people and the environment in which they operate. The preceding arguments imply that corporate social responsibility is a signalling strategy that institutions can use to differentiate themselves from the competition and improve their chances of success when bidding for government contracts (Flammer, 2018:1304).

### **3.4.9 Innovation**

According to Rolfstam (2015:212), increasing interest in government policy is accompanied by innovation. Innovations are defined as the newest creations that are considered to be of great economical or societal significance (Edquist, Vonortas, Zabala-Iturriagagoitia & Edler, 2015:3). Innovations are created by or for institutions to increase their competitive advantage, and both private and government owned institutions should take advantage of innovations to gain an edge over the competition (Nsereko, Balunywa, Munene, Orobia & Muhammed, 2018:6). More institutions are taking on more risks and seizing various opportunities to embrace innovations in procurement. Between the practice and research fields, innovation is a balancing act as well as a rediscovery, drawing on traditional knowledge while also adapting to the present situation (Rolfstam, 2015:211).

Innovation partnerships have been introduced as a new procurement trend that permits the contracting authority to enter into a long-term contract to allow new products or services to be created (Haugbølle, Pihl & Gottlieb, 2015:557). Although innovation partnerships may involve significant costs or pose challenges in the

beginning, they increase profits for the institution in the long run. Remotely operated vehicles are among the innovations that have made exploration possible including the technologies and observation tools that assist in the examination, recording and analysis of procurement information (Edquist *et al.*, 2015:170). Generally, innovation has created new markets for products and technology and decreased market and technological risk for institutions. Innovation has overcome system failures by creating closer relationships between service providers and institutions, facilitated a testing ground for products and services and has contributed to the government meeting society's needs (Uyarra, Flanagan, Magro & Zabala-Iturriagagoitia, 2017:830).

#### **3.4.10 Simplicity**

Simple and clear goals are required in procurement (United Nations Environmental Programme, 2013:20). According to Arrowsmith (2012:72), simplicity is the absence of complexity in the sense that rules are made easier to comprehend, thus reducing uncertainties. One of the elements of simplicity is that there is one uniform set of rules for the different award procedures in public procurement (Cui, Kong & Pourghannad, 2017:2). A sturdy, clear and consistent set of bid documents and bid processing, with the perception that the ground is levelled and that providers will be treated fairly, is simplicity. Absence of simplicity denies access to many providers who would wish to participate in the public procurement process (Georghiou, Edler, Uyarra & Yeow, 2014:3). Simplicity in procurement leads to reduced costs and improved cash flow, which is a key aspect of efficient supply chains. The World Bank (2012:10) mentions that simplicity of content and institutional hierarchy makes it easy for the fulfilment and enforcement of operational and procedural requirements.

#### **3.4.11 Nearshoring and reshoring**

In an effort to reduce costs, institutions, especially in developed countries, have resorted to nearshoring, which is the transfer of a specific business operation to a neighbouring country rather than a more distant country, for example in the case of the United States of America, to Canada or Mexico (Tate & Bals, 2017:4). The majority of institutions have adopted nearshoring in an attempt to diminish costs of operations, especially labour, and increase core competency and their competitive

advantage (Hartman, Ogden, Wirthlin & Hazen, 2017:3). Nearshoring takes advantage of country-based opportunities and shared laws. Tighter control over procurement and supply chain functions is assured. While the benefits are similar, reshoring optimises opportunities created by relocating business operations within the same country (Hartman *et al.*, 2017:3).

In Uganda, the aforementioned trends are an indication that public procurement has gained recognition as a strategic function that drives value, saves money and creates vast opportunities for institutions. Trends offer solutions to improve procurement and in the long run, deliver savings to institutions, whether civil, public or private. Current and emerging trends are focusing more on digital technology and supplier synergies to keep up with globalisation. Rapidly changing technological advancements and innovations in addition to regional commitments have deeply affected the process of procurement. Improvements in public procurement boost corporate governance and social accountability and make service delivery more efficient and equitable. Trends are intended to increase the overall operational efficiency and effectiveness in institutions and at the same time call for more savvy regulations that are more flexible and protect the environment while at the same time are secure and enforceable.

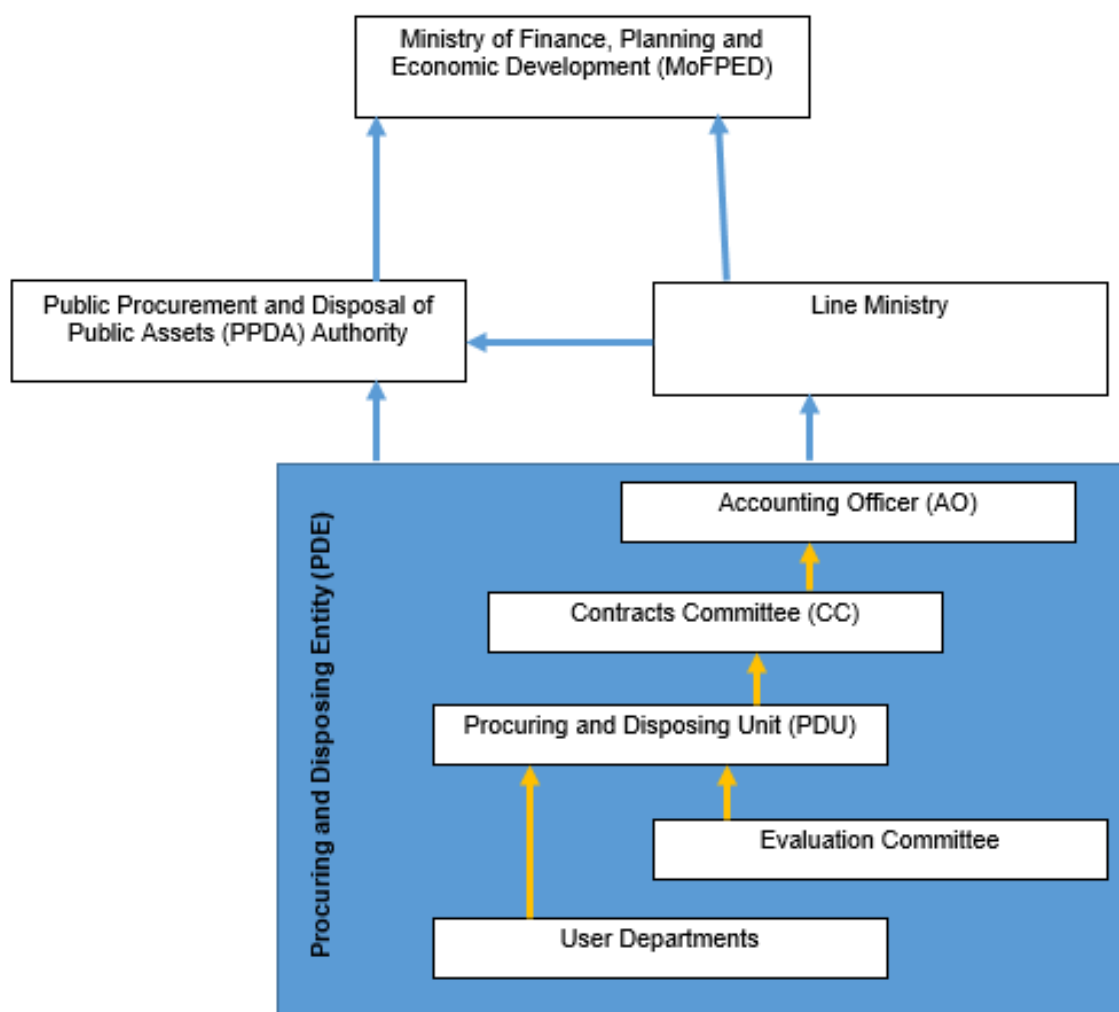
The adoption of current trends in procurement therefore increases the participation of the private sector and builds capacity among stakeholders, thus promoting national competitiveness and enhancing economic development. Procurement professionals, service providers and policy makers need to make efforts to gain a deep understanding and keep up to date with the emerging trends in procurement to better plan and execute their duties and also to anticipate unforeseen circumstances so that they can adapt accordingly. The following section focuses on the structure and responsibilities pertaining to public procurement in Uganda.

### **3.5 STRUCTURE AND RESPONSIBILITIES OF PDES IN UGANDA**

In a bid to achieve the objectives of the Public Procurement and Disposal of Public Assets Act (2003), the procurement and disposal activities in PDEs are managed through well-established structures with clearly defined responsibilities and roles.



Figure 3.1 illustrates the structure of the procurement cycle in Uganda, which is discussed in the ensuing section.



Source: Adapted from Tumutegereize (2013:13).

**Figure 3.1: Structure of the procurement cycle in Uganda**

- **User department**

User departments are offices or units that plan, request and follow up on the delivery of goods and services (Tumuhairwe & Ahimbisibwe, 2016:84). Kansiime (2013:25) and Ahimbishibwe and Muhwezi (2015:76) postulate that user departments provide specifications, keep records, report or recommend contract changes and evaluate bids.

- **Evaluation committee**

After receiving requisitions from the users, the procurement and disposal unit nominates four senior, expert members to the evaluation committee for the contracts committee's approval (Colonnelli & Ntungire, 2018:13; Komakech & Machyo, 2015:11). Evaluation involves preliminary examination, detailed evaluation and financial comparison, where unsuitable bidders are eliminated on the grounds of technical quality and cost (Ahimbishibwe & Muhwezi, 2015:77; Nduhura, Wanume, Mugerwa, Settumba & Bagembe, 2019:39). After evaluation, the committee submits a report to the procurement and disposal unit.

- **Procurement and disposal unit**

The Public Procurement Act (2003:18) requires PDEs to have a procurement and disposal unit that advises the contracts committee and user departments. Procurement units manage and execute activities that include planning, bid preparation, implementing contracts committee decisions and records management (Rendon & Rendon, 2015:715). Komakech and Machyo (2015:10) and Kansiime (2013:25) observe that it is the role of the accounting officer to adequately staff PDEs.

- **Accounting officer**

Accounting officers are appointed by the Ministry of Finance and they include permanent secretaries, university secretaries and district chief administrative officers (Colonnelli & Ntungire, 2018:14). Accounting officers internally appoint sub-accounting officers for delegation purposes (Owino, Munene & Ntayi, 2016:2). Andrews (2018:171) and Wanyama (2016:216) note that the accounting officer is responsible for procurement activities such as staffing, advertising opportunities, communicating contract awards, ascertaining funds availability, investigating complaints and reporting. In cases of non-compliance, the accounting officer takes action (Tumuhairwe & Ahimbisibwe, 2016:93).

- **Contracts committee**

Contracts committee members are appointed by the accounting officer (Public Procurement and Disposal of Public Assets Authority, 2013:10). The committee

approves bid and contract documents and recommends evaluation committees, procurement methods and contract awards. It also approves contract amendments and proposes delegation of authority to the accounting officer (Komakech & Machyo, 2015:10).

- **Line ministry**

PDEs fall under the auspices of line ministries, for example, the education institutions in the Ministry of Education and Sports; hospitals in the Ministry of Health and local councils in the Ministry of Local Government (African Peer Review Mechanism Report, 2017:347). Funds are disbursed by the Finance Ministry through line ministries that check the overall governance of PDEs (Obanda, 2010:1). Ministries are also PDEs and submit reports to the public procurement authority.

- **Public Procurement and Disposal of Public Assets Authority**

Lohmann (2010:4) and Tumutegyeize (2013:11) contend that the Public Procurement and Disposal of Public Assets Authority is an independent regulator that standardises, coordinates, supervises and monitors PDEs. Transparency International (2013:5) posits that the authority aims at transparency, competition, accountability, value for money, economy and efficiency. Functions of this authority include policy, regulations, data management, capacity building and the resolution of disagreements between PDEs and service providers (Awanyo, 2019:68). Mutangili (2019a:4) and Colonnelli and Ntungire (2018:11) posit that the authority ensures harmony of procurement policies, practices and systems and its board is appointed by the Finance Ministry.

- **Ministry of Finance, Planning and Economic Development**

The 2015 Public Finance Management Act binds PDEs to submit budget performance reports to the Ministry of Finance (Office of the Auditor General, 2017:5). Nkundabanyanga, Nakyeyune and Muhwezi (2019:184) and Wanyama (2016:216) posit that the ministry assigns expenditure votes to PDEs. The public procurement authority is housed under the Finance Ministry, which also appoints the board (Colonelli & Ntungire, 2018:11).

In summary, the structure and responsibilities of PDEs in Uganda includes the user department, the evaluation committee, the procuring and disposing unit, the accounting officer, the contracts committee, the line ministry, the Public Procurement and Disposal of Public Assets Authority and the Ministry of Finance, Planning and Economic Development. The next section presents the legal and regulatory framework for procurement in Uganda.

### **3.6 LEGAL AND REGULATORY FRAMEWORK**

With a proper legal and regulatory system, economy, efficiency, effectiveness, transparency, non-discrimination and compliance are enhanced and value for money is achieved (World Bank Group, 2012:7). Guidance with regard to the procurement methods to be used, advertisements, records, technical specifications, evaluation and award criteria and procedures for compliance and bidding are provided by the framework (Uganda Debt Network, 2013:3). Laws and regulations form the basis for the separation of powers between the institutions that manage the public procurement and compliance processes in addition to establishing the boundaries and benchmarks against which audits are conducted objectively (Muange & Chirchir, 2016:21). Uganda's public procurement is influenced by international, national and sub-national legal and regulatory frameworks that drive policy commitments.

When designing policies and laws, there are a number of international guidelines that serve to guide the country, such as the Government Procurement Agreement, the European Union and the United Nations Commission on International Trade Law (United Nations Environmental Programme, 2013:15). National laws, policies and acts guide the process of public procurement nationwide, but sub-nationally only apply in particular contexts and areas, for example, within the local governments' jurisdictions. International laws and guidelines such as those drafted by the World Bank and the European Union apply to more than one country and guide their public procurement practices.

According to the Uganda Debt Network (2013:3), it is important to acknowledge the efforts of the Ugandan Government to introduce a legal and regulatory framework to govern public procurement, provided for under the 1995 Constitution of Uganda. Sekindi (2015:86) observed that the 1995 Constitution of the Republic of Uganda

was promulgated on 8 October 1995 and presents the basic structure of the government in line with which the people are governed. Later, in 2003, the Public Procurement and Disposal of Public Assets Act (2003) came into effect with the aim to achieve value for money, transparency, accountability, efficiency and competition (Lohmann, 2010:3). The Public Procurement and Disposal of Public Assets Act was supplemented by the 2003 Public Procurement and Disposal of Public Assets Regulations, both of which make provision for the establishment of structures, systems and processes and stipulate the regulations pertaining to public procurement in the country (Tumuhairwe & Ahimbisibwe, 2016:84). The Public Procurement and Disposal of Public Assets Act and Regulations provide for each PDE to have an accounting officer, a contracts committee, a procurement and disposal unit and a user department.

Uganda's Constitution was amended in 2005 and again in 2006 as the country evolved from a single-party to a multi-party system (Abrahamsen & Bareebe, 2016:752). As a result, the 2006 Local Governments Public Procurement and Disposal Regulations, the 1997 Local Governments Act, the 1998 Local Governments Financial and Accounting Regulations and the 2008 Local Governments Public Procurement and Disposal of Public Assets Guidelines were drafted and approved for use. All of the aforementioned laws and regulations were established to supplement the 1995 Constitution of the Republic of Uganda and the 2003 Public Procurement and Disposal of Public Assets Act.

The institutional framework is responsible for law enforcement, justice, creating accountability, equity, fairness and transparency. The Inspector General of Government, the Auditor General, the Director of Public Prosecutions and the Uganda Police were all put in place. The Commercial Court, Anti-Corruption Court, Judicial Service Commission and the Public Procurement and Disposal of Public Assets Authority were established to supplement the government watchdogs. Legal and regulatory frameworks are intended to uncover, investigate and prosecute injustices brought about due to poor contract compliance. Independent institutions such as civil society organisations and the media play a critical role in exposing the challenges presented by non-compliance with public procurement procedures, laws and regulations (African Peer Review Mechanism, 2017:181).

### **3.7 CATEGORIES OF PDES**

As stated in the 2003 Public Procurement and Disposal of Public Assets Act, PDEs are those institutions that are established by an Act of Parliament (Colonnelli & Ntungire, 2018:11). Through PDEs, including the ministries, authorities, public universities and hospitals and local governments, governments are able to spend on the provision of various services that can lead to economic growth and socio-economic transformation (Ahimbisibwe, Tusiime & Tumuhairwe, 2015:54). PDEs are statutory bodies, departments of the central government, local government and any other body or unit established and mandated by the government to carry out public functions (Office of the Auditor General, 2017:1). PDEs include the courts of law, the central and local government administrations, universities and public institutions of like nature and any public corporations or other bodies in which the government has a stake. Among these are government ministries, departments, agencies, commissions, statutory authorities, public schools, Ugandan missions abroad and referral hospitals. PDEs receive funding from the government and are obliged to be accountable and ensure that their activities provide value for money.

Some PDEs generate revenue, such as local governments, public universities and schools, while others such as the central government ministries do not (Caramanis, Dedoulis & Leventis, (2015:14). Although the government is a major shareholder in some PDEs, in others it has only a small stake. Some PDEs are simply projects, with a few arising out of public-private partnerships for the construction of long-term, large infrastructure projects (Office of the Auditor General, 2017:2). Generally, Ugandan PDEs are grouped into government ministries, departments and agencies; commissions, statutory authorities and state enterprises and local government. Government ministries, departments and agencies comprise central government ministries, departments, agencies, Ugandan missions abroad, public universities and referral hospitals (Office of the Auditor General, 2017:5). Central government ministries are alternatively referred to as government administrations. According to the Office of the Auditor General (2017:44), the category of commissions, statutory authorities and state enterprises includes those PDEs in which the government does not have a controlling interest.

The third category of PDEs includes the local governments under each district and municipality. Article 16(1) of the Constitution provides for the system of local governance in Uganda based on the district as a unit under which there shall be such lower local governments and administrative units as parliament may provide (Muzaale, Basheka & Picho Odubaker, 2017:37). Each district in Uganda is administered and is accountable to government through the local government (Office of the Auditor General, 2017:87). Enactment of the 1997 Local Government Act resulted in the decentralisation of the system of governance, which delegated its functions, powers and services to local government councils as a means to ensure good governance and the democratic participation of the people. With decentralisation, local governments were given more roles in the procurement and disposal of goods and services in order to provide services to the people, thus entrusting them with large sums of money.

The government recognised the need to put structures in place to ensure proper utilisation and accountability for the resources in the hands of the various PDEs. PDEs are used as conduits to provide services to the people and to perform effectively, it is necessary to study and understand the different stakeholders in public procurement in Uganda and their functions.

### **3.8 STAKEHOLDERS**

Stakeholders are a vital component of the contract compliance journey, especially with regard to public procurement (Basheka *et al.*, 2015:443). For the purpose of this study, stakeholders refer to entities or individuals that affect or are affected by the public procurement activities of PDEs, both internally and externally. Internal stakeholders are found within the PDE itself, either through working or making decisions regarding procurement. Contrarily, the external stakeholders exist outside the PDE, but are interested in or affected by the activities undertaken by the PDE. Stakeholders have to be considered every step of the way as they have an indispensable role to play in ensuring contract compliance (Sabiiti & Muhumuza, 2012:2047).

Internally, the stakeholders include the user departments, the accounting officer, the procurement manager, the procurement officers, the procurement and disposal unit, the finance managers and management boards and councils of the PDE. Externally, the stakeholders include the Ministry of Finance, Planning and Economic Development, the donor community and partners, the service providers, the media and civil society organisations, the Public Procurement and Disposal of Public Assets Authority, the Ugandan Government and the general public.

The user departments plan and initiate the procurement process, while at the same time they are the beneficiaries of the contract outcomes. The Office of the Auditor General (2017:1) ensures that the accounting officer, the procurement manager, the procurement officers, the finance managers and members of the user department are public servants who are recruited to act on behalf of PDEs in fulfilling their mandate and on behalf of the government in achieving its objectives. Cankwo *et al.* (2015:15) posit that public servants engaged in procurement should have specific and observable knowledge, skills and behaviours to effectively accomplish the job or task at hand. Institutions, including the PDEs and Public Procurement and Disposal of Public Assets Authority, through training and mentorship attempt to equip staff with the necessary skills to effectively participate in procurement.

In Uganda, it is a requirement for all heads of procurement and disposal units to be certified and registered members of the Institute of Procurement Professionals of Uganda. Accounting officers and procurement managers should maintain the correct balance between staffing and competencies to achieve improved service delivery (Olumbe, 2011:18). Competent procurement managers and officers are important for ensuring service quality and contract compliance among all participants in the procurement and disposal process (Cankwo *et al.*, 2015:15). Management, boards and councils play an oversight role and serve in an advisory capacity to improve efficiency and effectiveness in PDEs and the government.

Externally, the Ministry of Finance, Planning and Economic Development, through its permanent secretary, appoints accounting officers who report to him on matters of funding (Colonelli & Ntungire, 2018:11). Sources of funding for procurement have to be ascertained by the finance manager before seeking approval from the accounting officer. Control against procuring of services or goods that the PDE or government



cannot afford is important as it saves on litigation costs and improves procurement planning. Given the financial assistance gained by means of aid and loans, donors or partners have a stake in public procurement for the purposes of accountability, fairness and transparency of the procurement process. Stakeholders can be multifaceted for the purpose of confirming that funds are used for the intended purpose. According to Sabiiti and Muhumuza (2012:2036), the motivation for procurement reform in Uganda was partly as a result of pre-conditions for the provision of development aid set by the World Bank and other donors.

Service providers who hold contracts with PDEs have a stake in the procurement process as they expect to render a service or deliver goods and then to receive timely payment. Even the service providers without a contract expect to be invited to bid and to be treated fairly while participating in the tendering process. Service providers deserve to be treated with fairness, transparency and non-discrimination so that everyone has an equal chance to participate in the process, thus achieving value for money (Lohmann, 2010:7). Best selected providers need to be selected and reciprocate by providing timely, quality deliveries of goods and services. Media and civil society organisations play an advisory role in public procurement through research and ascertaining the views and perceptions of the people so that enforceable laws, policies and regulations are formulated to improve the government's provision of quality services (Sabiiti & Muhumuza, 2012:2048). Media and civil society organisations highlight areas of poor performance, particularly those concerning compliance and procurement deliverables and service provision to the public.

The Public Procurement and Disposal of Public Assets Authority is mandated to provide guidelines to PDEs, guide them in the process of procurement, and in some cases, train and build capacity among the procurement officers (Lohmann, 2010:4). The Public Procurement and Disposal of Public Assets Authority receives monthly reports from all PDEs, tests and rolls out e-procurement systems and performs audit to ensure compliance and value for money. The government is a major stakeholder in PDEs, because it establishes the PDEs, has a significant financial stake, recruits staff, designs laws, regulations and policies and the PDEs are in turn accountable to the government (Rudy, Miller & Wang, 2016:71). The government is mandated to

recruit people with the appropriate skills and train the existing staff to improve their ability to perform their work diligently and efficiently for improved service delivery. Government watchdogs such as the Inspector General of Government, the Accountant General and the Auditor General play a fundamental role in monitoring and enforcement so that government interests remain a priority in the procurement process (Colonnelli & Ntungire, 2018:15). Through PDEs, members of the general public are the end recipients of the goods and services that are procured and entities should ensure that goods and services reach the people in good quality, in the appropriate quantity and in time, all outcomes of contract compliance. Services for the general public include education, security, health and infrastructure. Such deliverables can act as a service check for the public (Cankwo *et al.*, 2015:15).

Public procurement involves several agencies, units, individuals and businesses and the list keeps growing and varies from one contract to another. Additional stakeholders include professional bodies such as the Institute of Procurement Professionals of Uganda, the Architects Registration Board, Chartered Public Accountants of Uganda and the Uganda National Association of Building and Civil Engineering Contractors who monitor the professionalism of members and lobby for policy change (Lim, Zhang & Oo, 2018:5). The Public Procurement and Disposal of Public Assets Appeals Tribunal is also a stakeholder, as it settles the grievances between bidders and PDEs. Some PDEs are also stakeholders in others, for example, the Uganda Revenue Authority collects taxes and makes efforts to ensure tax compliance from other PDEs on behalf of the government. The following section discusses the methods of procurement in Uganda.

### **3.9 PROCUREMENT METHODS IN UGANDA**

Selection methods include open and restricted bidding; request for quotations or proposals; micro procurement; direct procurement; force account mechanisms and requests for quotations or proposals - without expression of interest (Public Procurement and Disposal of Public Assets Authority, 2017:17). Maholo (2018:2) and the World Bank (2015:33) listed open bidding as the ideal procurement method. Coggburn (2017:4) posits that open bidding involves advertising bid opportunities, promoting the economy, transparency and competition. Domestic bidding attracts local bidders, while international bidding draws both local and foreign bidders

(Knack, Biletska & Kacker, 2017:12). For complex projects, open bidding calls for prequalification screening (Colonnelli & Ntungire, 2018:12). Restricted bidding invites bidders drawn from the databases held by the public procurement authority, the PDE itself or another PDE (Colonnelli & Ntungire, 2018:12). A limited number of qualified providers and emergencies justify restricted bidding (Vasina, 2014:17). Kenny and Crisman (2016:3) caution that restricted bidding stifles competition.

A request for quotations is a call to specific providers drawn from the PDE and public procurement authority register, market knowledge or past experience to bid on specific products or services (World Bank Group, 2017:11). Direct and micro procurements sourced directly from a provider, are simple and quick with no advertisement that affects competition (Coviello & Mariniello, 2014:77). Direct procurement applies in unique situations such as contract extension (Knack *et al.*, 2017:11). Force account involves undertaking works using one's own or another PDE's personnel and equipment (Shengeza, 2017:153). Materials are acquired by means of the regular procurement process (De Silva, Dunne, Kosmopoulou & Lamarche, 2017:11). In the request for a quotation or proposal – without expression of interest, the procurement unit performs a market survey to seek ways to procure service or product delivery and an evaluation is performed based on set criteria (Hasan, 2018:29; Rahman, 2014:60).

Procurement methods are pre-determined by the Public Procurement Act and Regulations and justification for the methods used must be articulated. The choice of methods is at the discretion of the contracts committee, the accounting officer or the procurement unit and is based on the prevailing circumstances. All persons involved in procurement should endeavour to use the correct procurement methods to ensure cost reduction, transparency, equity and value for money in the public procurement process. The next section expounds the procurement and disposal process in Uganda.

### **3.10 PROCUREMENT AND DISPOSAL PROCESS**

A well-managed process of procurement and disposal requires dedicated efforts to guarantee satisfied service providers and end-users (Gatta, 2017:62).

- **Needs assessment**

In line with Regulation 62 of the Local Government Public Procurement and Disposal of Public Assets Regulations and Regulation 22 of the 2007 Local Government Financial and Accounting Regulations, it is a prerequisite that PDEs' work plans are designed with a strict foundation on the identified users' needs. With a needs assessment, the goods and services that are procured must serve the intended purpose of the end users as earlier identified while performing the needs assessment itself (Cankwo *et al.*, 2015:15). In ascertaining the users' needs, the users themselves must be involved in the assessment. Feasibility studies and a cost benefit analysis should be completed before the procurement planning and budget process commences. An effective needs assessment delivers an accurate description of the requirements that are essential to commence the procurement or disposal process (World Bank Group, 2017:14).

- **Procurement planning and budgeting**

Under Section 58 of the Public Procurement and Disposal of Public Assets Act and Regulation 96 of the Public Procurement and Disposal of Public Assets Authority, procurement planning and budgeting is mandatory for all PDEs at all levels. PDEs are required to plan and budget for all expected procurements and disposals in a coherent manner and avoid emergency procurements. They are also required to aggregate the procurement and disposal requirements. According to the Public Procurement and Disposal of Public Assets Act (2017:40), procurement planning is a process that involves user departments and the lower local governments compiling annual work plans that focus on the approved budgets and submit them to the procurement and disposal unit. Procurement plans and budgets are then amalgamated into the general expenditure programme of the particular PDE.

For proper procurement planning to be realised, the user department is required to perform a market survey for the purposes of ascertaining the actual market price and avoiding a situation where the estimates are far different from the reality (Public Procurement and Disposal of Public Assets Authority, 2017:40). All procurements or disposals undertaken by an institution should be approved by the accounting officer before the commencement of any procurement or disposal process, as per Section

59(3) of the Public Procurement and Disposal of Public Assets Act. The planning process is guided by the budgeting cycle of each individual PDE.

- **Procurement requisitioning**

Procurement requisitions are initiated by the user departments. Section 59(2) of the Public Procurement and Disposal of Public Assets Act and Regulation 65(1) stipulate that a procurement procedure should only be initiated or continued on confirmation that funding is available at the time the contract commitment is made (Olumbe, 2011:13). Requisitions should include a clear indication of the work to be undertaken, services or supplies required and the estimated value and a specific reference number.

- **Development of specifications/terms of reference/statement of works**

It is the role of the procurement and disposal unit to prepare the statement of requirements and terms of reference with input from the users (Lohmann, 2010:20). The statement of requirements is a document that contains a full and complete description of the requirements that are the subject of the procurement.

- **Pre-qualification**

In line with Regulation 22 of the Public Procurement and Disposal of Public Assets Act, the Public Procurement and Disposal of Public Assets Authority and PDEs maintain a register of providers of supplies, services and works (Lohmann, 2010:16). This register provides PDEs with dependable, current information about the providers and what they have to offer.

- **Preparation of bid documents**

The preparation of bids is performed by bidders who bear the associated costs of bid preparation (Eyaa & Oluka, 2011:36). Bidders collect and inspect bid documents for correctness and completeness. Bid documents comprise Parts 1, 2 and 3 that contain particulars regarding the bidding procedure, the specifications of the requirements and the contract (World Bank Group, 2017:14).

- **Invitation to bid**

On behalf of PDEs, the procurement and disposal unit invites bidders to submit offers or bids for the provision of supplies and related services specified in the statement of requirements. Bidder selection methods are either by publication of a bid notice in a newspaper of wide circulation, by means of a pre-qualification exercise or by developing a short-list as per Regulation 142 of the Public Procurement and Disposal of Public Assets Act (Andrews, 2018:171). Bids remain open for the specified period of advertisement, which is four and eight working days for open domestic bidding and open international bidding respectively. Advertising improves competitive bidding and offers transparency in the bidding process in addition to checking on the behaviour of PDEs (Muñoz-Soro, Esteban, Corcho & Serón, 2016:295). For a bidder to participate in public procurement they must meet the eligibility criteria set out in Regulation 45(1). The contracts committee is required to verify the authenticity of the eligibility documents provided by a bidder in accordance with Regulation 45(4).

- **Receipt of bids**

The methods adopted for receiving the bids are defined in Regulation 70 of the Local Government Public Procurement and Disposal of Public Assets Regulations and include receipt of bids in person and issuing a receipt and the use of a bid box. A procurement and disposal unit is required to keep a record of all bids received. Bidding should close at the precise time on the last day/date specified in the advertisement. A bid received after the closing time and date for submission is declared late, labelled as such and returned unopened to the bidder (World Bank Group, 2017:14). Bid closing is managed by the procurement and disposal unit and witnessed by a representative of the contracts committee.

- **Opening of bids**

Bids that are received in an open and selective bidding process should be opened during a public session that is managed by the procurement and disposal unit and witnessed by the contracts committee (Colonnelli & Ntungire, 2018:12). At the appointed time and the venue stipulated in the bid documents, the bid box in which the bids were kept and that was kept in a secure location is unlocked in the presence

of the members of the contracts committee and the bidders and the evaluation begins (Djankov, Ghossein, Islam & Saliola, 2017:11).

- **Evaluation of bids**

Evaluating the bids is the responsibility of the evaluation committee, an ad hoc committee constituted for every procurement. Gatta (2017:64) posits that the evaluation involves an initial assessment of the bid offers that were received from service providers and deemed to be lawful and responsive. Evaluation committees are approved by the contracts committee and report to the procurement and disposal unit. In line with Public Procurement and the Disposal of Public Assets Regulation 185, in the bid solicitation document, an evaluation is conducted in three stages: the preliminary examination to determine the eligibility of a bidder and administrative compliance; a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant bid and a financial evaluation to compare costs of the eligible, compliant, responsive bids received to determine the best choice (Engelbert, Kaltenborn & Reit-Born, 2016:72). Bid evaluation aims to determine the best evaluated bid. An outcome of the evaluation process is an evaluation report in accordance with Section 37(1) of the Public Procurement and Disposal of Public Assets Act and Regulation 168(1). Evaluation is conducted in accordance with the methodology and criteria stated in the bid solicitation documents. Evaluation criteria are used to assess compliance with the statement of requirements (Gatta, 2017:64). Fairness and transparency are key and all the bidders, whether successful or not, should be informed of the decision after the choice has been made.

- **Procedures approval**

All procurement and disposal procedures should be approved before commencement of procurement. Only the procurement plan is approved by the district council; other approvals are made by the contracts committee. The powers and functions of the contracts committee are presented in Sections 28 and 29 of the Public Procurement and Disposal of Public Assets Act and include: approval of bid and contract documents; authorisation of procurement and disposal procedures; methods of approval of solicitation documents; and evaluation requirements.

- **Award of contract**

Contracts are awarded by the contracts committee following an evaluation of the bidders (World Bank Group, 2017:14). An award is confirmed by a written contract signed by both the service provider and the PDE after the period specified by the Public Procurement and Disposal of Public Assets Regulations lapses and the availability of funding is confirmed by the accounting officer (Engelbert *et al.*, 2016:155). Contracts can be in the form of a local purchase order, a call off order, an agreement and a memorandum of understanding or a services contract (Gatta, 2017:64).

- **Communication of award**

Gatta (2017:64) mentions that the contract award is an approved decision that is formally communicated as a means to commence the fulfilment of a pledge. A PDE is required under Regulation 85 to display a notice of the best evaluated bidder within five days of the decision of the contracts committee to award a contract. A notice of best evaluated bidder should be displayed on a PDE's notice-board or website and sent to all bidders who participated. This notice remains open for a minimum of ten working days after the awarding of the contract.

- **Contract management**

According to Muhwezi and Ahimbisibwe (2015:76), contract management is the last stage in the bidding process and the beginning of a contractual link between the PDE and the selected provider. Public Procurement and Disposal of Public Assets Regulation 258 provides that after contract placement, contract management shall pass from a procurement and disposal unit to a user department. A contract management plan is prepared by the approved contract manager using the Procurement Plan (PP) Form 60 and submits the copy to the procurement and disposal unit for monitoring purposes. Regulation 260 (2) specifies that the functions of a contract manager must include: confirming that a provider has met the contractual obligations and submitted all essential documents; certifying that the PDE meets all payment and other obligations and ensuring that there is adequate cost, quality and time control (Muhwezi & Ahimbisibwe, 2015:76). Every item including vehicles and heavy plant that is owned, operated or maintained by the



department is listed by the head of the user department who records it in the asset register to safeguard the item against loss or degradation.

- **Monitoring and evaluating compliance**

Contract monitoring and evaluation of compliance with the terms and conditions of the contract is the obligation of all contracting parties. Concerned parties include the users, the accounting officer, the procurement and disposal unit, the contracts committee and the evaluation committee on behalf of the institution, and the provider (Muhwezi & Ahimbisibwe, 2015:78). The process of monitoring and evaluation of compliance is performed throughout the contract implementation stage (Public Procurement and Disposal of Public Assets Authority, 2017:40).

Globally, this process does not differ much, especially in developing countries. Policies that bind each particular country, the regulations utilised to guide the procurement officials and the providers and whoever is engaged in the process of procurement differ among countries and can also be adapted (Maruis, 2017:62). Once the last stage has been performed successfully, the process is complete. Some of the steps may be eliminated in particular procurements, for example in the case of emergency procurements, framework contracts or termination of contracts, as determined by the accounting officer, the procurement and disposal unit or the contracts committee from time to time.

In conclusion, the procurement and disposal process followed by PDEs in Uganda includes performing a needs assessment; procurement planning and budgeting; procurement requisitioning; developing specifications; pre-qualification; preparing bid documents and invitation, receipt, opening and evaluation of bids. The approval process and the awarding of a contract is followed by communication of the best bidders. The contract is managed, monitored and evaluated in line with the PDE's compliance standards. In the next section, the progress of e-procurement is discussed.

### **3.11 PROGRESS OF E-PROCUREMENT**

Many governments and PDEs have had their procurement systems changed from manual, traditional operating systems to information driven systems, otherwise known as e-procurement, in an attempt to become more efficient and effective (Pule, 2014:136). E-procurement integrates digital technologies to substitute the manual, paper based procedures in the procurement process (World Bank Group, 2017:10). Advancement of e-procurement has amplified the publication of information regarding contracting procedures electronically (Muñoz-Soro *et al.*, 2016:295). According to the report on the performance of the public procurement system for the 2016/17 financial year, the Public Procurement and Disposal of Public Assets Authority is in its second year of reporting on the performance of the public procurement system in Uganda under the government procurement portal (Public Procurement and Disposal of Public Assets Authority, 2017:12).

The government procurement portal was adopted by the Ugandan Government in 2015 in a bid to advance the data gathering process. Development and adoption was achieved with the purpose to combine the various features of the procurement performance measurement system, the register of providers and the tender portal. The government procurement portal has the ability to periodically evaluate the transparency, effectiveness and efficiency of the public procurement and disposal system. The tender portal was also considered a step towards the full adoption of an e-government procurement system (Public Procurement and Disposal of Public Assets Authority, 2017:12). Through the procurement performance measurement system, the Public Procurement and Disposal of Public Assets Authority has for many years acquired baseline data against which performance is benchmarked. The government procurement portal is seen to be a section of the broader strategic objective of adopting an e-government procurement system in Uganda. Entities are introduced to features of an e-government system in an effort to prepare for its adoption (Public Procurement and Disposal of Public Assets Authority, 2017:12).

All PDEs in Uganda are mandated to enter data pertaining to the entire procurement and disposal process from planning to contract management, annually. The Public Procurement and Disposal of Public Assets Authority accumulates the data to monitor and maximise the benefits of the Public Procurement and Disposal of Public

Assets Act. Assessment enables the Authority to inform policy on procurement while also measuring the progress of the existing procurement reforms. However, e-procurement is not without fault. The government procurement portal has in the past faced a few challenges with regard to technical capabilities and change management that have affected its adoption, especially the entities that switched from a procurement performance measurement system in the year under review (Public Procurement and Disposal of Public Assets Authority, 2017:13). These technical problems on the portal affected the ability of PDEs to enter procurement data in a timely manner. The process of procurement reaped most of the benefits of technological advancements including an improvement in data entry.

The Ugandan Government is on the Engineering and Logistics Government Operators Network, which is an electronic procurement application that is custom designed to manage the public procurement process. The network application offers features including e-notifications, e-procurement, e-disposal, e-tendering, e-invoicing, e-signature, e-inventory, e-catalogue and an integrated financial management system interface (Bukonya & Muhumuza, 2017:15). Compatibility with mobile devices, Windows 7 and 8 and the Web is certain. Network application engages the various stakeholders in the procurement process, including the procurement unit, the service providers and the accounting officers and the integrated financial management system interface manages the government entities' budgeting and spending. Namukasa (2017:258) posits that the use of electronically generated records in procurement improves access to information and procurement opportunities. Transparency and equality in the process is enhanced and corruption and abuse of the contract compliance process are reduced. Pule (2014:136) posits that the transition of government entities to e-procurement has seen them realise agility and flexibility in satisfying stakeholders' changing requirements. Exploitation of providers and individuals is limited as there is open access to information pertaining to orders, offers, prices and competitors, among others. In the following section, records management in Uganda is discussed.

### **3.12 RECORDS MANAGEMENT**

Records contain information that is created and connected to work processes (Sundqvist & Svärd, 2016:12). Procurement records are a strong basis for internal and external audits, which are necessary to determine contract compliance (Ameyaw, Mensah & Osei-Tutu, 2012:58) and must therefore be managed with care. Records management is a field of management that guarantees the efficient and systematic use of records (Sundqvist & Svärd, 2016:12). Records management facilitates the ease of traceability of records and improves transparency and accountability in the procurement and disposal process. Procurement records management is enshrined in the public procurement law, with details regarding the particular documents that must be kept (Namukasa, 2017:258). The Public Procurement and Disposal of Public Assets Act is supplemented by regulations formulated by the Public Procurement and Disposal of Public Assets Authority and policies designed and implemented by each institution from time to time.

Records creation is the first stage in records management. At the creation stage, records are either produced internally or received from external parties (Adu, 2014:10). For example, a unit procurement plan and work plan from the user department, or a quotation or complaint from a provider. Next, is the records distribution stage, when records are distributed to the particular offices or persons responsible for action, for example, the accounting officer who approves or rejects the initiation document from the user department (Manikas, 2015:11). Records use is the third stage and the outputs include decision making, documentation and referencing in answering inquiries or satisfying legal requirements. Maintenance is the fourth stage, when it is important that records be kept for use or reference at a later stage and thereafter stored, retrieved and protected (Katu, 2017:13). Records must be stored or filed and this involves formulating and inserting records in an appropriate, safe and proper storage facility from where they can be easily retrieved. However, records that have become obsolete may be disposed of using appropriate environmental and human controls to ensure the safe disposal thereof.

Documents that are used frequently are kept close at hand. In the case of PDEs these would include the approval of initiation by the accounting officer documentation, the approval of solicitation document for the invitation to bidders, the

record of issue of bids and the record of bid receipt and opening (Mansaray, Lapkoff & Little, 2018:64). These records would include the record of all bids and quotations received, the record of approved evaluation report, the copy of the contracts committee's award decisions and notice of the best evaluated bidder, with evidence of its receipt by bidders (World Bank Group, 2017:10). Others would include the approval by the attorney general, donor, board, or other party, in addition to contract management documents and all amendments. The contract implementation plan, evidence of contract completion, register of providers and the contract document itself are also necessary documents for archiving (Colonelli & Ntungire, 2018:15). The unit and consolidated procurement plans, work plans and any records of the accounting officer that relate to procurement, disagreements with the contracts committees, investigations of complaints or any other matter related to the Public Procurement and Disposal of Public Assets Act and regulations form part of the procurement records. A well-managed records management system ensures that records are accessible for dissemination and use in order to secure transparency in public procurement (De Mingo & Cerrillo-i-Martínez, 2018:256).

In the ensuing section, the financial framework for public procurement is explained.

### **3.13 FINANCIAL FRAMEWORK FOR PUBLIC PROCUREMENT**

Eyaa and Oluka (2011:35) assert that in 2011 9-13% of the gross domestic product was spent on public procurement in Uganda. Due to the boost in economic growth, the volume and complexity of public procurement in Uganda has intensified and government expenditure increased from 3.154 trillion Ugandan shillings in 2003 to 15.041 trillion Ugandan shillings in 2014 (Komakech & Machyo, 2015:2). On average, 65% of the central government's recurrent non-wage budget is spent on procurement and there is a need for strict management of public funds (Oluka & Basheka, 2014:105). Kivumbi (2013:70) explains that the management of public funds should be undertaken in such a way that resources are collected from the economy and apportioned through the appropriate channels in an effective and efficient manner.

Muzaale, Basheka and Auriacombe (2017:93) contend that financial management of public funds encompasses the processes, structures and procedures adopted in

institutions. Procurement in PDEs is financed by the government and by donors (Ibrahim, Bawole, Obuobisa-Darko, Abubakar & Kumasey, 2017:2). There are also PDEs that generate revenue to supplement the financing received from the government and donors, for example, the local governments, authorities, public universities and schools. Local government PDEs have three chief sources of funds, namely local revenue, central government grants and donor funds.

Participation in public procurement requires service providers to source funds, secure relevant documentation to bid and thereafter deliver the required goods or services (Uyarra *et al.*, 2014:632). Some providers approach banks for loans and at the bidding stage it is necessary that the providers are issued with letters of credit, bid bonds and other guarantees for compliance with tenders. The Bank of Uganda supervises the local banks and certifies that only credit worthy and professionally managed banks are licensed to operate in the country; for international bidding, most banks in the country have international connections so that the relevant documentation is available.

High interest rates ranging from 18% – 25% and the 10% requirement for bid bonds are some of the barriers faced by existing and potential suppliers, but they have to be considered when accessing credit. Capacity to raise credit, bid bonds and securities from local banks is lacking while at the same time, bid securities such as certified cheques are expensive and small business owners often find themselves unable to fulfil the requirements for bidding. Reijonen, Saastamoinen and Tammi (2018:2) suggest that to optimise benefits accruing from public procurement, private institutions should cultivate partnerships and cooperate and interact with institutions, both public and private.

### **3.14 CHALLENGES AND KEY SUCCESS FACTORS OF PUBLIC PROCUREMENT IN UGANDA**

Since the early 1990s, the government has embarked on various reforms to improve and streamline public procurement, including increased participation of citizens and the involvement of civil society organisations in monitoring through reporting and whistleblowing, among other measures (Muzaale, 2013:43). Ochieng (2016:56) notes that the reforms implemented by the government assist in improved

predictability in planning, budgeting and expenditure. However, there are still some challenges hindering the complete transformation of the financial management system in Uganda (Muzaale, Basheka & Auriacombe, 2017:94). The following section highlights the professionalism, capacity, institution and efficiency challenges that public procurement in Uganda face.

### **3.14.1 Challenges**

PDEs in Uganda are constrained by a number of challenges pertaining to capacity, professionalism, institution and efficiency, which have affected performance and quality of service delivery in the country (Kivumbi, 2013:76).

PDEs are characterised by lack of the requisite knowledge, skills, behaviour and competencies of the staff, which affects their ability to contract or fulfil the institutional policies and goals. Competent employees are needed in the areas of records management, managing supplier relationships, negotiation and usage of the online systems in the process of procurement (Munzhedzi, 2016:1). Many PDEs are reported to have vouchers, evidence of payment to providers and evidence of receipt of payments issued by service providers missing from the contract files, which affects the audit trail and negatively affects accountability (Kivumbi, 2013:76). In addition, the service providers that are awarded contracts are sometimes incompetent (Cankwo *et al.*, 2015:13). Service providers lack skills in planning, budgeting, monitoring and implementation, which affects the quality of the work done and results in delays in service provision.

PDEs have few public procurement professionals, which makes it difficult to monitor and evaluate work done, resulting in poor service delivery. In addition, there is a continued failure to embrace automated processes to manage records in PDEs, but it is important to keep initiation, approvals, minutes, awards and other documents that affect decision making (Namukasa, 2017:258). Manual records management is tedious and vulnerable and has resulted in failure to trace the records, loss of the records and the need to create more space for storage to cater for the volumes of paper. Further, there is a high rate of corruption, misuse of government assets and misappropriation of funds among procurement officers (Basheka *et al.*, 2012:34). According to Transparency International (2018:3), Uganda's Corruption Perception

Index (CPI) is ranked at 26, which is well below the required 100. The CPI measures the perceived levels of public sector corruption in 180 countries and territories where experts assess the countries on a scale of zero (highly corrupt) to 100 (very clean). Uganda has not made much effort to reduce the corruption in the country, which has negatively affected the strength and independence of institutions (Transparency International, 2018:3).

Kutosi, Moses and Eya (2015:2) posit that US\$300 million is lost annually due to the unprofessionalism of individuals engaged in the procurement process in Uganda. With corruption, there is a lapse in proper monitoring, which results in projects being delayed and the rendering of poor quality service and product delivery. Some providers are awarded contracts through nepotism, which frustrates the competition and is not fair and this results in loss of confidence among the donors and development partners (Tukamuhabwa, 2012:38). Some procurement officers and users in PDEs deliberately purchase goods and services without following the approved procurement plans, have contracts approved without ascertaining if the funds are available and even influence the bidding processes to skew competition and transparency (Inspectorate of Government, 2011:45).

PDEs have high levels of bureaucracy, which affects decision making. Bureaucracy is a stringent system with strict rules to follow, with no room for flexibility within the procurement system (Sabiiti & Muhumuza, 2012:2042). Bureaucracy affects lead time and completion of projects. With the exception of micro-procurements, the process of awarding contracts can take a long time, especially for approvals to be performed, which at times affects the quotation prices. For instance, large contracts valued in excess of 200 million Ugandan shillings require the solicitor general's approval (Kalinzi, Ntayi, Muhwezi & Kabagambe, 2018:230). Methods of procurement and thresholds explored in some cases do not allow for certain procurements. For example, in the past, online air tickets could not be purchased directly by the procuring institution, yet the suppliers could purchase tickets online, but at exorbitant prices. This has now changed and government institutions can purchase cheaper tickets online. In other instances, some PDEs were forced to return money to the government or donors as they had failed to utilise the money that was provided for procurement owing to the strict rules and regulations. Gross



breaches of procurement regulations also occur in PDEs, as the officials engaged in the process and those who pay the service providers tend to ignore the rules and in some instances manipulate them either knowingly or unknowingly (Muzaale, Basheka & Auriacombe, 2017:95). According to Namukasa (2017:258), poor planning and supervision problems also contribute to the deteriorating standards of public services and works.

There are challenges of efficiency in the procurement processes and procedures in PDEs. An efficient procurement process is one where there are faster, smarter and more productive ways of handling the procurement process. Many institutions do not operate with efficiency. Mbago, Ntayi and Muhwezi, (2016:375) allude to the low levels of contract compliance among Ugandan PDEs as substantiated by the 2010 Common Wealth Heads of Government Meeting Report; the 2008 Global Integrity Survey Report on Uganda; the 2011/2014 Public Procurement and Disposal of Public Assets Capacity Building Strategy Report; the 2010 Public Procurement and Disposal of Public Assets Authority Baseline Survey Report; the 2005-2015 Public Procurement and Disposal of Public Assets Authority Audit Reports as well as the 2013 Public Procurement Performance Measurement System Report. Management in institutions does not plan carefully before making purchases, does not create and sustain trustworthy relationships with suppliers and lacks proper networks built to facilitate negotiations. In addition, PDEs lack performance evaluation systems that can help them make better use of government budgets and fulfil contractual objectives. Due to inefficiency, the procurement process becomes expensive and sourcing becomes difficult, because of the poor relationships with suppliers, corruption and mishandling of the process (Arrowsmith, 2010:155). Due to the aforementioned challenges, the quality and level of services delivered to the public in Uganda remain low (Mugambwa, 2014:23).

### **3.14.2 Key success factors**

The liberalisation of the Ugandan economy since the 1990s promoted the development of the economy in all sectors (Basheka & Tumutegyeize, 2012:9211). Despite the challenges, a number of success factors have been registered. The enactment of the Public Procurement and Disposal of Public Assets Act, the establishment of the Public Procurement and Disposal of Public Assets Authority and

procurement and disposal units in all government entities are a few of the successes in Uganda (Eyaa & Oluka, 2011:25).

In the public procurement realm, operations are run based on the provisions of the Public Procurement and Disposal of Public Assets Act of 2003, its Amendment Act (2011) and the 2014 regulations. It is a requirement for all PDEs in Uganda to follow the Public Procurement and Disposal of Public Assets Act (2003) for as long as they are engaged in the purchase and disposal of goods and services. Only the Bank of Uganda and the Office of the Auditor General are exempted while in the performance of their core mandate under Articles 162 and 163 of the Amendment Act (Wanyama, 2016:218).

The 2003 Public Procurement and Disposal of Public Assets Act was established to decentralise and streamline all public procurement and disposal activities that were previously performed by the tender boards. The Public Procurement and Disposal of Public Assets Authority of Uganda drafts and issues regulations, policies and guidelines to supplement the Act. The formation of the Authority, the Act, the regulations and the policies guiding public procurement were part of the reform process geared towards the enhancement of efficiency, effectiveness, equality, transparency and value for money in public procurement.

The contracts committees and evaluation committees were also put in place. The Public Procurement and Disposal of Public Assets Authority also designed and implemented various documents to systemise the process, such as regulations, guidelines and capacity building programmes. The Public Procurement and Disposal of Public Assets Authority is the legal public procurement oversight authority and facilitates supplier awareness programmes, training and change management sessions for the registered providers and members of the contracts committees and procurement and disposal units. Training embraces the laws, regulations and e-procurement, among others. Institutionalisation of the laws, policies and guidelines for public procurement in PDEs has resulted in the sanctioning of some public officials who were prosecuted in the anti-corruption court of Uganda for the diversion of public funds and embezzlement (Okello 2013:40).

According to Namukasa (2017:257), Uganda instituted measures to streamline the management of records and archives following the establishment of the 1976 Circular No. 2, which was fully implemented in 1988; and in 1990, the department of records and information management was established under the Ministry of Public Service. Records managed in collaboration with public procurement are further alluded to under the Public Procurement and Disposal of Public Assets Act, including the bid and contract documentation.

The Public Procurement and Disposal of Public Assets Authority also has a website where all procurement opportunities, the register of providers, contract awards and procurement plans are published. An administrative review process exists to handle any administrative or legal concerns raised by providers and the entities. According to Iossa and Martimort (2015:2), the increased use of the public-private partnerships arrangement has increased the government's capacity to attain its objectives, especially with regard to large infrastructural projects. Additionally, in the PDEs there is flexible planning, a well laid out structure for procurement and procurement policy and regulations with rules and procedures to follow (Nilsen, 2015:1). Some institutions to improve systems and processes include the Inspector General of Government and the Auditor General's Office that have worked hand in hand with civil society organisations and the public to ensure compliance with the laws (Muzaale 2013:49). The creation of more districts has increased the outreach of services in the local areas and authorities such as the Uganda Investment Authority, the Kampala Capital City Authority and the Uganda Revenue Authority were established to further professionalise particular services, for example, the identification and maximisation of investment opportunities, tax and other revenue collection.

The decentralisation of public procurement from the Central Tender Board to individual PDEs and the establishment of procurement and disposal units in each PDE, headed by procurement professionals, was all aimed at increasing professionalism, streamlining the procurement profession and ensuring that accountability, value for money and equity are realised (Obote, 2013:1). All PDEs have accounting officers who are responsible to report to the ministries from where they get their mandate and to which they belong (Owino *et al.*, 2016:2).

At the time of the study there was increased independence and segregation of roles in Uganda due to the provisions of the Public Procurement Act and associated regulations that stipulate the roles and responsibilities of various officers, the decision making, the approval process and the accountability process. The government also established monitoring controls such as the Public Procurement and Disposal of Public Assets Authority and the Accountant General, in addition to the Public Accounts Committee of Parliament, all aimed at the promotion of ethics and integrity in the process and enforcement of the law (African Peer Review Mechanism, 2017:181). All those found in breach of these acts are to be punished accordingly.

Tumutegyeize (2013:25) states that the Public Procurement and Disposal of Assets Authority performs regular compliance checks that measure areas ranging from procurement structures and procurement planning to solicitation and bidding procedures, evaluation procedures, contract awards and management, reporting, the performance of contracts committees and record keeping. Compliance checks are meant to establish whether or not the objectives of the procurement process are met.

### **3.15 SUMMARY**

Chapter 3 presented a discussion of the procurement and disposal landscape in Uganda. Basic principles and major trends in public procurement were explained. The basic principles that were covered included framework contracting, green procurement, e-procurement, public-private partnerships, cognitive procurement, cyber security, cloud technologies, corporate social responsibility, innovation, simplicity, nearshoring and reshoring. A presentation of the structure and responsibilities was given with emphasis on user departments, evaluation committees, procurement and disposal units, contracts committees, accounting officers, line ministries, public procurement and the disposal of public assets authority, the Ministry of Finance, planning and economic development in Uganda.

Guiding laws, policies and regulations followed by PDEs in Uganda were considered. PDEs were categorised into government ministries, departments and agencies; commissions, statutory authorities and state enterprises and local government. Internal and external stakeholders in public procurement in the Ugandan context

were identified. A debate followed on the methods of procurement for local and international bidders with particular reference to the thresholds and justification for each. A discourse on Uganda's procurement and disposal process from initiation to contract award was presented. The process and systems pertaining to e-procurement as a current trend of procurement were discussed and the records management process from the creation of records to the disposal thereof was explained. The financial framework for public procurement in Uganda, including expenditure on public procurement, the sources of funding, debts and documentation required for service providers to bid were presented. Chapter three concluded by acknowledging the challenges and key success factors for PDEs in Uganda.

Chapter 4 focuses on contracts and contract compliance. Due to the multi-theoretical approach to this study, the principal-agent, legitimacy, stakeholders and institutional theories are explored in the next chapter.

## **CHAPTER FOUR**

### **THE NATURE AND THEORETICAL PERSPECTIVE OF CONTRACT COMPLIANCE IN UGANDA**

#### **4.1 INTRODUCTION**

Chapter 3 presented a global overview on Procuring and Disposing Entities (PDEs) in Uganda. A history of reforms and basic principles of public procurement in Uganda were highlighted. Major trends such as framework contracting, green procurement, e-procurement, public-private partnerships, cognitive procurement, cyber security, cloud technologies, corporate social responsibility, innovation, simplicity, nearshoring and reshoring in PDEs were elucidated. Reference to the structure and responsibilities; and the legal and regulatory framework for public procurement was made. PDEs were categorised into government ministries, departments and agencies; commissions and statutory authorities; and local government institutions. External and internal stakeholders of public procurement in Uganda were elucidated. Procurement methods including domestic and international bidding, request for quotations, force account, micro and direct procurement were expounded on. Procurement methods were highlighted. Emphasis was given to the procurement and disposal process, e-procurement, records management and the financial framework followed in public procurement in Uganda. Chapter 3 concluded with a discussion on the challenges and key success factors for public procurement in Uganda.

In this chapter, a detailed discussion on the nature and theoretical perspective of contract compliance in PDEs is provided. Due to the multi-theoretical approach of this study, the theories to support this study are explored. To this end, emphasis is placed on the principal-agent theory, legitimacy theory, stakeholders theory and institutional theory.

#### **4.2 NATURE OF CONTRACT COMPLIANCE IN UGANDA**

Contracts have evolved as a result of globalisation, complexity of supply chains, advanced technology, intensified competition and improved regulatory oversight. According to Jääskeläinen and Tukiainen (2019:2), contracts are vital tools for

business strategy as their benefits include cost minimisation and generation of additional savings, increased efficiency in the control of business operations, improved customer satisfaction and reduced risks. Passera and Haapio (2013:38) indicate that contracts offer an agenda for effective transactions and satisfactory associations with service providers, clients and partners.

Depending on the situation at hand, a contract can be alternatively known as an agreement, treaty, truce, arrangement, covenant, pledge, bond, promise, pact, bargain, settlement or convention (Farmer, 2019:821). Contractual obligations among parties are determined based on prior terms of agreement. Calfa and Grossmann (2015:1) infer that in the context of procurement, a contract is a legally enforceable and binding agreement whereby the seller provides the required service or product and the buyer compensates for it under specified terms and conditions. It is with common understanding among the parties that a contract comes into force. Amour (2014:8) draws attention to a contract being a promise or a deliberate agreement that is freely given and sanctioned by law, to undertake or not to undertake something among parties that are considered to be competent to perform the assigned duties. It is a situation where the wills of one or more parties converges with the intention to create a legally binding relationship. Any implied, spoken or written agreement that is created with intentions of becoming enforceable by law is viewed as a contract (Ssempebwa, 2014:2).

Managers are charged with the supervision of these associations so that they are fully utilised for the benefit of the institutions (World Bank Group, 2018:6). Small, routine contracts may not need a big team, whereas for large contracts, a department or institution may be given authority to manage the contract. Institutions including PDEs are interested in sourcing for quality, timely goods and services and the service providers are interested in selling their goods or services in exchange for timely compensation (Oluka & Basheka, 2014:111). Acquisition of the goods, services and works begins with establishing essential requirements and market research and the process embraces the evaluation of providers and negotiation of contracts (Amour, 2014:9). Negotiation of contracts often necessitates long and elaborate discussions aimed at operational efficiency so that the institution's objectives are met satisfactorily (Pannebakker, 2013:1).

Contrary to the goods and service contracts, public procurement works contracts are usually complex, require longer time periods and huge sums of money to complete and involve various changes after contract award (Bajari, Houghton & Tadelis, 2014:1288). Contracts facilitate the delivery of goods and services in PDEs and resultantly lead to the realisation of government programmes (Shiwa, 2014:3). On delivery of the contracted goods or services, the service providers are duly compensated in accordance with the prior agreed terms and conditions (Beletskaya, 2014:19). It must be intended to be enforceable by law to be considered a contract. Most procurement contracts involve buying, hiring and renting goods, services or works. Sourcing of providers to buy from, hire from or rent from requires choosing from external sources.

According to the World Bank (2018:94), contracts ordinarily have a defined start and end date, with an indication of planned activities. Some contracts have confidentiality clauses where after each party has duly fulfilled their obligations, the parties agree not to disclose confidential matters for an agreed time period after contract closure. Mutua, Waiganjo and Oteyo (2014:26) contend that institutions function in a highly connected and competitive environment with the existence of contracts to regulate joint ventures, alliances, multinational sourcing, sub-contracting and other sophisticated vendor relations. In brief, contract agreements go beyond mere legal necessities designed to protect parties to becoming a strong tool for maximising business opportunities and maintaining strong business relationships. Contracts can be simple or complex, depending on the transactions, parties and funds involved (Ammattikorkeakoulu, 2013:9). To realise competitive advantage in today's high speed and multilateral business culture, contract compliance must be top priority to institutions.

Originally, the role of contracts and contract compliance was insignificant, because the number of contracts was small, uncomplicated and therefore easy to manage. As explained by Ammattikorkeakoulu (2013:9), contracts have hugely transformed over time. Business relationships have been and still are premised on contracts, which have been around for millenniums. Mutua *et al*, (2014:26) argue that until the 1980s, the only interest in contract compliance lay in the fields of engineering, construction, defence and Information Technology. In the late 20<sup>th</sup> century, interest in contract



compliance picked up. Rather than being simply an agreement, contracts are viewed as a tool for business optimisation and interest has diversified into many other areas of management activity (Sonne, 2016:4).

Contract compliance as a notion has developed into a megatrend in many public institutions across the world, mainly resulting from social accountability and increasing demand for service delivery (Muhwezi & Ahimbisibwe, 2015:76). Maximum attention needs to be given to contract compliance to improve the process of procurement in PDEs. Mansaray, Lapkoff and Little (2018:64) relate that contract compliance is influenced by behavioural changes, international relations, environmental laws and personal values.

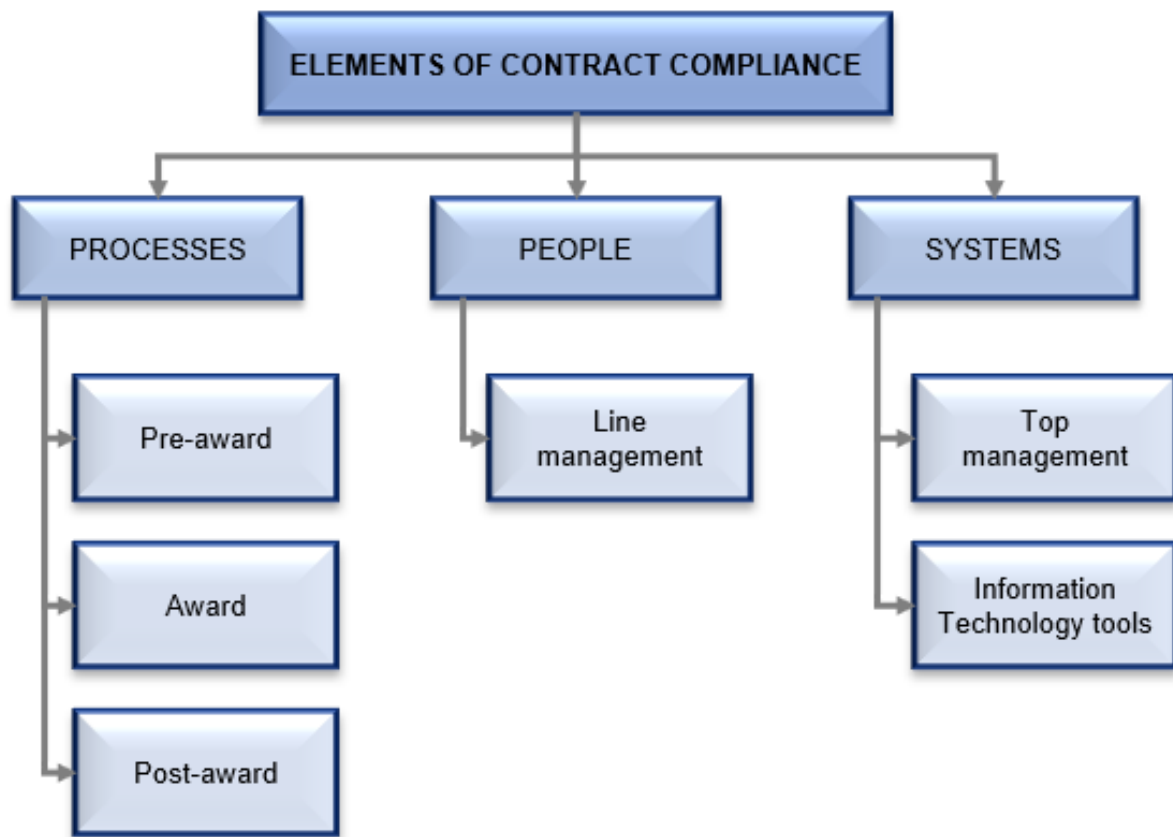
Different scholars have defined contract compliance in many ways. Brandon-Jones and Carey (2011:276) refer to contract compliance as the extent to which individuals comply with mandated contracts. Seppänen (2016:14) states that an institution that follows rules, norms and laws in its operations including placement of procurement contracts is considered to be compliant. Biramata (2014:10) highlights that it is the verification that an action once accomplished, meets the requirements of established practices, prescribed laws, rules and regulations, and the defined standards and terms of the contract. Muhwezi and Ahimbisibwe (2015:76) explain that contract compliance encompasses the management of the relationship between the contracting parties, the supervision of the delivery of services, works and goods, in accordance with the contract and the directing of the contract itself.

Emaru (2016:15) observed that contract compliance comprises of the administrative activities associated with handling of procurement contracts, inclusive of the invitation to bid, evaluation of bids, contract award, implementation, evaluation of work done and payments. While this is the case, contract compliance successfully occurs when there is procurement of the right item, in the right quantity, at the right price, at the right time, in the right quality, from the right source (Oluka & Basheka, 2014:111). Jaafar, Aziz and Ramli (2016:90) assert that the ability to execute duties in line with known, well-established principles, is termed as contract compliance. For the purpose of this study, contract compliance will refer to carrying out the right 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.

According to Mashele and Chuchu (2018:121); and Zhang, Liang and Gao (2017:288), contract compliance is a vital driver for financial performance and a pertinent business activity with direct cost implications on improved service delivery. The progression leading to contract compliance includes all administrative, financial, managerial and technical tasks performed by the PDE to achieve intended objectives. Furthermore, it involves checking and supervising the contract between the PDE and the provider to guarantee cost effective and reliable service delivery as agreed between the parties. Another essential point, contract compliance is the degree to which stakeholders of public procurement comply with the existing legislative and regulative mechanisms (Mashele & Chuchu, 2018:121). More importantly, contract compliance requires pro activeness in monitoring, review and management of contractual terms secured through the procurement process to ensure that the right deliveries are made. Thus, firms must guarantee contract compliance in order to achieve the goal of sustainability and to preserve their credibility and reputation (Grimm, 2013:2).

For contract compliance to be effective, contract terms and conditions need to be negotiated, ascertaining that they are adhered to, together with the technical requirements, plus documenting and agreeing on any changes or amendments that may arise during the execution (Mansaray *et al.*, 2018:64). Contract compliance is handled as a well-rounded process, consisting of three elements; processes, people and system support (Paris, 2010:197). Figure 4.1 presents a summary of the elements of contract compliance.



Source: Adapted from Kakwezi and Nyeko (2019:180).

**Figure 4.1: Elements of contract compliance**

Kakwezi and Nyeko (2019:180) contend that for PDEs to achieve their objectives including value for money, transparency and equity, consideration has to be placed in the maintenance of processes, people and systems in a sustainable manner.

#### **4.2.1 Processes**

Processes are the activities performed in contracting, for example reference and following laws and regulations and filling in template forms. Hawkins, Gravier, Berkowitz and Muir (2015:83) maintain that the procurement process should be well communicated and understood by clearly defining the scope and description of each phase, so that it is followed diligently even at implementation. Gavurova, Tkacova and Tucek (2017:25) posit that managing the process requires that clear, standardised rules be set and followed by all participants.

Typically, contract compliance consists of six main activities organised under three main stages. Moreover, the pre-award, award and post-award stages are classified

based on their positioning in accordance with the award of the contract (Cankwo, Obanda & Pule, 2015:15). In the same way, the pre-award stage involves the identification, initiation and approval of need in addition to tendering, while the award stage occurs during contract creation (Olumbe, 2011:13). Further, the post-award stage contains all activities undertaken to implement the contract terms and conditions, after the contract has been awarded (Muhwezi & Ahimbisibwe, 2015:76). This means that the post award stage involves contract administration, close-out and termination.

#### **4.2.2 People**

Processes are effected by people, as they are the ones to perform the activities that constitute the process (Rendon & Rendon, 2015:715). People are placed under an organisational structure which includes top management and line management functions such as sales, human resource, procurement, finance, operations and legal. Top management includes the boards, councils, directors, chief executive officers, vice chancellors and ministers, which individuals and titles vary among institutions (Awino & Marendi-Getuno, 2014:105). Line management on the other hand constitutes heads of departments and sections, from where requisitions for procurement needs arise. Management, boards and councils play an oversight role and provide requisite resources to PDEs and government to improve efficiency and effectiveness (Thai, 2017b:56). So, organisational structures are crucial when implementing procurement processes and overall contract compliance, for example, while the procurement contract is mainly handled by the procurement function, the need is initiated from other functions (Office of the Auditor General (2017:1).

In some countries like Uganda and Kenya, there is a central office to handle procurement, and in other countries such as the United States of America, the organisational structure is extremely complicated (Thai, 2017a:9). Responsibility and control remains with the procurement unit, which is a central point for contracts and their compliance and provides oversight of contractual commitments (Colonnelli & Ntungire, 2018:13). Still, contract compliance is expected across different individuals and departments, therefore all staff involved in the contract compliance process have to be sensitised to create awareness, comprehension and familiarity of their roles.

### **4.2.3 Systems**

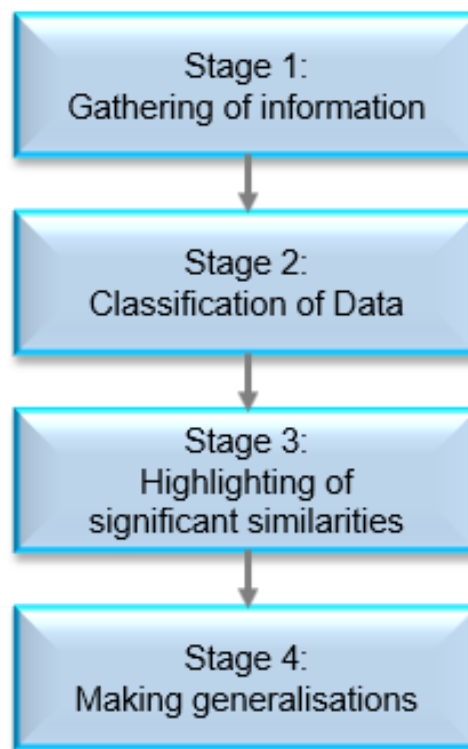
In supplement of the processes and people elements is the system element (Bank for International Settlements, 2011:3). Leading institutions make use of effective performance management systems to transform into being collaborative, result oriented and customer focused (Thai, 2017b:58). Performance management systems are used to obtain results, hasten change and facilitate discussions on performance of both individuals and the institution on an annual basis. Likewise, new business solutions, arising out of technological advancement have been brought up to facilitate the automation of various business processes (Kim, Suresh & Kocabasoglu-Hillmer, 2015:2). A number of information technology tools have been developed to assist institutions to manage their contracts better and automate the contracting process such as billing, payment, revenue reporting, and forecasting (Ibem & Laryea, 2015:369). Some information technology tools such as MS Access, Excel and Word are developed in-house and are low cost, though they have limited accessibility and poor functionality.

Other information technology solutions are generally referred to as enterprise contract management solutions, which are designed to cope with high volume and complex contract landscape and can easily be incorporated with the wider enterprise solutions. Unfortunately, due to the lack of flexibility and capability, the technology solutions are unable to adapt to the needs of each and every institution. Kakwezi and Nyeko (2019:174) explain that the major goal of efficiently managing the processes, people and systems is to enhance service delivery, and overall efficiency and effectiveness. Muriuki *et al.* (2019:21) contend that it is important for developing economies to adopt efficient public procurement systems in order to optimise the use of public resources. The desire for increased efficiency and reduced cost through contract compliance is real and significant for organisational operations and future success.

## **4.3 THEORETICAL FRAMEWORK**

As cited by Picho (2017:142), good research ought to be grounded in theory. Additionally, Biramata (2014:16) denotes that, a theory is a rational statement or groups of statements that are evidence based, with the aim of offering an

explanation for a particular phenomenon. Also, Jowah (2013:28) defines a theory as a principle or set of principles intended to clarify the relationship between two or more observable realities. Theories systematically describe the relationship among phenomena and make it easy to understand the underlying processes that enable one to take appropriate decisions. Therefore, devoid of theories, management is bound to opt for the use of intuition, hunches and faith, which limits effectiveness and efficiency. Given the observable variables, theories provide predictability. It is through predictability that theories aid in decision making of management with the aim of reducing the influence of future risks. Theories offer possibilities about structure and information. Figure 4.2 shows the process of theory development.



Source: Adapted from Jowah (2013:27); and Mintzberg (2017:3).

**Figure 4.2: Process of theory development**

Figure 4.2 indicates that a theory is a process established through four stages including: gathering of information; classification of data; highlighting of significant similarities; and making generalisations (Jowah, 2013:27). Stage one involves the collection of information through research methods such as observation, questionnaires and interviews. It involves the investigation of the circumstances and reasons for the existence of phenomena. This stage results into data classification,

which is also Stage two. Stage two contains the clustering of data into matches in form of activities, circumstances, categories of problems and solutions or outcomes of decisions taken. From this stage comes the highlighting of significant similarities, which is Stage three. Stage three on the other hand involves the accentuating of major similarities, which encompasses the process of placing the data together into unique researchable units and observations. Mintzberg (2017:5) alludes that these unique researchable units and observations are then set apart and documented in tandem with their distinctiveness. Uniqueness can be measured in terms of their differences, independent and dependent variables, and potential construction of a hypothesis. This process feeds into the last one, which is Stage four. In Stage four, generalisations are derived, where hypotheses are verified through further research and developed into theories (Corley & Gioia, 2011:27). It is important to note that theories offer a reference point while making decisions on how to manage or solve problems.

Consequently, there are a number of theories that have been adopted in this study to present a conceptual framework for creating an enabling environment for contract compliance. These include the Principal-Agent theory, the legitimacy theory, the stakeholder theory and the institutional theory. Next, is a discussion on the theories that are used to explore the concepts used in this study.

#### **4.3.1 Principal-Agent Theory**

This theory was postulated by Alchian and Demsetz (1972:778), depicting the relationship between the principal and the agent (Alchian & Demsetz (1972:778) & Marigat (2018:8). Principal-Agent theory is alternatively known as agency theory (Macias, 2012:37). In this theory, institutional owners or shareholders hire agents to perform work on their behalf (Biramata, 2014:17). As explained by Forbes (2014:28), the principal-agent theory materialised from organisational economics to become a theoretical paradigm for management. This branch of economics follows that market information is acquired through spending on gathering data or creating interpretations centring on their behaviour. The principal aspects of this theory are that the efficiencies of economic organisation may relate to transaction, human and technology issues including bounded rationality, opportunism, atmosphere, uncertainty, small numbers and information impact (Forbes, 2014:28). In addition,

the principal-agent theory is commonly applied in the accounting and auditing field and is focused on the distinction between corporate ownership and control (Alberti-Alhtaybat, Hutaibat & Al-Htaybat, 2012:80). Further, many scholars in political science, sociology and law rely on this theory (Forbes, 2014:27).

Importantly, the principal-agent theory explains that in PDEs, government and institution stakeholders hire institutional heads or accounting officers and management including the heads of procurement departments to play the agent role and perform activities aimed at achieving the institution's objectives, thus delegation takes effect (Awino & Marendi-Getuno, 2014:105). Consequently, to effectively maximise the benefits to the principal, the agent and all representatives to the agent must play the relationship role. The two parties have an agent relationship for as long as there is cooperation by one party delegating decisions or work to another to act on its behalf (Boulema & Moore, 2014:4). However, the principal-agent relationship is risky in that management shows apathy towards principal preferred outcomes or even overriding of the principal's preferences, thus resulting into non-compliance.

Additionally, there is a presupposition that disagreements occur between the principal and the agent in the achievement of their objectives especially due to the preference to focus on individual interests, the presence of disproportionate information and the agent being more risk averse than the principal (Kibogo & Mwangangi, 2014:379). The agent and the principal tend to possess different attitudes toward risk due to the difference in objectives and it is costly and challenging to ascertain if the agents have the requisite skills and have performed the delegated tasks appropriately (Marigat, 2018:8). Macias, (2012:38) cites that the agency theory explores how to best organise relationships and self-interest, bounded rationality and risk aversion are some of the theory's assumptions.

The above-mentioned is in consonant with the issues that are characteristic in public procurement contracting. In the case of PDEs, institutions anticipate service providers to provide as expected: high quality, timely and items or services in agreed quantities, while the service providers assume that they will be compensated for their efforts. However, the service providers may be reluctant to provide as expected for



their suspicion that the institutions reap are the sole beneficiaries (Marigat, 2018:8). Thus, the institutions and service providers will each focus on their individual self interests (Xingxing, 2012:112). The PPDA Act (2003:14) bestows the responsibility of compliance with the public procurement legal framework on the Accounting Officers of the PDEs. Part of these responsibilities involves adequate and proper records management, accessibility to key documents and records, accuracy and completeness, which are among the key concepts adopted from this theory to explore how to create an enabling environment for contract compliance. The principal agent theory defines and portrays how officials involved in the public procurement process are able to execute their duty on behalf of PDEs (Eisenhardt, 2014:4).

#### **4.3.2 Legitimacy Theory**

Suchman (1995:574) defines legitimacy as a generalised perception or assumption that activities of an institution are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions. Mousa and Hassan (2015:42) cite that the central theme in the legitimacy theory is that when there is an existing discrepancy between the two value systems, whether actual or potential, it is a threat to the institution's legitimacy. This discrepancy arises from the legitimacy gap, which is the difference between the expectations of the relevant publics relating to how an institution ought to act, and how it actually acts (Cuganesan, Ward & Guthrie, 2007:5). The legitimacy theory is originated from the notion of institutional legitimacy, which Dowling and Pfeffer (1975:122) defined as a state which occurs when an institution's value system is compatible with the value system of the larger social system where the institution is a part (Awino & Marendi-Getuno, 2014:107). Legitimacy theory relies on the notion that there exists a social contract between institutions and the society in which the institutions operate (Deegan, 2002:285). Thus, the theory suggests that institutions repeatedly make efforts to ensure that their operations are within the bounds and norms of its respective societies (Oliveira, Rodrigues & Craig, 2011:830).

Ntayi, Ngoboka, Mutebi and Sitenda (2012:902) highlight that the legitimacy theory advocates that people conform to rules that are perceived to have been established through an authentic process. Legitimacy therefore is looked at as a property of a

rule that exerts a pull toward compliance and operates in accordance with generally accepted principles. Frynas and Yamahaki (2016:258) convey two major perspectives that are prevalent within the legitimacy theory, that is, strategic and institutional. Strategic legitimacy assumes that managers can adopt ways of demonstrating to society that the institution is making efforts to comply with society's expectations. Tsang (2001:27) states that under the strategic perspective, legitimacy is seen as a resource that is awarded by groups that are external to the institution. Institutional perspective on the other hand makes the assumption that institutions have little control over legitimacy acquired by factors other than an institution's qualities or activities such as culture and ideology of evaluators (Judge, Douglas & Kutan, 2008:778).

Worthwhile to note is that the legitimacy theory presupposes that management prefers to limit information asymmetry by disclosing more information through corporate reporting, which includes printed and internet corporate reporting formats (Alberti-Alhtaybat, Hutaibat & Al-Htaybat, 2012:80). Though, Ntayi *et al.* (2012:902) argue that the legitimacy theory has been criticised for its failure to explain the non-compliant behaviours with a legitimate law, the provisions of sanctions in a legitimate law or selective obedience of the law. Moreover, the extensive non-compliant behaviour of public servants weakens the decisions of the state in form of policies, regulations and legislative enactments, which brings to the forefront questions of legitimacy of the law, fairness and justice. As well, an institution is accountable by disclosing its practices to the stakeholders, especially the public and justify its authenticity within society (Tukamuhabwa, 2012:36). Disclosure may be either voluntary or mandatory by law.

Alberti-Alhtaybat, Hutaibat & Al-Htaybat (2012:88) relate that internal factors lead to managers' incentives to provide voluntary disclosure, whereas the external factors such as laws lead to the provision of mandatory disclosure. Based on prior research and literature, disclosure embraces financial information, descriptions, mandatory provisions required by the law and accounting standards, and voluntarily shared insights due to the external pressures or internal decision-making. According to Mousa and Hassan (2015:48), the objectives of the legitimacy theory include:

- to describe the relationships between an institution and the community;
- to explain the motivations of the institution towards social and environmental disclosure;
- to present how institutions may make use of legitimacy strategies; and
- to determine the impact of social and environmental disclosure on the public and society.

Campbell, Craven and Shrives (2003:559) assert that it is probable that the legitimacy theory is the most widely used theory to explain disclosure; and provides disclosure strategies that institutions may adopt to legitimise their existence. From this theory therefore, disclosure of public documents, openness and publication were identified as some of the concepts to be explored in explaining contract compliance among PDEs in Uganda. Consequently, to provide more theoretical groundwork for contract compliance, the stakeholder theory is discussed next.

#### **4.3.3 Stakeholder Theory**

Stakeholder theory has previously been extensively used in the context of procurement (Genovese, Koh & Acquaye, 2013:23). Institutions often find themselves constrained due to scarce resources and bounded rationality, which requires the prioritisation of stakeholders. The major assertion of this theory is that institutions have a responsibility to take into consideration the interests of all those parties that may be affected by their actions. According to Laplume, Sonpar and Litz (2008:1159) and Frynas and Stephens (2015:259), stakeholder theory houses three major branches, namely the descriptive, instrumental and normative stakeholder branches.

According to Fontaine, Haarman and Schmid (2006:14), the descriptive branch of the stakeholder theory aims to comprehend how management collaborates with the various stakeholders and how the stakeholders' interests are represented. This descriptive branch presents a model depicting that stakeholders' interests may at times be combative and at other times harmonious (Diallo & Ewusie, 2011:25). While the descriptive stakeholder theory caters for institutional behaviour, the instrumental stakeholder theory explores the ways in which behaviour affects institutional performance.

Instrumental stakeholder theory analyses the coordination between stakeholder management practice and the attainment of institutional objectives, such as the performance of sales, profits or growth (Fontaine *et al.*, 2006:14; Donaldson & Preston, 1995:74). Diallo and Ewusie (2011:25) posit that instrumental stakeholder theory utilises analytical tools and statistical and qualitative methods including interviews and direct observation. Instrumental stakeholder theory implies that compliance with stakeholder principles and practices will lead to improved institutional performance (Proctor, 2011:24).

Normative stakeholder theory embraces the manner in which institutions ought to behave (Donaldson & Preston, 1995:66). It recognises moral guidelines for institutional operations and is viewed as the foundation of the broader stakeholder theory. Mitchell, Agle and Wood (1997:882) advance that the normative stakeholder theory tackles the moral requirement of an institution, at times regarded as corporate social responsibility, which implies that moral principles drive the relationships between the institution and its stakeholders. Proponents of this approach indicate that stakeholders have a reasonable concern that is of fundamental value to the institution beyond maximising profits (Donaldson & Preston, 1995:66). The institution's responsibilities to its stakeholders are addressed by the normative stakeholder theory. Stakeholders' concerns should always be considered, even when they do not directly benefit the institution (Freeman & Evan, 1990:338). Relationships between institutions and stakeholders reflect the values and principles held by the institutions. Therefore, each institution needs to identify the most significant moral principles and values that should form the basis for management decision making (Freeman, Wicks and Parmar, 2004:364). These three branches, namely descriptive, instrumental and normative stakeholder theory, although different, complement one another (Diallo & Ewusie, 2011:24).

Stakeholder theory in general illustrates that institutions have stakeholders and attempts to explain the nature of institutions and how managers and the board contemplate management issues (Jawahar & McLaughlin, 2001:411). This theory also explains that institutions that come up with workable strategies to meet their stakeholders' needs are better placed to achieve their goals, implying that an institution's decisions are influenced by the management of their stakeholders

(Laplume *et al.*, 2008:1159). Institutions that consider all stakeholders achieve a strong competitive advantage over others. According to the Adidas Group (2010:12), the 2009 Greenpeace report made management aware of the illegal deforestation caused by the expansion of some of its leather suppliers engaged in the cattle sector. The Adidas Group, Nike, Timberland, IKEA and other companies with similar suppliers responded to the Greenpeace report by stopping some of their suppliers and working with partners to improve the overall situation in the Amazon Forest (Helmig, Spraul & Ingenhoff, 2016:2). The aforementioned example is one of many that describe the role of stakeholders in decision making.

The theory also suggests that managers in institutions have a network of relationships to serve that include the suppliers, employees and business partners and depicts that each stakeholder is given an opportunity to provide input into important decisions (Parmar, Freeman, Harrison, Wicks, Purnell & Simone, 2010:405). It is therefore important that these managers coordinate and maintain good working relationships with each stakeholder while at the same time creating value for them.

Stakeholders are any group or individuals who can affect or be affected by the institutional operations while in the process of achieving the institutional objectives (Freeman, 2010:49; Freeman, 1984:46). Secchi (2006:136) identified stakeholders as those in the ensuing list.

- customers
- suppliers
- shareholders
- employees
- financial institutions
- local community
- associations
- future generations
- the environment

According to Mishra and Mishra (2013:255), there are four major stakeholder groups, namely shareholders, employees, customers and the general public. To these stakeholder groups, Fontaine *et al.* (2006:6) add suppliers and distributors as a fifth stakeholder group. Helmig *et al.* (2016:155) posit that the stakeholder groups can be classified into primary and secondary stakeholders, both of which influence management decision making. Primary stakeholders directly influence the institution and are essential for the institution's survival; these include shareholders and investors, employees, government and customers (Harrison, Bosse & Phillips, 2010:60).

The secondary stakeholders have an indirect effect on the institution and are often not considered as critical for the institution's survival or existence and these include the media, academicians, competing institutions and trade associations. Fontaine *et al.* (2006:7) consider the secondary stakeholders to be the minor stakeholder group. However, the secondary stakeholders cannot be underrated as they can impact on an institution's behaviour by exerting direct pressure or displaying information that can affect public opinion and may either ruin or improve the institution's image (Henriques & Sadorsky, 1999:89).

Secchi (2006:136) argues that the most vital stakeholders are the customers, employees, the local community and shareholders. This is in contrast to the traditional view that only considers the interests of shareholders in the decision-making process and neglects other parties (Phillips, Freeman & Wicks, 2003:480). Arising out of this theory, the key concepts that were adopted were moral duties of public officers, the awareness of external stakeholders and their duties and attitudes towards compliance and the actions of stakeholders. A discussion of the institutional theory follows.

#### **4.3.4 Institutional Theory**

Glover, Champion, Daniels and Dainty (2014:104) cite Meyer and Rowen (1977) and Powell and DiMaggio (1991) as the main promoters of this theory. The institutional theory adopts a sociological perspective to illuminate behaviour and structures by depicting the social and cultural factors that stimulate decision-making in institutions (Ntayi *et al.*, 2012:904). It provides a firm basis to illuminate the work conditions as

well as the social and work environment that characterises institutions, especially how rationalised activities are implemented. A comprehensive and insightful perspective to better understand how and why institutions are influenced within the industry environment is offered by the institutional theory (MacKenzie, 2011:50). It is the traditional approach referred to while examining the elements of public procurement and has emerged as the dominant theory underpinning institutional environment relations (Tukamuhabwa, 2012:35; Kraatz & Zajac, 1996:812).

One of the assumptions of the institutional theory is that institutions have structures and conditions that facilitate employers and employees to agree and work together towards the achievement of a common goal (Nakato, 2019:70). Well established structures and conditions impact positively on the development of institutions and enable them to achieve their intended objectives (Glückler & Lenz, 2016:256). Resultantly, there is more efficient and effective usage of available resources. Stanger, Wilding, Hartmann, Yates and Cotton (2013:750) posit that structures in institutions may include the individual and social groupings, entities, cultural-cognitive, normative and regulative features. If the activities are designed well, there is more stability and meaning to the social life of the individuals in the institution (Wang, Lamond & Worm, 2015:3).

Usually, the institutional theory is relied upon to describe the development and application of sustainable procurement policy and practice, mainly in institutions that serve the public good. However, there is no distinct and universally agreed definition of institutional theory (Eyaa & Oluka, 2011:37). According to this theory, the three pillars of institutions are cultural-cognitive, regulatory and normative (Scott 2001:48). The cultural-cognitive pillar rests on shared understanding; the regulatory pillar on the use of rules, laws and sanctions as an enforcement mechanism, with expedience as the basis for compliance. The regulative pillar consists of regulatory processes such as setting rules, monitoring and authorising activities that influence future behaviour (Bukhari, 2014:51). Regulatory processes involve establishing guidelines, conforming to the guidelines set and either punishing non-conformance or rewarding those that conform to influence behaviour.

The normative pillar emphasises norms and values, with a moral obligation as the basis of compliance (Eyaa & Oluka, 2011:37). This pillar explains the occurrence of

competing interests, change, social action, policy issues, power, conflict and intentional and self-conscious actions (Bukhari, 2014:51). It involves creating expectations that introduce a prescriptive, evaluative and obligatory point of view into social life (Scott, 2003:880). The cultural-cognitive, regulatory and normative pillars are viewed as central building blocks and the foundation for analysis in the decision making of any institutional structure while at the same time presenting three related, distinguishable bases for legitimacy.

Ntayi *et al.* (2012:902) observe that an institution has the right to rule as long as its agents are ethical and those to whom the institution addresses its rules must have content-independent, non-coercive reasons for compliance. From this, it is presumed that those individuals who work within an institution must have reasons of their own to contribute towards its objectives without being coerced and should not interfere in its operations. Institutional theory pronounces the profound characteristics of how institutions are formed, sustained, changed and disbanded (Picho, 2017:142). The institutional theory also explains the impact that institutions have on human behaviour, especially the process by means of which structures such as rules, routines and norms guide social behaviour. Therefore, institutional theory defines rational arguments and approaches (Scott, 2004:18).

From this theory, enforcement, legislative and regulatory frameworks are identified as key concepts to explore in contract compliance among PDEs in Uganda. However, the institutional theory has been criticised for its lack of appreciation that human behaviour is complex and that contract compliance might not be obtained through laws and regulations (Ntayi *et al.*, 2012:901). Gilmore and Sillince (2014:314) posit that the theory does not focus on how institutions change.

#### **4.4 SUMMARY**

This chapter provided an overview of the nature and theoretical perspective of contract compliance. Contracts, contract compliance and elements of contract compliance, including the processes, people and systems were discussed. A detailed explanation on the main theories that were used to guide this study of contract compliance in PDEs in state departments in Uganda was offered. Multiple theories were selected to guide this research, because there is no single theory that



can offer a conclusive explanation of contract compliance. A multi-theoretical approach was employed to provide a deeper understanding of the enabling factors necessary for contract compliance using the principal-agent theory, the legitimacy theory, the stakeholder theory and the institutional theory. The next chapter presents a discussion of the research design and methodology followed in this study.

## **CHAPTER FIVE**

### **RESEARCH DESIGN AND METHODOLOGY**

#### **5.1 INTRODUCTION**

Chapter 4 provided a theoretical perspective on contract compliance. This entailed a discussion on contracts, contract compliance and elements of contract compliance. In a bid to provide a deeper understanding of the enabling factors necessary for contract compliance, an explanation of the main theories that were used to guide this study was provided. The principal-agent theory, legitimacy theory, stakeholder theory and institutional theory were presented as guiding theories for this study.

The overall purpose of this 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. Several countries face the challenges of poor contract compliance, characterised by poor service delivery that has led to weakened economic growth and development. PDEs in state departments in Uganda are not exempt from this. This study's findings will assist procurement managers and accounting officers to develop a plan to improve contract compliance; the various stakeholders will be empowered to participate in the contract compliance process; the community will become aware of the benefits and challenges of compliance and policy makers will be provided with recommendations and guidelines on how to achieve compliance. Finally, the recommendations of the study will be used to develop a framework for contract compliance in PDEs in state departments in Uganda.

This chapter presents a discussion of the research design and methodology adopted in this study, commencing with a discussion of the research design, methodology, philosophical underpinnings and research paradigms that guided the study. Reference is made to the population and sampling and the importance of the correct sample size. Different sampling techniques and the sampling methods used in this study are clarified. Data collection processes for both secondary and primary research and the data collection methods used in this study are presented. Qualitative and quantitative data analysis approaches with emphasis on the

qualitative data analysis techniques used in this study are specified. Trustworthiness in qualitative research is also explored. In conclusion, the ethical considerations and summary of the chapter are presented.

## 5.2 RESEARCH DESIGN AND METHODOLOGY

Research design and research methodology are concepts that emerge and require clarification while planning to conduct any research. Research refers to the systematic investigation undertaken to generate new facts and obtain additional information (Esiri, Ajasa, Okidu, Edomi, 2017:84). It is a series of linked, organised activities performed within a specific period to find answers to specific questions. Research results in the gaining of new knowledge pertaining to a specific phenomenon (Almalki, 2016:289). Research requires careful planning and Table 5.1 provides a summary of the research process that can be followed.

**Table 5.1: Summary of the research process**

Stage	Activity
Stage 1	Problem definition/ Concept identification
Stage 2	Specification of research objectives and research questions
Stage 3	Designing a research plan, including sampling, data collection and analysis
Stage 4	Identification and selection of sample units
Stage 5	Data collection
Stage 6	Data analysis to answer research questions and interpret results
Stage 7	Writing the final thesis

Source: Adapted from Gray (2019:4); Babbie and Mouton (2012:75).

According to Babbie and Mouton (2012:75), the research process starts with identifying an area of interest, translating the area of interest into a research problem and subsequently identifying research objectives and questions. A research plan indicating the selected research paradigms, sampling procedures and techniques, data collection and analysis methods is then compiled. After the sample units have been identified, data is collected and analysed and finally, the thesis is written (Struwig & Stead, 2013:114).

Creswell and Poth (2016:5) refer to a research design as the entire process of research starting with conceptualisation of the problem, designing research questions, collecting data, analysing it, interpreting it and finally writing a report. Methodology refers to the systematic manner in which attempts are made to investigate, obtain knowledge and solve a specific problem (Rajasekar *et al.*, 2013:5). A good research design provides a well-structured plan and strategies for sampling, data collection and analysis that seek, explore and discover answers to a research problem (Zikmund, Babin, Carr & Griffin, 2012:64). In a research design, the researchers stipulate clearly the procedures they have chosen and intend to follow in appraising the study and how to follow them. Kumar (2011:96-97) alluded that a research design needs to indicate detailed information about who will constitute the study population; how the study population will be identified; selecting the sample; seeking consent; data collection methods to be adopted and justification for the choice; where to return responses in case questionnaires are used; how respondents can contact the researcher in case they have queries; where interviews will be conducted if they are to be used and the addressing of ethical concerns. The quality of research is enhanced by clear problem statements and research questions (Gray, 2019:23).

Using the methodological question, a researcher asks how the world should be explored. This study was qualitative and based within the confines of the interpretivist paradigm. According to Astalin (2013:118), 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. The researcher adopted an inductive research approach as the study explored the participants' perceptions and views regarding a topic of interest. Inductive research is a flexible approach that does not require pre-determined theory to collect data and information. Rather, the researcher uses observed data and facts to formulate a tentative hypothesis and define a theory as per the research problem (Strydom, 2013:156). This helps the researcher to provide subjective reasoning with the assistance of various real life examples and come to a conclusion. The inductive approach is highly associated with interpretivism. To better understand the various and competing research paradigms, it is imperative to

describe the philosophical underpinnings (Salvador, 2016:4). It also helps the researcher to better understand the study's findings (Cypress, 2017:209).

The philosophical underpinnings or assumptions, for example, the ontological and epistemological assumptions, axiology, teleology and logic are discussed next.

### **5.3 PHILOSOPHICAL UNDERPINNINGS**

Various paradigms are considered to construct meaning out of the data. Paradigms are important as they provide researchers with beliefs and directives that influence what should be studied, how it should be studied and how the results of the study should be interpreted (Kivunja & Kuyini, 2017:26). A paradigm serves as a guiding principle to attain the inquiry's objectives (Salvador, 2016:4). Within the different paradigms are different assumptions and key questions that help to differentiate the paradigms (Kivunja & Kuyini, 2017:26-28; Saunders *et al.*, 2012:129). These are listed hereunder.

- ontological assumptions (the nature of reality)
- epistemological assumptions (the origins of knowledge)
- axiology (the role of values)
- teleology (the purpose of research)
- logic, which deals with the principles of demonstration or verification.

#### **5.3.1 Ontological assumptions**

Ontological assumptions are concerned with what constitutes reality (Scotland, 2012:9). According to Chipangura, Van Niekerk & Van Der Walddt (2016:262), ontology is the study of being and is concerned with the kind of world that researchers investigate, the nature of existence and the structure of reality. It is a concept that is concerned with the existence of, and relationship between various aspects of society, such as social actors, cultural norms and social structures (Al-Saadi, 2014:1). It is the nature of the beliefs concerning reality. Emphasis is laid on what is out there that can be known, or what is the nature of reality? This study highlights the social world under investigation, looking at human beings who have their own thoughts, interpretations and meanings (Vogl, Schmidt & Zartler, 2019:621). Contract compliance is a reality that can be interpreted with input from

human beings. Therefore, the researcher in this study interviewed heads of procurement and disposal units, auditors, accounting officers, heads of finance departments and procurement officers to provide a deeper understanding of how to create an enabling environment for contract compliance in PDEs in state departments in Uganda. Researchers are therefore required to take a position concerning their perceptions of how things really are and how things actually work.

Two positions exist in ontology, namely objectivism and constructionism (Hiller, 2016:111). Objectivism implies that social phenomena and the categories used in everyday discourse have an existence that is independent and separate from the actors who are part of the phenomena (Workman & Riding, 2016:25). Ontology takes the position that social phenomena and their meanings have an existence that is independent of social actors (Chipangura *et al.*, 2016:263) and assumes that ontological reality is absolute and that social entities exist in a reality that is external to the social actors who are concerned with its existence. Constructionism takes the view that things and meanings do not exist independently, but rather that human beings need to construct the meanings (Stevens, 2019:9). Constructionism implies that social phenomena and categories are not only produced through social interaction, but that they are in a constant state of revision.

### **5.3.2 Epistemological assumptions**

Chipangura *et al.* (2016:262) define epistemology as the way of understanding and explaining how people know what they know. It is a branch of philosophy that deals with the nature, forms and sources of knowledge. Epistemology attempts to clarify the nature, sources and validity of knowledge through which information is attained (Bourne, Crossfield & Nicholas, 2017:1). Epistemology studies the criteria by which the researcher classifies what does and does not constitute knowledge. It is important to decide what kind of knowledge is possible and how it can be ensured whether or not knowledge is adequate and legitimate (Tironi & Manríquez, 2019:373). Epistemology is thus about theories of knowledge and how people come to have knowledge of different things. McNiven (2016:683) clarifies that epistemology explores the nature of the relationship between the individual seeking knowledge and what can be known. Epistemology maintains two positions, namely positivism and interpretivism. Interpretivism is mainly about people and the way they

relate to one another, what they think, how they generate ideas about the world and how their worlds are constructed. Interpretivists immerse themselves in the research contexts in which they are interested, such as in-depth talks and observation of behaviour and seeking clues to the meanings (Saunders *et al.*, 2012:137).

Interpretivism aims at reporting results that are contextual and restricted to the time of inquiry rather than generalising, as one does with positivism (Tekin & Kotaman, 2013:85). Interpretivism is about acquiring in-depth knowledge and understanding of the world from participants that might be interviewed. Positivism maintains that social science research should make efforts to emulate the methods of science. Positivists try to isolate or manipulate variables, measure the degree of variation and study relationships between variables to generate hypotheses and draw conclusions (Ryan, 2018:44). This study followed a qualitative research approach that was nested in an interpretivist, epistemological position that advocates that research is required to respect the differences between individuals and the objects of the natural sciences (Bryman & Bell, 2011:14).

According to Tekin and Kotaman (2013:85), with interpretivism, the following assumptions are made and these were also applied to this study, namely:

- the way individuals interpret the world has to be understood well in order to gain insight into their behaviour and the functioning of social institutions;
- there are no objective and extrinsic facts in social life;
- the researcher is part of what is being researched; and
- individuals have their own assumptions, values, dispositions, acceptances and prior knowledge through which they construct their own reality, therefore, individuals have their own unique conceptualisation of their experience.

Epistemologically, contract compliance is real, it can be understood and interpreted and therefore these assumptions were suitable for achieving the purpose of this study.

### **5.3.3 Axiology**

Bourne *et al.* (2017:1) allude that axiology is a branch of philosophy that studies judgements made about values such as ethics and what may be important to an

individual or institution. Axiology assesses the role of the researcher's own value and attitudes at all stages of the research process (Madanayu, 2018:42). Primarily, axiology makes reference to the aims of the research and attempts to clarify if the researcher is making efforts to explain or predict the world, or only seeks to understand the world. Axiology focuses on what a researcher values in research (Saunders *et al.*, 2012:137). Establishing what the researcher values in his/her research is key as values affect how a researcher conducts the research and also influences what the researcher values in the research findings. Ethics and aesthetics are the main types of axiology (Viega, 2016:5). Ethics examines individual and social conduct by determining right from wrong, while aesthetics investigates what is beautiful, enjoyable, or tasteful (Muraca, 2011:384). Axiology can thus be considered to be primarily concerned with categorising what is good, and how good it is. Values form the background for social projects and systems that generate knowledge (Beer, 2016:33). Thus, rational individual behaviour and social life are grounded upon a system of values (Bourne *et al.*, 2017:1).

Axiology is built on the four pillars of positivism, interpretivism, pragmatism and realism and the researcher is bound to behave in a different way, adopting different paradigms and data collection techniques based on these philosophies (Al Ahmadi, 2019:12). Table 5.2 hereunder illustrates the axiology of the major research philosophies and paradigms and highlights relevant methods of data collection for each philosophy.



**Table 5.2: Axiology of major research philosophies, paradigms and data collection techniques**

Philosophy	Axiology	Paradigm/s	Data collection technique/s
Positivism	Researcher is objective and independent from data.	Mostly quantitative, but can also be qualitative	<ul style="list-style-type: none"> <li>• Highly structured</li> <li>• Large samples</li> </ul>
Interpretivism	Researcher is subjective, is part of what is being researched and cannot be separated from the data.	Qualitative	<ul style="list-style-type: none"> <li>• In-depth investigations</li> <li>• Small samples</li> </ul>
Pragmatism	Researcher is both objective and subjective and values play a vital role in interpreting results.	Quantitative and qualitative	<ul style="list-style-type: none"> <li>• Varied methods</li> </ul>
Realism	Researcher is biased by world views, upbringing and cultural experiences. Research is value laden and this impacts on the research findings.	Quantitative or qualitative	<ul style="list-style-type: none"> <li>• Selected method/s must suit the subject matter</li> </ul>

Source: Adapted from Saunders *et al.* (2012:137) and Tekin and Kotaman (2013:85).

Positivism allows the researcher to remain objective and independent from the data and the research process is performed in a way that is not bound by any values (Ryan, 2018:41). With positivism, measurement is required with highly structured, large samples for data collection and analysis. Contrarily, interpretivism enables the researcher to be a subjective part of what is being researched and s/he cannot be separated from the data (Pulla & Carter, 2018:9). Small samples and in-depth investigations are expected to be used in the interpretivist philosophy. Pragmatism however, combines features from both positivism and interpretivism in that the researcher is objective as well as subjective. Mixed methods are engaged in the pragmatism philosophy (Biddle & Schafft, 2015:322). Lastly, realism is the view that material objects or abstract concepts exist in an external world that is independent from our minds and perceptions (Walsh & Evans, 2014:3). Selected methods must suit the subject matter in realism. For the four aforementioned philosophies, only interpretivism employs the qualitative paradigm alone, the remainder can be employed in both the qualitative and quantitative research paradigms.

#### **5.3.4 Teleology**

Teleology deals with the purpose of inquiry by studying purposes, goals, ends and functions (Wenzel, 2016:3). It describes the manner in which individuals ordinarily understand the intention of undertaking particular actions and seeks to answer the

question why a particular phenomenon becomes what it becomes and explores the state of the future (Krbálek & Vacek, 2013:138). How an individual sees the future and why he/she chooses to act in a particular manner can be explained by teleology, which is based on feedback, is purposive and goal oriented. Predictive (extrapolative) and non-predictive (non-extrapolative) feedback forms the basis of teleology, establishing the known and unknown states of the future that deal with purpose and end goals (Hamid, 2019:19-20).

Deriving from research, the teleological framework used in this research contains two main components. First, is the predictive state of the future that deals with how the individual sees the future and second, the unpredictable state of the future that views the future in an unfamiliar and unstable way (Roberts, Wastell & Polito, 2020:7). Although the future cannot be fully known, the researcher believes that certain occurrences are stable enough to be predictable and a few individuals can be in a position to see future events in a more predictable, stable manner (Asai, Imaizumi & Imamizu, 2019:7). Due to various factors that include the dynamics of the environment, the state of the future may become unknown or unpredictable and individuals view the future in an unknown and unstable way. This study adopted the interpretivist paradigm with the purpose to understand and discover the meaning of social realities for those who are experiencing them (Tekin & Kotaman, 2013:85).

The purpose of this study was to assess how to create an enabling environment for contract compliance in PDEs in Uganda. The purpose was achieved by understanding and describing the realities of the accounting officers, heads of procurement and disposal units, auditors, procurement officers and heads of finance departments, who understand and handle procurement contract implementation issues on a daily basis and from whom compliance is sought, by virtue of the delegated authority and public offices they hold in state departments in Uganda.

### **5.3.5 Logic**

According to Gensler (2017:1), logic refers to the analysis and appraisal of arguments. Logic deals with the principles of demonstration or verification. It is the science that studies reason and views it as a systematic process of reasoning that

establishes the cause of a conclusion or the justification for truth (Dowden, 2020:249). Logic is divided into material logic and formal logic. Material logic deals with the reasoning or justification obtained when the process of reason is right and true as things are in the world (Horgan, 2018:6). Material logic demands that the conclusion be correct and also factually true. Formal logic deals only with the correctness or coherence of the conclusion arrived at from the process of reasoning, even when it is not factually correct (Horgan, 2018:6). Formal logic is solely concerned with conformity to the rules of logic, whereas material logic is concerned both with the rules of logic and the truthfulness of the products of logic (Kakas, 2019:169). Verification of this study was addressed by ensuring internal validity, which included member checks and triangulation of data. To add to the validity of the research of this study, sustained engagement and member checks in which participants acknowledged the findings of the study as being true experiences were employed (Creswell, 2014:211). An in-depth description of the selection and characteristics of the participants is also provided to facilitate the replication of the study in a different setting. The starting point in the research design is to select a research paradigm (Collis & Hussey, 2014:59).

#### **5.4 RESEARCH PARADIGMS**

In developing a research design, the starting point is to select a research paradigm, which is a philosophical way of thinking that defines the nature of the researcher's enquiry, so as to infer meaning embedded in the data (Kivunja & Kuyini, 2017:26). Rogoff (2016:182) alternatively refers to a paradigm as a world view, which is further identified as a simple combination of beliefs that guide action. Establishing a research paradigm simplifies research development and has substantial bearing on data collection (Kumar, 2011:96). A research paradigm enhances the provision of responses to research questions, as it guides the researcher's behaviour. According to Rahi (2017:1), the two main research paradigms that can be distinguished are the positivist and interpretivist research paradigms. Creswell (2014:295) and Cooper and Schindler (2011:163) affirm that the nature of the inquiry adopted in research includes positivist and interpretivist paradigms that are discussed in more detail in the following sections.

#### **5.4.1 Positivistic research paradigm**

The positivist research paradigm is alternatively known as the quantitative, objectivist, scientific, experimentalist or traditionalist research paradigm (Harwell, 2011a:150). Quantitative or positivist research is a formal, objective, systematic process of obtaining information and describing variables and their relationships by using scientific methods (Pandey & Pandey, 2015:29). In the context of research, the positivist paradigm can be broadly applied where the findings need to be generalised and a large number of people need to be researched. Quinlan (2011:12) opines that positivist research examines key research features on which the research questions are based in an attempt to establish cause and effect relationships between variables, the findings of which can be generalised and a representative sample generated. Siponen and Tsohou (2018:600) posit that an individual is the focus of the inquiry in positivist research, as survey instruments are administered to large numbers of people with high levels of control being applied throughout the research to ensure that precise numerical data is delivered. However, the positivist research approach is criticised for lack of objectivity, capturing complicated events in a single measure and failure to examine people's views and opinions (Bryman & Bell, 2014:50; Collis & Hussey, 2014:45).

#### **5.4.2 Interpretivist research paradigm**

Interpretivism focuses on discovering meanings and new insights into phenomena without relying on numerical data (Neuman, 2014:11). Qualitative research follows the interpretivism paradigm, as it is subjective in nature and encompasses the examination and reflection on the views of humans in the understanding of the social and human activities under investigation (Pandey & Pandey, 2015:29). Interpretivism focuses on understanding individual feelings and meanings that the individual experiences in daily life (Packard, 2017:537). Qualitative research describes and explains the why and how of people's behaviours, opinions and experiences (Seamon & Gill, 2016:10; Pulla & Carter, 2018:9). Interpretive research refers to any type of research in which the outcomes and deductions are not drawn from the statistical examination of quantitative data (Collis & Hussey, 2014:45); the outcomes and deductions arise from qualitative methods of analysis, based on the interpretation of qualitative research data. Qualitative research is applied in response

to questions relating to the way humans organise and interact (Cooper & Schindler, 2011:160). Interpretivism is used to understand knowledge that is related to human and social science as humans interpret their world and act based on those interpretations (Hammersley, 2013:26).

Interpretivism uses narrative data such as words or pictures to provide answers to a research question, excluding numbers (Edwards & Holland, 2013:26). Data is collected and interpreted to respond to the research questions. Ritchie, Lewis, Nicholls and Ormston (2013:4) assert that a researcher is able to observe and learn about participants' experiences, circumstances, perspectives and history. Interpretivism explores the complexity of social incidents to improve interpretive understanding. Interpretivists begin with the belief that the subject matter of social sciences, which is the people and their institutions, is principally divergent from that of the natural sciences (Bryman & Bell, 2014:14). For the study of the social sciences where the distinctiveness of humans is reflected, a separate research reasoning is required. Among the benefits of the interpretivist paradigm is that it allows the researcher to comprehend the context in which decisions and activities are undertaken while focusing on how and why things happen the way they do (Seamon & Gill, 2016:7). However, this paradigm has been criticised for being too subjective and for lacking transparency, with biased findings and resultant difficulty in replicating and generalising the findings (Struwig & Stead, 2013:11; Richards & Morse, 2013:27). Interpretivism differs from positivism in the sense that inductive reasoning is utilised and new theory created (Groat & Wang, 2013:16). Primarily, interpretivism attempts to examine the 'why' questions of research.

#### **5.4.3 Variances between the interpretivist and positivist research paradigms**

Table 5.3 highlights the differences between the interpretivist paradigm and positivist paradigm on the basis of ideas, research setting, research methods, the researcher's responsibilities, sampling, data collection and the nature of the results.

**Table 5.3: Variances between the positivist and interpretivist research paradigms**

Feature	Positivistic research paradigm	Interpretivist research paradigm
<b>Basic ideas</b>	<ul style="list-style-type: none"> <li>The world is viewed as external and unbiased or objective.</li> </ul>	<ul style="list-style-type: none"> <li>The world is seen to be socially constructed and biased or subjective.</li> </ul>
	<ul style="list-style-type: none"> <li>The researcher is an observer, who is independent of the study.</li> </ul>	<ul style="list-style-type: none"> <li>The researcher is an observer who is considered to be part of the object of observation.</li> </ul>
	<ul style="list-style-type: none"> <li>Uses deductive approach</li> </ul>	<ul style="list-style-type: none"> <li>Uses inductive approach</li> </ul>
	<ul style="list-style-type: none"> <li>Explores existing hypotheses and theories.</li> </ul>	<ul style="list-style-type: none"> <li>Creates new hypotheses and theories.</li> </ul>
	<ul style="list-style-type: none"> <li>Participants' perspective is not valued.</li> </ul>	<ul style="list-style-type: none"> <li>Participants' perspective is greatly valued.</li> </ul>
	<ul style="list-style-type: none"> <li>Outcome oriented.</li> </ul>	<ul style="list-style-type: none"> <li>Process oriented.</li> </ul>
	<ul style="list-style-type: none"> <li>Aims to formulate statistical data that clarifies and forecasts actions and events.</li> </ul>	<ul style="list-style-type: none"> <li>Aims to formulate comprehensive descriptions and understand actions and events as they occur.</li> </ul>
	<ul style="list-style-type: none"> <li>It is a value-free approach to science.</li> </ul>	<ul style="list-style-type: none"> <li>It is human interests that drive science.</li> </ul>
<b>Research setting</b>	<ul style="list-style-type: none"> <li>Used in a controlled environment.</li> </ul>	<ul style="list-style-type: none"> <li>Used in the real-life situation.</li> </ul>
<b>Research methods</b>	<ul style="list-style-type: none"> <li>Identification of concepts and operationalisation.</li> </ul>	<ul style="list-style-type: none"> <li>Use of various methods to explain different aspects of each phenomenon.</li> </ul>
<b>Researcher's responsibilities</b>	<ul style="list-style-type: none"> <li>To focus on the facts.</li> <li>To explore causalities and fundamental laws.</li> <li>To reduce phenomena to the most basic elements.</li> <li>To formulate hypotheses and test them.</li> <li>Not directly involved in data collection.</li> </ul>	<ul style="list-style-type: none"> <li>To focus on meanings.</li> <li>To understand the meaning of events.</li> <li>To explore the totality of each individual case.</li> <li>To generate ideas by inducing from data.</li> <li>Directly involved in data collection.</li> </ul>
<b>Participant preparation</b>	<ul style="list-style-type: none"> <li>Pre-tasking occurs often.</li> </ul>	<ul style="list-style-type: none"> <li>No preparation is required, to avoid participant bias.</li> </ul>
<b>Sampling</b>	<ul style="list-style-type: none"> <li>Large samples have to be drawn and analysed.</li> </ul>	<ul style="list-style-type: none"> <li>Small samples are drawn and analysed in-depth or over long periods of time.</li> </ul>

Feature	Positivistic research paradigm	Interpretivist research paradigm
Data collection	<ul style="list-style-type: none"> <li>Relatively fast.</li> </ul>	<ul style="list-style-type: none"> <li>Relatively slow due to in-depth data collection.</li> </ul>
Data analysis	<ul style="list-style-type: none"> <li>Computerised analysis involving statistical methods.</li> </ul>	<ul style="list-style-type: none"> <li>Content analysis or human coding</li> </ul>
Nature of results	<ul style="list-style-type: none"> <li>Is generalised from sample to population.</li> </ul>	<ul style="list-style-type: none"> <li>Is generalised among similar contexts.</li> </ul>
	<ul style="list-style-type: none"> <li>Generates precise, objective, quantitative data.</li> </ul>	<ul style="list-style-type: none"> <li>Generates rich, subjective, qualitative data.</li> </ul>

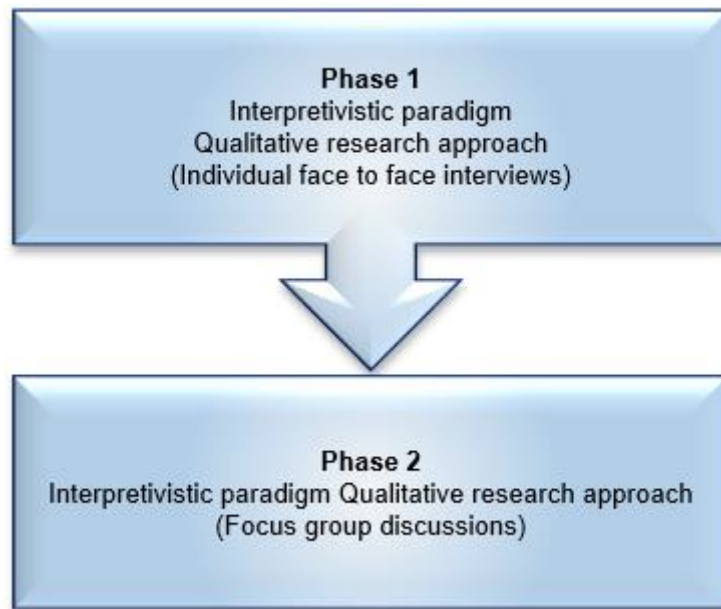
Source: Adapted from Cooper and Schindler (2011:163); Bryman and Bell (2014:51) and Collis and Hussey (2014:46).

Table 5.3 depicts the distinction that can be made between quantitative and qualitative research in terms of basic ideas, research setting, research methods, researcher's responsibilities, sampling, data collection and the nature of the results. There is an increasing number of researchers who have adopted a combination of quantitative and qualitative research in an attempt to tap into the combined benefits of the two and counteracting the shortcomings of each. This is sometimes referred to as a mixed method research approach (Berthod, Grothe-Hammer & Sydow, 2017:300).

#### 5.4.4 Research paradigm followed in this study

In this study, the researcher chose to follow a qualitative research approach nested in the interpretivist paradigm to explore ways to create an enabling environment for contract compliance in PDEs in state departments in Uganda. As reality is socially constructed and there is no single correct route or particular method to gain knowledge, the researcher preferred this method as it was anticipated to bring out the meaning of contract compliance by means of interpretation. The researcher planned to provide explanations of the subjective reasons and meanings behind the social actions of the procurement and disposal process. The researcher attempted to derive constructs from the in-depth examination of and reflection on the perceptions of contract compliance (Collis & Hussey, 2014:46). In-depth investigations using telephone interviews and focus group discussions via the Zoom online platform were conducted. This was facilitated by semi-structured interview guides that were utilised to ascertain the participants' views on the topics under investigation. In terms of the

objectives of this study, which were to seek understanding, reflect upon and describe the experiences of the selected respondents, the qualitative research approach was deemed to be the most suitable choice. Figure 5.1 depicts the paradigm and research approach followed for this study.



Source: Adapted from Oosthuizen (2017:26).

**Figure 5.1: Paradigm and research approach followed in this study**

From Figure 5.1, it is clear that data was collected in two phases, phase 1 being telephone interviews and phase 2 being focus group discussions.

### **Phase 1 – Telephone interviews**

In the first phase, telephone interviews were conducted with 21 participants who were considered to be actively involved in the contract compliance process and employed in PDEs in Uganda. Interviews were carried out to develop a deeper understanding of:

- why staff in PDEs are, or were involved in contract compliance;
- how the contract compliance process was developed as per the guidelines from the Public Procurement and Disposal of Public Assets Act and Regulations;
- challenges associated with contract compliance; and



- the factors to be considered for the creation of an enabling environment for contract compliance.

## **Phase 2 – Focus group discussions**

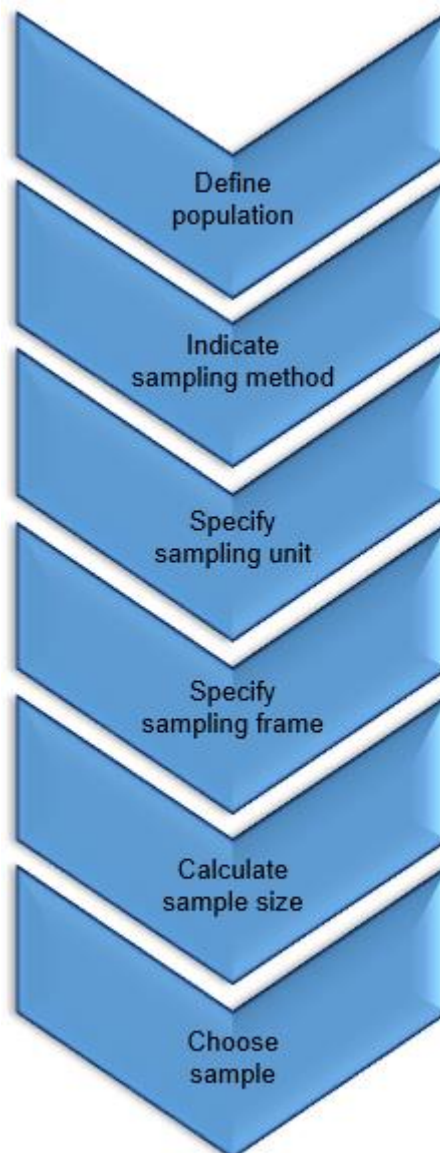
During the second phase, two focus group discussions were conducted via Zoom online platform with three participants in the first group and five participants in the second group. Participants were all considered to be specialists in contract compliance and instrumental in the implementation of contract compliance in PDEs in Uganda. Discussions were conducted to develop a deeper understanding of:

- the reasons for contract compliance among PDEs;
- the contract compliance processes;
- challenges associated with contract compliance; and
- the necessary conditions for the creation of an enabling environment for contract compliance to occur.

The study population, sample and sampling methods that were implemented in this study are discussed in the following sections.

## **5.5 POPULATION, SAMPLE AND SAMPLING METHODS**

In research, the population and arriving at the appropriate sample size is important in determining the accuracy of the research that is carried out (Alvi, 2016:10). Given its benefits of anticipating and fulfilling essential research needs ahead of time, it is important to note the sampling process to ensure that the appropriate sample for the study is selected. The sampling process undergoes a number of steps, as indicated in Figure 5.2. These steps are clarified in this section.



Source: Adapted from Struwig and Stead (2013:90); Taherdoost (2016:19) and Zikmund *et al.* (2012:391).

### **Figure 5.2: Steps in the sampling process**

The following sub-sections elaborate on these steps.

#### **5.5.1 Population**

Defining the population is the first step of the sampling process (De Waure, Poscia, Viridis, Di Pietro & Ricciardi, 2015:96). A population is the original parent group, or entities of interest that share one or more common characteristics, from which a sample is drawn (Pandey & Pandey, 2015:40). It is further defined as a comprehensive set of individuals, cases or objects with certain mutual observable features, which are considered relevant and accessible to the research at hand

(Quinlan, 2011:206). It is not always practical to collect data on every conceivable observation in a population (Struwig & Stead, 2013:115). The criteria that the researcher has identified as important must be met by the sample to be representative and to address the research goals. However, if the population is moderately small, the entire population can be selected; otherwise an arbitrary sample needs to be selected (Collis & Hussey, 2014:197).

After the study population has been identified, the sampling frame is specified.

### **5.5.2 Sampling frame**

In order to establish the number of members in the population, an appropriate sampling frame should be established (Struwig & Stead, 2013:115). A sampling frame can be defined as the actual group from which the sample is drawn (Collis & Hussey, 2014:344; Taherdoost, 2016:20). The sampling frame is representative of the population and consists of the actual cases from which the sample is drawn (West, 2016:1). It is the list of actual candidates from which a sample can be drawn and provides detailed information about the sample selected for a particular study (DiGaetano, 2013:296). A sampling frame should be representative of the population, relevant to the study and all elements measurable with well-defined characteristics (Ishak & Bakar, 2014:30). Poor choice of sampling frame results in the researcher experiencing sampling errors during the sampling process (Zikmund *et al.*, 2012:393). According to Williams (2014:15), owing to the volume of information expected to be gathered from telephone interviews and focus groups, only a small number of interviews need to be conducted.

Next is choosing the sampling unit.

### **5.5.3 Sampling unit**

According to Kabir (2016:171), a sample unit is defined as a basic unit that contains a single element or a group of elements of the population to be sampled. The sampling unit consists of the elements that are the focus of a study and these elements depend on the objectives of the study (Struwig & Stead, 2013:114). Sampling units are taken from an entire population such as all the citizens of a country or all of an enterprise's customers and placed into small groups to form a

research sample (Nakato, 2019:154). If an accurate and complete list of elements is available, the researcher might wish to sample them directly. Qualitative researchers are not concerned with large samples drawn from the studied population, as the individuals or cases that are selected as participants for a qualitative study are selected, because they are relevant to the research topic (Ishak & Bakar, 2014:30).

After determining the sampling unit, the fourth step is to decide on the sampling methods or techniques to use.

#### **5.5.4 Sampling methods**

Alvi (2016:11) relates that sampling is a procedure that is employed in the identification of particular individuals to participate in a study, who make up a portion of the population that is of interest to a specific study, so that the findings can be used to draw conclusions about the entire population. It is the process of selecting a few elements (a subset) from a population to obtain knowledge by gathering information from them to address the research problem (Cooper & Schindler, 2011:364). A sample is a display of units from which the actual sample is drawn (Taherdoost, 2016:18). Sampling is done to save time and money as it is impractical to survey or interview the entire population, although information collected from a large sample is considered to be more reliable, especially pertaining to the generalisation of the findings (Burmeister & Aitken, 2012:5). Uprichard (2013:3) classifies sampling into probability and non-probability sampling techniques.

##### **5.5.4.1 Probability sampling techniques**

Probability sampling involves selecting a relatively large number of units from a population in a random manner where the probability of including every unit of the population is determinable (Taherdoost, 2016:20). It is a technique in which all members of the population have an equal chance of being randomly selected to be part of a sample (Struwig & Stead, 2013:118). With probability sampling methods every item in the population has an equal chance to be included in the sample. Techniques used in probability sampling include systematic sampling, stratified sampling, simple random sampling and cluster sampling (Van Aartsengel & Kurtoglu, 2013:90).

- **Systematic sampling**

According to Kareem, Oshungade and Oyeyemi (2015:104), systematic sampling is commonly used due to its ease of use. Systematic sampling involves choosing individuals from a list by selecting every  $k^{th}$  sampling frame member, where  $k$  is the population divided by the preferred sample size (Abdelmegeed, 2014:1). This method is efficient, because for the same sample size, each key segment of the population receives more representation and more valuable and differentiated information is attained with respect to each group (Alvi, 2016:18). This method guarantees that there is no over representation, as the sample is representative of the population (Bhattacharjee, 2012:67).

- **Stratified sampling**

In stratified sampling, the population is split into sub-groups that are comparatively homogeneous and do not overlap. Units are selected arbitrarily from those strata (Meng, 2013:536). Sub-groups usually share at least one element amongst each stratum, but with heterogeneity between strata (Alvi, 2016:20). This method creates a reduced variability in the resulting population estimates, especially during measurements of interest, and allows reliable estimates to be made about each stratum (Levin & Kanza, 2014:1).

- **Simple random sampling**

Simple random sampling consists of selecting  $n$  units from a population of  $N$  elements, each possible subset having the same probability of selection (Trivedi, 2017:26). In simple random sampling all attainable sample groups within the population have the same chance of being selected and included in the sample; the researcher needs a comprehensive list of all members in the population (Sharma, 2017:750). In this technique, sampling is based on the principle of randomness and one of the benefits is that the findings can be accurately generalised to the population (Jeelani, Nazir, Mir, Jeelani, Dar, Haq, Maqbool & Wani, 2014:706).

- **Cluster sampling**

Cluster sampling starts with grouping the population into clusters (Alvi, 2016:22). This method is usually adopted when the sample size is larger than the simple

random sample. Cluster sampling is commended for high levels of accuracy, ease and efficiency of use, reduced bias and reduced errors in the sample selection (Pu, Gao, Fan & Wang, 2016:2). Consequently, this method is most commonly used in field work and interviews.

Non-probability sampling techniques are described next.

#### **5.5.4.2 Non-probability sampling techniques**

Farrokhi and Mahmoudi-Hamidabad (2012:784) define non-probability sampling as the process of selecting units based on specific characteristics associated with the research questions of a particular study. This technique does not select samples on a random basis; selection is based on characteristics such as accessibility and availability (Elfil & Negida, 2017:2). This technique allows for the researcher to make decisions pertaining to the elements to either include or exclude from the sample. However, non-probability sampling is challenged by situations in which the researcher seeks to address research questions that require statistical inferences about the characteristics of the population. Bryman and Bell (2011:441) state that non-probability sampling techniques are closely associated with qualitative research. Non-probability sampling methods require a clear rationale for the inclusion of some cases or individuals rather than others. Methods employed in non-probability sampling include judgment sampling, quota sampling, convenience sampling and snowball sampling techniques (Bhattacharjee, 2012:69).

- **Quota sampling**

According to Zikmund *et al.* (2012:394), quota sampling certifies the representation of all sub-groups in the population in accordance with the desires of the researcher. Sharma (2017:751) posits that the researcher may choose a quota of the sample from selected and recognised sub-groups of the population as a means to replicate a population in accordance with the relative proportions of people in contrasting groupings. This sampling method is useful when the researcher cannot acquire the probability sample, but it creates a representative sample of the population under investigation. Quota sampling can be proportional in a sense that the proportion of respondents in each sub-group matches that of the population, but the proportion of

respondents is less representative of the population for non-proportional quota sampling (Bhattacharjee, 2012:69).

- **Snowball sampling**

A snowball sampling approach requires the researcher to begin by identifying some respondents that match the criteria for inclusion in the study, then asking them to recommend others who they know match the selection criteria (Etikan, Alkassim & Abubakar, 2016a:1). This approach is used in cases where the characteristics of the population are not common or when no sampling frame is available, the required information is valuable and it is the only way to reach populations that are not easily accessible (Bhattacharjee, 2012:70). Alternatively, snowball sampling is referred to as the referral sampling approach. Babbie and Mouton (2012:275) recommend that snowball sampling should chiefly be employed in qualitative research and for exploratory purposes.

- **Judgment sampling or purposive sampling**

According to Sharma (2017:751), judgment sampling is alternatively known as purposive sampling and is a common non-probability method in which the researcher selects the sample based on suitability. Purposive sampling is when the researcher selects a sample in a deliberate manner based on his/her own judgment (Van Aartsengel & Kurtoglu, 2013:91). Judgment is determined by the particular goals of the research project generating a representative sample of the population. If the population of the study is not easy to locate or if some members are thought to be more knowledgeable than others regarding the focus of the study, then judgment sampling is the most appropriate choice (Etikan, Musa & Alkassim, 2016b:3).

- **Convenience sampling**

Convenience sampling, alternatively known as haphazard, grab, accidental or opportunity sampling is a non-probability sampling technique in which subjects are selected, because of their geographical proximity, ease of accessibility and willingness to participate in the study (Shorten & Moorley, 2014:33). Convenience sampling is usually employed in exploratory research and can be utilised when elements of the population have a great deal in common (Struwig & Stead,

2013:116). Bryman and Bell (2014:178) affirm that convenience sampling comprises choosing members by virtue of their availability at a given time. This sampling method relies on data collection from population members who are easily accessible and willing to participate (Bhattacharjee, 2012:69). Quantitative researchers adopt this method to collect large numbers of completed questionnaires quickly and with minimum cost (Etikan *et al.*, 2016b:1). Ease of acquiring the sample is connected to the cost of locating the population, the geographic distribution of the sample and obtaining interview data from the respondents (Alvi, 2016:29). In convenience sampling, respondents should possess characteristics that fit the objectives of the study (Farrokhi & Mahmoudi-Hamidabad, 2012:784).

Determining the sample size and choosing the sample is next.

#### **5.5.5 Sample size and choosing the sample**

Deciding on a sample size is key as it governs the level at which the researcher can make statistical/analytical generalisations of the findings (Jugenheimer *et al.*, 2014:129). The sample size is determined by the research's objectives, questions and design (Onwuegbuzie & Collins, 2007:287). Quantitative research requires statistical calculation of a sample size to affirm that an outcome is attributed to certain factors or elements. According to Dworkin (2012:1319), the sample size used in quantitative research is larger than that used in qualitative studies. Qualitative studies are concerned with gaining a deep understanding of a phenomenon by asking the why and the how of a process, situation, issue, culture, scene or social interaction (McIntosh & Morse, 2015:1). The sample size is dependent on the number of participants required to ensure that all elements of the phenomenon under investigation have been scrutinised thoroughly and understood.

In the case of qualitative studies, a number of scholars recommend different numbers of participants depending on the study; between 30 and 50 participants (Morse, 1994) and 20-30 (Creswell, 2014:200; & Morse, 1994). Hagaman and Wutich (2016:16) posit that fewer than 20 participants can also constitute an appropriate sample for qualitative studies. However, it is emphasised that there are no specific rules when determining an appropriate sample size in qualitative research. All statements made about the sample should also be true of the



population. According to Burmeister and Aitken (2012:5), an appropriate sample refers to the sample being large enough to allow reasonable estimates of variables to be attained, capture variability of responses and permit comparative analyses.

#### **5.5.6 Sampling methods used in this study**

In this study, 29 participants were selected from a list of all PDEs in Kampala Capital City, Uganda because it is the commercial centre where the majority of the PDEs or state department offices are located. This sample size was appropriate as it was in line with the tenets of qualitative research. These tenets stress that the point of saturation is reached when there is enough information to replicate the study (Fusch & Ness, 2015:1409). Creswell (2014:200) recommends at least 31 participants in PhD studies, which were obtained in this study. As stated by Struwig and Stead (2013:124), the sample size was large enough to obtain feedback regarding the perceptions pertaining to the key concepts of contract compliance. PDEs in Uganda constituted the unit of analysis, which was the main entity under investigation (Gorichanaz, Latham & Wood, 2018: 880-893). Procurement officers, auditors, heads of procurement and disposal units, accounting officers and heads of finance departments constituted the unit of inquiry by participating in the study and providing information (Miller & Shinas, 2019:7). These were chosen based on their understanding, knowledge and ability to handle procurement contract implementation issues on a daily basis.

In this study, purposive and convenience sampling methods were employed as per the recommendation advanced by Creswell & Clark (2011:173). These authors indicate that Information-rich participants who are available and willing to participate are considered in purposive and convenience sampling. Participants with the ability to communicate contract compliance experiences and opinions in an articulated, expressive and reflective manner were selected.

At the inception of the interview phases, the researcher contacted each participant individually via e-mail, WhatsApp or telephone and discussed the reasoning behind the study, after which the participants indicated their willingness to participate. If a participant was deemed to be unavailable for the interview, a telephonic interview

was arranged. For the purpose of confidentiality, the participants were assured that their names would not be disclosed.

### **Phase one: Telephone interviews**

In this phase, 21 participants were selected conveniently and purposively due to their knowledge and experience in procurement in public institutions and their accessibility to the researcher, who was located in Kampala, the capital and largest city in Uganda. By virtue of the offices they hold, participants were selected purposively based on their knowledge and experience in the field of contract compliance. Participants included accounting officers, heads of finance departments, auditors, procurement officers and heads of procurement and disposal units. These people were contacted via e-mail and telephone and they agreed to participate in the interviews that were organised by the researcher. Participants provided accurate information pertaining to the process, activities, challenges and importance of contract compliance. Results were based on the participants' perceptions about how to create an enabling environment for contract compliance among PDEs in Uganda. Each interview took between 1 and 2 hours.

### **Phase two: Focus group discussions**

For the second qualitative research phase, two focus group discussions took place, one group with three participants that included a head of a finance department and (2) procurement officers. The second focus group had five participants that included (4) auditors and an accounting officer. These participants were contacted via e-mail and telephone and agreed to take part in the focus group discussions that were organised at the digital lab at Makerere University Business School, located at Nakawa in Kampala, via Zoom online platform. Each focus group discussion took between 1 and 2 hours.

## **5.6 DATA COLLECTION**

Data collection is the process of gathering and measuring information pertaining to variables of interest in an established systematic manner that enables one to answer the research questions that were formulated, test hypotheses and evaluate outcomes (Kabir, 2016:202). Goodman, Cryder and Cheema (2012:112) posit that

data collection is a process that combines and measures known facts, items or variables of interest. A data collection plan is designed to minimise errors in a study, organise resources for data collection and map out a strategy for tasks to be carried out (Cleary, Horsfall & Hayter, 2014: 473). There are two types of data collection methods, namely secondary and primary data collection.

### **5.6.1 Secondary data collection**

Secondary data is a compilation of existing literature on the topic under investigation (Boo & Froelicher, 2013:130). Such data was previously collected and analysed by other researchers (Anyan, 2013:1). Due to it having been collected and analysed prior to the current study, the advantages are that it is readily available and therefore saves time and money (Blumberg *et al.*, 2011:236). For this study, secondary data was collected from books, databases, publications, reports and internal records. A comprehensive literature review of information pertaining to contract compliance was undertaken by means of the general online databases and search engines, as well as the Nelson Mandela University Library and its online databases. The search highlighted a number of issues of interest such as the context, major trends, challenges and factors influencing contract compliance. General online databases consulted for this study included Emerald, Advanced Google Search, Yahoo and various government databases. Nelson Mandela University online databases consulted for this study included EBSCO Host, Sabinet and Science Direct and Business Source premier. Published books and journals were the largest source of secondary information consulted for this study. The literature search further illuminated how contract compliance has evolved. There remain significant gaps in the empirical research available on contract compliance within the Ugandan context. Therefore, consistent with the research procedure for qualitative studies (phases one and two of this study), secondary data collection and empirical data collection took place in conjunction with each other as the findings in the first two phases informed the researcher with regard to conducting further secondary research in order to become more knowledgeable about contract compliance among PDEs in Uganda.

### **5.6.2 Primary data collection**

Primary data answers a study's questions via first hand data collected from individuals and groups (Peersman, 2014:3). Here, the researcher proves the accuracy and completeness of the information gathered, instead of relying on someone else. Driscoll (2011:3) states that the eventual goal of conducting primary research is to study something new that can be approved and supported by others, while decreasing inflexible ideas during the course of study. This study utilised qualitative primary data collection as it allowed the researcher to gain first-hand information about the respondents' perceptions pertaining to the subject of interest. Quinlan (2011:228) and Intrac (2017:1-2) posit that the various methods for collecting primary data include case studies, action research, interviews, surveys, observations, focus groups, experiments and triangulation, as discussed in the ensuing sections.

#### **5.6.2.1 Case studies**

Chodokufa (2018:100) defines a case study as a method that embraces the logic of design, collecting data and particular approaches to data analysis. It is an exhaustive study about an individual, a group of people or units, aimed at generalising across multiple units (Gustafsson, 2017:2). It is a step to action. It is a practical investigation of an individual or existing occurrence within its real life situation using various sources of evidence (Bartlett & Vavrus, 2017:8). Exploratory, descriptive and explanatory are the types of case study research, of which business research limits itself to the exploratory type (Rizzo, Marti, Decortis, Rutgers & Thursfield, 2018:118). Descriptive case study attempts to describe whereas explanatory case study explains. Case study research is concerned with how and why situations occur. Identification of what was planned and what actually took place are explored in case study research.

According to Hancock and Algozzine (2017:15-16), the features of case study research include:

- makes an effort to reveal the richness of the case when writing the report;
- balances the description and analysis of significant events;
- is concerned with a rich and intense account of events relevant to the case;

- focuses on individual actors or groups of actors and seeks to understand their perceptions of events;
- highlights events significant to the case;
- provides a chronological narrative of relevant events; and
- the researcher is centrally involved in the case.

In-depth focus is on a particular issue, feature or unit of analysis, rather than on the entire institution. The researcher achieves a holistic view of a particular occurrence or series of events and gains a full picture from various evidence sources (Ha'apio, Gonzalez & Wairiu, 2019:6). Case study research captures emergent properties of life in institutions and how things work in institutions, especially in areas where there are rapid changes. However, this method has been criticised for lacking scientific rigor and reliability in addition to the generality of findings (Perdices, Tate & Rosenkoetter, 2019:2).

#### **5.6.2.2 Action research**

Terblanche (2020:49) opines that action research is an action-oriented research activity and inquiry strategy that nurtures cooperation among its participants and incorporates experience, action and reflection. It is a participatory, democratic process concerned with developing practical knowledge while in pursuit of valuable human purposes. It is a type of experimental research that links research and action, or theory and practice by monitoring and evaluating the effects of the researcher's direct actions in practice within a participatory community to improve the performance quality of an area of concern (McGrath, & O'Toole, 2012:509). Knowledge advancement and solving practical problems are some of the aims of action research and this is achieved through building, informing and testing social theory (Coghlan, 2019:19).

#### **5.6.2.3 Interviews**

Qualitative research is heavily reliant on interviews as a technique for data collection. Interviews were thrust into social research in the 1970s by the feminist movement as it was determined that quantitative methods could not adequately capture the lives and experiences of women who were thus mechanically excluded theoretically and

methodically from research. Before then, interviews were mostly used in journalism, counselling and recruitment. According to McIntosh and Morse (2015:1), an interview is designed to elicit subjective responses from individuals to a particular phenomenon, situation, thought, belief or experience. Interviews are crucial in qualitative data collection and provide the researcher with deep comprehension of the daily lives of the respondents, including their social and cultural perspectives (Opayemi & Oyesola, 2013:95). It is a method through which researchers gain access to respondents' experiences, understand events and provide explanations of these events by means of questions and answers. An interview is a site for creating new knowledge between individuals about a subject of mutual interest (Marshall & Rossman, 2011:142). In an interview, the researcher develops a format and general set of questions that are used for all the participants, although the interviewer may vary the questions based on the current situation (McIntosh and Morse, 2015:1). Qualitative interviewing attaches more meaning to the participant's point of view and the participant is allowed to deviate from the predetermined questions.

Principally, the interview involves talking, during which an interviewer and the participant interact by way of the interviewer asking questions and the participant responding to the questions posed (Morales, Narayan & Atienza, 2019:717). It is a question and answer sequence that allows the researcher to choose, adapt, clarify questions and rephrase statements to ensure that the participants understand (Malterud, Siersma & Guassora (2016:1759). Varying the interview questions among respondents allows an in-depth inquisition between the interviewer and participant that enriches the research and leads to areas that may initially have been neglected, but are relevant to the study. Views are thoroughly captured by the interviewer in the participant's own words as the participants structure and frame their responses (Marshall and Rossman, 2011:144). Interviews allow participants to account their experiences and memories with accuracy, while also focusing on the individual participants (Shopes, 2011:451). Generally, interviews yield a lot of data in a short period, offer flexibility of collecting a wide variety of data and it is easy to clarify and follow up during the interview, which is not possible in other research techniques. However, it is imperative that the researcher exudes skill and adequate capacity to achieve value in the interview process.

- **Structure of interviews**

Interviews may be carefully planned and structured, semi-structured or unstructured (Struwig & Stead, 2013:89). Structured interviews are those that have a list of predetermined questions in a particular format or structure that is followed in sequence during the interviews. They offer more reliable data, facilitate formal relations between the interviewer and participant, allow for generalisation of results and the researcher is able to obtain, code and interpret data easily and efficiently (Goldenberg, Finneran, Andes & Stephenson (2016:700). Structured interviews can also be replicated with other respondents, which makes standardisation simpler, and enhances the reliability of the results (Morales *et al.*, 2019:717). Unstructured interviews are flexible, sometimes informal and exploratory with more questions arising as the interview progresses. They are responsive to respondents, tend to be more relaxed and natural, may unearth unexpected findings, are highly detailed and produce ecologically detailed data. Semi-structured interviews have the capacity to be changed, to allow the interviewer to raise issues and explain points of relevance (Pell, Williams, Phillips, Sanders, Edwards, Choy & Grant, 2020:7). They involve the researcher having an interview guide, which is a list of themes and questions to be asked in a specific order. Interview processes are open to variations in many forms, including standardised open ended interviews; closed, fixed response interviews; general interview guides and informal conversation interviews.

Structured interviews require pre-planning, are time consuming for large samples, restrict respondents from expressing themselves, limit in-depth answers and the structured format makes it difficult to use when exploring complex issues (Pandey & Pandey, 2015:15). In addition, the restrictive questioning leads to restrictive answers; the quality of data is affected by the quality of the questions and uncertainty arises from inappropriate questions. Unstructured interviews are impossible to generalise, are time consuming, may contain interviewer bias and are difficult to replicate, transcribe and analyse (Malterud *et al.*, 2016:1755). It is advisable that the researcher maintains a recording of the interviews and transcribes the recordings at a later time for purposes of analysing the collected data, as the discussions may not progress as planned.

- **Conditions for conducting interviews**

Arsel (2017:6) proposes adhering to the following list of points when conducting interviews.

- Access the setting.
- Understand the language and culture of the respondents.
- Decide on how to present oneself.
- Locate the informant.
- Gain trust.

- **Special types of interviews**

Interviews may also be specialised, for example, ethnographic and phenomenological interviews, focus group discussions and in-depth interviews. Ethnographic interviews are centred in anthropology and are used to collect cultural data (Schnefke, Tumilowicz, Pelto, Gebreyesus, Gonzalez, Hrabar, Mahmood, Pedro, Picolo, Possolo & Scarlatescu, 2019:2). Ethnographic interviews seek responses to further understand the response of a population to new interventions and programme delivery processes (Schnefke *et al.*, 2019:1). Phenomenological interviews reprise in-depth interviews for phenomenological research in a bid to describe phenomena as they are lived and experienced by individuals (Lederman, Löfvenmark, Djärv, Lindström & Elmqvist, 2019:2). Focus groups engage participants in a group to discuss a specific research matter. In-depth interviews focus on the participant in a bid to establish the perspectives of participants on the subject matter in detail (Morales *et al.*, 2019:726). Key values that emphasise the importance of interviews in research include: positive experience, interpersonal situation, qualitative, meaning, sensitivity, specificity, change, ambiguity and focus (Aguinis & Solarino, 2019:1292). Despite interviews being one of the methods of choice, debates surround the process of conducting interviews and their theoretical underpinnings. Interviews may be done face to face, via telephone or video.

- **Telephone interviews**

Telephone interviewing is becoming recognised in its own right as having the capacity to produce rich and high-quality data (Ward, Gott & Hoare, 2015:2775).



Telephone interviews take place when an interviewer communicates with a respondent on the telephone in accordance with a prepared questionnaire. Structured questionnaires are often used when carrying out telephone interviews and the process is usually short and focuses on collecting concentrated information (Irvine, 2018:1). Telephonic interviews are commonly used to collect information pertaining to public opinion, customer surveys or other target group surveys. Hollway and Jefferson (2013:72) contend that participants are less willing to divulge personal information over the telephone and the quality of the data may be affected. Generally, telephonic interviews are ignored in research literature as they are viewed to be less desirable than face-to-face interviews as they undermine the context, non-verbal cues, rapport, probing and clarification of responses (Vogl, 2013:134). If long, drawn out answers are required, caution needs to be exercised as participants have a tendency to give short answers and it may not be easy to keep them interested. Managing telephone interviews is easy, quick and economical and the responses are not easily manipulated, which eliminates researcher bias (Pell *et al.*, 2020:2), ensures the anonymity of respondents and gives the interviewer an opportunity to seek clarification on vague responses during the interview. Wide geographical scope is covered more efficiently and cost effectively.

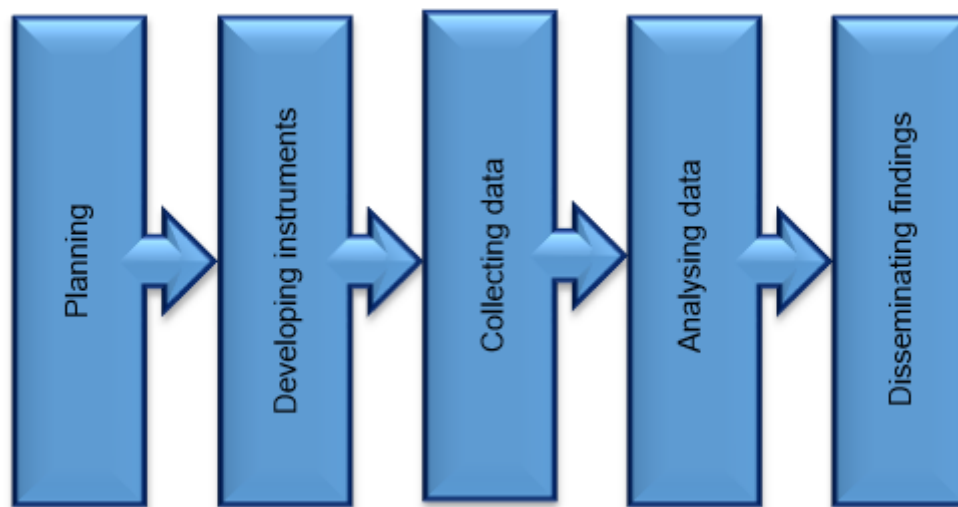
- **Face-to-face interviews**

Face-to-face interviews take place between an interviewer and participant, where the interviewers question the participants while looking at them. During the face-to-face interviews the interviewer extracts information that is appropriate for the research being carried out (Young, Rose, Mumby, Benitez-Capistros, Derrick, Finch, Garcia, Home, Marwaha, Morgans & Parkinson, 2018:11). Before conducting face-to-face interviews, the researcher must present the participants with justification for the research to secure their interest, time and participation. Building rapport with the participants and delivering clear guidelines is pertinent to capture and keep the participant interested (Pell *et al.*, 2020:7). Face-to-face interviews are advantageous for asking detailed questions; allow deeper probing to provide rich data and explore complex and unknown issues; can collect non-verbal data through observation; do not prioritise literacy requirements of participants and response rates are usually higher than those of self-administered questionnaires (Kabir, 2016:211). The

drawbacks are that they may be expensive and time consuming, require interviewers to be trained to reduce interviewer bias and if standardised, they are prone to interviewer and interpreter bias.

- **Process for conducting interviews**

According to Bryman (2016:10), interviews follow a general process of planning, developing instruments, collecting data, analysing data and disseminating findings as summarised in Figure 5.3.



Source: Adapted from Bryman (2016:10) and Ahmar, Rusli & Rahman (2017:53).

**Figure 5.3: Process for conducting interviews**

Planning involves the identification of stakeholders, identifying what information is required and from whom, listing the stakeholders to be interviewed and ensuring that the process adheres to international and national ethical standards of research. The next step is developing instruments, which involves developing an interview protocol on what to say to the participants before, during, in conclusion and after the interview, developing the guide and where need be, translating the guide. Next is identifying and training of data collectors or interviewers where need be. Fourthly, collecting data by setting up interviews, seeking informed consent, conducting the interview and verifying the information obtained from the participants (Morales *et al.*, 2019:724). Fifth is data analysis by transcribing or reviewing and analysing the data (Ahmar *et al.*, 2017:53). Last is the dissemination of the findings by writing a report, soliciting feedback, revising and disseminating to relevant stakeholders, as appropriate.

#### **5.6.2.4 Surveys**

According to Collis and Hussey (2014:343), surveys are the most commonly used methods for gathering quantitative data. A survey can be referred to as a research method where data is gathered from a sample of individuals by means of a questionnaire (Walton, Alexandrakis, Gilby, Firman, Williams, Peskett, Elias & Dezateux, 2017:401). It is a method that is used to gather information from units to create quantitative descriptions of the attributes of the larger population to which the units belong (Groves, Fowler, Couper, Lepkowski, Singer & Tourangeau, 2011:2). Quantitative research data collection is performed primarily by means of the survey method, which is the most appropriate method in instances where there is a representative sample of a large population (Harwell, 2011b:149).

Surveys investigate behaviours, attitudes, needs, beliefs, opinions, characteristics, past or present behaviour, expectations and knowledge (Mai, 2016:9). Email and web-based surveys can be performed online with many people cheaply. A decision would need to be made on whether a longitudinal design, in which data is collected from a sample at different points in time, or a cross-sectional design, in which data is collected at a single point in time, should be used by the researcher (Cole, Kitchen & Kezar, 2019:393). For maximum results, surveys should be carefully established and organised to provide numerical data that can be statistically examined and generate results that are relevant to some larger population (Keeter, Hatley, Kennedy & Lau, 2017:2). Surveys are the most common method used in generating primary data, especially in business research, as they have the ability to reach a vast number of the target population at a relatively low cost in money, time and effort (Harwell, 2011b:149). However, they are criticised for the low response rates, which can be a serious threat to the quality of the data and can affect the validity and generalisability of the findings (Mellahi & Harris, 2015:426).

#### **5.6.2.5 Observations**

Quinlan (2011:221) relates that observation is the systematic account of artefacts, behaviours and events in a social setting. It is used as a method of collecting data about people, processes and cultures and has been around for more than a century (Harsono, Yahya & Syah, 2018:566). It has been used in both quantitative and

qualitative studies, in the fields of anthropology, sociology, psychology, education and other social science disciplines (Esiri *et al.*, 2017:85). Participant and direct observations are the two main types of observations. In participant observation, the researcher is involved in the setting under study as an observer and a participant, whereas in direct observation, the researcher is a mere observer without interacting with the setting of the objects or people under study (Urquhart, 2015:30). For validity purposes and to ensure the quality of the data, the standpoint of the researcher in the observation setting is key. Although some researchers may use covert observation where those who are being observed are unaware that you are observing them, it is preferable that the participants are aware that they are being observed, that is, overt observation.

Kawulich (2005:3) posits that with the observation method, the researcher learns:

- how to identify and guide relationships with informants;
- how individuals in the observation setting interact;
- how things are organised and prioritised in that setting;
- what is important to the people in the social setting under study;
- what constitutes appropriate questioning;
- how to ask appropriate questions; and
- which questions may best help to answer the research questions.

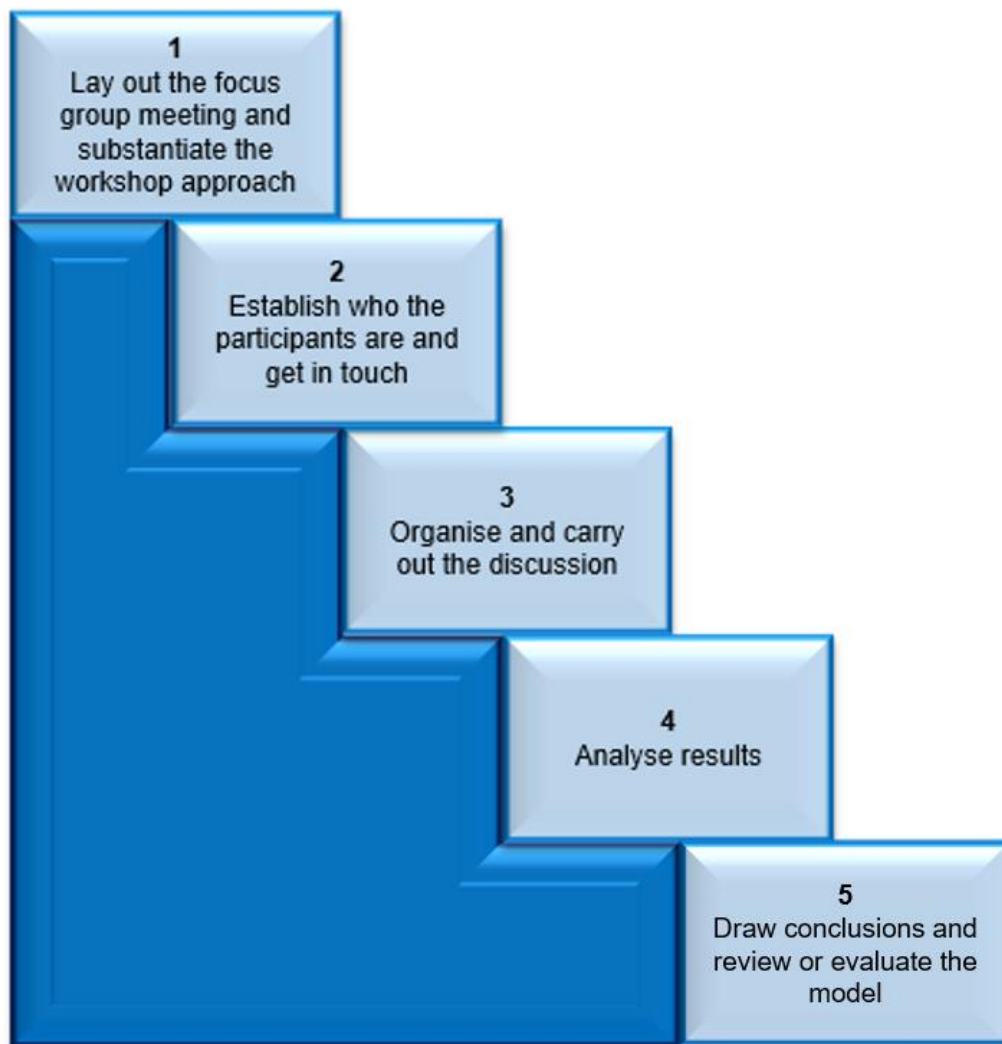
Observations actively engage the researcher to comprehend the world of the participants; foster in-depth understanding of a phenomenon or situation or setting; help the researcher to comprehend what is going on in the study setting, obtain information about groups and explain the behaviour and may be used to triangulate data (Esiri *et al.*, 2017:86). Disadvantages of observations include the risk of internalising the values of the group to the extent that the researcher may forget why he is there (observer effect); the researcher may be hampered from recording observations to disguise his identity; results may be affected by the subjective nature of the study and may at times go beyond simply recording to assuming why people are doing certain things (Blackburne, Bozanic, Johnson & Roulstone, 2019:3).

#### **5.6.2.6 Focus groups**

Focus groups can be traced back to 1926 when Emory Bogardus described them as group interviews in social psychological research. This method became popular with the rise of participatory research in the 1980s (Nyumba, Wilson, Derrick & Mukherjee, 2018:21). Focus groups are collective conversations that are organised to examine a particular set of questions and are usually employed as a bridge between scientific research and local knowledge while conducting qualitative research. They involve an identified collective activity with the aim of describing and comprehending the meanings and interpretations from the perspective of the participants in the group (Mohammed, Gururajan & Hafeez-Baig, 2018:76). During a focus group discussion, the main methods of data collection include audio and tape recording, note-taking and participant observation (Nyumba, *et al.*, 2018:23).

Flexibility is guaranteed, as the method can elicit information on any topic from diverse groups of people to diverse settings. With focus groups, the researcher takes on the role of a facilitator or moderator during the discussions (Dilshad & Latif, 2013:192). A rigid/structured or flexible/unstructured approach to focus groups can be employed. Focus groups add a human perspective to impersonal data and explain statistical data. Focus groups assist researchers to verify survey results, propose potential solutions to identified problems and inform decision making, strategic planning and resource allocation (Mukherjee, Huge, Sutherland, Mcneill, Van Opstal, Dahdouh-Guebas & Koedam, 2015:1099). Focus group discussions are relatively easy to conduct as all the target participants and the researcher are readily available in one location at the same time, which sorts the issue of resource constraints, especially in terms of time, money and effort. Focus groups avail a large amount of data within a limited time frame compared to an equivalent number of individual interviews (Harrison, Baker, Twinamatsiko & Milner-Gulland, 2015):1640). However, it may sometimes not be easy to manage and disagreements or unnecessary discussions may divert the participants from the objective. Also, the recruitment of participants can be expensive and difficult and they continue to be a source of contentious debate (Nyumba *et al.*, 2018:22). Participants may not find it easy to participate as it may be perceived as intimidating and off-putting. Some dominant participants may subdue others and the resultant data may not adequately

represent the non-participants. Figure 5.4 presents a summary of the focus group process.



Source: Adapted from Joesbury (2016:97) and Nyumba *et al.* (2018:21).

**Figure 5.4: Focus group process**

Figure 5.4 summarises the focus group process, where Joesbury (2016:97) and Nyumba *et al.* (2018:21) indicate that to carry out an effective focus group discussion, a number of steps should be taken. These include the lay out of the meeting and substantiating the workshop approach; establishing who the participants are and contacting them; organising and carrying out the discussion; analysing the results and drawing conclusions and reviewing the model.

### **5.6.2.7 Experiments**

Experiments allow researchers to manipulate variables to establish their effect on other variables (Koh & Owen, 2012:4). Research using experiments can be carried out in artificial settings, laboratories and field settings. According to Petrie, Koyanagi, McDuffee, Deck, Katoh & Terrani (2017:22), experimental designs may be experimental by examining the cause and effect relationships between variables under highly controlled conditions or quasi-experimental by testing the effectiveness of an intervention in a more natural setting. Experiments are however criticised for low confidence and generalisation of a study's findings, because the unnatural setting in which the study is conducted may not adequately reflect the real world (Bhattacharjee, 2012:39).

### **5.6.2.8 Triangulation**

Triangulation refers to trustworthiness and how believable a study is (Noble & Heale, 2019:67). It combines data sources to bear on a single point for purposes of collaboration, elaboration and illumination of the research question (Marshall & Rossman, 2011:252). It creates a logical justification of the themes and increases the credibility and validity of research findings (Creswell, 2014:201). Triangulation can be in the form of data triangulation (includes matters such as periods of time, space and people); investigator triangulation (includes the use of several researchers in a study); theory triangulation (encourages several theoretical schemes to enable interpretation of a phenomenon) or methodological triangulation (promotes the use of several data collection methods such as interviews and observations) (Noble & Heale, 2019:67). Triangulation can enrich research as it offers a variety of datasets to explain differing aspects of a phenomenon of interest and helps refute where one dataset invalidates a supposition generated by another. It can also assist the confirming of a hypothesis when one set of findings confirms another set. Triangulation can also help explain the results of a study (Johnson, O'Hara, Hirst, Weyman, Turner, Mason, Quinn, Shewan & Siriwardena, 2017:11).

According to Noble and Heale (2019:68), the limitations of triangulation include the need for a skilled analyst; it compounds the complexity of the research making it more time consuming; when research methodologies are combined, it may not be

achieved consistently; researchers may fail to explain their techniques for blending results and conflicts sometimes occur when the findings from two sources are compared. This study performed triangulation in that themes were generated using converging perspectives from participants to improve validity. Codes and themes were developed as a way of addressing the trustworthiness and authenticity of the research.

The previous sections highlighted the various primary data collection methods that can be utilised in the study, including surveys, interviews, observations, focus groups, experiments, action research and case studies. The most appropriate method that addressed the research questions was chosen for this study. In the next section, the instruments that can be used for data collection are discussed.

### **5.6.3 Data collection instruments**

Several instruments are available for data collection in a scientific study, for example, questionnaires and interview guides and these are discussed hereunder.

#### **5.6.3.1 Questionnaires**

Harlacher (2016:1) identifies a questionnaire as a descriptive survey in a set format that is designed to collect opinions or information from particular respondents. Zohrabi (2013:254) explains that questionnaires are used to draw reliable responses from a selected sample through a set of intricately structured and verified questions. A list of questions is posed to extract reliable responses from a selected sample concerning the variables of the study (Kaltenbrunner, Bengtsson, Mathiassen & Engström, 2017:2). Not only are questionnaires easy and cost effective to administer, they are also quick to analyse and develop (Mavodza, 2010:115). They can be directed to several respondents simultaneously and are easy and quick to administer, especially with a large, widely dispersed sample and they enable the collection of a vast amount of data. However, the response rate is lower than with face-to-face interviews (Murdoch, Simon, Polusny, Bangerter, Grill, Noorbaloochi & Partin, 2014:2). Researchers should ensure the confidentiality of their study's respondents in order to gain complete responses, especially those pertaining to sensitive information (Murdoch *et al.*, 2014:2). Questionnaires should be guided by



the research questions, objectives, a theoretical framework and a literature review (Jong & Jung, 2015:30).

Jong and Jung (2015:30) posit that the following principles must be adopted in the design and administration of questionnaires.

- Objectives of the study must be well defined in a way that allows complete and accurate data collection to meet the research goal.
- Target respondents from whom data will be collected and the methods employed to reach them, including personal contact, mail or telephone must be defined.
- Design the questionnaire by first establishing the content, all questions should contribute towards the hypothesis and research questions identified in the research design and must be clear, short and simple.
- Test the questionnaire by means of a pilot study to check for clarity and simplicity amongst randomly selected participants from the study population.
- Administer the questionnaire to the selected respondents from the sample.
- Analyse and interpret the results obtained from the data that was collected.

#### **5.6.3.2 Interview guide**

According to Malterud *et al.* (2016:1755), the interview guide is the primary data collection tool that is employed while conducting qualitative research. Kallio, Pietilä, Johnson and Kangasniemi (2016:6) posit that the interview guide covers the main topics of the research study. Focus has to be on the purpose of the research and the responses sought need to be in line with the study's purpose. The interview guide contains a list of questions to be posed regarding the points or issues that need to be discussed in an interview or a series of interviews (Quinlan, 2011:303). Designing an interview schedule requires that a researcher decide on what questions to ask, how to phrase the questions, how deep or broad the topics to be covered, and the sequence of asking the questions.

Questions are developed from those used in past research (Crilly, Greenslade, Berndt, Hawkins & Cullen, 2020:3). Kallio *et al.*, (2016:6) postulate the following guiding principles for interview guides.

- Questions should be answerable, drawing on the respondent's experience and knowledge.
- Avoid leading questions as they may solicit specific responses that may not contribute to the study.
- Check with the respondents what perspective they are using for the response.
- Language should be understandable.
- Avoid ambiguous words or phrases.
- Avoid value laden words as they tend to be subjective, for example "how good are the local services"? If used, follow up with the respondent to ascertain the exact meaning.
- Use careful prompts to probe a topic if necessary or move on.
- The first question asked must require a simple answer.
- Responses to the main questions may extend through supplementary questions on further probing.
- End the interview by summarising or recapping the main points of the discussion to allow the participant to correct any information.

Participants are open and able to explain their view point on a specific aspect being explored, using a structured, semi-structured or unstructured interview guide. Structured and semi-structured interview guides are prepared in advance and offer a particular arrangement, where constructs for the interview are provided (McIntosh & Morse, 2015:4). Semi-structured interview guides are versatile, offer more flexibility for the interviewer to probe the participants' personal experiences and understanding of the issues under investigation. They are successful in enabling reciprocity between the interviewer and participant, enable follow-up to occur and allow for individuals' verbal expressions (Kallio *et al.*, 2016:6). Semi-structured interview guides are therefore the preferred choice for researchers as they provide clear, reliable, comparable, qualitative data in addition to a prior clear set of instructions for interviewers. This allows the interviewer to be equipped and appear competent during the interview. Arsel (2017:7) highlights that the interview guide is appropriate in instances in which the topic under research or discussion is personal and controversial. In this regard, contract compliance is both personal and controversial.

Methods for data collection are discussed next.

### **5.6.3.3 *Data collection methods and instruments used in this study***

A detailed theoretical and empirical literature review was conducted. This provided important insights into the study and the constructs. Knowledge for this study was constructed from the theoretical framework and the researcher later created a semi-structured interview guide comprising 26 questions on topics such as contract compliance, enforcement, moral obligation, and disclosure and records management. The semi-structured interview guide was used to collect data via one-on-one, telephonic interview sessions and focus group discussions. Some topics had probing questions, which helped to clarify the questions. The semi-structured interview guide had an introduction that included the research topic and objectives and a request for the participants' consent to participate in the study. With regard to the language and culture, the interviewer was well conversant with the culture, language and protocols expected by the participants as the researcher was from Uganda. The semi-structured interview guide was attached to an appendix that clearly explained the purpose of the research study and that the study had received ethical clearance from the Nelson Mandela University Research Ethics Committee.

Telephone interviews and focus group discussions via the Zoom online platform were conducted by the researcher and each interview was recorded via Otter.ai application with the consent of the participants and later transcribed verbatim. Where required, for enhanced clarity and interpretation, participants were requested to verify some aspects of the interview via telephone, email or WhatsApp. Rich, detailed accounts of the participants' experiences were captured with each interview session lasting between 1 to 2 hours. The researcher was able to obtain specific responses regarding contract compliance from the participants by using the in-depth, semi-structured questionnaire. This captured the biographical data of the participants and information pertaining to the importance, process, drivers, challenges and strategies of contract compliance. Other themes that emerged from the literature, such as enforcement, moral obligation, records management and disclosure were explored. This was followed by data analysis.

Data analysis is discussed in the following sections.

#### **5.6.4 Data analysis**

As discussed in section 5.2.1, there are two major research approaches to data analysis. These research approaches are quantitative and qualitative and they differ in the analysis and interpretation of data (Struwig & Stead, 2013:155). The following sections offer a brief discussion of qualitative and quantitative data analysis.

##### **5.6.4.1 Quantitative data analysis**

Two types of statistics are used for quantitative data analysis, namely descriptive and inferential statistics.

- **Descriptive statistics**

Descriptive statistics summarise the sample being studied without drawing inferences. These summaries ease data presentation, which makes it easy to understand by providing observations (Conner & Johnson, 2017:1). Usually, quantitative data analysis begins with the calculation of descriptive statistics such as the mean, mode, median, standard deviation and frequency distributions (Ali & Bhaskar, 2016:663). The mean or average is calculated by taking the sum of the values in the data and dividing it by the total number of observations. The median is the central value of the data collected. Mode is the value of the data that occurs most frequently (Conner & Johnson, 2017:2). Standard deviation measures the deviation from the mean and then the average and the deviations (Struwig & Stead, 2013:165). Descriptive statistics is advantageous, because it summarises large amounts of data in a manageable way and can easily be interpreted in terms of frequency, percentages and overall percentages (Kaushik & Mathur, 2014:95).

- **Inferential statistics**

Inferential statistics consists of methods for drawing and measuring the reliability of conclusions about the population, based on information obtained from a sample of the population (Quinlan, 2011:399). It creates conclusions that satisfy questions raised before the study is conducted. Samples of observations are used to deduce observations found in a population. Struwig & Stead (2013:115) relate that samples are used, because it is difficult to gather data from the entire population, but it is possible to obtain a sample from the population, and make inferences about the

population's characteristics. It helps to test hypotheses and determines the probability characteristics of the population using probability theory.

#### **5.6.4.2 Qualitative data analysis**

There are a number of processes and procedures followed to obtain the perceptions, understanding, interpretation and explanations of the people in certain situations in qualitative research (Bryman & Bell, 2014:344). This follows the different forms of phenomenological research data analysis approaches derived from literature, which include transcription, content analysis and thematic analysis (Quinlan, 2011:182). Qualitative data analysis approaches are discussed in the following sections.

- **Transcription**

Transcription is a key part of the data analysis process (Tracy, 2013:178). It is the first step of qualitative data analysis, involving the close observation of data and thorough, repeated and careful listening to or watching participants. It is an interpretive act that involves the transformation of audio or video data such as recordings of interviews, focus groups and consultative talks into a written format for closer study (Phala, 2019:42). Transcription involves judgements about the level of detail to choose, for example, omission or inclusion of non-verbal interaction data, distinguishing words to understand meaning and data representation (Boothway, 2019:48). Transcribing audio and visual data into written form is an interpretive process and the level of detail and representation depends on the aims and methodological approaches (Moore & Llompарт, 2017:409). Researchers therefore transform the speech arising from the structured, unstructured and semi-structured interviews into a written form for analysis.

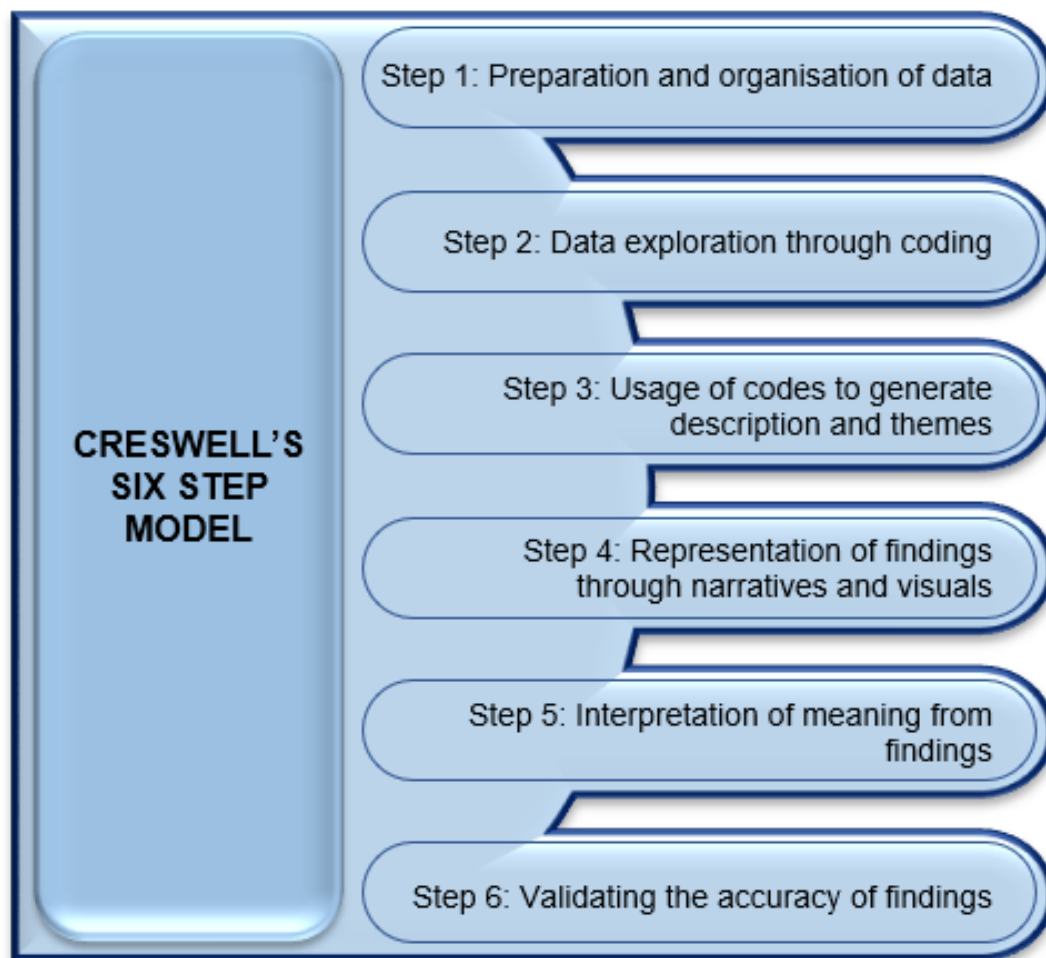
In this study, the researcher recorded the semi-structured telephone interviews and focus group discussions by means of the Otter.ai application that was downloaded onto a mobile telephone to convert it into a Dictaphone recording device. With Otter.ai, the researcher was able to replay the recordings to extract the deeper meanings from the participants' responses, subsequently increasing the accuracy, completeness and reliability of the data. The transcribed interviews were coded in terms of the themes proposed by the theories employed as analytical lenses. The researcher's primary aim was to obtain the interview participants' viewpoints

pertaining to the questions that were posed in the semi-structured interview schedule. Once the verbal responses of the interview participants had been converted into verbatim text using Otter.ai, the researcher then used the written data to perform content analysis.

- **Content analysis**

In content analysis, the data gathered from interviews is categorised into themes and sub-themes for purposes of comparison (Bryman & Bell, 2014:354). Content analysis uses replicable and valid methods to make specific inferences from text and helps to reduce and simplify data while also generating results that may be measured using quantitative techniques. Recorded communication in the form of transcripts of interviews, discourses and protocols of observations, video tapes and documents are typically the main objects of qualitative content analysis (Stemler, 2015:1). The most important characteristic is the systematic process of coding, examination of meaning and provision of a description of the social reality by generating a theme. Themes, the main ideas emerging from the text and context information form the different levels of content analysis. With content analysis, the researcher is able to structure the qualitative data that was collected in a way that provides responses to the research objectives (Vaismoradi, Jones, Turunen & Snelgrove, 2016:100). However, human error can occur if the researcher misinterprets data and this could create a false or unreliable conclusion to the study.

Creswell's (2014:196–200) six-step model and Tesch's (1990:142-145) eight-step model are the most commonly used models for content analysis. Creswell's (2014:196) six-step model consists of interconnected steps as indicated in Figure 5.5.

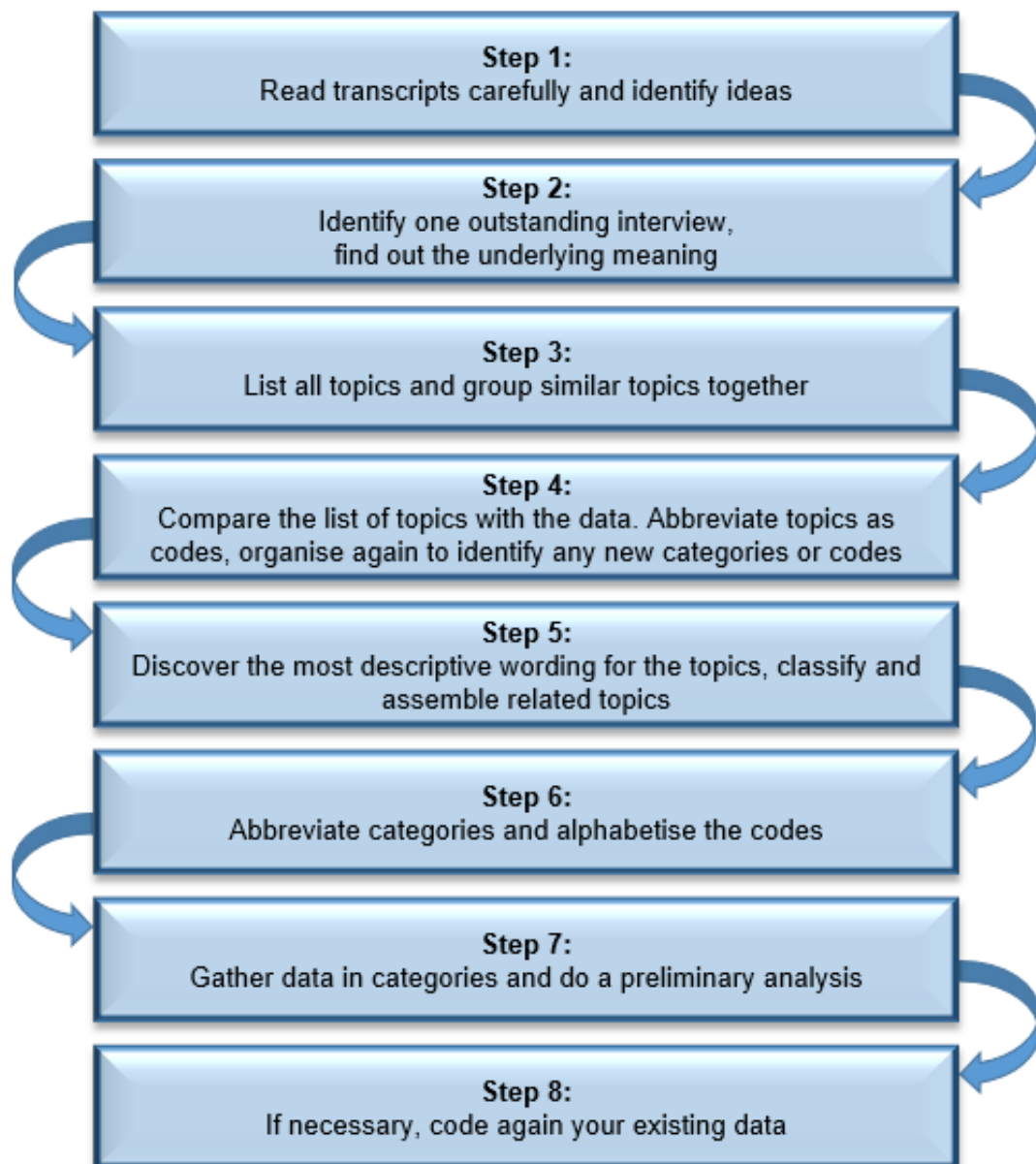


Source: Adapted from Creswell (2014:196).

**Figure 5.5: Creswell's six-step model**

Creswell's (2014:196) six step model has been used extensively in analysing qualitative data, especially content analysis. Creswell proposes steps such as the preparation and organisation of the data; data exploration through coding and the use of codes to generate descriptions and themes. The model suggests representation of the findings by means of narratives and visuals; interpretation of meaning from findings and validating the accuracy of the findings for effectively carrying out content analysis.

Tesch (1990:142) provides eight typical steps to formulate codes in qualitative research and these are summarised in Figure 5.6 hereunder.



Source: Adapted from Tesch (1990:142); and Ndou (2017:5).

### **Figure 5.6: Eight-step analysis**

First, the researcher is required to get a feel for the transcribed data from the interviews and notes by reading the transcripts thoroughly and noting the ideas therein. Thereafter, the researcher chooses one of the interviews that stands out, perhaps the shortest, the longest or the most interesting to gain a deeper understanding. The researcher should seek the underlying meaning, beyond the substance of the information. The researcher does this for more interviews and lists all the topics that can be identified. Similar topics are then grouped into columns classified as major, unique or leftover. Topics are abbreviated into codes that are written next to the appropriate segments of text. Data is checked against other



developing themes or codes. The most descriptive wording for the topics is identified and converted into categories, which are further grouped by connectedness to reduce the numbers. Lines may be drawn between the categories as a sign of interconnectedness. Abbreviation of categories and alphabetisation of codes is performed. Data material belonging to each category is assembled in one place and a preliminary analysis undertaken. Finally, the researcher may re-code existing data if necessary.

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 (2014:200) for phases one and two. The data that was gathered was categorised into themes and sub-themes and the issues addressed. Identification of the themes was performed by identifying patterns across data sets (Crilly *et al.*, 2020:3). Several discussions were carried out between the researcher, the independent coder and the promoters and consensus was reached before finalising the themes. Appropriate verbatim quotations from the collected data were used to substantiate the narratives provided by the researcher when discussing the themes and the sub-themes. Appropriate literature from related studies was also used to compare and contrast the research findings relating to contract compliance, as well as the experiences shared by the participants. This was followed by generating themes (thematic analysis), as discussed in the section that follows.

- **Thematic analysis**

A theme can be a summarised statement that reflects peoples' ideas constructed from stories or narratives to generate practical results in the field of study (Vaismoradi *et al.*, 2016:101). Themes may also be developed around categories connected to an established theory. Thematic analysis is mainly used when working in research teams and analysing large qualitative data sets. It is a method used to identify, analyse, organise, describe and report themes established within a data set. It is a process used in various qualitative methods to assist researchers in the process of analysing data by showing simple patterns that exist in the data (Braun, Clarke, Hayfield & Terry, 2019:6). A meticulous thematic analysis has the ability to generate dependable and perceptive findings. Thematic analysis provides rich,

detailed data and offers flexibility that may be adjusted to suit the needs of various studies. However, it can lead to inconsistency and incoherence when developing themes from the research data (Nowell, Norris, White & Moules, 2017:2). There is limited information available on how researchers can rigorously apply the method.

For this study, after transcribing the interviews, the researcher held extensive discussions with the promoters to reach consensus about the final themes. Verbatim quotations were extracted from the data to beef up the narratives and come to a common understanding regarding the themes and sub-themes. Applicable literature from related studies was referenced for comparison with the research findings. The researcher also compared the data across themes and discovered connections between the themes, which subsequently offered a more reliable and elaborate interpretation of the research into creating an enabling environment for contract compliance in PDEs in Uganda. Analytical themes and sub-themes that were linked with the study's objectives were elaborated upon by designing models that reflected the perceptions and interpretation of the findings.

## **5.7 CRITERIA FOR EVALUATING QUALITATIVE RESEARCH**

Trustworthiness, validity and reliability are vital criteria in establishing and assessing the quality of research, both qualitative and quantitative, but in different ways (Bryman & Bell, 2011:395). Qualitative research is assessed according to the trustworthiness and authenticity of the data and research findings, whereas quantitative research is more concerned with the soundness and reliability of the research findings. How this research study ensured trustworthiness of the findings for phases one and two, is explained in the ensuing section.

### **5.7.1 Trustworthiness of the qualitative research findings**

In this study, quality was established by ensuring trustworthiness, which is the neutrality of the findings (Bryman and Bell, 2011:395). Trustworthiness refers to the degree of confidence that qualitative researchers have in their data and this can be assessed by using the criteria of credibility, dependability, confirmability, transferability and authenticity (Polit & Beck, 2012:745). According to Struwig and Stead (2013:136), trustworthiness relays the extent to which the research can be relied upon and believed. Further to this, trustworthiness is about establishing the

validity and reliability of a qualitative research project. Validity is the idea that what is reported to have occurred actually did happen and that it is the truth (Aravamudhan & Krishnaveni, 2015:133). Findings should accurately reflect the perceptions, experiences and viewpoints of the participants (Streubert & Carpenter, 2011:455). Trustworthiness was judged by the researcher through credibility (analogues to internal validity), dependability (analogues to reliability), confirmability (analogues to objectivity) and transferability (analogues to external validity) (Babbie & Mouton, 2012:277). Further, qualitative researchers are at liberty to opt for the subsequent four suppositions to precisely reflect the assumptions of the qualitative paradigm: credibility, dependability confirmability and transferability. Suppositions including confirmability, transferability, dependability, credibility and authenticity are discussed next.

### **5.7.2 Confirmability**

Confirmability is an alternative term for objectivity. It is used during the data collection and analysis phases to ensure that the findings are logical (Bryman & Bell, 2011:396). In this study, confirmability was ensured through an audit trail and reflexivity. An audit trail comprises a variety of research-generated decisions that must be consistently and conscientiously recorded and skilfully organised throughout the research process (Bryman & Bell, 2011:396). Speedy recording of spontaneous notes, ideas generated during planned analysis and note-generation sessions was performed. Interview tapes, transcribed data and field notes, which served as an audit trail for an objective assessment and confirmation of the documented information, were made available to the researcher's promoters.

### **5.7.3 Transferability**

According to Streubert and Carpenter (2011:49), transferability refers to the probability that the study's findings would make sense to others in a similar situation. Findings should be applicable in other areas with similar settings. This is done to obtain external validity. Transferability was observed with the in-depth and accurate description of the selection and characteristics of the participants. The researcher described how the data was collected and the process of analysis. This serves as a means for another researcher to replicate the study in a different setting.

Furthermore, a rigorous presentation of the findings together with appropriate quotations was documented, in order to enhance the transferability of the data.

#### **5.7.4 Dependability**

Dependability defines the opportunity post hoc of reviewing how a decision was made through the research; this is achieved through the use of an audit trail (Polit & Beck, 2012:175). According to Babbie and Mouton (2012:276), it is comparable to the idea of reliability in quantitative research. Dependability is a reference to the fact that the research process needs to remain systematic, rigorous and well documented (Quinlan, 2011:307). It is the criterion met after the researcher has verified the credibility of the findings (Streubert & Carpenter, 2011:49). Struwig and Stead (2013:137) mention that the findings of qualitative research should be constant and reliable. In essence, dependability is the extent to which the research findings can be repeated with like subjects in comparable settings. Babbie and Mouton (2012:276) argue that an illustration of credibility in research is satisfactory to create the presence of dependability. In qualitative research it is challenging to confirm dependability, as human behaviour is not static, but contextual, changing and reliant on various influencing factors.

Dependability can be accomplished by generating an audit trail and reporting the research process in detail (Babbie & Mouton, 2012:278). Quinlan (2011:307) advises the qualitative researcher to document, explain and justify every choice made in the research project. Anney (2014:278) affirms that dependability is proven by using an audit trail and recommends a code-re-code strategy in which the researcher codes the same data twice to ascertain if the results remain the same. In this study, a stepwise, detailed description of the research method was provided as this would grant other researchers the ability and opportunity to replicate this study in a different setting to ensure dependability.

#### **5.7.5 Credibility**

Credibility replaces the criterion of internal validity and assesses if the research findings make sense and if they are an accurate representation of the participants and/or the data (Bergh, Sharp, Aguinis & Li, 2017:428). Credibility addresses the fit between the participants' views and the researcher's representation of those views.

It is considered to be similar to internal validity in quantitative research. Credibility in qualitative research is defined as the extent to which the data and the data analysis can be considered to be believable and trustworthy (Struwig & Stead, 2013:137). Credibility offers an accurate description and interpretation of the experiences shared by others with similar experiences. Yin (2011:19) states that the goal of building credibility is that qualitative research is performed in a publicly accessible manner and that the research processes are clear.

Every qualitative research procedure should be conveyed and recorded so that others can review and make efforts to understand them and the data should be availed for inspection. Generally, the idea is that other people should be able to study the work and the evidence used to back the findings and conclusions. In a quantitative inquiry, a careful credibility process can be formed by applying the following strategies (Babbie & Mouton, 2012:277; Anney, 2014:276):

- elongating the engagement in the participants' world while performing the research;
- using co-worker questioning for support in providing analysis guidance;
- triangulation of various data sources, or obtaining data from several participants to confirm the evidence obtained;
- permitting participants to check and appraise the data and the researcher's interpretation thereof and suggest changes if necessary; and
- sufficient documenting and recording of the findings.

In this study, the strategies that were used to assist in achieving credibility included member checks, in which the participants acknowledged the findings of the study as being true in their experience, prolonged engagement in the setting and triangulation of the data as recommended by Bergh *et al.* (2017:428). To achieve these objectives, the researcher ensured that engagement with the participants was sustained to confirm their initial statements. A minimum of one hour was spent with the participants with the aim of maintaining rapport and building a trusting relationship to ensure the acquisition of credible data. Otter.ai was used to record the information shared by the participants. A pilot study was conducted in an effort to ensure that the semi-structured interview guides were trustworthy and measured

what they were intended to measure and an expert panel from appropriate disciplines was selected to review the guidelines.

#### **5.7.6 Authenticity**

The extent to which researchers fairly and faithfully show a range of reality is referred to as authenticity and emerges in a study when it conveys the tone of the lives of the participants as they were lived. With authenticity, readers are better equipped to comprehend the lives being portrayed (Polit & Beck, 2012:585). In this study, authenticity was achieved by portraying the experiences of public officers with regard to the contract compliance environment in PDEs in Uganda.

### **5.8 ETHICAL CONSIDERATIONS**

Ethical considerations allude to conforming to a code of conduct during research and bearing the responsibility of honesty and accuracy in mind (Creswell, 2014:200). Research ethics clearance and approval is a vital process to perform to protect the rights of the participants and respondents. According to Streubert and Carpenter (2011:56), distinct and conceivable, unanticipated ethical issues emanate from the unpredictable nature of qualitative research. Polit and Beck (2012:152) advanced three broad principles on which the standards of ethical conduct in research are based, namely beneficence, respect for human dignity and justice. Ethical principles such as non-maleficence, veracity, privacy and confidentiality were also considered in this study. Ethical issues and standards must be critically considered in qualitative research.

#### **5.8.1 Informed consent**

The principles underpinning informed consent were upheld in that an ethical clearance letter was received from the Research Ethics Committees of the Department of Business Management, the Faculty of Business and Economic Sciences and the Nelson Mandela University, as indicated in Appendices 1 and 2. Informed consent was obtained from the participants, by issuing each participant with a consent form at the study site. From beginning to end, the researcher worked ethically with the participants in their study settings. Finally, the ethical considerations and the process pertaining to this research were explained to the

participants, as well as the purpose and objectives of the study. No experiments were performed and no significant additional risks were identified.

### **5.8.2 Involved parties**

The research mainly involved individuals (participants) who were accounting officers, heads of finance departments, auditors, procurement officers and heads of procurement and disposal units.

### **5.8.3 Data storage**

Data storage requirements were established by the researcher in consultation with the promoters and the researcher complied with the existing regulations, recommendations and relevant data protection laws. The interviews were recorded using Otter.ai application and will be destroyed two years after submitting the doctoral thesis. Electronic interview notes and informed consent letters will be stored for at least five years after submission of the final thesis.

### **5.8.4 Confidentiality**

During the research, all data was protected and treated as confidential. All data was secured with passwords or physical containment and where transfer of any data was required, it was accompanied by signed confidentiality agreements.

### **5.8.5 Anonymity**

Anonymity was maintained by masking the identities of participants throughout the research process and where there was a need to do otherwise, explicit consent was sought from the specific participant.

### **5.8.6 Research dissemination**

Data obtained from this research may be reproduced and published in a variety of forms and for a broad audience related to the nature of the research including conferences and journals, however, previously sought confidentiality and anonymity will be maintained. The participants were offered the opportunity to receive the results from this research through individual correspondence.

All aspects discussed in this chapter are summarised in the next section.

## **5.9 SUMMARY**

Chapter 5 presented a detailed discussion of the research design and methodology that was followed in this study. The philosophical underpinnings of this study, including ontological assumptions, epistemological assumptions, axiology, teleology and logic were explained. This created a link to the various research paradigms and the main research paradigms, namely the interpretivist and positivist paradigms were described. It was noted that a positivist paradigm relates to a quantitative research approach and an interpretivist paradigm relates to a qualitative research approach. Reference was made to the differences between interpretivist and positivist paradigms. The study adopted an interpretivist research paradigm and followed a qualitative research approach.

The chapter outlined the population, sample and sampling methods and it was noted that non-probability sampling techniques, particularly convenience and purposive sampling methods were adopted for this study. Due to the qualitative nature of this study, a sample of 31 participants was selected. A discussion of data collection instruments that included questionnaires and interview guides followed, and a semi-structured interview guide was deemed suitable for this qualitative study. Secondary and primary data collection methods were clarified. Secondary data was sourced from traditional data sources such as the internet and books. Primary data was collected by means of semi-structured interviews with 31 participants. Methods employed for quantitative and qualitative data analysis and interpretation were discussed and for this qualitative study, content analysis and thematic analysis were adopted. As the research was qualitative, the major focus was on the trustworthiness of the data and the research findings. The trustworthiness of qualitative research findings can be established by using four qualitative suppositions, namely credibility (analogues to internal validity), dependability (analogues to reliability), conformability (analogues to objectivity) and transferability (analogues to external validity). Ethical considerations that guided the researcher through the two phases of the research process study were also highlighted.



The following chapter will provide a biographical profile of the selected participants that took part in this study and indicates their involvement in contract compliance in state departments.

## CHAPTER SIX

### PROFILE OF PARTICIPANTS

#### 6.1 INTRODUCTION

Chapter 5 provided a detailed discussion of the research design and methodology employed in this study. The different philosophical underpinnings and research paradigms available were presented and the interpretivistic research paradigm was deemed the most appropriate for this study. The population, sample and sampling methods were explored and with the use of convenience and purposive sampling methods, twenty nine participants were selected to participate in this study. Primary and secondary data collection instruments and methods were clarified and a semi structured interview guide was deemed to be the most suitable instrument for the qualitative study. It was indicated that data analysis will be performed by making use of content analysis and thematic analysis. Ethical considerations guiding the research were also highlighted.

Chapter 6 provides a summary of the biographical profiles of the participants which participated in this study of contract compliance in state departments. The participants comprised of accounting officers, heads of Procurement and Disposal Units (PDUs) heads of finance departments, auditors and procurement officers in Procuring and Disposing Entities (PDEs). During data collection, twenty one telephone interviews and two focus group discussions via a Zoom online platform were conducted using the approved interview guide.

The focus group discussion method was employed in this study, because it allows the investigation of complex behaviour, identification of how people think and feel as well as why they have particular opinions (Reisner *et al.*, 2018:1658). This method facilitates the researcher to gain an in-depth knowledge from diverse groups of people to diverse settings about social issues in order to arrive at a common understanding. Participants are able to build on each other's ideas, experiences and comments to provide an in-depth view that may not be fully attainable from individual interviews (Harrison *et al.*, 2015:1640). It informs decision making, a large amount of data is attained and potential solutions to identified problems are proposed

(Mukherjee *et al.*, 2015:1099). Focus group discussions were used to supplement and substantiate data from the telephone interviews.

On the other hand, telephone interviews were used since they improve chances of accessing geographically dispersed participants; enhance participant privacy; and decrease costs. Interviewer administered telephone interviews report more socially desirable responses than self-administered survey instruments (Pariyo, Greenleaf, Gibson, Ali, Selig, Labrique, Al Kibria, Khan, Masanja, Flora, Ahmed & Hyder, 2019:4). Participants in telephone interviews are usually more explicit in explaining their points of view and provide enriched data (Branney, Reid, Frost, Coan, Mathieson & Woolhouse, 2019:488). In this study, telephone interviews were adopted in lieu of personal contact and minimising exposure and transmission of COVID-19 (Linnemayr, Mayo-Wilson, Saya, Wagner, MacCarthy, Walukaga, Nakubulwa & Karamagi (2020:2).

Telephone interviews are different from focus group interviews via Zoom online platform in a number of ways including: number of participants, where telephone has one participant whereas focus groups have more than one participant. For a focus group, participants are able to build on each other's ideas and thoughts; they get time to think more on aspects; and they increase the quality and richness of data, which is not the case as in telephone interviews.

One focus group discussion (FOG1) consisted of three participants; two males and one female and the second focus group discussion (FOG2) consisted of five participants; four males and one female. All opinions raised on the various issues were compiled together and then grouped. In order to protect participants from being seen as whistleblowers or being victimised by their peers or superiors in case they tell the truth about what is happening in the department or entity, pseudo names were given to different focus groups for different entities as follows: FOG1 and FOG2. The biographical profile of the participants who participated in the study is provided next.

## 6.2 BIOGRAPHICAL PROFILE OF PARTICIPANTS

Characteristics of participants have key significance in the expression and provision of responses about the research problem in social science research. In this study, participants included accounting officers, auditors, heads of Procurement and Disposal Units (PDUs), heads of finance departments and procurement officers in PDEs. Participants were purposively and conveniently selected where twenty one telephone interviews and two focus group discussions via the Zoom online platform were conducted. Participants who were selected had vast experience and were all directly involved in the contract compliance process in PDEs. All participants had expertise in the field of contract compliance ranging from financial management, auditing, purchasing, supervision and reporting. From this group of individuals, rich data was collected, from which insightful information was assembled. A set of personal characteristics, namely: gender, working experience, position in the institution and level of education of the twenty nine participants including accounting officers, auditors, heads of Procurement and Disposal Units (PDUs), heads of finance departments and procurement officers are presented in the following tables.

Table 6.1 below provides a biographical profile of auditors for this study.

**Table 6.1: Biographical profile of auditors for this study**

No.	Participant Code	Gender	Working experience	Job profile	Education
1	ADT1	F	7	Auditor	Bachelors degree; professional qualification in accounting
2	ADT2	M	7	Auditor	MSc. Accounting and Finance
3	ADT3	M	15	Auditor	Chartered Accountants of South Africa (CASA) professional qualification; Bachelors degree in Accounting; BCOM
4	ADT4	F	6	Auditor	ACCA; BCOM
5	ADT5	F	1	Auditor	Certified Public Accountant professional qualification; MBA; Bachelors degree.
6	ADT6	M	7	Auditor	ACCA and CPA

No.	Participant Code	Gender	Working experience	Job profile	Education
7	ADT7	M	15	Auditor	MBA; ACCA
8	ADT8	M	7	Auditor	MBA
9	ADT9	M	30	Auditor	PhD
10	ADT10	M	7	Auditor	Doctorate
11	ADT11	M	10	Auditor	Doctorate
12	ADT12	F	3	Auditor	CIPS

Key: ADT – Auditor

Source: Researcher's own construction.

Table 6.1 indicates the biographical profile of the twelve auditors who were interviewed. All of the participants had working experience of over seven years or more, eight were male, while four were female. In this sample, the auditing profession comprised of participants with education levels ranging from a Bachelors degree to a Doctoral degree. These findings indicate that the participants were educated and it could be assumed that they were capable of answering questions on contract compliance in PDEs.

Table 6.2 provides the biographical profile of accounting officers for this study.

**Table 6.2: Biographical profile of accounting officers for this study**

No.	Participant code	Gender	Working experience	Job profile	Education
1	AOF1	F	15	Accounting officer	MBA
2	AOF2	M	7	Accounting officer	MBA
3	AOF3	M	12	Accounting officer	MBA

Key: AOF – Accounting officer

Source: Researcher's own construction.

Table 6.2 indicates of the three accounting officers who were interviewed, two were male and one was female. Participants had working experience of over seven years and had Masters degrees. These findings indicate that the participants were educated and it could be assumed that they were capable of answering questions on contract compliance in PDEs.

Table 6.3 provides biographical profile of heads of finance departments for this study.

**Table 6.3: Biographical profile of heads of finance departments for this study**

No.	Participant code	Gender	Working experience	Job profile	Education
1	HFD1	M	9	Head, Finance Department	Chartered Institute of Procurement and Supply (CIPS); Bachelors degree
2	HFD2	F	8	Head, Finance Department	MBA
3	HFD3	F	12	Head, Finance Department	Professional qualification in accounting; Master's degree in accounting and Finance
4	HFD4	M	18	Head, Finance Department	MBA
5	HFD5	M	16	Head, Finance Department	MBA

Key: HFD – Head, Finance Department

Source: Researcher's own construction.

Table 6.3 indicates that five heads of finance departments were interviewed of which three were males and two were females. Education levels for most of the participants was a Masters degree and working experience of over eight years. These findings indicate that the participants were educated and experienced; and it could be assumed that they were capable of answering questions on contract compliance in PDEs.

Table 6.4 provides biographical profile of heads of procurement and disposal units for this study.

**Table 6.4: Biographical profile of heads of procurement and disposal units (PDUs) for this study**

No.	Participant code	Gender	Working experience	Job profile	Education
1	HPT1	M	10	Head, PDU	MBA
2	HPT2	M	4	Head, PDU	MBA
3	HPT3	M	3	Head, PDU	MBA

HPT – Head, Procurement and Disposal Unit (PDU)

Source: Researcher's own construction.

Table 6.4 shows that three heads of PDUs were interviewed and all were males. This shows that the procurement profession may be dominated by males. All three participants had working experience of three years and more. All of the participants indicated a Masters in Business Administration as their highest qualification. These findings indicate that the participants were educated and it could be assumed that they were capable of answering questions on contract compliance in PDEs.

Table 6.5 provides biographical profile of procurement officers for this study.

**Table 6.5: Biographical profile of procurement officers for this study**

No.	Participant code	Gender	Working experience	Job profile	Education
1	POF1	M	7	Procurement officer	Chartered Institute of Procurement and Supply (CIPS)
2	POF2	F	8	Procurement officer	CIPS; Bachelors degree in Procurement; Post graduate Diploma in Procurement
3	POF3	M	4	Procurement officer	Bachelors degree
4	POF4	F	3	Procurement officer	Bachelors degree
5	POF5	M	15	Procurement officer	Bachelors degree in Business Administration
6	POF6	F	8	Procurement officer	Masters degree

Key: POF – Procurement officer

Source: Researcher's own construction.

Table 6.5 shows that of the six procurement officers who were interviewed, three were male and three were female. The education level of the participants was a Bachelors degree and majority had over seven years working experience. These findings indicate that the participants were educated and experienced and it could be assumed that they were capable of answering questions on contract compliance in PDEs.

### 6.3 SUMMARY OF PROFILE OF PARTICIPANTS

The profiles of all the interview participants are summarised in Table 6.6.

**Table 6.6: Summary of profile of the participants**

BIOGRAPHICAL DATA	DESCRIPTION	FREQUENCY
<b>Gender</b>	Male	19
	Female	10
<b>Working experience</b>	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
<b>Position in the institution</b>	Procurement Officer	6
	Head, PDU	3
	Head, Finance Department	5
	Auditor	12
	Accounting officer	3
<b>Level of Education</b>	Bachelors degree	10
	Postgraduate Diploma	1
	Masters degree	15
	PhD	3

Source: Researcher's own construction.



### **6.3.1 Gender**

According to Valcore and Pfeffer (2018:333), gender is one of the most commonly explored concepts in research. It is a fact of life that comes into play in daily exchanges, dictates public spaces and guides laws, policies and institutions. Worthen (2016:69) states that determination of gender directs how an individual is treated, viewed and described by others basing on prior determined stereotypes and expectations of human identity, understanding and conduct. Table 6.6 indicates that only ten (34%) out of the twenty nine participant participants were female and the remaining nineteen (66%) were males. This is in line with other procurement studies that were conducted in Uganda (Ntayi, Ngoboka & Kakooza, 2013:423; Basheka & Auriacombe, 2020:225) which indicate that males are the dominant gender in the procurement profession.

### **6.3.2 Working experience**

The majority of the participants had working experience of six years and above within the current institution, which indicates their proficiency within the field of public procurement. It can therefore be concluded that most participants are experienced in the field of public procurement

### **6.3.3 Position in the institution**

The position of an individual in an institution has considerable bearing on an individual's personality and decision making choices. It affects the pattern of behaviors such as understanding of a particular phenomenon. Regarding the position in the PDE, six (21%) participants were procurement officers, three (10%) were PDU managers, five (17%) were finance managers, twelve (42%) were auditors and three (10%) were accounting officers. The majority of those interviewed were auditors as these were the individuals who participated in compliance checks and were deemed the most suitable to provide salient information about compliance.

### **6.3.4 Level of education**

According to Prokhoda and Kurbanov (2019:24), education is one of the most vital characteristics that may influence or shape an individual's social and behavioral attitudes towards particular phenomena. It is regarded as a passport to build

capabilities, optimise available opportunities, make better choices, resolve challenges and advance personal endowments. Participant responses are likely to be influenced by the level of education and it is therefore imperative to know the educational background of the individuals who participated in the study. The question 'What is your highest qualification?' was investigated by the researcher. Ten (35%) participants had Bachelor's degrees, only one (3%) had a postgraduate diploma, three (10%) had doctoral degrees and fifteen (52%) had Masters degrees. It is thus clear that all the participants were academically qualified since they have masters and doctoral degrees and were knowledgeable about the subject matter.

#### **6.4 SUMMARY**

Chapter 6 presented a profile of the twenty nine selected telephone interview and Zoom focus group discussion participants. The biographical profile of the participants, all of whom are currently employed by the PDEs in state departments was provided. It indicated the gender of each participant, working experience in the current institution, the positions they hold and the level of education. The participants had extensive knowledge of contract compliance practices specifically in state departments in Uganda as most of them had six years working experience and above in public procurement.

Chapter 7 will present the interpretation of the findings of the interviews that were conducted in this study.

## **CHAPTER SEVEN**

### **ANALYSIS AND INTERPRETATION OF QUALITATIVE RESULTS**

#### **7.1 INTRODUCTION**

Chapter 6 presented the biographical profiles of the selected participants including auditors, accounting officers, heads of finance departments, heads of PDUs and procurement officers that participated in this study of contract compliance in state departments. Twenty one telephone interviews and two focus group discussions via a Zoom online platform were conducted using the approved interview guide.

In this chapter, emerging themes and sub-themes are identified. These themes were developed in line with phase one – individual telephone interviews about reasons for contract compliance among PDEs; the contract compliance processes; challenges associated with contract compliance; and the factors to be considered for the creation of an enabling environment for contract compliance. In phase two – focus group discussions via Zoom online platform, themes and sub-themes were identified on reasons for contract compliance among PDEs; the contract compliance processes; and challenges associated with contract compliance.

During the second phase, two (2) focus group discussions were conducted with three (3) participants in the first focus group (FOG1) and five (5) participants in the second group (FOG2). These participants were considered to be specialists in contract compliance and were instrumental in the implementation of contract compliance in PDEs in Uganda. The purpose of including the contract compliance specialists was to gain additional information on contract compliance and to ascertain whether there would be differences in providing the information on contract compliance. The interviews with the contract compliance specialists served as confirmation of the information provided by the telephone interview participants.

## **7.2 REASONS FOR CONTRACT COMPLIANCE**

Participants from phase one – individual telephone interviews and phase two – focus group discussions via a Zoom online platform, indicated various reasons for contract compliance. Individual telephone interviews were conducted with twenty one participants who were considered to be actively involved in the contract compliance process and employed in PDEs in Uganda. Interviews were performed to develop a deeper understanding of contract compliance. During the second phase, two focus group discussions were conducted with three participants in the first focus group (FOG1) and five participants in the second group (FOG2). These were considered to be specialists in contract compliance and who were instrumental in the implementation of contract compliance in PDEs in Uganda.

Figure 7.1 presents reasons for contract compliance as identified by participants in phase one and two of this study.



Source: Researcher's own construction.

**Figure 7.1: Reasons for contract compliance as identified in phases one and two of this study**

The following sections will expound on the reasons for contract compliance as identified by the participants in phases one and two of this study.

### **7.2.1 Adherence to procurement procedures and requirements**

Participants noted that it is vital to follow the contract procedures and abide by the contract requirements as it prohibits individuals from engaging in fraud and creates equal opportunities for all bidders. One accounting officer in the focus group discussion mentioned that it is important to ensure that the provider and the user department are complying with the clauses of the contract and government standards. This was emphasised by an auditor who alluded that adhering to the

professional ethics standards was a reason to realise contract compliance. This is in line with Chikwere, Godwin Uzoma, Simon, Dzandu, and Dza (2019:1) who confirm that procurement practitioners are known to frequently bypass and abuse the set standards and procedures of public procurement contracting.

As noted by participants in the telephone interviews:

HFD3: *“It is important for you the end user to get the desired product or service and to mitigate court proceedings because if the right process isn’t followed, then there would be issues which can lead to court proceedings.”*

ADT1: *“So when they place these contracts, compliance means that you are following what is in the contract and this has to be in line with the requirements of the public procurement guidelines, laws and procedures.”*

HPT2: *“...whoever is implementing a contract or managing a contract should strictly follow those laid down procedures in the contract.”*

ADT4: *“You say, ‘yes this company can do ABCD’ they have tried to follow the procurement procedures as per the Act, because I think there are legal issues, then if you do not follow, I think these days they are really trying to enforce compliance to the contracts”*

As noted by an accounting officer and an auditor in the focus group discussions:

AOF3: *“Contract compliance seeks to ensure that the contract holder and the user department are complying with the clauses of the contract and government standards.”*

ADT11: *“Most of the terms and deliverables are on our ethical guidelines or what we call code of ethics.”*

### **7.2.2 Compulsory regulatory measure**

Contract compliance is a regulation or a directive made, that has to be followed and that is why it is important. It directs on the process to be followed, the documentation including the forms to be used and the responsible officers. Mwangi and Kariuki

(2013:67) affirm that it is a requirement in the public procurement system that individuals involved must comply or face sanctions, penalties or disciplinary action for breach of the regulations.

One procurement officer, POF2 in the telephone interview noted that,

*“... the regulation stipulates for example that by doing contract compliance, you are trying to be fair, you are trying to put in place competition among the suppliers, you are trying to make sure that your work is done according to the regulations, so it basically eases your work because you know what you are following”.*

One head of a procurement unit, HPT3 in the telephone interview noted that:

*“...procurement is guided by the law; that regulation, the Procurement Act and regulation and it spells out what you are supposed to do, when and how. So by saying compliance, actually you are doing what you are meant to do within the law”.*

One auditor, ADT1 in the telephone interview noted that:

*“If procurement regulations as said are not followed, that means we are going to have a lot of issues coming up just because of not following procurement requirements and the contract agreement terms.”*

One head of finance department HFD3 in the telephone interview noted that:

*“They must be in agreement and they must be in line with the rules and regulations, all the procurement rules.”*

### **7.2.3 Efficiency and effectiveness of the procurement process**

Contract compliance is one element which can enforce efficiency and effectiveness; that is ensuring value for money and that the intended objectives are met. It is about following specifications as per the requests of the users. Participants specified that to ensure efficiency and effectiveness, purchasing is done at the lowest possible cost to

avoid wastage in terms of expenditure. Cost effectiveness and reducing the time spent in awarding and executing of contracts, would enhance productivity in terms of delivery of services and supplies. Guccio, Pignataro and Rizzo (2014:44) affirm that efficiency and effectiveness in placement and execution of contracts is a vital factor to complete the contract within the costs and time agreed on the contract.

Participant POF1 in the telephone interview had this to say:

*“....it's important to have this contract because there are milestones of responsibilities or deliverables which each party must give”.*

One head of finance department HFD4 in the telephone interview noted that:

*“It is the only element which can enforce efficiency and effectiveness; that is ensuring value for money and ensuring that you hit the target.”*

One auditor ADT7 in the telephone interview noted that:

*“...it is talking about cost effectiveness. Then when I go to operational efficiency, you are looking at things like turnaround time that are involved in processes; you are looking at things like customer service, like that.”*

#### **7.2.4 Improved utilisation and allocation of government resources**

Participants noted that contract compliance is valuable as it assists individuals to use the available resources in an improved way. Government has several commitments to deliver upon to the public, including security, education and health, but the financial resources available are limited and cannot satisfy all commitments. Denis and Kilonzo (2014:170) assert that public entities are constantly under pressure to properly apply the limited resources to achieve core objectives.

Participant AOF1 in the telephone interview had this to say:

*“I'd like to mention that if there is no compliance, then resources will be put to waste because maybe one party ends up spending resources, and the other party is not performing and therefore there is a problem”.*



Participant ADT3 in the telephone interview noted that:

*“...so contract compliance is very important so that whatever has been agreed with the supplier is implemented. Otherwise if it is not implemented, the government will not achieve its objectives and resources will be wasted if the contract is not complied with.”*

Participant ADT4 in the telephone interview noted that:

*“It involves so many resources, involves a lot of time and money and the staff and also what government is supposed to be doing is giving service delivery to the people and if the contracts are not complied to, this means that you don’t achieve service delivery.”*

#### **7.2.5 Sign of commitment**

The participants noted that contract compliance is important, because it is a pledge to perform a duty or obligation as laid down within the terms of the contract agreement. Commitment involves successfully carrying out an activity, delivering items or offering a service as per the contract for example provision of consultancy services, architectural drawings, stationery and equipment. Nugraheni, Arifanda and Astaftiyan (2020:232) highlight that a public procurement contract is a written agreement between users or representatives with an official commitment to provide goods or services.

As noted by accounting officer, AOF2 in the telephone interview:

*“A commitment to fulfil obligations that you’ve signed up for. So, contract compliance would mean that you abide by a contract, its provisions right from signing the contract up to the completion and possibly, post contract”.*

As noted by an auditor ADT4 in the telephone interview:

*“....I think if we really have the right people and with the right commitment because I think these days it is not commitment, it is really money first, not commitment.”*

### **7.2.6 Delivers economic benefits**

Participants indicated that if contracts are managed poorly, there will be loss of money, existence of shoddy works in the country and several local governments will be funded, but will deliver poor items and services. Asare and Prempeh (2016:22) state that public contracts should pursue the lowest cost, define relevant benefits and deliver on time while at the same time prevent waste, foster competition, transparency and accountability during the tendering process.

Participants ADT2, POF3, HFD3 and HFD4 in the telephone interview noted that value for money is vital since it provides for timely delivery, avoids contract deviations and beneficiaries achieves product needs of contract.

### **7.2.7 Timely and improved service delivery**

Participants noted that time is an important issue if services are to be delivered appropriately. When providers supply items within the stipulated time frame specified in the contract, the intended objectives of the contract will have been achieved. Government should allocate adequate financial resources to public entities to ensure timely payment of contractors who in turn improve timely service delivery. Zitha, Sebola and Mamabolo (2016:62) contended adherence to public procurement contracting procedures will see government procuring timely goods and services which optimises the quality of public service delivery.

As noted by three auditors in the telephone interviews:

ADT3: *"...the major objective of government is about service delivery so contract compliance is very important so that whatever has been agreed with the supplier is implemented. Otherwise if it is not implemented, the government will not achieve its objectives and resources will be wasted if the contract is not complied with".*

ADT8: *"...intended objective of the organisation will not be achieved once either party does not comply with the contract terms".*

ADT4: *“...what government is supposed to be doing is giving service delivery to the people and if the contracts are not complied to, this means that you don’t achieve service delivery”.*

#### **7.2.8 Enables government to realise its mandate**

Government through its state departments is mandated to deliver services to the public and these services such as infrastructure development, health and education are delivered through the public procurement process. Stritch, Bretschneider, Darnall, Hsueh and Chen (2020:1) affirm that procurement contract compliance aims at enabling the state to fulfill its public commitments and objective of timely provision of public goods and services.

A head of a procurement unit, HPT2 and auditors, ADT8 and ADT3 in the telephone interview, highlighted that contract compliance is important to achieve the intended objectives since what is agreed with the supplier is what is implemented.

#### **7.2.9 Satisfy end-user needs**

Participants emphasised that procurement outcomes are meant to fulfill the end-user or customer or beneficiary needs. Once end-users draft requirements for items or services that they need to be procured, the PDU bases on the requirements to source for providers. When the contracted providers meet the e-user needs as indicated in the requirements, the end-user needs will be satisfied. This is in line with Torvinen and Ulkuniemi (2016:8) who stated that adherence to contracts leads to satisfaction of user needs, thus reduces financial losses for both the procurer and the supplier. Bitzidis, Dimitriadis, Karavasilis, Kehris and Vrana (2020:62) added that customer-centered procurement contracting dictates that suppliers should provide goods and services that have been tailored to suit the actual service and resource needs of the users. So, contract compliance creates customer satisfaction arising from getting exactly what was required.

Two procurement officers in the telephone interviews had this to say:

POF4: *“...at the end of the day, our main aim is to satisfy our end users and if you do not comply with what you agreed on as the two parties, the end user may not be satisfied.”*

POF3: *“...then to satisfy user needs...”*

Two procurement officers in the focus group discussions added that:

POF6: *“...contract compliance creates customer satisfaction because when you get exactly what you requested for, you have achieved the performance, so you will be satisfied.”*

POF5: *“Even the accounting officer can walk in to see, if he feels this contract is not done to his satisfaction because he has powers legally to say this contract was not done in accordance with the interests and the objectives of the institution.”*

#### **7.2.10 Fulfilling entity objectives**

Three of the participants in the focus group discussions mentioned that contract compliance aims at fulfilling entity objectives of providing the products needed and used by the entity. Objectives of entities range from infrastructural development including roads and buildings, to education, health and investment. With contract compliance, items and services are satisfactorily delivered to entities, to fulfill their mandate. This is in line with Lundberg and Marklund (2018:44) who contend that contract compliance is a multiple objective instrument that aims at fulfilling a need.

As noted by participants in the telephone interviews:

POF5: *“I think one of the reasons why we set up contracts is to meet what we feel we didn’t have at the time.”*

HFD5: *“...it ensures that each party tries to fulfill its obligations.”*

ADT9: *“Contract compliance is important to achieve the objectives of the contract.”*

### **7.2.11      Avoid disputes among contracting parties**

An auditor and accounting officer in the focus group discussions agreed that contract compliance is vital for avoiding any conflicts that may arise out of a contract. Conflicts between parties to the contract usually arise out of miscommunication concerning deliverables and contract terms of reference. Castellano (2017:37) contends that one of the essential issues in public procurement is the disagreements that arise that deter parties from fulfilling their objectives.

As noted by participants in the telephone interviews:

ADT10: *“Contract compliance is important to avoid disputes amongst contracting parties.”*

AOF3: *“...and where there are disagreements, then matters have to be documented and maybe sent back to the procurement unit for review.”*

## **7.3      CONTRACT COMPLIANCE PROCESS**

The contract compliance process involves a series of repetitive activities that are implemented alongside each other to produce a result. Participants from phase one – individual telephone interviews and phase two – focus group discussion via Zoom online platform identified the contract compliance process to include: understanding the law; procurement planning; requisitioning; establishing funds availability for the items procured; sourcing for providers; award of contract; appointment of contract managers; monitoring deliveries; and payment.

The contract compliance process as identified by participants is indicated in Figure 7.2.



Source: Researcher's own construction.

**Figure 7.2: Contract compliance process**

### **7.3.1 Understanding the law**

Contract compliance begins with understanding the relevant laws such as the PPDA Act, Environmental Act, Education Act and Audit Act and scanning the environment of the society where that contract is going to be executed. The existing laws determine the process, method to be used and documentation that PDEs use including standard bidding documents, form 5, reports and contracts. The supreme law for public procurement in Uganda is the PPDA Act which covers matters including contracting, taxation, responsibilities involved, instituting committees and dispute resolution.

As noted by four auditors and a procurement officer in the telephone interviews:

ADT1: *"...the process has been streamlined, the laws are there, clearly stating what is supposed to be done. So, that is the beginning of everything. Having the laws in place, that streamline how the process is supposed to be."*

ADT2: *“So contract compliance begins with understanding the law, interpret the law, read the mind of society where that contract is going to be executed.”*

POF1: *“...while you're procuring, you're also thinking about the environment and that the social aspects of the environment.”*

ADT3: *“...putting in place processes to make sure that those processes are followed and of course in most cases, there should be consequences once non-compliance is identified.”*

ADT6: *“...that ideal is prescribed by the PPDA law...”*

### **7.3.2 Procurement planning**

User departments indicate their needs through planning, coming up with specifications and budgeting from which they make requisitions. Planning involves defining goals of the procurement and identifying resources that are required to successfully achieve the goals. User departments ordinarily do the planning and it results into a procurement plan, which is sent to the PDU, after approval of the accounting officer.

As noted by the telephone interview participants:

HPT1: *“The ideal contract compliance process would be one where the service contract for example would have terms of reference...”*

HFD1: *“...first of all, you'll need to know the specifications, what you need to do.”*

POF1: *“...from the point of planning on why needs are required, it is important that people get it right the first time. When you're talking about planning, you're talking about budgeting, but for whatever you plan for in the start, you have budgeted for it to make sure that you have the funds available.”*

POF2: *“...for planning, for example when you are beginning a year then you plan that this year, this is what we are going to do. So that if you are planning that this is what you are doing to do, then you start budgeting for your resources, for the funds that you are going to use. So you plan for the funds on the*

*basis by identifying for example if this is what you are going to do, then you start sourcing for the possible people who do what you want to do..."*

ADT6: *"...begins with the budgeting, then the money being passed by parliament..."*

HPT3: *"...it starts from need identification. After that need, then you seek the authorisation from maybe the accounting officer..."*

### **7.3.3 Requisitioning**

Requisitioning is done by the user departments against the approved procurement plans. It depends on the regime followed, whether it is World Bank, Government of Uganda, or the United Nations, the requisitioning process differs. For the government of Uganda, the user makes the requisition, stipulating the specifications using a form 5. Specifications are drafted after consulting the technical officers for example the engineers, the doctors or the human resource experts. Requisitions are approved by the accounting officer and then they are forwarded to the PDU.

As highlighted by the telephone interview participants:

HPT2: *"...it depends on what you are buying and what regime you are following. World Bank has their own regime, UN has their own regime, government of Uganda has their own regime, private sector, so the process differs from the institution or organisation."*

HFD2: *"...in the institution I work for, first of all, the user makes the requisition, stipulating the specifications. There is a form 5, where that is filled."*

POF1: *"...we're talking about assessment of the need in terms of either specification or terms of reference, all that measures up to the right contract compliance because you don't want to have a poor judgment of specifications or terms of reference which will affect your end result in the end..."*

POF2: *"...when it involves identifying the need, then that would be the users who are going to do those activities."*



HFD4: *“The key players are the user department, if it is engineering, they should draw well the bills.”*

As emphasised by procurement officers in the focus group discussions:

POF5: *“...an ideal contract compliance process starts from the initiation when the user or the client for that matter involves technical people who can come up with the requirements that are clear in nature ...”*

POF6: *“...the specifications, terms of reference, scope of works that you are going to put in the contract are developed right from the beginning, by the user...”*

#### **7.3.4 Establishing funds availability for the items procured**

Normally the form 5 is brought to the accounting officer and the finance department for commitment of funds and signing to ensure that whatever is being requisitioned for was budgeted for and has funds readily available to acquire the items or services. Thereafter, documents approved by the accounting officer are sent to the PDU to organise the relevant additional paperwork such as advert, invitation to bid and contract using the terms of reference to source for providers therein.

As noted by the telephone interview participants:

HFD2: *“Normally that form 5 is brought to the Accounts Department for commitment of funds to ensure that whatever you really want. Does it really have the money? Was it budgeted for?”*

HFD2: *“Then if that form 5 is fully signed, it goes to procurement that is the PDU unit which designs the necessary paperwork.”*

POF2: *“...when you go to sourcing, then it would come to the PDU to source for the bids and placing of the contracts.”*

HPT3: *“...you are supposed to use the recommended document which is now the standard bidding documents. You must follow the bidding process – the recommended days of bidding. Then evaluation must be there, the evaluation committee must be in place, which is independent. After*

*evaluation, you have to produce a report, the evaluation committee is supposed to approve that evaluation and award because the evaluation committee just recommends the award, then it's the contracts committee to approve the award."*

### **7.3.5 Sourcing of providers**

Suitable providers are sourced by PDU through floating the tender and inviting bids. Bids are evaluated by the evaluation committee and then approved by the contracts committee. It is from evaluation that the best evaluated bidder is identified. In some cases, samples are required for approval before the best bidder is awarded a contract. The contracts committee then recommends award of contract to the accounting officer. Terms of reference or requirements for contracting should be clearly spelt out and samples approved. It is vital that this phase is open, fair and competitive to attract potential bidders and realise favourable prices and high quality service delivery.

As highlighted by the telephone interview participants:

HPT1: *"We have requirements for contracts and samples are approved to mitigate poor quality deliveries and services."*

HFD1: *"Then you source for a supplier, then you have a contract with him and then he has to fulfill his contract..."*

HPT2: *"In the Ugandan context, the ideal process is that it should involve advertising, publication of tenders, receiving of bids, the process. Evaluation of bids, awarding of contract, legal assessment of the contract, that is very critical."*

POF1: *"Then you're looking at your tendering and sourcing process. You want to make sure that you have a certain, a high level of fairness, a high level of openness to whether to source the right suppliers or bidders to bring into the process who will deliver the service that you require and in a competitive nature in order to provide equity for all players in the market."*

ADT6: *“...sourcing for the person who is going to do the work or who you are going to contract with...doing the evaluations to get value for money and to ensure that it is competitive...”*

As emphasised by a procurement officer in the focus group discussion:

POF5: *“...the PDU for that matter ensures that it uses the best document notwithstanding the best processes and practices. Then the requirement is put into that document and the approvals are done ..., the contracting is basically a matter of putting the documents you developed together, to have a complete contract document.”*

### **7.3.6 Awarding of contract**

The accounting officer notifies the bidders of the successful bid in a best evaluated bidder notice and this is also pinned on the entity noticeboards and published on the entity website. Contract award comes after the evaluation committee and contracts committee have recommended the best evaluated bidder to the accounting officer for award. Contracts exceeding two hundred million Uganda shillings by law require the approval of the Solicitor General before they can be awarded.

As highlighted by the telephone interview participants:

HPT2: *“...awarding of contract, legal assessment of the contract, that is very critical because all government contracts go through the solicitor general to assess their suitability, and then the signing. We have the contract in place.”*

HFD2: *“Of course in the contract, things like, the following are surely looked at. Time of delivery, the reasonable remedies in case of failure to deliver, the checks and balances.”*

HFD3: *“The ideal process is, must be where the user, the person who is going to use the service or the product, where the user, the person who is procuring are in agreement, and the person who is delivering a good or service, where they are all in agreement...”*

AOF1: *“Parties must have the opportunity to review the terms and conditions before the contract is finally signed on.”*

AOF2: *“...it should be agreeing to the specifications that we have requested, to be provided for...”*

ADT4: *“Then from the contract negotiations, you go to signing off, and then you go to implementation.”*

ADT5: *“First of all, you have to understand the terms and conditions of the contract...”*

HPT3: *“Then from there you give the contract to the supplier...”*

As emphasised by a procurement officer and two auditors in the focus group discussions:

POF5: *“...in that very contract, there should be a component which looks at contract management and if you so wish, you may look at post contract, where you look at the defects...”*

ADT9: *“...the first thing is to ensure that each party has fully understood their side of their contract and what is expected of them.”*

ADT10: *“...then the contract is eventually signed off...”*

### **7.3.7 Appointment of contract managers**

After contract placement, the accounting officer appoints a contract manager. A contract manager is appointed to monitor the implementation of the contract with duties such as performing site visits, receiving deliveries, recommending any adjustments to the contract, making reports and following up on supplier payments.

As highlighted by the telephone interview participants:

HPT1: *“There are many agents who are involved in the contract such as the contract manager ...”*

- HFD2: *“...there is also contract management where me the contract manager of my department I have to get involved to ensure that everything is monitored and is in place. In contract management we not only look at the contract manager, but also the technical staff that are needed for a certain contract...”*
- AOF1: *“The moment the contract is signed off, it would be important for parties to have representatives on both teams who meet regularly or periodically to review how the contract is being implemented. And also in the process, they will be able to identify shortfalls or challenges or areas that need to be addressed so that in case this relationship expires and there is wish to extend it, they actually know what has happened.”*
- POF2: *“Then finally maybe we shall have contracts management and that would be the user who will be managing the contract to ensure that it is done the way they want it; the activity is finished the way they want it...”*
- ADT3: *“From my point of view the ideal would be to have a compliance officer in an organisation or contract manager depending on what the organisation is. When that person is put in place, he should be well qualified to interpret the contract, so he should be able to read the contract, interpret it and put like a checklist in place to say that at this point in time, let me say ‘we are supposed to have finished ABCD’ and then we have something to benchmark with.”*
- ADT4: *“...if it is a government body, they’ll usually be someone who is in charge of supervising that contract, usually it is periodic supervision like say monthly, what stage have you reached, why haven’t you reached that stage, then if there is any amendment in the deliverables which are time based, that one is amended.”*
- ADT6: *“Considerations for who is going to be the contract manager, who is going to supervise the work up to completion...”*
- ADT7: *“...we have people like contract managers...”*

As emphasised by an auditor in the focus group discussion:

ADT10: *“...each party has a contract manager, who has a checklist of rights and obligations from each side...”*

### **7.3.8 Monitoring deliveries**

A contract manager is appointed to ensure the specifications of the contract are adhered to. Issues such as time of delivery, the reasonable remedies in case of failure to deliver, and checks and balances are considered at this point. For physical items, the store keeper has to receive the items and audit is involved to verify deliveries made so that payment can be effected. Other people who are involved in the process of monitoring include technical staff and internal auditors. Each entity should ensure that there is regular assessment of all deliverables of the procurement activities in accordance with the laws, policies, guidelines and regulations for overall effectiveness of procurement.

As noted by the telephone interview participants:

HPT1: *“The contract is completed...after audit has verified the deliveries ...The store keeper has to receive the right quantity, audit has to sign off, finance has to process payment and the accounting officer has to approve. PDU has to handle the entire process from requisition all the way to contract placement.”*

ADT2: *“...at the time of contract award, there were specifications. Those specifications must be adhered to. The specifications must be adhered to.”*

AOF2: *“...the person contracting, monitoring to ensure that the contractor provides what they have agreed to provide.”*

ADT4: *“...after it is implemented, there is signing off that it has been implemented up to the terms.”*

HFD4: *“The contractor himself is in between because after contract award, he has to perform, by the letter in the contract. There is also oversight; those who are outside that system, but play an oversight role like the auditors for that*

*independent opinion. They express their opinion on the project. For the case of the government, we are currently bringing in the element of the community because they are the end-users.”*

ADT5: *“...then you perform as per what the contract says. You follow the terms and conditions embedded within that agreement.”*

ADT5: *“...if the contract requires you to do for example periodic reporting, you have to do it at the intervals stated within the contract.”*

POF4: *“I think when all terms of the contract have been fulfilled, when both parties are happy or satisfied. I think that’s when I would regard it to be complete and ideal.”*

ADT7: *“...monitoring timelines and you are having reporting structures. For example the basic one is the way you look at whether a service provider is performing. You don’t wait for a contract to end or go mid-way but you can structure within intervals that are on a quarterly basis and then you are able to extract any matters that are not going well.”*

ADT7: *“When all parties have performed their obligations.”*

HPT3: *“...the supplier then delivers or supplies, it is received by the end-user. After conforming to the original needs assessment or requirements, then they say, ‘Now you are complying’.”*

As emphasised by a focus group discussant:

ADT9: *“...you should keep to your obligations as clearly spelt out in the contract.”*

### **7.3.9 Payment**

After deliveries have been made and approved, this signals the adherence to the contract terms on the side of the provider. The final stage is payment, which is approved by the accounting officer and processed by the finance department. Ordinarily a service provider is paid within 30 days from the date the invoice is received.

As noted by the telephone interview participants:

HPT1: *“The contract is completed...after audit has verified the deliveries and the supplier has been paid.*

HFD1: *“...then also the final stage is payment.”*

HFD2: *“...for any contract to be successful, the provider has to be paid. That's where for us the Accounts Department come in. Where we have to pay the provider in time and normally a service provider is paid within 30 days from the date the invoice is received.”*

POF1: *“...and then closing out a contract with a performance report and payment at the end of the day which brings the entire procurement process to a close.”*

ADT4: *“...then there is the payments, because usually there is failure on the side of government to meet the terms of the agreement.”*

HFD4: *“Then finance comes in in payments: ‘Are we paying for the value we have received?’ ‘Are they supplying air (nothing)?’”*

#### **7.4 CHALLENGES ASSOCIATED WITH CONTRACT COMPLIANCE**

Scholars have indicated some challenges associated with contract compliance such as political interference, inadequate remuneration of procurement professionals, lack of knowledge and professionalism and poor record keeping (Manu, Mahamadu, Booth, Olomolaiye, Ibrahim & Coker, 2018:26). Kawooya, Muwanika, Lubanga and Mijumbi-Deve, (2020:3) add that corruption and fraud are rampant in Ugandan public procurement. Delayed funding, poor capacity of suppliers and lack of capacity to monitor contracts are additional challenges cited by Shija (2019:12). In this study, participants from phase one – individual telephone interviews and phase two – focus group discussion via Zoom online platform specified a number of challenges which are discussed in the sections to follow.

Table 7.1 below summarises the challenges associated with contract compliance which were categorised into: supplier related challenges; institutional challenges and external challenges.



**Table 7.1: Summative table of challenges associated with contract compliance**

Category	Challenges associated with contract compliance
Supplier challenges	<ul style="list-style-type: none"><li>• Lack of capacity of local suppliers to participate in tenders</li><li>• Delay in commencement of projects</li><li>• Forgery of documents</li><li>• Overstated pricing</li><li>• Poor quality delivery</li><li>• Late delivery</li><li>• Poor implementation</li><li>• Poor interpretation of the contract terms</li></ul>
Institutional challenges	<ul style="list-style-type: none"><li>• Changing technology</li><li>• Lack of end-user involvement in the contracting process</li><li>• Late payments</li><li>• Administrative issues</li><li>• Corruption</li><li>• Insufficient budgeting</li><li>• Poor specification of procurement requirements</li><li>• Abuse of the payment process</li></ul>
External challenges	<ul style="list-style-type: none"><li>• Political interference</li><li>• Changes in prices</li><li>• COVID-19 pandemic</li><li>• Influence-peddling</li><li>• Difference between reality and the law</li></ul>
Individual challenges	<ul style="list-style-type: none"><li>• Lack of professionalism and technical knowledge</li><li>• Laziness</li><li>• Dishonesty</li></ul>

Source: Researcher's own compilation.

These challenges are expounded on below.

#### **7.4.1 Supplier challenges**

Suppliers play a vital role in ensuring that the entity receives the right items or services, at the right price, time and quality. However, certain problems hinder the suppliers from satisfying the needs of the entity. Challenges including: lack of capacity of local suppliers to participate in tenders; delay in commencement of projects; forgery of document; overstated pricing; poor quality delivery; late delivery; poor implementation; and poor interpretation of contract terms are presented below.

- **Lack of capacity of local suppliers to participate in tenders**

From the interviews, it emerged that lack of capacity of suppliers is a problem which worsened the procurement process. Local suppliers, traders, consultants, architects, contractors and engineers have not built adequate capacity to participate in bidding locally and internationally, especially for large tenders. It was noted that some suppliers cannot fulfill the contract due to inability to fulfill the specifications. In terms of funding, local suppliers find it problematic to obtain credit facilities, bid bonds and securities from banks and microfinance institutions. Other capacity problems that suppliers face include lack of technical staff, high interest rates and lack of specialised equipment to fulfill the contract. Local suppliers thus lose big contracts for infrastructure, supply and maintenance of big technical equipment to foreigners who also face language barrier and failure to train locals.

As noted by participants in the telephone interviews:

HPT1: *"...depending on the items you are buying, the capacity of our suppliers might not be all that."*

HFD4: *"Sometimes companies come with all the documents you want, but when their capacity is not really commensurate with the value of the project."*

AOF1: *"...you hire people to do work, they sometimes don't understand some of the important issues, so they may not therefore implement accordingly."*

ADT4: *"...most of the contracts are awarded to foreigners. You've seen language barrier, the cultural and to me I think usually there is nothing like if you are contracted to do some work and you are a foreigner, you should be able at the end of the contract to at least train a Ugandan. I think that one is also a challenge. And some of the challenges, I think because the people who have done it are not Ugandans..."*

- **Delay in commencement of projects**

It transpired that delays in commencement of projects is a big challenge. Such delays prompt contractors to breach contracts or even terminate. Some delays are

as a result of delay in the release of funds and also delay on the side of suppliers to provide the necessary items or services needed.

As noted by participants in the telephone interviews:

ADT1: *“...sometimes you have seen where they have actually maybe completely stopped them because they have delayed more than you expected.”*

POF3: *“There are some contracts whereby they give the contractors an advance payment then these contractors take long to start.”*

ADT8: *“...contract may delay and the government has allocated funds.”*

- **Forgery of documents**

A participant observed that a number of required documents are forged by suppliers as they are bidding. Most commonly forged documents include invoices, receipts and financial statements. Many bidders have the required documents, but in reality they are not genuine. Providers confirmed at a later stage after being awarded a contract that some of the documents used are false which has led to contract termination and blacklisting in some cases.

As noted by a head of a procurement unit in the telephone interview:

HPT3: *“...like they find they are forging documents...”*

- **Overstated pricing**

Participants including heads of finance and procurement departments mentioned that exaggerated prices, by the bidders is a problem in the contracting process. The prices are above the market price which is costly compared to the budget and therefore leads to delays in payment. High prices cause loss to the state departments and compromises the value for money principle.

As noted by participants in the telephone interviews:

HPT3: *“...we can talk about changes like inflated rates ...”*

HFD4: *“...sometimes they overdesign and inflate the price.”*

ADT2: *‘...when they refuse, they end up going for other suppliers who are giving them the same quantities at a very much higher price or even the existing suppliers will say because there is inflation...’*

- **Poor quality delivery**

Participants highlighted that providing inappropriate products is deemed to be dangerous, time consuming and also costly to the beneficiaries who receive substandard goods which are not desirable. Participants also noted that there is an expectation gap between the procuring entity and the provider. If deliverables are not matching the expectations and requirements of the user department, it creates disharmony and customer dissatisfaction.

As noted by the telephone interview participants:

ADT11: *“So if you look at some of the reasons why contracts are not fulfilled, one of them can be the expectation gap. Probably you wanted to get X and then you get Y so there is that expectation. The deliverables were not clearly put and the minds were not connecting.”*

AOF3: *“...where there are disagreements, then matters have to be documented and maybe sent back to the procurement unit for review.”*

ADT12: *“How is it performing versus what you had agreed upon?”*

As mentioned by a head of a procurement department, an auditor and a head of a finance department in the focus group discussions:

HPT1: *“Someone quotes for another item or quality and yet you wanted another item so when they deliver, you say ‘No, we don’t want this’. You have to send them back ...”*

ADT3: *“...implementers use materials that were not quoted or of poor quality and the work will not be of good quality.”*

HDF1: *“...goods which are not at the standard and we end up losing as an institution because of getting substandard products. If it’s a service, and it is poorly supervised also, we are made to pay for a poorly supervised service.”*

- **Late delivery**

Two procurement heads and an auditor confirm that delivering products or services late is a challenge within the contract partnership. This delays the functions of the contracting process and therefore institutional and user needs cannot be satisfied within the set timelines.

As noted by the telephone interview participants:

HPT1: *“So, I have talked about the late payments, lower quality of goods, late delivery...”*

HPT2 *“...a road is supposed to spend two years, it takes five years...”*

ADT1 *“...this bidder puts in a very good bid, but then you get them on board, they are not able to give you the service timely.”*

As emphasised by a procurement officer in the focus group discussion:

POF5: *“...in most cases where we fail to deliver in time, as an institution, the provider does not stand a big chance of benefiting from that in terms of damages or otherwise. So, at that stage it might not be a win-win situation.”*

- **Poor implementation**

It transpired that some projects that are awarded are poorly implemented. Poor implementation is manifested in the delivery of wrong supplies and non-delivery of supplies. Poor implementation is a result of inadequate negotiation skills and having complicated contract specifications that are hard to implement. Either party may fail to conform to the prior agreed upon contractual obligations which frustrates the parties to the contract. One party has an obligation to deliver a good or service, while

the other has an obligation to pay, so implementation is usually on the side of supplier.

As mentioned by the telephone interview participants:

HPT2: *“...when it comes to implementation, the government is lacking there in most cases.”*

AOF1 *“...the people who negotiate contracts are different from people who implement them. For me that is the challenge...”*

ADT3: *“...if the implementation is not done as per the contract.”*

ADT5: *“Sometimes, it may be hard to comply to certain terms so the challenge is some compliance procedures might be hard to implement.”*

As indicated by an auditor in the focus group discussion:

ADT10: *“...the contract can also be frustrated by one of the parties failing to deliver. So, that means that they have failed to comply with their part of the contract.”*

- **Poor interpretation of the contract terms**

As mentioned by participants, poor understanding of the contract terms of reference is frequent on the side of the supplier, which results in conflict and delays in delivery. Contract managers may fail to comprehend the terms of the contract under their management, especially if the terms are technical, which makes it difficult to monitor the work on ground.

As indicated by the telephone interview participants:

ADT3: *“...the interpretation of the terms of contract; people tend to interpret it to suit them not to suit the work to be done.”*

ADT7: *“...understanding the terms and conditions.”*

ADT5: *“...team members that you are working with are not well-versed with the process...”*

POF1: *“Delivery timelines, at the end of the day you find that if it's not well stipulated in the contract you will have challenges...”*

As mentioned by a procurement officer in the focus group discussion:

POF6: *“...failure to understand the contract you are managing.”*

#### **7.4.2 Institutional challenges**

Institutional challenges including: changing technology, lack of end-user involvement in the contracting process; late payments; administrative issues; corruption; insufficient budgeting; poor specification of procurement requirements; and abuse of the payment process are conveyed below.

- **Changing technology**

Two participants observed the difficulty to adapt to the forever changing technology and the costs involved which stifle contract compliance for the more traditional officials. Technology changes are more commonly experienced in developing new applications for the phases of payment and contract management and are also cited as drivers of innovation in procurement contracting.

As highlighted by an auditor and a head of a procurement department in telephone interviews:

ADT8: *“...Then there is changing technology. You know technology; for example technological advancement. If you've been using a certain application to do your thing, but you find they have developed new applications which are more efficient and you are already committed or you entered into a contract, but the new application makes life simple and its cheaper”.*

HPT2: *“...compliance to the technological advancement. When there is an advancement in technology, you also have to update yourself.”*

- **Lack of end-user involvement in the contracting process**

Sometimes the user departments are not involved in every stage of the contracting process. Users are only involved in the requisitioning for goods and services, but when it comes to the final receipt, the goods or services, may not be in line with what the users had actually requested for. Lack of end-user involvement may result in customer dissatisfaction and wastes time and resources.

An auditor and a head of a finance department in the telephone interviews had this to say:

ADT6: *“...end-user is actually not much involved in the contracting process...”*

HFD3: *“...was the user involved, did the user accept the goods? We cannot make payments if the user department has not signed, has not acknowledged, has not verified the goods and services.”*

- **Late payments**

Participants noted that public entities sometimes delay in paying suppliers, which is detrimental to the supplier-entity relationship. Delays sometimes arise from the late approval from the Ministry of Finance for the release of funds, while at other times, it is from the entity itself, as each entity has its own funding priorities. Long delays on the part of government to pay suppliers causes subsequent over-invoicing on the side of suppliers.

Participants in the telephone interviews had this to say:

ADT6: *“So, you have a contract, it is signed, but the money is not yet there and the person has done some of the work, he needs payment so that he continues with the work, but the money is not yet there.”*

ADT3: *“...payment is not done as agreed upon so it becomes a challenge for contracts.”*

ADT6: *“...funds from the central or consolidated funds are late...”*



HPT1: *“You enter a contract hoping the money will come, then the quarter release comes when it is late, you can’t pay the supplier and it’s beyond the 30 days”*

HFD2: *“Even when at times money can be available, but we have priorities. We may not really make payments on time.”*

HFD2: *“...if there is untimely payment, you may even have loggerheads with the service provider. He may not be able to provide again.”*

ADT4: *“...at times, the resources usually do not come in time...”*

- **Administrative issues**

Participants suggested that another challenge of contract compliance relates to administrative problems. Some suppliers who wish to participate in the bidding process find the procedures for procurement in public institutions to be cumbersome and irrational due to bureaucracy, which stifles competition. Among the administrative issues is the delay in authorisation and publishing of procurement documents, delay in placing contracts, lack of regular meetings and progress reports which deters timely sharing of information and decision making.

As shared by participants in the telephone interviews:

POF1: *“...administrative timelines ought to be improved, say for example in a public procurement to avoid bureaucracies and inefficiencies, among others.”*

POF1: *“If the metrics which are given in the contract itself are not clearly supervised, or if they are not clearly stipulated, then therein you are failing on the contracts.”*

ADT6 *“...inadequate supervision of the contractor...”*

As indicated by participants in the focus group discussions:

ADT10: *“...so one of the challenges is maybe lack of regular meetings between the parties...”*

ADT10: *“...one of the challenges is maybe lack of progress reports so the contract can go on for months and no one knows...”*

HFD5: *“...share all the relevant information for all the participants timely. Another thing is that they should be updating them on the developments as and when they arise.*

ADT11: *‘...one of the hiccups on the contracting parties is reports and status reports. Reporting and report status or progress reports .... I might have done good work, but if somebody doesn’t know, if the other party does not know what you have done, it’s a problem “*

- **Corruption**

From the interviews, it emerged that corruption is rampant. Some government officials take bribes and expect kick-backs after awarding a contract to suppliers. Such activities compromise the process and quality of the infrastructure or products to be delivered.

As identified by participants in the telephone interviews:

HFD4: *“The biggest challenge with contract compliance is the vice in the country; corruption...”*

HPT2: *“...gaps there when it comes to bribery and corruption are very imminent under contract management.”*

ADT2: *“...the other challenge is corruption. So many people have talked about corruption, but corruption seems not to go away, it is with us.”*

ADT1: *“...the lowest bidder is not given, and they give somebody who is even like twice as much as the lowest bidder because of, you know, selfish reasons, they want a kick back ...”*

HPT2: *“...gaps there when it comes to bribery and corruption are very imminent under contract management.”*

HPT2: *“...The user specifies something very good maybe, the buyer buys something very good, the contract is in place, but at implementation, the person implementing is compromised...”*

ADT2: *“Even when people know what they should do, because they've been given some little money, some kickbacks, they do not take it serious.”*

- **Insufficient budgeting**

Participants observed that the limited entity budgets cannot finance all the procurements that are planned for in public entities, so the users may not get all that they require to perform their duties.

As highlighted by participants in the telephone interviews:

ADT1: *“... funding didn't come through and the project is spread over a long period and you see this comes with a lot of charges...”*

HFD2: *“...if government cuts our budget, the funds are really insufficient for us to execute certain contracts as we may have planned.”*

HPT2: *“...in most cases, the supervisor or contract manager acts on behalf of the government, the buyer, but they are not well facilitated.”*

ADT5: *“...the funds are not enough...”*

POF1: *“...you have planned and you're not achieving your planning in terms of budget.”*

ADT3: *“Sometimes everything is put into place, but when it comes to budgeting, the budget is not enough...”*

- **Poor specification of procurement requirements**

Participants considered poor descriptions of procurement requirements as a challenge in procurement. Some users provide complicated descriptions that do not match the brands. This delays the contracting process and frustrates the bidding process, which results into non-compliance.

As identified by:

POF2: *“...over specification, where in the process of specifying they specify many specifications...”*

POF1: *“...the other challenge would be I think if you’re talking about, ability to have the right terms of reference and specifications...”*

POF2: *“...poor specifications or something like that, without consulting and then by the time something is delivered, it does not even meet the user’s needs.”*

HFD3: *“...the user might not be sure what he requires, might not be specific and in the end, if the user is not specific on the requirements a product or service should have, then the delivering officer might also deliver something different.”*

- **Abuse of the payment process**

A head of a finance department confirmed that abuse of the contracting process is prominent especially in effecting payments to suppliers. Some suppliers are not paid as per the contract terms, but rather at the convenience of the entity, which affects the future of the contracting relationship between the supplier and the entity.

As mentioned by a telephone interview participant:

HFD2: *“...some people abuse the processes laid down to effect payment.”*

### **7.4.3 External challenges**

External challenges include: political interference; changes in prices; COVID-19 pandemic; influence peddling; and difference between the reality and implementation of the law are conveyed below.

- **Political interference**

It transpired that political interference disadvantages some contracts. Some top officials in government including politicians and accounting officers intervene in the contracting process to favour some service providers over others for personal gain.

Political interference is common especially at bidding and contract award and influences the way other stakeholders such as auditors, contract managers and procurement officers perform their duties. The high incidence of vested interests, insider dealings and interference suppresses competition and frustrates the value for money principle.

As noted by the telephone interview participants:

*HPT2: "...you can't rule out political interference. Where power is, technically the contract may be good, for political reasons, it is directed towards another direction. Non-performance also appears there. I was following the case of Bujagali, and those other big, big projects, people are always accusing each other. You have also seen this one of Prime Minister, the recent scandal with food for COVID. These ones are saying, we got instructions from the other office. People are saying for us we had to do the right thing. So, political interference is one of the reasons which fails contract performance or compliance."*

*POF3: "...other challenges, we have political factors..."*

*ADT2: "Political peddling starts from the tendering process."*

*ADT2: "...once a powerful person has said award a contract that means the contract manager has nothing to do, other than that, cannot do anything else."*

As indicated by a procurement officer in the focus group discussion:

*POF5: "...trying to interfere with the normal processes of managing the contract..."*

- **Changes in prices**

It transpired that change in prices is one of the challenges of contract compliance in state departments. Suppliers quote prices before an increase in the exchange rate and when the contract begins, the contract prices are adjusted upwards which

causes delays and requires mobilising more resources to conduct another market survey to establish the right prices in the market.

As stated by a head of procurement unit and an auditor in the telephone interviews:

HPT3: *“we can talk about changes like ... foreign exchange rates, because someone will quote this, then the next day it has shot up, then you submit, then they say, “No, you are high’. Then they go back to maybe subject it to market survey. The whole process becomes so dirty”.*

ADT8: *“Then another thing is changing prices as you know...”*

- **COVID-19 pandemic**

Participants confirmed that the COVID-19 pandemic has grossly affected contracts in the state departments as some suppliers are unable to complete contracts in time. The COVID-19 period is a unique, unprecedented one that has constrained suppliers from fulfilling their contractual obligations as the quarantine and curfew restrictions affected transport of people and delivery of materials especially the imports.

As mentioned by the telephone interview participants:

POF3: *“...even Corona virus also has become a challenge of late.”*

ADT8: *“...you are given a contract to supply goods in a certain entity, then corona virus comes...”*

ADT4: *“Some of them are nature, like now we have COVID...”*

HPT3: *“Challenges are like, for example, no one knew that COVID-19 would be there, meaning that if suppliers were supposed to deliver their bids physically to the entity now they cannot because it is a challenge and we are meant to extend the bidding period, because it was hard to get suppliers”.*

ADT7: *“COVID-19 has nullified almost every contract. Even if someone says, but the contract says this, but there is a special factor that set in, so the contract*

*should be able to provide for the unknown which are beyond what we can manage”.*

As mentioned by an auditor and a procurement officer in the focus group discussion:

ADT9: *“...we are in the season of the pandemic, so such uncontrollable events may be a challenge in ensuring compliance of the contract.”*

POF5: *“...during this pandemic, the PPDA Authority quickly issued guidelines on how we should handle procurements that are pending, those that had not been done and those that had been done, but payment had not been made.”*

- **Influence peddling**

As indicated by a head of a finance department, auditors and a procurement officer it was noted that influence peddling is a continuous challenge in the contract compliance process. A number of people interfere in the bidding and awarding of the contract, more still within the implementation of the project. Influence peddling is perceived by serving personal interests and interfering in the process. Procurement officers and managers fail to be neutral while sourcing for providers, which leads them to favor some bidders over others, thus stifling competition.

Participants in telephone interviews had this to say:

HFD2: *“...the other challenge would be influence-peddling where someone, I don't know whether you really get me when I say influence-peddling. For example, someone could come in to influence, in diverting away from the contract.”*

ADT3: *“...there shouldn't be influence from management because you know contracts compliance, most of the fraud issues come from contracts. So if management is not influencing the compliance officer, then the compliance officer will be able to perform. So, there shouldn't be any influence from management.”*

ADT7: *‘I'll give an example of undue influence where someone says we are not supposed to be crossing this line and the other person says, ‘No, for me I am going to do this’.*”

As mentioned by a procurement officer in the focus group discussion:

POF5: *"...not objective in terms of what I am supposed to do, vis-à-vis my personal interests."*

- **Difference between reality and implementation of the law**

Two auditors noted that sometimes government organs such as Parliament and the PPDA Authority approve complicated laws, policies, regulations and guidelines that may have controversies, yet the reality on ground is different. For example, in some cases, the law may require open bidding yet the reality is that restricted bidding would be the best alternative for the entity. So, there is a disparity between what is laid down as law with regard to the contracting process and what actually transpires during the contracting process.

As suggested by auditors:

ADT1: *"The reality is different from what the law requires and you find that somebody, of course the institution has no way out, but now has to go ahead and implement this project regardless ..."*

ADT5: *"...first all the contract has to be real, I mean practicable, for it to be easily be implemented."*

#### **7.4.4 Individual challenges**

Individual challenges involve those problems that hinder officials engaged in the procurement process from complying. Challenges including: lack of professionalism and technical knowledge; laziness; and dishonesty are conveyed below.

- **Lack of professionalism and technical knowledge**

It transpired that some individuals within the contract compliance process are not qualified to manage the procurement process especially with regard to technical capabilities. Some procurement officers, users, contracts committee members and accounting officers are unable to efficiently carry out their responsibilities and have vested interests, insider dealings and interference.



As confirmed by participants in the telephone interviews:

POF1: *“Our law for example provides for arbitration, to solve conflict on contracts. But I mean how many people are professional in arbitration in our context?”*

HFD1: *“...there are some contracts which are really specialised and if you are not in a particular field, it’s difficult to know those minute details.”*

ADT7: *“...people knowledge and skills...”*

HPT2: *“...where a contract manager is not conversant or knowledgeable about what you are buying, contracts are bound to fail.”*

AOF2: *“...appointment of a contract manager who is not conversant either with the specifications, the contract terms or even not being knowledgeable in the area for which the contract has been signed.”*

AOF1: *“...something comes to you, you don’t have background information, sometimes you don’t understand the area...”*

ADT2: *“...most organisations don’t have those technical members of staff to monitor the requirements of the contract.”*

POF1 *“...the technical knowledge of the individuals who are party to this contract management process.”*

- **Laziness**

As mentioned by the head of procurement and auditor, laziness or laxity of officers involved in the process affects payments, quality and timely delivery of goods and services. Some contract managers do not even go to the locations where the contracts are awarded, and never do any form of due diligence. This was experienced among the managers who fail to follow up with the easy transactions, fail to process payments on time and do not perform their roles diligently.

As noted by an auditor and a head of a procurement unit in the telephone interviews:

ADT2: *“...I’d call it either laziness or laxity on the compliance managers, laxity of the compliance managers. They don’t perform their duties...”*

HPT1: *“In procurement we stop at the contract signing, now you find you forget to go to accounts to get the payment details to be attached, or the contract management record from the user department to put on the file, so there is that laziness.”*

As indicated by a procurement officer in the focus group discussion:

POF6: *“Lack of commitment to either party can be a challenge.”*

- **Dishonesty**

Participants agreed that dishonesty is one of the challenges within the contract process. If contracts are delayed, suppliers start telling lies about what is happening, as a way to justify their failure to deliver. Some staff in public entities are guilty of being dishonest in their conduct, which is manifested by withholding vital information and lying to the service providers, bidders, auditors and even the users.

As mentioned by a head of a finance department and an accounting officer in the focus group discussions:

HFD5: *“...vendors do not tell the truth, they tell lies.”*

AOF3: *“...you’d rather have a dull officer who has integrity than having one who is competent, but has no integrity.”*

The next section presents the themes, subthemes and issues identified for the creation of an enabling environment for contract compliance.

## 7.5 CREATION OF AN ENABLING ENVIRONMENT FOR CONTRACT COMPLIANCE

A content analysis identified fourteen (14) main themes emerging from interviews with the participants regarding the creation of an enabling environment for contract compliance.

The main themes with corresponding sub-themes are presented in Table 7.2.

**Table 7.2: Main themes and sub-themes emerging from participant interviews**

MAIN THEMES	SUB-THEMES
<b>Communication</b>	<ul style="list-style-type: none"><li>• Information sharing</li><li>• Feedback</li><li>• Open engagement</li><li>• Communication channels</li><li>• Continuous updates</li></ul>
<b>Reporting</b>	<ul style="list-style-type: none"><li>• Regular reporting</li><li>• Reporting criteria</li><li>• Financial reporting</li></ul>
<b>Records management</b>	<ul style="list-style-type: none"><li>• Documentation</li><li>• Filing and storage</li><li>• Document access</li><li>• Referencing</li><li>• Accuracy</li></ul>
<b>Institutional structure</b>	<ul style="list-style-type: none"><li>• Top management support</li><li>• Decision making</li><li>• Instituting committees</li><li>• Clear responsibilities</li><li>• Delegation of authority</li><li>• Seeking approval</li></ul>
<b>Compliance checks</b>	<ul style="list-style-type: none"><li>• Internal controls and external controls</li><li>• Supplier checks</li><li>• Whistle blowing</li></ul>
<b>Enforcement</b>	<ul style="list-style-type: none"><li>• Blacklisting</li><li>• Interdiction</li><li>• Litigation</li><li>• Penalty</li><li>• Contract termination</li><li>• Imprisonment</li></ul>
<b>Legal and regulatory</b>	<ul style="list-style-type: none"><li>• Procurement laws and procedures</li></ul>

MAIN THEMES	SUB-THEMES
framework	<ul style="list-style-type: none"> <li>• Terms of reference</li> </ul>
Evaluation	<ul style="list-style-type: none"> <li>• Due diligence</li> <li>• Evaluation criteria</li> <li>• Participation</li> <li>• Bidding</li> <li>• Awarding</li> </ul>
Stakeholder involvement	<ul style="list-style-type: none"> <li>• Team work</li> <li>• Coordination</li> <li>• Responsibility</li> <li>• Flexibility</li> </ul>
Contract management	<ul style="list-style-type: none"> <li>• Contract formation</li> <li>• Contract Implementation, inspection and review</li> <li>• Value for money</li> <li>• Performance management</li> <li>• Customer satisfaction</li> <li>• Operational environment</li> <li>• Conflict resolution</li> </ul>
Funding	<ul style="list-style-type: none"> <li>• Realistic plans</li> <li>• Timely payments</li> <li>• Budget allocation</li> <li>• Supervisor facilitation</li> <li>• Advance payments</li> <li>• Budgeting</li> </ul>
Openness	<ul style="list-style-type: none"> <li>• Advertising</li> <li>• Shortlisting</li> <li>• Open bidding</li> <li>• Transparency</li> <li>• Fairness</li> <li>• Open door policy</li> </ul>
Ethical orientation	<ul style="list-style-type: none"> <li>• Equality</li> <li>• Positive work attitude</li> <li>• Integrity</li> <li>• Confidentiality</li> <li>• Honesty</li> <li>• Freedom</li> </ul>
Capacity building	<ul style="list-style-type: none"> <li>• Training</li> <li>• Knowledgeability</li> <li>• Consultation</li> <li>• Education</li> </ul>

Source: Researcher's own compilation.

As depicted in Table 7.2, fourteen main themes with sub-themes were observed from participant responses. The findings of both the telephone interviews and the focus groups are presented. The findings of the focus groups include the contract compliance specialists and assisted in further refinement and confirmation of the identified themes and subthemes.

### **7.5.1 Results of communication**

Based on the content analysis, communication in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **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, Talluri and Rosales (2020:1362) 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, Vesalainen, Söderman & Sammalmaa, 2020:4).

As noted by the telephone interview participants:

POF4: *"...I think by giving relevant information, sharing relevant information with all stakeholders is important.....there is certain information meant for end users, and there is information meant for the procurement team and sometimes sharing feedback with the public"*

HPT 2: *"...the right 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. We are supposed to give them equal opportunity to be in public procurement. We are supposed to provide information equally before, during and after bidding"*

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.

- **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. Engerer, Berberat, Dinkel, Rudolph, Sattel and Wuensch (2016:2) affirm that feedback, especially 360° was important as it assisted participants in the contracting process to develop and improve their work skills and behaviors which eventually lead to improved performance. 360° feedback received from various points of view including subordinate, lateral and supervisory is especially beneficial for employee and supplier performance evaluations and decision making. Suppliers should be provided with feedback regarding their performance, payments and communications received continuously, from sourcing for bids to payment to contract closure as asserted by Komora and Kavale (2020:9).

As noted by the telephone interview participants:

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

AOF1: *"...By constantly staying in touch with them, by providing them with feedback over what they have done, for me I am very open with the suppliers, if I don't like what they have done I tell them. I tell them to improve, I provide them with feedback".*

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

POF4: *“I think the major thing is communication, constant communication and this way you provide feedback to them. For example when we shortlist them, you provide proper feedback, timely feedback. When you are inquiring about availability of a certain products, you send them emails, you call them, you even ask for their feedback about their organisations....”*

ADT7: *“Then the other one is your ability to openly receive feedback from the contractor. Your ability, as in your openness in receiving feedback. The open door policy: each time you come, I’ll listen to you. Receiving feedback is good, but also the issue of being able to give their challenges priority in terms of supporting them to deal with them. If someone wants quick financing, how do you quickly respond to give them money, without tossing them around?”*

ADT8: *“...every time you get the reports, you get feedback from the provider”*

As affirmed by a focus group discussion participant:

ADT12: *“...if you are giving the right disclosures, you are giving chance to people to issue all their issues and complaints in order to give you all the feedback that you need and in that way you are being open”*.

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.

- **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 carrying out

planning and performance reviews. This creates equal opportunities for suppliers to easily compete. This is supported by Torvinen and Ulkuniemi (2016:31) 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 the telephone interview participants:

ADT 7: *“...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?”*

AOF 2: *“...have engagement, before, at the start, during and at the end of the contract. So the contract manager, I think engagement of the stakeholders, the user departments is also very key”.*

POF 2: *“... more stakeholder engagement should be done so that they get to appreciate that the procurement is done, but procurement is just on the process and if everyone plays their part along the supply chains, then we shall have successful contract compliance”.*

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.

- **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, Andoh-Baidoo & Asamoah, 2020:2210). Akaba, Norta, Udokwu and Draheim (2020:12) contend that stakeholders can be effectively involved through clear communication channels. At the same time, suppliers are more likely to create a communication channel with buyers who prove to do business in a manner that is transparent and fair (Popescu, Onofrei & Kelley, 2016:89).

As noted by the telephone interview participants:

ADT3: *“... there should be mostly communication channels that are clearly spelt out”.*

ADT3: *“There should be front reporting channels which are confidential”*

ADT3: *“...make sure that there is proper channel of reporting to the stakeholders on the prescribed time”.*

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 advances contract compliance.

- **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. Ottou, Baiden and Nani (2020:13) indicated that for a competitive tendering process, procurement plans have to be reviewed and updated. Suhonen, Tammi, Saastamoinen, Pesu, Turtiainen and Okkonen (2019:6) acknowledged the need for frequent information exchange and close coordination between contracting parties. 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 the telephone interview participants:

ADT8: *“...there is continuous updates of the new developments....”*

AOF2: *“...the contract manager gives updates or reports on the performance.”*

HPT3: *“... by educating suppliers on what they are supposed to provide in order to be compliant, to be able to update their records every time....”*

AOF1: *“The moment the contract is signed off, it would be important for parties to have representatives on both teams who meet regularly or periodically to review how the contract is being implemented”.*

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.

The second theme, reporting, will be presented next.

### **7.5.2 Results of reporting**

Based on the content analysis, reporting in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Regular reporting**

The interview participants noted that reporting over a specific, predetermined period of time is a key element for contract implementation. Reports include contract management reports, PDU reports to management, reports to PPDA Authority and financial reports. Auditors, Heads of Finance departments and Heads of PDUs have to provide weekly, monthly, periodic reports to update management and the regulators on the performance of each individual contract. Medzhybovska and Lew (2019:102) indicated that regular reports on monitoring contracts mitigate risk associated with contracting and saves costs that may arise out of litigation.

As stated by the telephone interview participants:

HFD1: *“...there are some contracts which need to be monitored daily, weekly, monthly...”*

HPT2: *“All contract managers are supposed to make monthly reports, or periodic. We call them periodic. It may be weekly, it maybe, if a contract is going to spend one month then you can be asked to write weekly reports on that performance on compliance of the contractor on a weekly basis. That's a very good point to check whether someone is doing the right thing”.*

ADT1: *“...if there are deviations, they are still supposed to report in his reports, monthly reports, because the contract manager is supposed to be producing monthly reports to management”.*

ADT7: *“...another aspect of an environment is when there is clear reporting with a pre-determined frequency...”*

A focus group discussant added:

ADT11: *“... you can use status reports, weekly status reports to check how you are faring...”*

It transpired that regular reporting is mandatory to provide up to date information concerning the contracting and implementation phases to check the adherence to contract terms and conditions in order to have full implementation of contract compliance objectives.

- **Reporting criteria**

The interview participants considered that reporting criteria is a key measurement for gauging the progress of the contract. Periodically, auditors, Heads of Finance departments and Heads of PDUs provide reports using criteria that are embedded in the contract or tender documents as agreed between the parties (Donatello, Quintero, Caldas, Wolf, Van Tichelen, Van Hoof and Geerken, 2019:2). Criteria including how often to report and what to report on have to be well understood as being part of the contracting process and must conform to the standard set by the laws, policies and regulations. Alhola, Salmenperä, Ryding and Busch (2017:8)

affirm that reporting criteria aides public entities in ensuring that goods and services are delivered in the right way.

As illustrated by the telephone interview participants:

ADT7: *“...another aspect of an environment is when there is clear reporting with a pre-determined frequency and then clear reporting parameters or criteria. The way we say, report on costs to date, report on adherence to the time schedules, report on the level of quality, report on construction rating of materials...”*

POF3: *“...make sure that each contract has a supervisor who will be reporting on how far and how soon the contract will be finished.”*

Having clear reporting parameters in terms of cost, activities, quality and time is a key strategy for monitoring and evaluation of work done in order to achieve contract compliance.

- **Financial reporting**

Interview participants observed that disclosure of financial reports and related information to management and other stakeholders about the institution's performance is a vital indicator of the financial health of an institution. Heads of Finance Departments report to the Accounting officer and Ministry of Finance on the financial health of the institution within a specified period and this is done through presenting the balance sheet, income statement and cash flow statements. Chychyla, Leone and Minutti-Meza, 2019:228) asserted that proper financial reporting presents an accurate, comprehensive picture of the state of the bidder's capacity to deliver on the contract and ensure contract compliance.

As shared by the telephone interview participants:

ADT7: *“...we do a report about these financial statements. The income and expenditure, the balanced statement, the statement of liabilities, like that, how often should you report, how do you disclose and to whom do you give that report...”*

HPT3: *“... the process is strict and at times it is hard for people to be compliant, on valid tax clearance, trading license, maybe the financial statement...”*

ADT1: *“You are supposed to audit the financial statement; of course that is the basis of our opinion. Of course, in auditing the financial statements you guide, you give corrections until it is approved as the basis of our opinion”.*

POF4: *“... for example bank statements, as procurement we don’t really look at them, but we involve the finance department that is highly well versed with bank statements so they help us in that area.”*

It emerged that financial reporting by the prospective suppliers is an important determinant in contract compliance as it is a means of checking the suitability of the supplier to comply with the forthcoming contract.

The third theme, records management, will be presented next.

### **7.5.3 Results of records management**

Based on the content analysis, records management in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Documentation**

Interview participants identified that the existence and usage of proper documentation including bid notices, invitations to bid, contract management plans, contracts and agreements is vital in the procurement process. Users, procurement officers and suppliers need to use the correct documentation to make it easy for the provision of the right information as required for satisfactory sourcing, tendering, award and implementation (Byaruhanga & Basheka, 2017:42). Naidoo *et al.* (2017:27) contend that documentation should be complete, a true and correct account of the procurement activities that have transpired while placing the contract, all the way to completion. At the same time, proper documentation should be freely available for access and use to check against compliance with contract requirements (World Bank, 2017:32).

As noted by the telephone interview participants:

ADT3: *“....have a checklist of documents that are required to be on the file...”*

HPT2: *“...have first of all the contract document or make clear what you are supposed to get as a contract manager. Because it starts with proper documentation. If I don't know what I'm supposed to supervise, I can't supervise well.”*

HFD2: *“...we also have the physical documentation...”*

POF1: *“...you are arriving at a contracting position, which is relevant and by contracting we mean that you're using for example in public procurement, you're using the relevant documentation, which is provided by the regulatory authorities. And since we are looking at specifically Uganda, usually our contracting documentation are based on the guidance of PPDA...”*

POF1: *“...following the right documentation all the way up to the end so that this documentation in your contracting is used as a measure to be able to measure performance at the end of the day by the contract managers”*

It was indicated that having relevant, up to date documentation including checklists, contract and relevant forms as guided and provided by regulatory authority is important for ensuring accuracy and completeness of procurement related information, and creates an enabling environment for contract compliance.

- **Filing and storage**

The interview participants noted that organising and storing documents securely is key in managing records. Procurement managers and officers kept documents regarding procurement files, Heads of finance departments kept documents regarding payment of suppliers and the accounting officers kept contract documents. Storage of documents occurs in both soft and hard copies and it is a means to offer private and efficient way to handle documents (Deng, Ren, Liu, Yin, Shen & Kim, 2019:137). Storage of documents is a core service that offers more control and governance of procurement related documents.

As noted by the telephone interview participants:

POF2: *“...in each procurement file, you keep records according to how the procurement process was flowing.”*

POF3: *“... we have a store where we keep those files after the contract has been closed, for future reference”.*

HFD2: *“We have a person who is in charge of filing those letters with the service providers.”*

As emphasised by a procurement officer in the focus group discussion:

POF5: *“...we can look at the stores section, they also handle the checks and balances ...”*

It transpired that documents need to be files and stored in a safe way and be easily retrieved for ease of reference and security, which improves contract compliance.

- **Document access**

Participants indicated that access to procurement records is vital in managing records. Access to documentation is a selective process that is not open to everyone. Komakech and Machyo, (2015:11) allude that for a record to be considered accessible, it should be timely, readily available and adequate. Procurement managers and procurement officers had full access to procurement files through receiving requisitions, approvals and bids, which were put on procurement files. Heads of finance departments on the other hand had access to procurement records for purposes of approval of funds availability and making payments. Accounting officers accessed documents for approval. PDEs had restricted access for procurement records as some were confidential and were only accessible through the accounting officer for specific purposes. The findings are in line with Banyenzaki (2016:68) who suggests that identifying who can access and modify key documents and records is an integral part of procurement records management.

As specified by the telephone interview participants:

POF4: *“...all these are accessed only by procurement personnel or by administration only.”*

HPT3: *“The file is not accessible by non-authorised people.”*

ADT5: *“...if it is a store for files, you cannot access it alone. It has to be dual control, so that in case of anything like safety, destruction, loss of confidentiality, they are mitigated.”*

ADT5: *“...they have restricted access because as a unit, it handles sensitive documents. So, if you are to access that means you have to be fully authorised.”*

ADT1: *“...we have a store and it is the executive secretary who is in charge of that store. So, when you want to go and access that store, you must sign and then you have to sign even for the file you receive from there.”*

It was noted that not all procurement documents can be accessed. Some documents such as bid documents remain with the procurement manager and others are openly displayed such as adverts and notice of best evaluated bidder. Restricted access to documents is key in ensuring confidentiality of supplier information, while at the same time safeguards documents from destruction and loss, which improves contract compliance.

- **Referencing**

The interview participants mentioned that document referencing is important for filing and tracking documents used while procuring and managing contracts. Referencing encodes information about procurement and audit files arising from events that take place in entities. Auditors, Heads of Finance departments and Heads of PDUs have referencing formats that are used to easily create and access files when necessary. Raiyani, Gonçalves, Quaresma and Nogueira (2019:2) indicated that since procurement files contain a variety of documents and forms, having a referencing system is a way to improve access and storage of procurement records.

As highlighted by the telephone interview participants:



HPT3: *“...files have reference numbers. So you find they are kept following the reference numbers. So you must have the reference number in order to retrieve it.”*

POF3: *“...when you are opening up a file, you give it a reference number and a procurement number so each document that is part of that contract is in that file...”*

POF2: *“... they are all referenced, so when you are keeping them away, you are keeping them in their order, the plan, file number, 1, file number 2, 3, 4, 5, like that.”*

As noted by a specialist from the focus group discussion:

ADT10: *“....each procurement has a reference number so they keep tracking each one of them one by one throughout the year from the beginning up to the last.”*

It emerged that to have a suitable contract compliance environment, document referencing cannot be ignored. It helps in easing access to information about contracts.

- **Accuracy**

Interview participants noted that accuracy of information is important in effectively implementing contracts. Accuracy is identified as presenting the right information. It is the degree to which information from print or virtual conforms to the standard set in the laws, rules and regulations of procurement (Namugenyi, 2012:20). Procurement officers and procurement managers must take the necessary steps to check the correctness of information provided in the contracting process, free from error, defect, omissions and lies. Verification of accuracy is usually done by auditors, with some verification done by the Head of Finance and the accounting officer. The findings are in line with Tanwar, Parekh and Evans (2020:3) who highlighted the need for institutions to establish systems that check for accuracy of information and records in a reliable, timely, consistent and efficient manner. Accuracy creates efficiency and reduces ambiguities in the contracting process.

As noted by the telephone interview participants:

ADT3: *“...accuracy includes the right information...”*

HPT1: *“...you cannot have 100% accuracy...”*

As added by a specialist from the focus group discussion:

ADT10: *“...accuracy of procurement records starts from the design of the request for proposals or invitation to bid.”*

It transpired that documents have to be kept in an authentic way, to enable the provision of the right information to stakeholders involved in the contract compliance process.

The fourth theme, institutional structure will be presented next.

#### **7.5.4 Results of institutional structure**

Based on the content analysis, institutional structure in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Top management support**

The interview participants emphasised that top management support is a fundamental driver of contract compliance. It embraces the support from management and boards of PDEs in terms of allocating funds, human resource development and capacity building, making approvals, availing space and equipment among others. In some cases, top management support involved setting up departments such as contract management office and hiring compliance officers to further support the already existing structures. Accounting officers need to support and guide the PDU and Finance Heads. The findings are in line with Mir (2019:3) who deduced that having the backing of top management is vital in the implementation of public procurement practice in organisations.

As noted by the telephone interview participants:

AOF1: *“...there is support, there are structures within the School...”*

HPT1: *“Top management support is a key driver.”*

HPT1: *“...it is really top management support because funds being available to pay a supplier really starts with management...”*

POF1: *“...have your top management endorse say for example, personnel to support the process...”*

It was observed that having top management support in terms of acquisition of resources including financial, infrastructural and human resources is crucial in establishing an enabling environment for contract compliance.

- **Decision making**

The interview participants confirmed that making informed decisions is vital in contracting. Taking decisions involves choosing between various alternative courses of action for the purpose of attaining a sustainable goal. Making the right procurement decision in the interest of the public generates economic, ideological and social end-results. It involves consultations on judgments related to human resource, financing, infrastructure and approvals, among others. Accounting officers make approvals and take decisions basing on information available, past experience and reports available from the Heads of Procurement Departments and Heads of Finance departments. The findings are in line with Mir (2019:5) who deduced that managers desire to take improved strategic decisions for the future of the institution by increased understanding of the procurements.

As observed by the telephone interview participants:

AOF2: *“The wrong ones are ... someone taking decisions without consultation...”*

POF1: *“...most of the contract conflicts that arise are still tabled at this body through what we would call administrative reviews, administrative tribunal and the likes so it's from that pedestal that now a decision will can be taken on what happens...”*

HPT1: *“...whatever procurement decision you make early, you know it might come out as, someone might contest it in future.”*

It was observed by participants that making insightful decisions in terms of selecting the right suppliers, making relevant authorisations, soliciting and making approvals and placing contracts is important for creating a suitable contract compliance environment.

- **Instituting committees**

Various committees are involved in the contracting process from the planning of needs required up to payment including contracts committee, evaluation committee, planning committees, contracts implementation committees, management committees. Committees discuss, approve and make recommendations on contracts on a case by case basis. It is a system of ensuring transparency and accountability in the bidding and contract placement in addition to resolving conflicts that arise. Contracts committee membership is selected by the accounting officer and recommend contract award, after receiving an evaluation committee report on evaluation and selecting the best bidder. This is in line with the findings of Radianto, Wijoyo, Abrianto, Thalib and Mulyono (2020:560) who state that the procurement system is one that requires independent procurement committees that review the procurement practices and policies of the entity and ensure that the procurement process is executed in line with relevant laws.

As noted by the telephone interview participants:

ADT1: *“...the contract committee which of course has a key role in procurement, because for it, it is seen as independent of the PDU unit...”*

HPT1: *“...contracts committee has people of different professions and experiences.”*

As emphasised by an auditor in the focus group discussion:

ADT11: *“...in some organisations they have got Board Committees and then some procurement committees and board committees can follow up or internal audit committees, or risk and assurance committees.”*

Instituting various committees with competent members such as contracts committees, evaluation committees and management committees is vital in contract compliance. These committees are responsible and part of an efficient and effective management of public funds.

- **Clear responsibilities**

Each officer engaged in the process has an individual responsibility and this should be clearly stipulated in the policies, rules, regulations and laws. Whereas the accounting officer is responsible to provide guidance, approve and delegate functions, the procurement manager sources for providers and guides the contracting process. On the other hand, the finance manager is responsible to pay the suppliers. This is in line with the findings of Belfield, Jayanti and Avin (2020:2) who state that there should be clear lines of responsibility so that non-compliant officials are held responsible for errors caused. Therefore, officials involved in the process need to be provided with incentives to reduce chances of errors.

As noted by an auditor in the telephone interview:

ADT1: *“...responsibilities for the different people involved in the contract should be clear from the beginning.”*

As emphasised by another auditor in the focus group discussion:

ADT12: *“...a suitable contract compliance environment would be one with clear terms of agreement, clear lines of communication and clear responsibilities.”*

Responsibilities need to be clear on who is to do what in terms of roles and duties. It was noted that depending on the role each individual plays in the contracting process, contract compliance will be realised if all stakeholders including auditors, procurement officers and committee members play their part in regard to assessing, evaluation and validation of contract compliance activities such as requisitioning, bidding, approvals, contract placement and implementation.

- **Delegation of authority**

Interview participants suggested that the delegation of authority is a vital contributor to contract compliance. Delegation transfers responsibilities and empowers the delegates to achieve effective results. It allows accounting officers, procurement managers and finance managers to transfer authority to their subordinates to take action in a decentralised manner. The findings are in line with Koala (2016:73) who indicated that delegated representatives should have power and authority to make decisions on bidding and contracting matters.

As stated by the telephone interview participants:

ADT7: *“...for example in Uganda the person responsible for finances across the country is the Secretary to the Treasury who is also the Permanent Secretary in the Ministry of Finance, Keith Muhakanizi. That one is accountable for every coin in this country. But how does he exercise that, so in terms of that Act, that one delegates authority to other permanent secretaries. They also delegate to the people down up to the bottom, up to when it reaches to people like us”.*

AOF2: *“...the empowerment, I’ve been delegating”.*

HFD2: *‘My organisation first of all, there is delegation of authority’.*

As indicated by a head of a finance department in the focus group discussion:

HFD5: *“At my institution, all these documents are under the custody of the accounting officer, but sometimes he delegates and they are kept by the procurement manager.”*

It transpired from the telephone interviews and focus group discussions that delegation of authority by the accounting officer in the various capacities relating to the procurement process is important to increase accountability and effectively decentralise procurement activities.

- **Seeking approval**

Interview participants observed that the process involves a lot of approvals at each stage for purposes of objectivity and transparency. Seeking approvals allocates responsibilities and spreads risk in contracting. Various committees are therefore instituted where the procurement officers, procurement managers, finance managers and accounting officers approve procurement plans, budgets, requisitions and reports. The findings are in line with Adusei (2018:47) who contended that for accountability, the process involves many approvals at various levels including approval of requisition, solicitation for bids, evaluation, award of contract, delivery and acceptance.

As observed by the telephone interview participants:

HPT2: *“...there must be contract approval...”*

ADT2: *“...they are government entities like New Vision, they require that the Boards of Directors of those institutions have approved those capital expenditures. Universities have councils which must also approve those expenditures...”*

POF1: *“...the contracts committee say for example plays over 60%, 70% of this role, they approve procurements to happen, they approve evaluation reports to contracting”.*

HPT3: *“...the evaluation committee is supposed to approve that evaluation and award because the evaluation committee just recommends the award, then it's the contracts committee to approve the award”.*

Participants specified that seeking relevant approvals from designated officers is the best option for creating an enabling contract compliance environment where there is competitive and fair bidding.

The fifth theme, compliance checks, will be presented next.

### 7.5.5 Results of compliance checks

Based on the content analysis, compliance checks in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **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 (2019:2) who indicate that internal and external controls streamline the process by standardising it to ensure that the law is not violated.

As noted by the telephone interview participants:

ADT1: *“...the internal controls are the ones which ensure that before you do this, you are supposed to have gone to contracts committee, you must have gone to the accounting officer, so, those I internal controls which are there in the institution are the driving factors for compliance.”*

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

ADT5: *“...even if it’s an employee, you have to go through dual control. You can’t access the documents, for example, if it is a store for files, you cannot access it alone. It has to be dual control, so that in case of anything like safety, destruction, loss of confidentiality, they are mitigated.”*

Controls involving internal and external audits from the PPDA authority and performance and contract reviews are vital in mitigating risks associated with non-



compliance. Therefore executing internal and external control systems ensures safety and confidentiality within the contract compliance process.

- **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, procurement managers and accounting 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 Dweiri, Kumar, Khan and Jain (2016:273) who relate that PDEs need to understand the suppliers to determine their capacity to deliver, the quality of service they may deliver, the conditions under which they are delivering in order to gauge their performance.

As noted by the telephone interview participants:

ADT6: *“...checking the quality of the materials or services delivered, what was requested for...”*

POF4: *“...we have terms and conditions. But time and again when they are executing these given works or supplies, we check them. We verify, let’s say, if you said you are going to deliver this, of a certain brand and a certain lot number with this given expiry period, upon delivering those goods, we check and confirm: are they in line with what we agreed upon? For the conditions that we set: are they in line? before we actually receive them. If you stated maybe that you would deliver these goods let’s say in a months’ time we check and see, have you delivered them within that period of time or its past that time?”*

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.

- **Whistle blowing**

Participants agreed that whistleblowing is done to check the credibility of the procurement system. If anything goes wrong, a whistleblower 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, Sutrisno, Nurkholis & Andayani, 2019:10).

As noted by the telephone interview participants:

ADT1: *"...there is the IGG, of course that is after maybe whistleblowing..."*

HPT2: *"When a government auditor says I want a file A,B,C,D, you don't ask for what, when an investigator says (CID or CMI) asks I want information on this, you don't say for what, even the whistleblower who wants to do his job."*

Whistleblowing is unavoidable in institutions and is provided for within the Whistleblowers 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.

The sixth theme, enforcement, will be presented next.

#### **7.5.6 Results of enforcement**

Based on the content analysis, enforcement in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Blacklisting suppliers**

Participants considered that suppliers would be disqualified for participating in public procurement for a certain period if they failed to perform their duties as agreed in prior existing contracts. Suppliers are blacklisted for breach of the code of ethics, corruption, fraud, poor performance and non-performance. The PPDA Act, Section 94 provides for the suspension of providers by the PPDA Authority on the

recommendations of the PDE or after investigations (PPDA Act, 2003:84). Procurement managers and accounting officers may recommend suspension of a provider to the PPDA authority which performs an investigation and may accept, vary the recommendation or deny it. If suppliers are blacklisted they would not supply any government entity. This is in line with Kenstavičius (2016:33) who indicate that blacklisting arises out of poor past performance and aims at protecting contracting authorities from contractors who fail to perform their contracts according to the obligations therein.

As noted by the telephone interview participants:

HPT2: *“They call it blacklisting. That one can go a long way. If I fail to perform, I can be stopped from participating in public procurement forever or its directors for a number of years.”*

ADT3: *“...the defaulting company is blacklisted so it does not get more jobs.”*

HFD4: *“...they blacklist that firm, which is a very big penalty in the country.”*

It was indicated by the telephone interview participants that blacklisting is one of the measures to mitigate fraud and non-performance of the contractor. Blacklisting bars companies from participating in the bidding process for a specified period, which enhances compliance with contracts for the current and prospective suppliers.

- **Interdiction of officers**

Participants noted that if there is a disciplinary case or crime performed in the procurement process, the concerned officer in the state department needs to be temporary removed from the system and barred from performing normal duties as disciplinary proceedings are undertaken. Interdiction occurs basing on the violation of public service standing orders including fraud, corruption, neglect of duty or causing intentional loss to the entity by a public official implicated in the procurement process. It is on recommendation of an accounting officer to the Ministry of Public Service. This is in line with Banik and Chinsinga (2016:88) who contend that non-compliant public officials may be interdicted from the work place to pave way for investigation of the alleged misconduct.

As noted by the telephone interview participants:

HPT1: *"They may be interdicted ..."*

ADT1: *"...some are interdicted."*

Participants indicated that suppliers connived with procurement officers to skew the outcome of the procurement process, which led to the interdiction of officers involved as a disciplinary measure to increase chances of contract compliance.

- **Litigation**

Participants indicated that one of the ways to discipline a non-compliant party who breaches the contract is litigation. A non-compliant party needs to be taken to court to settle conflict or controversies and poor performance among suppliers and contractors. Procurement managers and auditors may bring matters of dissatisfaction with providers to the accounting officer who may make the choice to institute court proceedings against the non-compliant or poor quality provider. Craven and Arrowsmith (2016:3) affirm that an aggrieved party may take action including court proceedings to enforce the fulfillment of contractual obligations or seek remedies.

As highlighted by an auditor and head of a procurement unit in telephone interviews:

ADT7: *"...litigation that can be done. Litigation for breach of contract, but where the side effects are causing the organisation loss..."*

HPT2: *"...a contractor may take legal measures, litigation, he can sue in courts of law..."*

Participants noted that either party that feels aggrieved can sue in case on non-compliance with the requirements in the contract. This boosts the suitable environment where neither party takes the other for granted and therefore it is easy to have contract compliance.

- **Penalty**

Auditors regarded that if the contract is not fulfilled as per the contract requirements, a punishment is executed in form of paying a percentage to cater for delays that could cost the institution, but this should be provided for in the contract. When drafting the contract, procurement manager and the accounting officer in agreement with the provider provide for penalties in case of breach of contract terms, which may be enforced to compensate the entity as the need arises. The finding is in line with Coviello, Moretti, Spagnolo and Valbonesi (2018:830) who emphasised that a penalty can be enforced arising out of delay in completing the contracted works.

As noted in the telephone interviews:

ADT5: *“...you pay a certain penalty of this amount or this percentage of the contract fee...”*

ADT7: *“...taking action in the various ways. Is it a penalty...”*

It emerged that reasonable penalties where the charges for non-compliance are commensurate to the offence are enforced in case a contracting party has failed to deliver as per the contract.

- **Contract termination**

Participants affirmed that one of the enforcement measures for a contract is cancellation of a contract. Termination is done in agreement of all parties to the contract and it may arise out of delays in implementation of the contract. Further to the termination, the accounting officer of an entity and the procurement manager may choose to identify another provider to execute the remaining works or deliver the items. The finding is in line with Tkachenko and Esaulov (2020:5) who noted that if the contract is poorly executed, it might be terminated with either partial or no payment as per the agreement from both parties.

As noted by the telephone interview participants:

ADT8: *“...one of the enforcement measures is termination”*

HPT2: *"It can lead into termination if either party fails to perform the obligation..."*

ADT5: *"...there is termination of the contract"*.

It transpired that terminating a contract was one of the ways of ensuring that contract compliance is achieved since suppliers fear to be dismissed.

- **Imprisonment**

As identified by a procurement officer and a head of PDU, imprisonment is one of the punishments that can occur if the procurement system is violated by carrying out unethical or illegal practices, contrary to the law. Imprisonment can occur once the courts convict an officer who is involved in fraud, or guilty of causing financial loss to the entity. An accounting officer may prefer criminal charges against an officer in a state department who is suspected of illegal or unethical conduct. The finding collaborates with Chen (2020:584) who noted that the law on procurement has many options to punish all forms of fraudulent activities including imprisonment.

As noted by the telephone interview participants:

POF1: *"...may be the other thing would be besides recovery and loss would be imprisonment"*.

HPT2: *"...and in courts of law you have always had people go to prison because of that."*

It transpired that imprisonment of errant officers guilty of procurement related fraud is a major deterrent for non-compliance.

The seventh theme, legal and regulatory framework, will be presented next.

### **7.5.7 Results of legal and regulatory framework**

Based on the legal and regulatory framework in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Procurement laws and procedures**

Participants added that the first thing to look at in the procurement process is the procurement laws and procedures since they provide guidance for practitioners and providers to participate in the process. Procurement officers, procurement managers and accounting officers need to follow the existing procurement laws and procedures while executing procurement activities. The laws provide for legal documents to be used, the responsibilities of various officers and enforcement measures in case of non-compliance. This is in line with Dávid-Barrett and Fazekas (2019:17) who contend that it is from shaping the procurement laws that public officials in the procurement process are provided with guiding procedures, checks and balances.

As noted by the telephone interview participants:

ADT1: *“... I'm regarding contract compliance as carrying out the right process of placing the contract itself, managing the contract relationship and delivery of goods, services and works in accordance with public procurement laws.”*

ADT2: *“...for sure the organisation does a lot to ensure we are well knowledgeable and aware of anything about contract management, contract compliance and the contract laws, or procurement laws.”*

ADT4: *“...they have tried to follow the procurement procedures as per the Act, because I think there are legal issues then if you don't follow...”*

Participants noted that the existence of procurement laws and procedures is vital to guide the procurement officers, accounting officers, procurement committee members and users while participating in the procurement process, which enhances contract compliance.

- **Terms of reference**

Participants agreed that entities need to provide requirements or deliverables to be followed by the service providers. Terms of reference are drafted by user departments and during the bidding process, they are availed to providers in the call for bids and included in the contract. Entities need to define the purpose and the objectives of contracting for the consumption of the provider, to enable successful

implementation of the contract objectives. Auditors base on the terms of reference to check the progress of the contract; procurement managers to solicit for bids and draft a contract; and finance managers to effect payment to the provider. This is in line with Chrisidu-Budnik and Przedańska (2017:159) who contend that designing of proper terms of reference by the user department results in successful sourcing and award of contracts.

As noted by a telephone interview participant:

ADT7: *“...people are able to go by the terms of contract so it always leads to proper execution without any side effects, but it goes in line with the terms of reference.”*

As emphasised by a procurement officer in the focus group discussion:

POF6: *“Contract compliance is sticking or delivering according to the terms of reference or specifications in the contract.”*

As highlighted by participants, terms of reference or specifications need to be well drafted with due consultation from technical persons where necessary, so that the supplier is able to understand and supply the right items as expected by the user department or the entity, which promotes contract compliance.

The eighth theme, evaluation, will be presented next.

### **7.5.8 Results of evaluation**

Based on the content analysis, evaluation in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Due diligence**

Participants indicated that there is need to do a comprehensive appraisal of the business of the service provider to ascertain the capability to supply the products or services to a state department. Financial statements, past experience, registration of the company, references and documentation provided need to be analysed critically by the entity before a contract is awarded. Due diligence is a way to determine the



capacity of suppliers to perform as per the contract especially for providers who are new to the entity or when there are big contracts. Procurement managers and accounting officers are charged with ascertaining the credibility of suppliers and their capacity to perform in accordance with the contract terms of reference. Hawkins, Gravier and Randall (2018:7) cite that performing due diligence of suppliers alleviates risk of adverse selection and offers an avenue to verify requisite qualification and capability information.

As noted by the telephone interview participants:

AOF2: *“...doing due diligence on the contractor. There, you will be able to appreciate the contractor, to see that the person can perform, or the entity can perform or not.”*

HFD4: *“Sometimes companies come with all the documents you want, but when their capacity is not really commensurate with the value of the project. You find a project you budgeted to complete in for 3 years, but it runs for another 8 years due to the limited capacity of the contractor.”*

As emphasised by a specialist in the focus group discussion:

POF6: *“Carrying out due diligence. You have listed these companies and you know whether they are capable before you actually contract with them will help you get what you want or what you contracted for.”*

It is imperative that entities approach all supplier selections, which entails prequalification and bidding with caution by performing due diligence and increase chances of contract compliance.

- **Evaluation criteria**

Participants mentioned that there is need to establish evaluation criteria in the expression of specifications of goods or services which is open to form the basis for evaluation of bids submitted. Evaluation criteria need to be designed and implemented with the guidance of the technical team, the user, the procurement and disposal unit manager and the contracts committee and this criteria were to be

displayed openly to all bidders in form of a request for proposals. This is in line with the World Health Organisation (2018:4) who contend that criteria for evaluating tenders should be well defined before the invitation to bid is issued out.

As noted by the telephone interview participants:

HFD4: *“...display the evaluation criteria and you stick to that evaluation criteria...”*

POF1: *“We also provide them with an evaluation criteria that is open to all of them so they can compete fairly...”*

ADT3: *“Evaluation criteria should be followed to the letter, not favoring one bidder...”*

- **Participation**

From the interviews, it emerged that in some institutions, a number of staff are involved in the process of evaluation and are part of the various procurement committees that evaluate bids submitted. Involving stakeholders such as procurement managers, procurement officers, auditors, accounting officers and finance managers is vital in the process of procurement including bidding, contract placement, implementation and payment. This is in line with Flynn and Davis (2016:154) who contend that participation in procurement related activities enhances knowledge and experience of the individuals while at the same time increasing transparency in the process.

As shown by the telephone interview participants:

HFD3: *“In my institution and staff in the finance department, we are given a chance to participate in evaluation processes, we participate like, we sit on these committees to give finance advice...”*

POF2: *“...participating in for example evaluations to make sure that the right supplier is sourced...”*

HFD4: *“...participation of all stakeholders is very critical.”*

Involvement of all stakeholders such as auditors, heads of procurement departments, users, accounting officers, suppliers and contract managers in the procurement process makes everyone accountable and increases chances of compliance with contractual obligations.

- **Bidding**

Some participants considered bidding to be a valuable process right from the requisition to evaluation of the best bidders. Participants indicated that it is a requirement to set the bidding process clearly and make it competitive to solicit various bids or proposals from the public. Procurement managers and officers play a major role in calling for bids, guiding the process and bidders. This is in line with Mungurusi *et al.* (2016:3) who contend that the bidding should be followed, remain competitive and open in order to realise a fair and non-discriminatory process.

As noted by the telephone interview participants:

*HPT3: "You must follow the bidding process – the recommended days of bidding."*

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

As accentuated by a specialist in the focus group discussion:

*POF5: "...right from the requisition, what is required is set forth and very clear, to the bidding process..."*

*POF5: "...display the best evaluated bidder notice which shows the bidders who participated in the bidding, those who submitted their bids and who emerged the best evaluated bidder or who took the business..."*

It transpired that a competitive open bidding process that allows for negotiation and qualification basing on financial and technical capability is pertinent for contract compliance to occur.

- **Awarding contracts**

Participants indicated that after the evaluation committee has evaluated bids received and recommended the best bidder to the contracts committee, the

procurement manager needs to guide the contracts committee, which recommends contract award to the accounting officer. It is the accounting officer who approves and signs the contract to be awarded to the best evaluated bidder who is selected. Gatta (2017:64) contends that the award of contracts is an approved decision of the various procurement committees and it is the accounting officer to sign and communicate the award.

As indicated by the telephone interview participants:

*POF3: "...contractors have a tendency of curtailing to deter competition in the process. That is a very big thing and it is a very wrong action that these bidders are portraying and it is leading to wrong contract awarding which in the end leads to wrong contract implementation."*

*ADT2: "...at the time of awarding the contract the user department will still be present to be sure of the contractor is."*

For successful contracting, due diligence, evaluation criteria, participation, bidding and awarding are vital in the evaluation and awarding of bids to the right supplier and therefore achieving contract compliance objectives.

The ninth theme, stakeholder involvement, will be presented next.

### **7.5.9 Results of stakeholder involvement**

Based on the content analysis, stakeholder involvement in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **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, Sutrisno, Nurkholis and Andayani (2019:10) 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 the telephone interview participants:

HPT1: *"...in the organisation there is that teamwork within..."*

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

ADT2: *"...after adhering to the specifications, it would be even much more better to interact with the various officers from different offices that are in line with several specifications to be sure that before you complete your contract, you are sure that the contract has complied with the relevant laws and regulations".*

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 hastened the process, minimised the bureaucracies and reduced administrative challenges, which enhances contract compliance.

- **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 worked together to realise a successful contract. This is in line with Jamal (2017:10) who contend institutions need well-coordinated models to harmonise various activities of the procurement process both horizontally and vertically.

As noted by the telephone interview participants:

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.

- **Responsibility**

Participants emphasised that all the individuals in the process of contracting need to fulfill 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. Accounting officers also oversee that the entire process does not have any interference. Olajide *et al.* (2015:958) state that procurement and disposal activities are managed through well-established structures with clearly defined responsibilities for all players.

As shared by the telephone interview participants:

ADT1: *“...responsibilities for the different people involved in the contract should be clear from the beginning. What is the responsibility of contracts committee, what’s the responsibility of the contracts manager, what are the responsibilities of PDU, all these responsibilities should be made clear and then somebody knows what they are supposed to do.”*

HFD1: *“...it is also the responsibility of the manager to see that the service provider fulfills the conditions put in the contract.”*

HPT1: *“...even if they don’t empower you, it is your responsibility to ensure that what they are getting is good, so you try, as the Head of PDU, you supervise the entire process”.*

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 very responsibility in the process in the most ethical conduct”.*

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

- **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 quickly respond and take advantage of opportunities arising from foreseen and unforeseen changes in the contracting environment. This is in line with Wren (2019:1) who indicated that PDEs offered flexibility in the contract compliance process in order to take into consideration new practices or market reality.

As noted by the telephone interview participants:

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”.*

HPT3: *“The law is a little bit flexible that you can inquire before the relationship, that please, as we are doing evaluation, and you can inquire during evaluation, that ‘we are evaluating you, but we can see you don’t have this, please, do you have it?’”*

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

The tenth theme, contract management, will be presented next.

#### **7.5.10 Results of contract management**

Based on the content analysis, contract management in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Contract formation**

Procurement officers indicated that right from the start of the contract, all requirements need to be designed and after formation, requirements need to be followed. Contract formation starts with designing the statement of requirements. The PDU manager and the accounting officer receive requisitions with specifications that are availed to bidders to include in their bidding documents. According to Bartai and Kimutai (2018:50), contracts are designed right from planning, designing specifications, budgeting and scheduling of supplier orders.

As highlighted by focus group discussion participants:

POF5: *“...an ideal contract compliance process starts from the initiation when the user or the client for that matter involves technical people who can come up with the requirements that are clear in nature and the PDU for that matter ensures that it uses the best document notwithstanding the best processes and practices. Then the requirement is put into that document and the approvals are done”.*

ADT10: *“I’m assuming the procurement process starts from the design of the request for procurement...”*

It was observed that contract formation is the foundation of the entire contract compliance process and involving user departments from the beginning is vital to ensure that the contract placed is compiled to in its entirety.

- **Contract implementation, inspection and review**

Participants noted that all contractors need to implement all the things in the bid, but this is supposed to be examined by the beneficiary department and especially



managed by the contract manager in liaison with the procurement manager who looks at all the things that need to be done to have a good contract. This is in line with Dávid-Barrett and Fazekas (2019:4) who noted that contract implementation, inspection and review through audits, complaint mechanisms, and scrutiny by civil society organisations and the media created more efficiency and reduced risks associated with contracting.

As noted by the telephone interview participants:

HPT2: *“The contract manager is supposed to foresee the implementation of the contract and advise on the deviations where they are applicable.”*

ADT2: *“...in some cases we also have ministry officials because they are the ones releasing money, Ministry of Finance. They inspect the progress of these contracts and make reports”.*

HFD4: *” ...we get a time and inspect as joint teams”.*

As accentuated by a focus group discussion participant:

AOF3: *“...where there are disagreements, then matters have to be documented and maybe sent back to the procurement unit for review”*

It emerged that contract implementation, inspection and review are important in managing time, cost, quality and risk, which helps to create an enabling environment for contract compliance.

- **Value for money**

Procurement officers and procurement managers need to make sure there is value for money on all contracts signed by the entity. There is need to have continuous improvement in the efficiency of internal processes and systems in order to realise value for money. Procurement officers and procurement managers need to open up the bidding process and enhance competition amongst bidders for increased quality and reduced cost. Asare and Prempeh (2016:22) indicated that value for money is a choice which need not be taken basing on the lowest bid price.

As noted by the telephone interview participants:

POF1: *"...in whatever we do, we are bound to uphold the value for money principle at the end of the day so that service delivery can be achieved."*

HFD3: *"It is important to get value for money, to earn value for money for any product or service procured".*

POF3: *"...make sure there is value for money on any contract that has been in place."*

As highlighted by the telephone interview participants, value for money by reducing costs of contracting is central to ensure that the procuring entity performs efficiently, which eventually helps in creating an enabling contract compliance environment.

- **Performance management**

Participants mentioned that it is important to organise, manage and plan during the whole procurement process by for example looking at performance reports like contract management reports, PDU reports, procurement committee reports and bidding reports among others. Procurement managers and finance managers draft reports that indicate performance of suppliers and finances respectively. Performance management has become a key element in modern public sector governance, as it is a measurement of institutional and individual productivity in order to ensure that government fulfills its mandate (Patrucco, Luzzini and Ronchi, 2016:739).

As noted by a telephone interview participant:

HPT2: *"...we should be giving contractors performance contracts with points to a point that at one point they don't need to even to bid because we know them, they can perform."*

As emphasised by focus group participants:

POF6: *"They write performance reports regarding the contracts that have been delivered..."*

ADT11: *“...the internal way of doing compliance checks is internal audit, but for me I'd call it performance appraisal or monitoring and evaluation in terms of big projects...”*

It was highlighted that performance management is a key factor in creating an enabling environment for contract compliance. Procuring entities are periodically required through the contract managers, users and procurement officers to check and measure performance of contractors and other service providers to ensure that there is contract compliance.

- **Customer satisfaction**

Participants indicated that suppliers need to provide exactly what customers need. Issuing contracts provides an avenue for customer or user or entity satisfaction. Procurement managers draft contracts with terms of reference designed by the user department to be fulfilled to satisfy the entity needs for the approval of the accounting officer. This is emphasised by Bitzidis *et al.* (2020.83) who state that the element of customer satisfaction is crucial for procurement service quality as it offers loyalty and increases purchasing power and institutional performance.

As noted by a telephone interview participant:

AOF2: *“...that environment is very important, what you would call the internal customers, their satisfaction, their engagement”.*

And emphasised by a focus group discussant:

POF6: *“...contract compliance creates customer satisfaction because when you get exactly what you requested for, you have achieved the performance, so you will be satisfied”.*

As noted by a telephone interview participant and focus group discussant, customer satisfaction needs to be treated as a priority for service providers and also for procurement managers when sourcing for providers, in order to ensure contract compliance. In case a customer is not satisfied, the supplier needs to either refund the payment or alternative quality products may be delivered.

- **Operational environment**

Interview participants noted that understanding the environment one is operating in before contracting is key in ensuring that contracts are completed in time. It is important that the user department scans and proposes inclusions in the contract requirements with consideration for the operational environment. A strengths, weaknesses, opportunities and strengths (SWOT) analysis may be done together with consultation with technical departments and the PDU manager, doing due diligence, looking at past reports and experiences to learn and make more informed decisions. For the community projects, it is key that the community is consulted on their needs and expectations before raising a requisition for procurement of services, goods or works. Procurement officers and the accounting officer may advise the user department on scanning the operational environment for example through doing market surveys, among others. This is in line with Afolabi, Ibem, Aduwo, Tunji-Olayeni, Oluwunmi & Ayo-Vaughan (2019:6) who contended that scanning the environment encourages and promotes sustainable procurement practices.

As noted by the telephone interview participants:

ADT8: *"...understanding the environment you are operating in before committing to the contract".*

ADT8: *"You can do a SWOT analysis of the environment before contracts are entered into. Then understanding the party you are dealing with, which is part of the environment anyway."*

Participants laid emphasis on understanding the operational environment for contracts as a crucial factor in creating an enabling environment for contract compliance.

- **Conflict resolution**

Participants mentioned that disagreements among parties to the contract after contract signing are common. However, disagreements are not totally insolvable and therefore parties need to find an agreeable solution to the disagreement so that it can be resolved. Conflicts arise out of a personal, financial, political or emotional

disparity among contracting parties. Accounting officers therefore need to establish means of resolving conflicts amicably, so that the contractual obligations can be fulfilled satisfactorily. This is in line with Rodionova (2020:4) who allude that when a disagreement arises, often the first and best course of action is a meeting of parties to resolve to resolve it.

As noted by the telephone interview participants:

POF1: *“...because of nature, conflict is definitely going to arise from contracts and therefore that is another challenge, managing conflict resolution within contracts....”*

ADT6: *“...where there is noncompliance, the entity should be able to resolve it; that is the consultant, the contract manager, the supervisor and the contractor. It should be resolved at that level of the entity...”*

Participants illustrated that resolving conflicts amicably, equitably and expeditiously between contracting parties through mediation, arbitration and settling out of court are key and need to be provided for within the contract to enhance contract compliance.

The eleventh theme, funding, will be presented next.

#### **7.5.11 Results of funding**

Based on the content analysis, funding in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Realistic plans**

Participants emphasised the importance of planning activities in a manner that is realistic, bearing in mind the current situation such as timing, funding and sourcing requirements. Entities need to generate realistic plans that define clear objectives, requirements and deliverables; identify the tasks to be undertaken and the required resources; schedule and budget to achieve the intended objectives. Practical plans are generated by the user departments indicating the needs of the department, seek approval of the accounting officer and forward approved plans to the procurement

department to design a consolidated procurement plan and source for bids. The findings are in line with Ezeanyim, Uchenu and Ezeanolue (2020:133) who deduced that realistic plans presented precise, thorough, accurate steps to implement activities and achievable goals.

As noted by the telephone interview participants:

ADT4: *“...we should have plans, not one year, plans for like the next five years, what are we going to do, am really looking at unrealistic plans.”*

POF1: *“...realistic procurement planning and budgeting because at the end of the day it's no use for me to budget and plan well, but then fail to perform.”*

HFD4: *“Contract Compliance, actually it is the complete procurement cycle. It starts from planning for the investment...”*

Planning in a sequential and appropriate manner was cited to be one of the major reasons for the existence of a suitable contract compliance environment. It is important to have realistic plans, not only short, but long term plans, if contract compliance aims are to be achieved.

- **Timely payments**

Interview participants emphasised that timely payments are a big motivator for suppliers to comply with the contract requirements. Usually, payments are supposed to be made within thirty days from submission of invoices when it comes to government entities. Suppliers need to deliver within the agreed upon terms of reference and in turn, be paid within the agreed upon time, so that each party is satisfied and the relationship is maintained to avoid interest on late payments and litigation. Entities through the accounting officer, the head of the finance department and procurement manager receive, approve and process timely payments for suppliers in abid to fulfill their end of the contract. This is in line with Bosio, Djankov, Glaeser and Shleifer (2020:7) who contended that suppliers are entitled to claim interest on late payments if the procuring entity does not pay within the legally agreed upon time period.

As noted by a telephone interview with an auditor:

ADT6: *“...timely payments for work done so that the other party who is doing work is not left to run out of cash or something like that”.*

This is substantiated by specialists from the focus group discussions who noted:

POF6: *“The institution has helped by making timely payments, mostly in works, where payments are made as per the works or certified certificates before the works are completed. So by you making some timely payments, it makes the work continue smoothly.”*

HFD5: *“....also, the vendor expects to get a timely payment from you”.*

From the telephone interviews and focus group discussions, it is noted that making timely payments enables suppliers to deliver on time, thereby easing the contract compliance process. This creates a suitable contract compliance environment.

- **Budget allocation**

Interview participants identified that budget allocations made by entities are a strategy to make procurement activities sustainable. Allocating funds in the budget is part of procurement planning and this is usually done between the user department and the management of the institutions. Without budget allocations, funds cannot be approved for procurements to be done. It is the Head of the Finance Department who advises the user department and the accounting officer on the budget allocations for procurements. Once the budgets have been approved by the management, the PDU head of department then uses the budget allocations to guide and source for providers through the bidding process up to contract placement. This is in line with Diba, Remy and Pufahl (2019:6) who contended that making appropriate budget allocations creates an opportunity for contracted suppliers to be paid in a timely manner and activities to be implemented as planned, which results in the government fulfilling its obligations as per the contract.

As highlighted by the telephone interview participants:

POF1: *“...government is also living up to its mandate of also providing the budget allocations required because it's no use to plan and not get the money...”*

POF2: *“I think the ideal contract compliance process would begin from planning, doing budgeting, identifying the needs, sourcing then finally placing contracts. Okay for planning, for example when you are beginning a year then you plan that this year, this is what we are going to do. So that if you are planning that this is what you are doing to do, then you start budgeting for your resources, for the funds that you are going to use”.*

ADT8: *“...for some reasons the contract may delay and the government has allocated funds. But remember in government when you don't spend your money by 30th June of a certain year, by end of the financial year, it is swept back. You have to re-budget”.*

HPT1: *“...funds being available to pay a supplier really starts with management when they are allocating funds”.*

HFD1: *“...proper planning because I think sometimes we just look and say, there is a conference, there is this and that, instead of planning and ensuring that the funds are there. I think aligning the funding with the planning is important”.*

From the telephone interviews, it was indicated that making appropriate budget allocations by government and timely disbursement of the allocated funds enables fulfillment of entity objectives.

- **Supervisor facilitation**

Interview participants regarded that facilitating contract supervisors is vital for motivating the supervisor to effectively monitor and manage contracts. Supervisor facilitation includes funding; human resource recruitment and development; and providing equipment and space. Commonly, even with the big infrastructural contracts, the contractors are awarded huge sums of money, whereas the supervisors on the side of the entity are left unattended to, which sometimes compromises their quality of work as they may fail to turn up on site or even do regular reporting on contract performance. Accounting officers need to facilitate



contract supervisors and meet the cost of performance including accommodation, transport and communication when they are on duty. This is in line with Bobowski, Gola and Szydło (2019:162) who contend that motivated participants in the process of procurement are more active and dedicated to perform and improve overall contract performance.

As noted by telephone interviews with an auditor and a head of a procurement and disposal unit:

ADT5: *“Motivation of course. If the people implementing are well-facilitated, then they will have the energy to comply contrary to when the facilitation is limited.”*

HPT2: *“...at times they lack facilitation, proper facilitation. You are telling me to supervise a road in Karamoja, but you're not giving me fuel, there is no accommodation, you don't put that into consideration. The contractor is getting his money, but me the supervisor. And in most cases, the supervisor or contract manager acts on behalf of the government, the buyer, but they are not well facilitated.”*

This is substantiated by a specialist from the focus group discussion:

ADT10: *“If someone has to go to the field to check compliance, they need to be facilitated with money and other resources.”*

From the telephone interviews and focus group discussions, it can be concluded that facilitating contract supervisors and managers with financial and other resources are key motivators to improve contract compliance.

- **Advance payment**

Interview participants contended that some suppliers lack adequate capacity to deliver on big contracts and seek for advance payment. Money available upfront is a motivation and a financing strategy by the entity to facilitate reputable suppliers to comply with big contracts. The findings are in line with Qin, Han, Wei & Xia (2020:2)

who indicated that advance payments may be offered to a supplier in case of a major infrastructure, project or long-term arrangement as provided for in the law.

As noted by the telephone interview participants:

HPT2: *“...there is what we call advance payment. When I sign a contract to a road or building and the contract is very clear that you are supposed to pay me 10% percent before I start...”*

POF3: *“...sometimes we give them advance payments. Some suppliers don’t have finances so by advancing them, you are developing suppliers”*

It emerged that giving big contractors an advance payment is a key motivator for early commencement and quick implementation of contracts, which generates an enabling environment for contract compliance.

- **Budgeting**

The interview participants emphasised the importance of budgeting in effectively delivering on contracts. Open budgeting is emphasised where the budget is presented to management for discussion and approval of items and budgeting is provided for under the PPDA Act. Budgeting is important for executions of plans and improved government priority spending. Entities need to identify income generating sources and create smart spending plans to implement planned activities. PDE budgets come from user departments and go all the way to Parliament for approval and each PDE’s budget is accommodated under its mother ministry, where the expenditure votes are determined and monitored. Heads of finance departments receive budgets from users and guide all commitments for funds and payments are done against the approved budgets. The findings are in line with Rusu, Hurloiu and Hurloiu, (2019:63) who highlighted that the budget should meet the institutional short-term, medium and long term objectives.

As noted by the telephone interview participants:

HPT1: *“Really it is this open budgeting process these days.”*

ADT6: *“...that ideal is prescribed by the PPDA law which begins with the budgeting...”*

ADT4: *“...we should look at the budgeting process because people know how the government money comes in.”*

ADT3: *“...when it comes to budgeting, the budget is not enough...”*

Participants indicated budgeting for user needs in a timely, well planned manner is important for the achievement of contract compliance goals.

The twelfth theme, openness, will be presented next.

#### **7.5.12 Results of openness**

Based on the content analysis, openness in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **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, Odundo and Nyagah (2019:3) who relate that advertising all tenders is a regulatory requirement and fosters transparency and competitiveness.

As suggested by the telephone interview participants:

POF2: *“For the case of the World Bank, it actually has something called a general procurement notice where you advertise all the services, all the goods, works and services that you are going to do throughout the project.”*

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.

- **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 pick out 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 (2020:531) who relate that shortlisting bidders is an avenue of qualifying bidders to ensure a sufficient level of capability.

As conveyed by the telephone interview participants:

POF3: *“...we shortlist bidders and we have to display it on the notice board”*.

ADT8: *“...the shortlist you do not necessarily have to put in papers because it is costly. You only give to people who have picked interest and applied”*.

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.

- **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 (2019:105) who relate 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 the telephone interview participants:

POF2: *“...if you are doing maybe open bidding, you invite, when you are receiving bids, open the bids in the presence of all the bidders, you display the results for them to see the outcome”.*

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.

- **Transparency**

Interview participants mentioned that transparency is of paramount importance since public procurement involves vast amounts of money. Information regarding the process is laid out for the public to know since they are the ultimate recipients of government services. However, certain information such as pricing, innovation and trade secrets are only privy to a few individuals who are directly involved in the process. Transparency is usually exhibited through 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 (2020:5) who relate that transparency increases community participation in government projects, more inclusive procurement and high accountability.

As noted by the telephone interview participants:

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

HFD2: *"If there is transparency, where there is openness and everything is clear then definitely that's a good contract compliance environment".*

POF1: *"...there is bound to be transparency in whatever we do..."*

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.

- **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 fulfill 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 (2020:7) who relates that by being fair, one does not discriminate, but is accountable for their actions. Equality eliminates discrimination and creates equal opportunity for all bidders, which in turn fosters competition.

As highlighted by the telephone interview participants:

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

HPT2: *"...the principle of fairness is enforced through advertisement, floating tenders, evaluation, it means that you have put all these bids to an assessment, fair judgment. Before you pick so and so, there must be fair judgment".*

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 do not need to be biased or have 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.

- **Open door policy**

Interview participants noted that 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 listen to each other. The findings are in line with Harland, Telgen, Callender, Grimm & Patrucco (2019:7) who noted that to be effective, each party to the contract needs to have an open door policy of airing out 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.

The thirteenth theme, ethical orientation, will be presented next.

### 7.5.13 Results of ethical orientation

Based on the content analysis, ethical orientation in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **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 (2020:69) who relates that equality eliminates discrimination and creates equal opportunity for all bidders, which in turn fosters competition.

As noted by the 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”.*

As emphasised by a specialist in the focus group discussion:

POF5: *“We are supposed to give equal access to information to all bidders. We are supposed to give them equal opportunity to be in public procurement. We are supposed to provide information equally...”*

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.

- **Positive work attitude**

Interview participants noted that a positive attitude means a lot 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, Winarno and Handayani (2019:6) who relates to positive attitude being a dampening factor for illegalities such as bribery, which stifles competition and hampers service delivery.

As demonstrated by 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 acceptance of any outcome, by providing information on the best bids and justification of all bids submitted including the unsuccessful bids, because this enables contract compliance.

- **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:50) who state that integrity in operations increased accountability and reduced resistance to change.

As noted by the telephone interview participants:

POF1: *"...we are called to enhance integrity above all, so we follow a certain ethical code of conduct and which ethical code of conduct appraises our moral behavior in the procurement process".*

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 a guarantee that they will be awarded if they meet all evaluation criteria without favour and that they can rely on the information provided by the procuring entity and the outcome of the procurement process, which advances contract compliance.

- **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 and in the process enhance innovation and competition. This is emphasised by Gad, Loulakis and Gransberg (2020:6) 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 interview participants:

ADT6: *“...I was telling you for every officer involved, the limit is confidentiality...”*

POF4: *“...I may breach the confidentiality by maybe I open let’s say at bid opening, I see someone’s bid, then I talk to another competitor about their bid price. So I breach confidentiality that way.”*

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.

- **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 giving the true 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, Harmon, Hjorth and Olsen (2019:1) who state that dishonest individuals are more abnormally motivated, heighten risk in contracting and detract from the achievement of entity objectives.

As stated by 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.

- **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 fulfill contractual obligations. The findings are in line with Saputri (2018:337) who noted that giving autonomy to a supplier creates opportunity to easily resolve unforeseen circumstances which occur during the performance of the contract. At the same time,

suppliers are more likely to associate with buyers who prove to exercise freedom while executing contracts (Popescu, Onofrei & Kelley, 2016:89).

As pronounced by the 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.

The fourteenth theme, capacity building, will be presented next.

#### **7.5.14 Results of capacity building**

Based on the content analysis, capacity building in terms of the subthemes, as depicted in Table 7.2, are discussed in the subsequent sections.

- **Training**

Interview participants suggested that the field of procurement is a technical one and staff need to be trained in the subject matter processes and laws. Teaching an individual a particular skill or behavior is important in developing staff competences in the area. Procurement officers, auditors and managers need to be trained about the process in order to perform tasks more efficiently, improve morale of staff and achieve job satisfaction. Training is required in the areas of contract supervision, arbitration, negotiation and management, among others. This is in line with Mendoza Jimenez, Hernandez Lopez and Franco Escobar (2019:1) who contended that training of officials involved in the public procurement process increased their

awareness of the process and how it should be improved in a bid to realise the government mandate of service delivery to the public.

As highlighted by the telephone interview participants:

ADT2: *“There have always been seminars, workshops, training on how to ensure organisations supervise these contracts”.*

HFD2: *“...there is also training. Our organisation has really embarked on training on the various systems... We have refresher training programs in place.”*

POF1: *“...human beings learn so one would be continuous appraisal and continuous training, capacity building for procurement teams on what is required of them in the entire procurement process”.*

AOF1: *“...training people, train people, how do you comply, how do we comply, how do we ensure that contracts are implemented...”*

POF2: *“Bring in more training of user departments...”*

As emphasised from the telephone interviews, training in procurement and contract management needs to be done for suppliers, users, procurement officers and contract managers who are involved in the contract compliance process.

- **Knowledgeability**

Interview participants alluded that procurement being a technical field, required knowledgeable people to be involved in the process of contracting. Knowledgeability concept involves awareness or understanding on a particular subject matter through experience or training. Procurement managers, procurement officers, auditors, accounting officers and finance managers need to be knowledgeable about the process in order to make improved decisions, perform tasks more efficiently and improve overall institutional performance. This is in line with Allen and Renfrey (2017:6) who indicated that knowledgeable public officials are experienced, competent, with a high awareness of risk associated with the processes of the relevant function and are therefore more risk averse and careful in the way they handle their duties.

As noted by the telephone interview participants:

ADT7: *“...what I see is that people knowledge and skills is the most important.”*

ADT1: *“...the contract manager is supposed to have the expertise, the technical knowledge to be able to supervise the contract”.*

HFD1: *“...we need to make sure that the people in the procurement are knowledgeable also because there are some contracts which could want a person to have a specialised knowledge and if they do not have it, then it may I think be difficult for them to execute their functions”.*

As emphasised by an auditor in the focus group discussion:

ADT11: *“...we need to look at the professionalism and the knowledge and the skill of the contracting party”.*

It emerged from the telephone interviews and focus group discussions that suppliers, users, procurement managers and procurement officers who are involved in the process of procurement need to be knowledgeable and well conversant about contracting in order to improve chances of compliance. This is reflected in the sensitive contract compliance process, where technical knowledge and skills are required in awarding for example infrastructural contracts.

- **Consultation**

Interview participants noted that consultation amongst key staff, especially technical staff is an important concept in ensuring that the contract is well drafted, managed and implemented. Consultation may be informal or formal on factors ranging from budgeting, bidding, contract specifications and implementation. Procurement managers, accounting officers and finance managers consult each other and share meetings with technical departments and various committees in institutions. Consultation involves many activities which help institutions to be well coordinated, make improved decisions and improve overall performance in institutions. The findings are collaborated by Donatello, Quintero, Caldas, Wolf, Van Tichelen, Van Hoof and Geerken (2019:25) who indicate that an entity may consult especially on

technical matters as a check and sometimes to approve their requirements or terms of reference.

As noted by the telephone interview participants:

AOF2: *“I think the right things are consultations. I mean when a contract has been signed, consultations with the stakeholders, user departments and the other supporting departments: finance and administration. So consultations, meetings, teamwork, those would be the right actions when contracts are being implemented.”*

ADT3: *“...where I need assistance to do with contracting, I can contact my immediate supervisor for consultation and how to go about it.”*

Participants demonstrate that consulting more knowledgeable and experienced professionals by procurement officers and contract managers is vital in increasing access to information to improve the contract compliance process.

- **Education**

Interview participants suggested that it is important to educating suppliers on how best to participate in the public procurement contracting process. Educating suppliers is in the form of inviting them to attend supplier conferences, forums, meetings and short term trainings on matters such as preparation of bidding documents. Procurement officers, managers, accounting officers and suppliers are periodically trained by the PPDA Authority on how to bid, monitor and comply with contracts. Educated suppliers are more likely to make less mistakes and more informed decisions. The findings are in line with Hudrasyah, Nugraha, Fatima and Rahadi, (2019:28) who indicated the need for suppliers to be actively educated on delivery of sustainable products and services to government.

As noted by a telephone interview participant:

HPT3: *“...by educating suppliers on what they are supposed to provide in order to be compliant...”*

It emerged that educating suppliers on how to bid greatly improves the rate of participation in the bidding process, which in turn improves the contract compliance environment.

Next is the summary of this chapter.

## **7.6 SUMMARY**

In this chapter, the findings of the qualitative individual telephone interviews and focus group discussions via Zoom online platform with the auditors, accounting officers, heads of finance departments, heads of PDUs and procurement officers were presented. Themes, subthemes and issues were identified after conducting the content analysis. To begin with, information was provided on why individuals and suppliers or service providers involved in public procurement engaged in contract compliance; and stages in the contract compliance process. Participants also identified challenges associated with contract compliance including: Supplier related challenges, institutional challenges and external challenges.

The chapter concluded with the conditions for creating an enabling environment for contract compliance. Fourteen main themes with subthemes with associated issues transpired from the individual telephone interviews and focus group discussions via Zoom online platform. Based on the content analysis, the fourteen main themes identified were: communication; reporting; records management; institutional structure; compliance checks; enforcement; legal and regulatory framework; evaluation; stakeholder involvement; contract management; funding; openness; ethical orientation; and capacity building.

The following chapter summarises the present study and presents the conclusions and recommendations of the study.



## CHAPTER EIGHT

### SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

#### 8.1 INTRODUCTION

Chapter 7 presented the findings of the qualitative research approach conducted during the two phases of individual interviews and focus group discussion. This study explored the enabling factors necessary for contract compliance and how it can be effectively used to assist in the Ugandan context. Fourteen main themes with subthemes with associated issues transpired from the individual telephone interviews and focus group discussions via Zoom online platform. Based on the content analysis, the fourteen main themes identified as factors relevant to the creation of an enabling environment for contract compliance to occur were: communication; reporting; records management; institutional structure; compliance checks; enforcement; legal and regulatory framework; evaluation; stakeholder involvement; contract management; funding; openness; ethical orientation; and capacity building.

Chapter 8 commences with a summary of the chapters contained in the study, followed by a presentation of how the objectives of the study were met. The conclusions and recommendations regarding the challenges, process and enabling factors necessary for contract compliance are presented. The contributions of this study to the field of contract compliance in the Ugandan context are highlighted, after which the limitations of the research are discussed. Recommendations for future research are made, and the chapter is concluded. The next section presents a summary of this study.

#### 8.2 SUMMARY OF THE STUDY

This study comprised of the following eight chapters.

**Chapter 1** provided an introduction and background to the study and the problem statement, research objectives and research methodology were outlined.

**Chapter 2** presented an overview of the global Procuring and Disposing Entities landscape. A detailed account of the global procurement and disposal landscape

was provided in this chapter. The chapter also described procurement, PDEs and public procurement. Characteristics as well as the goals of PDEs are highlighted. A discussion on the globally accepted principles was given. As part of the framework for public procurement, the global framework, the regional framework and national framework for public procurement inclusive of the international, regional and local politics, laws, guidelines and directives from the different fora and countries were comparatively discussed. Chapter 2 concluded by clarifying on the contribution of PDEs to sustainable development.

**Chapter 3** presented the procurement and disposal in Uganda. Basic principles and major trends in public procurement were explained. A presentation of the structure and responsibilities was given with emphasis on user departments, evaluation committees, procurement and disposal units, contracts committees, accounting officers, line ministries, public procurement and disposal of public assets authority and the ministry of finance, planning and economic development of Uganda. Chapter 3 concluded by acknowledging the challenges and key success factors for PDEs in Uganda.

**Chapter 4** provided an overview of the nature and theoretical perspective of contract compliance. Multiple theories have been selected to guide this research. A multi theoretical approach to provide a deeper understanding of the enabling factors necessary for contract compliance using the principal-agent theory, legitimacy theory, stakeholder theory and the institutional theory was adopted.

**Chapter 5** presented the research design and methodology adopted in this study, outlining aspects such as research paradigm, research approaches, study population, sampling, data collection and analysis and the trustworthiness of the measuring instrument used during the interviews.

**Chapter 6** presented the biographical profiles of the interviews conducted with procurement officers, accounting officers, auditors, heads of PDUs, heads of finance departments who participated in phases one and two of this study.

**Chapter 7** presented the findings of the twenty one individual telephone interviews in phase one and two focus group discussions via the Zoom online platform in phase

two of the study by indicating the themes, sub themes and issues that emerged when conducting content analysis. The findings of contract compliance in state departments were amalgamated within the identified themes and sub themes with specific reference to those issues pertaining to Uganda.

**Chapter 8** concludes the study by providing a summary and recommendations on how to create an enabling environment for contract compliance. The following section discusses how the objectives of the study were met.

### **8.3 HOW THE RESEARCH OBJECTIVES WERE MET IN THE STUDY**

The primary objective of this study was to determine the enabling factors necessary for contract compliance and how it can be effectively used to assist PDEs in the Ugandan context. This objective was achieved with the findings indicated by the participants in phases one and two of the study. The qualitative findings confirmed a number of factors that enabled contract compliance such as communication, reporting, records management, institutional structure, compliance checks and enforcement. Legal and regulatory framework, evaluation, stakeholder involvement, contract management, funding, openness, ethical orientation and capacity building are also critical in establishing an enabling environment for contract compliance. The study also addressed the secondary objectives as shown in Table 8.1.

**Table 8.1 illustrates how secondary objectives in this study were met.**

Secondary objective	How objective was met
To critically assess the literature on contract compliance.	<p>This objective has been achieved in Chapters 2, 3 and 4. Chapter 2 provided a detailed account of the global, regional and national procurement and disposal landscape. Key terms were defined and the characteristics and goals of PDEs were elucidated. Particular reference was made to the PDE agreements, recommendations, laws, directives, guidelines and regulations applicable on a global, regional and national scale. It concluded with a discourse on the contribution of PDEs to sustainable development. Chapter 3 presented a global overview on PDEs in Uganda. A history of reforms and basic principles of public procurement were highlighted. Major trends such as framework contracting, green procurement, e-procurement, public private partnerships, cognitive procurement, cyber security, cloud technologies, corporate social responsibility, innovation, simplicity, nearshoring and reshoring in PDEs were elucidated. Reference to the structure and responsibilities; and the legal and regulatory framework for public procurement was made. PDEs were categorised into government ministries, departments and agencies; commissions and statutory authorities; and local government institutions. External and internal stakeholders of public procurement were elucidated. Procurement methods including domestic and international bidding, request for quotations, force account, micro and direct procurement were expounded on. Procurement methods, the procurement and disposal process, e-procurement, records management and the financial framework followed in public procurement in Uganda were highlighted. It concluded with a discussion on the challenges and key success factors for public procurement in Uganda. Chapter 4 provided a theoretical perspective on contract compliance. This entailed a discussion on contracts, contract compliance and elements of contract compliance. In a bid to provide a deeper understanding of the enabling factors necessary for contract compliance, an explanation on the main theories that were used to guide this study was provided. Principal-agent theory, legitimacy theory, stakeholder theory and institutional theory were presented as guiding theories for this study.</p>
To identify and implement an appropriate research methodology for this study in order to assist the achievement	<p>This objective has been achieved in Chapter 5 where an interpretivistic research paradigm was deemed most appropriate for this study and a qualitative research approach was adopted. Purposive and convenience sampling methods were employed because participants were available and willing to participate. Individual telephone interviews and focus group discussions</p>

Secondary objective	How objective was met
of the overall research objective.	via Zoom online platform were preferred in gathering information as a result of the COVID-19 pandemic where it was difficult to carry out face to face interviews. An interview guide was used to collect the data from participants. Data was analysed using content analysis and thematic analysis.
To empirically explore the factors that influence contract compliance of PDEs in Uganda	This objective was achieved in Chapters 6 and 7, from the interpretation of findings of phase one – individual telephone interviews and phase two – focus group discussions. Chapter 6 presented biographical information on the participants (auditors, accounting officers, procurement officers, the leaders of procurement units and of finance departments). Chapter 7 presented the thematic findings from 29 participants who provided insight about the factors that influence contract compliance of PDEs in Uganda.
To empirically establish what is regarded as important in the creation of an enabling environment for contract compliance.	This objective was achieved in Chapter 7 where elements like adherence to procurement procedures and requirements; compulsory regulatory measure; efficiency and effectiveness of the procurement process; improved utilisation and allocation of government resources; sign of commitment; delivers economic benefits; timely and improved service delivery; enables government to realise its mandate; satisfy end-user needs; fulfilling entity objectives; and avoiding disputes among contracting parties were identified.
To provide recommendations and guidelines on how to create an enabling environment for contract compliance in PDEs in Uganda.	This objective was achieved in Chapter 8. Conclusions and recommendations were made based on findings in Chapters 6 and 7. The study also draws more conclusions and recommendations based on literature of Chapter 2, 3 and 4.
To develop a conceptual framework for contract compliance in PDEs in Uganda.	This objective was achieved in Chapter 8

Source:

Researcher's

own

compilation.

### 8.3.1 Conceptual framework for contract compliance in PDEs in Uganda

From the findings of this study, fourteen factors to enable a suitable contract compliance environment were identified and this is illustrated in Figure 8.1 below:



Source: Researcher's own compilation.

**Figure 8.1: Enabling factors for a suitable contract compliance environment**

Figure 8.1 indicates the enabling factors for a suitable contract compliance environment. These include: communication; reporting; records management; institutional structure; compliance checks; enforcement; legal and regulatory framework; evaluation; stakeholder involvement; contract management; funding; openness; and ethical orientation.

openness; ethical orientation; and capacity building. As such, the recommendations of this study are based on this conceptual framework.

## **8.4 CONCLUSIONS ON CONTRACT COMPLIANCE**

From the findings in Chapter 7, basing on the data collected and analysed using the interpretivistic research paradigm, participants (auditors, accounting officers, procurement officers, heads of procurement and disposal units and heads of finance departments) provided information on the process, challenges and recommendations of contract compliance. On the basis of the findings of this research, the study therefore makes the following conclusions to enhance contract compliance:

### **8.4.1 Conclusions on communication**

The conclusions offered on communication (information sharing, feedback, open engagement, communication channels and continuous updates) are provided next.

- **Conclusions on information sharing**

Empirical findings from the participant interviews and focus group discussions concur with literature that participants involved in the contract compliance process require that all information should be shared between the various stakeholders including the suppliers to achieve an appropriate contract compliance environment (Yoon *et al.*, 2020:1362).

- **Conclusions on feedback**

From the participant interviews and focus group discussions, it is evident that giving and receiving feedback between the entity and the service providers is a requirement to addressing the concerns, challenges and issues raised by parties within the contract process. Providing feedback is vital when communicating to suppliers about the bidding process, awards, payments and the way the contract has been executed, as noted by Komora and Kavale (2020:9).

- **Conclusions on open engagement**

It was clear from the participant interviews that openly involving suppliers was crucial for a suitable contract compliance process. Open engagement was achieved through having meetings such as pre-bid meetings and performance review meetings that engaged suppliers and contractors, as confirmed by Torvinen and Ulkuniemi (2016:31).

- **Conclusions on communication channels**

Interview participants confirmed that using various communication channels such as face to face discussion, e-mails, state department noticeboards, letters and newspapers enabled the tendering process and improved the purchasing power, which was crucial to have a suitable contract compliance environment as affirmed by Akaba *et al.*, 2020:12).

- **Conclusions on continuous updates**

It was confirmed by interview participants that bringing suppliers up-to-date with the new developments on the process and matters concerning the bid applications, award and implementation was a requirement for a suitable contract compliance environment (Suhonen *et al.*, 2019:6).

#### **8.4.2 Conclusions on reporting**

The conclusions offered on reporting (regular reporting, reporting criteria and financial reporting) are provided next.

- **Conclusions on regular reporting**

From the participant interviews and focus group discussion, it was confirmed that it was a requirement for contract managers to make periodic reports daily, weekly or monthly to ensure that the contract is implemented to the satisfaction of parties, as noted by Medzhybovska and Lew (2019:102).

- **Conclusions on reporting criteria**



From the participant interviews, it was confirmed that it is a requirement to design conditions against which a contract is implemented and the standards have to be agreed upon by parties to the contract, as affirmed by Alhola *et al.* (2017:8).

- **Conclusions on financial reporting**

Participants indicate that disclosing financial information of a supplier to the contracting entity including the income statements, balance sheets and cash flow statements is a requirement for establishing the credibility and capacity of the supplier to deliver, thus enabling a suitable contract compliance environment (Chychyla *et al.*, 2019:228).

#### **8.4.3 Conclusions on records management**

The conclusions offered on records management (documentation; filing and storage; document access; referencing; and accuracy) are provided next.

- **Conclusions on documentation**

From the participant interviews, it was confirmed that documents such as request for proposals, request for quotations, goods received notes, reports on inspection of goods and performance reports eased the procurement process. Documents prepared the suppliers and state departments to properly monitor and implement the procurement contract as indicated by Naidoo *et al.* (2017:27)

- **Conclusions on filing and storage**

It was clear from the participant interviews and focus group discussion that it is a requirement that files for each individual purchase must be maintained with copies of all relevant documentation such as contract, requisition, goods received note, performance report and minutes of meetings (Deng *et al.*, 2019:137).

- **Conclusions on document access**

From the participant interviews, it was confirmed that documents had to have restricted access due to the fact that some information submitted by suppliers is confidential as noted by a procurement officer who highlighted that all procurement

documents were accessed only by the procurement personnel. This was noted by Banyenzaki (2016:68).

- **Conclusions on referencing**

From the participant interviews and focus group discussions, it was indicated that it is a requirement that procurement documentation should be assigned reference numbers for ease of filing and retrieval of information in terms of the contract award, selection method used and bid particulars, as affirmed by Raiyani *et al.*, 2019:2).

- **Conclusions on accuracy**

From the participant interviews, it was noted that it is a requirement for documents to be kept in a manner that conforms with the set standards in the PPDA Act, rules and regulations of procurement; and presents the right information (Fathoni *et al.*, 2019:267).

#### **8.4.4 Conclusions on institutional structure**

The conclusions offered on institutional structure (top management support; decision making; instituting committees; clear responsibilities; delegation of authority; seeking approval) are provided next.

- **Conclusions on top management support**

From the participant interviews, it was noted that top management support was a key requirement to establish strategic needs, identify potential partners to work with, enable negotiation and execution of a contract as highlighted by Mir (2019:3).

- **Conclusions on decision making**

From the participant interviews, it was confirmed that it establishing strong decision making structures such as committees, delegation of authority and approvals was a requirement to avoid conflict and litigation arising out of poor decision making as affirmed by Mir (2019:5).

- **Conclusions on instituting committees**

From the participant interviews and focus group discussion, it was highlighted that it is establishing procurement committees such as evaluation committees, contracts committees, contract negotiation committees, board committees and contract management committees enabled negotiation, approvals, payments, monitoring and implementation of the contract to successful completion, as affirmed by Radianto *et al.* (2020:560).

- **Conclusions on clear responsibilities**

From the participant interviews and focus group discussion, it was highlighted that having clear responsibilities for all individuals involved in the contracting process as stipulated in the PPDA Act enabled transparency, accuracy and consistency in executing procurement activities, as noted by Belfield *et al.* (2020:2).

- **Conclusions on delegation of authority**

From the participant interviews and focus group discussion, it was confirmed that delegation of authority where the accounting officer entrusts the contract manager to monitor progress and execution of a contract is a requirement for an enabling contract compliance environment, as highlighted by Koala (2016:73).

- **Conclusions on seeking approval**

From the participant interviews, it was confirmed that procurement approval is essential for empowering the accounting officer and committees in making decisions on behalf a state department in accordance with the policies and PPDA law, as highlighted by Adusei (2018:47).

#### **8.4.5 Conclusions on compliance checks**

The conclusions offered on compliance checks (internal and external controls; supplier checks; whistle blowing; enforcement; blacklisting suppliers; interdiction of officers; litigation,; penalty; contract termination; and imprisonment) are provided next.

- **Conclusions on Internal and external controls**

From the participant interviews, it is confirmed that internal and external controls boosted efficiency, deterred fraud and corruption. Controls are enforced by auditors, filling in procurement forms and using procurement documentation, as emphasised by Dávid-Barrett and Fazekas (2019:2).

- **Conclusions on supplier checks**

Checking the quality of the materials and services delivered was one of the requirements, which was performed by the stores manager, the auditors and the contract manager. This was done to ascertain whether the contract requirements were met, as emphasised by Dweiri *et al.* (2016:273).

- **Conclusions on whistle blowing**

From the participant interviews, it was noted that individuals within a state department would freely raise their concerns regarding corruption and fraud, by whistle blowing to the Inspector General of Government (IGG) in case the process was not done as per the PPDA Act as indicated by Rustiarini *et al.* (2019:10).

#### **8.4.6 Conclusions on enforcement**

The conclusions offered on enforcement (blacklisting suppliers; interdiction of officers; litigation; penalty; contract termination; and imprisonment) are provided next:

- **Conclusions on blacklisting suppliers**

It was clear from the participant interviews that blacklisting suppliers from participating in the future procurements is a requirement to deter fraudulent or non-performing suppliers from participating in bidding for state department contracts, as highlighted by Kenstavičius (2016.33).

- **Conclusions on interdiction of officers**

From the participant interviews, it is noted that officers who did not follow the procurement procedures as laid out in the PPDA Act and regulations, were barred

from performing normal public duties, which created an enabling environment since individuals desisted from not complying Banik and Chinsinga (2016:88).

- **Conclusions on litigation**

It was clear from the participant interviews that taking a supplier or a state department to court was a possibility. This was done, because of unsatisfactory contract implementation arising out of poor quality delivery, non-payment, late payment or contract changes, after agreement, as affirmed by Craven and Arrowsmith (2016:3).

- **Conclusions on penalty**

It was clear from the participant interviews that penalties can be enforced in-case one party is unable to fulfil their obligations as per the agreed upon conditions in the contract, as a compensation for non-compliance (Coviello *et al.*, 2018:830).

- **Conclusions on contract termination**

It was apparent from the participant interviews that the contracts can be completely stopped due to delays in commencement or implementation of the conditions in the contract, as highlighted by Tkachenko and Esaulov (2020:5).

- **Conclusions on imprisonment**

From the participant interviews, it is a requirement that people who engage in unethical or illegal practices in violation of the PPDA law can be taken to court and are imprisoned once found guilty, which is in line with Chen (2020:584).

#### **8.4.7 Conclusions on legal and regulatory framework**

The conclusions offered on legal and regulatory framework (procurement laws and procedures; and terms of reference) are provided next.

- **Conclusions on procurement laws and procedures**

It was clear from the participant interviews that it was a requirement that the procurement laws and procedures are followed by the procurement officials and

other parties involved in the process (Dávid-Barrett & Fazekas, 2019:17). This involves a checklist for the various risks, stages of the procurement cycle, documents to be used, persons, roles and responsibilities involved and red flags for detection of irregularities, among others.

- **Conclusions on terms of reference**

From the participant interviews, it a requirement that the terms of reference define the terms and duties required of a procurement manager, accounting officer and a contract manager; the project background, objectives and structure; to enable proper accomplishment of contract goals (Chrisidu-Budnik & Przedańska, 2017:159).

#### **8.4.8 Conclusions on evaluation**

The conclusions offered on evaluation (due diligence, evaluation criteria, participation, bidding and awarding contracts) are provided next.

- **Conclusions on due diligence**

It was clear from the participant interviews and focus group discussions that due diligence via checking past experience, materials for use, operations and procedures for management is a requirement for sourcing for providers and ascertaining their capabilities to fulfil the contract (Hawkins *et al.*, 2018:7).

- **Conclusions on evaluation criteria**

From the participant interviews, it was clear that establishing an evaluation criteria that includes the legal obligations, deliverables and other requirements such as complaint reviews, follow up reviews and complaint investigations is a requirement for delivering the required output as indicated by the World Health Organisation (2018:4).

- **Conclusions on participation**

It was clear from the participant interviews that involvement of the different parties, for example sitting on various committees creates an equal opportunity for all bidders

and therefore creates trust among parties, because they expect to achieve the desired contract compliance output (Flynn & Davis, 2016:154).

- **Conclusions on bidding**

It was clear from the participant interviews that it is a requirement that a state department calls for bid proposals from the public and the qualified suppliers are selected through a competitive bidding process as laid out in the PPDA Act and regulations (Mungurusi *et al.*, 2016:3).

- **Conclusions on awarding contracts**

It was clear from the participant interviews that the award of contracts by the accounting officer, after recommendation of the contracts committee is a legal requirement for all state departments to source for providers to deliver services and goods, as compelled by the PPDA Act (Gatta, 2017:64).

#### **8.4.9 Conclusions on stakeholder involvement**

The conclusions offered on stakeholder involvement (teamwork; coordination; responsibility; and flexibility) are provided next.

- **Conclusions on team work**

It was clear from the participant interviews that working as a team is a requirement for the effective execution and management of procurement related activities including planning, bidding, approvals and contract management as affirmed by Rustiarini *et al.* (2019:10).

- **Conclusions on coordination**

It was clear from the participant interviews and focus group discussions, that it is a requirement to arrange and harmonise activities from the start, beginning with planning for the procurement and ending with payment; and ensuring the persons responsible do the work along the process (Jamal, 2017:10).

- **Conclusions on responsibility**

From the participant interviews focus group discussion, it is affirmed that the responsibilities of the different parties including PDU manager, PDU officer, accounting officer, committee members and user department should be clear to enable a suitable contract compliance process (Olajide *et al.*, 2015:958).

- **Conclusions on flexibility**

Findings from participants indicate that it is a requirement for flexibility in the evaluation process and changes of prices for the different commodities can be considered is a suitable contract compliance process is to be realised (Wren (2019:1).

#### **8.4.10 Conclusions on contract management**

The conclusions offered on contract management (contract formation; contract implementation, inspection and review; value for money; performance management; customer satisfaction; operational environment; and conflict resolution) are provided next.

- **Conclusions on contract formation**

Participants affirm that it is a requirement that the structure of a contract is defined right from the start by the user after consulting he technical offices to provide guidance and insight and to ensure that the right specifications are included in the requisition for procurement (Bartai & Kimutai, 2018:50).

- **Conclusions on contract implementation, inspection and review**

Participants note that it is a requirement that a contract manager is appointed by the accounting officer, to monitor and follow up with the contractor and report on the progress of implementation, inspection and review, to guide the contractor and management so that the contract is successfully implemented (Dávid-Barrett & Fazekas, 2019:4).



- **Conclusions on value for money**

Participants confirm that it is a requirement that suppliers deliver the desired products and services at a high quality and reduced cost as affirmed by Asare and Prempeh (2016:22).

- **Conclusions on performance management**

Participants acknowledged that it is a requirement that the performance of suppliers is checked regularly by agreeing on and setting key performance indicators, schedules for delivery, contract specific audits, regular meetings, quality assurance plans and progress reports, as highlighted by (Patrucco *et al.*, 2016:739).

- **Conclusions on customer satisfaction**

Participants affirm that it is a requirement that the suppliers understand the user and state department requirements and subsequently deliver the timely, quality, goods and services that are in line with the terms and conditions of the contract (Bitzidis *et al.*, 2020:83).

- **Conclusions on operational environment**

Participants affirm that it is a requirement that the state departments critically analyse and understand the environment under which contracts are placed and implemented, specifically looking at the strengths, weaknesses, opportunities and threats to the contracts (Afolabi *et al.*, 2019:6).

- **Conclusions on conflict resolution**

Participants acknowledge that conflicts can arise out of failure to agree on the contract terms and conditions and it is a requirement that there are avenues for resolving irregularities within the contract (Rodionova, 2020:4).

#### **8.4.11 Conclusions on funding**

The conclusions offered on funding (realistic plans; timely payments; budget allocation; supervisor facilitation; advance payments; and budgeting) are provided next.

- **Conclusions on realistic plans**

Participants affirm that it is a requirement that a sequence of activities need to be realised by users in the state departments and action is taken to achieve the desired contract compliance objectives in terms of timely delivery of quality products and services, as stated by Ezeanyim *et al.* (2020:133).

- **Conclusions on timely payments**

Participants emphasise that it is a requirement by law and also embedded in the contract that the service providers are paid on time after they have successfully implemented the contract, to avoid litigation and interest on late payments, as affirmed by Bosio *et al.* (2020:7).

- **Conclusions on budget allocation**

Participants note that it is a requirement that the state departments plan for allocation of funds starting with the user department, who identifies their needs and the allocations are approved by the accounting officer and subsequently the Ministry of Finance as alluded by Diba *et al.* (2019:6).

- **Conclusions on supervisor facilitation**

Participants indicate that it is a requirement that the contract manager is adequately facilitated and motivated to effectively manage contracts by providing financial assistance to finance field visits, technical persons to guide and technical equipment where need arises (Bobowski *et al.*, 2019:162).

- **Conclusions on advance payment**

Participants indicate that it is a requirement for big contractors, especially for infrastructural or long term procurements to be given an advance payment as a motivation and a financing strategy by the state department to facilitate reputable suppliers to comply with big contracts (Qin *et al.*, 2020:2).

- **Conclusions on budgeting**

From the participant interviews, it is clear that open budgeting for procurements by the user departments is a requirement for appropriate use of the resources. State departments need to establish the amount of resources they have at disposal before involving the supplier and therefore have to requisition in line with the resources available, which enables tracking, controlling and forecasting of the different costs (Rusu *et al.*, 2019:63).

#### **8.4.12 Conclusions on openness**

The conclusions offered on openness (advertising, shortlisting of bidders, open bidding, transparency, fairness and open door policy) are provided next.

- **Conclusions on advertising**

The participants in this study suggested that the advertising of bid opportunities in the various platforms such as notice boards, entity website and national newspaper enables a suitable compliance environment of open communication (Kinuthia *et al.*, 2019:3).

- **Conclusions on shortlisting of bidders**

Participants highlighted that the shortlisting of bidders by the state department was dependent on capability to deliver the contract as agreed basing on past experience, financial reporting and technical capabilities, which is a requirement for a suitable contract compliance environment (Manika, 2020:531).

- **Conclusions on open bidding**

From the participant interviews, it is apparent that open bidding is a legal requirement that has to be followed in the contract compliance process, as it boosts competitiveness, fairness and accountability in state departments (Medzhybovska & Lew, 2019:105).

- **Conclusions on transparency**

From the participant interviews, it is clear that transparency through forums, noticeboards, websites, press releases and adverts is a requirement for having a suitable contract compliance environment (Yustiarini & Soemardi, 2020:5).

- **Conclusions on fairness**

From the participant interviews and focus group discussions, it is clear that it a requirement that state departments exercise fairness in taking decisions and carrying out activities in the contract compliance process (Yustiarini & Soemardi, 2020:7).

- **Conclusions on open door policy**

The participants in this study suggested that the open door policy of reporting misconduct and other contract compliance concerns through active listening and address is a requirement for open communication, feedback and discussion (Harland *et al.*, 2019:7).

#### **8.4.13 Conclusions on ethical orientation**

The conclusions offered on ethical orientation (equality, positive work attitude, integrity, confidentiality, honesty and freedom) are provided next.

- **Conclusions on equality**

From the participant interviews and focus group discussion, it is noted that maintaining equality among suppliers is a requirement for procurement officers and other participants in the procurement process to eliminate discrimination and foster competition.

- **Conclusions on positive work attitude**

From the participant interviews, it is highlighted that having a positive work attitude by accomplishing tasks on time and providing information is a legal requirement which raises morale, increases productivity and efficiency and boosts teamwork and collaboration among suppliers and state departments (Suliantoro *et al.*, 2019:6).

- **Conclusions on integrity**

From the participant interviews, it is emphasised that integrity among officers involved in the process by being honest, without bias or conflict of interest provides assurance that the suppliers can rely on the information that is disseminated by the state department (Mutangili, 2019b:50).

- **Conclusions on confidentiality**

Participants in this study highlighted that confidentiality is a legal requirement that binds suppliers and state departments to deal with particular data as a commercial secret and guarantees non-disclosure of information without authorisation (Gad *et al.*, 2020:6).

- **Conclusions on honesty**

Participants in this study stated that honesty is a core requirement for contracting parties to fulfill their contractual obligations by providing true information and carrying out negotiations where necessary (Barfort *et al.*, 2019:1).

- **Conclusions on freedom**

Participants in this study noted that it was a requirement to generously agree on a contract that maximises the benefits to the contracting parties without any restriction, fear or favour from government restrictions (Saputri, 2018:337).

#### **8.4.14 Conclusions on capacity building**

The conclusions offered on capacity building (training, knowledgeability, consultation and education) are provided next.

- **Conclusions on training**

Participants in this study suggested that training of various stakeholders at different levels on contract management, negotiation and reporting is a requirement to create awareness about the contract compliance practices (Mendoza Jimenez *et al.*, 2019:1).

- **Conclusions on knowledgeability**

Participants in this study indicated that it was important for the contract managers of both parties to the contract to possess technical skills such as human resource management, analysis and construction management that are required to successfully execute the contract (Allen & Renfrey, 2017:6).

- **Conclusions on consultation**

Participants in this study highlighted that the procurement department was not adequate to have all the knowledge and skills required to handle the procurement process especially for complex contracts, so it was a requirement that the department consults in the areas including law, engineering and human resource management, to design contract terms of reference as collaborated by Donatello *et al.* (2019:25).

- **Conclusions on education**

Participants in this study mentioned that educating suppliers in the area of submitting bids and fulfilling contractual obligation is a requirement of improving the quality of bids and compliance to contracts (Hudrasyah *et al.*, 2019:28).

The following section provides the recommendations on contract compliance.

## **8.5 RECOMMENDATIONS ON CONTRACT COMPLIANCE**

Based on the conclusions in the aforementioned section, the study makes recommendations on communication, reporting, records management, institutional structure, compliance checks, enforcement, legal and regulatory framework, evaluation, stakeholder involvement, contract management, funding, openness, ethical orientation and capacity building.

### **8.5.1 Recommendations on communication**

The recommendations offered on communication (information sharing, feedback, open engagement, communication channels and continuous updates) are provided next.

- **Recommendations on information sharing**

It is suggested that all PDEs should:

- ❖ avail information to suppliers and user departments;
- ❖ cultivate a trusting information sharing environment;
- ❖ reduce complexity and bureaucracy of the reporting process; and
- ❖ implement technology to encourage information sharing.

- **Recommendations on feedback**

It is thus suggested that all PDEs should:

- ❖ offer timely feedback through use of technology such as websites, emails and supplier platforms;
- ❖ provide feedback to suppliers through the use of complaint or feedback boxes; and
- ❖ provide training on feedback during suppliers meetings.

- **Recommendations on open engagement**

It is thus suggested that all PDEs should:

- ❖ create an information outreach centres;
- ❖ create an online platform that can provide contract compliance information; and
- ❖ engage suppliers regularly through periodic meetings.

- **Recommendations on communication channels**

It is thus suggested that all PDEs should:

- ❖ utilise different channels for example social media (including Whatsapp, Twitter and Instagram), hard print national newspapers and television.

- **Recommendations on continuous updates**

It is thus suggested that all PDEs should:

- ❖ frequently update the entity website and the PPDA on new developments especially regarding on-going contracts in a timely manner.

### **8.5.2 Recommendations on reporting**

The recommendations offered on reporting (regular reporting, reporting criteria and financial reporting) are provided next.

- **Recommendations on regular reporting**

It is thus suggested that all PDEs should:

- ❖ hold periodic meetings with suppliers online and offline; and
- ❖ encourage contract managers to provide regular reports on contracts.

- **Recommendations on reporting criteria**

It is thus suggested that all PDEs should:

- ❖ develop an online reporting checklist for milestones of the contract.

- **Recommendations on financial reporting**

It is thus suggested that all PDEs should:

- ❖ encourage pre-qualified suppliers to submit updated financial statements and information to check for eligibility.

### **8.5.3 Recommendations on records management**

The recommendations offered on records management (documentation; filing and storage; document access; referencing; and accuracy) are provided next.

- **Recommendations on documentation**

It is thus suggested that all PDEs should:

- ❖ adopt the use of online documentation systems for ease of access, storage and retrieval of information.



- **Recommendations on filing and storage**

It is thus suggested that all PDEs should:

- ❖ adopt the use of online documentation systems for ease of access, storage and retrieval of information; and
- ❖ develop a computer generated checklist to store and file procurement documents.

- **Recommendations on document access**

It is thus suggested that all PDEs should:

- ❖ develop a verification system with a secure log-in and passcode for authorised access to information.

- **Recommendations on referencing**

It is thus suggested that all PDEs should:

- ❖ develop an automatic referencing online system for ease of access of information.

- **Recommendations on accuracy**

It is thus suggested that all PDEs should:

- ❖ develop a checklist to monitor the truth of information contained in documents of the suppliers;
- ❖ develop a system to evaluate the accuracy of information that is given out by officers in the institution; and
- ❖ appoint an ethical committee that will safeguard the integrity of information in the state department.

#### **8.5.4 Recommendations on institutional structure**

The recommendations offered on institutional structure (top management support; decision making; instituting committees; clear responsibilities; delegation of authority; seeking approval) are provided next.

- **Recommendations on top management support**

It is thus suggested that all PDEs should:

- ❖ provide financial, technical and human resource support to contract managers and the procurement department in the execution of functions; and
- ❖ encourage procurement managers and celebrate their achievements.

- **Recommendations on decision making**

It is thus suggested that all PDEs should:

- ❖ provide timely decision making throughout the procurement process;
- ❖ encourage face to face and online meetings; and
- ❖ monitor the decisions taken especially by the lower managers and committees to keep on track.

- **Recommendations on instituting committees**

It is thus suggested that all PDEs should:

- ❖ hold frequent timely meetings; and
- ❖ members of the committees should be facilitated financially and supported with technical expertise when need arises.

- **Recommendations on clear responsibilities**

It is thus suggested that all PDEs should:

- ❖ provide formal communication on the roles of each individual in the process;
- ❖ arrange for reminders about the duties and responsibilities of individuals; and
- ❖ evaluate staff against the prior communicated responsibilities.

- **Recommendations on delegation of authority**

It is thus suggested that all PDEs should:

- ❖ delegate authority to competent and qualified individuals, as per the structure; and
- ❖ provide training and mentorship for delegees to emphasise the importance of delegation of authority.

- **Recommendations on seeking approval**

It is thus suggested that all PDEs should:

- ❖ develop a checklist for approvals online and offline throughout the entire process.

#### **8.5.5 Recommendations on compliance checks**

The recommendations offered on compliance checks (internal and external controls; supplier checks; whistle blowing; enforcement; blacklisting suppliers; interdiction of officers; litigation,; penalty; contract termination; imprisonment) are provided next.

- **Recommendations on Internal and external controls**

It is thus suggested that all PDEs should:

- ❖ encourage auditors to guide and also check the progress of the contract by having weekly follow up meetings for easy follow up and monitoring; and
- ❖ develop an online checklist to detect fraud and corruption.

- **Recommendations on supplier checks**

It is thus suggested that all PDEs should:

- ❖ set goals, objectives and timelines to be followed by the suppliers; and
- ❖ develop an online checklist for suppliers to monitor quality of deliveries.

- **Recommendations on whistle blowing**

It is thus suggested that all PDEs should:

- ❖ encourage employees to perform whistle blowing to detect the abuse of the process.
- ❖ provide whistleblowing hotlines;
- ❖ strengthen policies against retaliation; and
- ❖ recommend to the PPDA Authority, areas for strengthening the rules, laws and codes such as the Whistleblowers Act, PPDA Act, Audit committees and professional bodies.

#### **8.5.6 Recommendations on enforcement**

The recommendations offered on enforcement (blacklisting suppliers; interdiction of officers; litigation; penalty; contract termination; and imprisonment) are provided next:

- **Recommendations on blacklisting suppliers**

It is thus suggested that all PDEs should:

- ❖ take punitive action against providers who are found to have abused the procurement process by blacklisting providers.

- **Recommendations on interdiction of officers**

It is thus suggested that all PDEs should:

- ❖ take punitive action against individuals and providers who are found to have abused the procurement process by interdicting procurement officers,

- **Recommendations on litigation**

It is thus suggested that all PDEs should:

- ❖ provide policies, rules and regulations to providers before award of the contract to create awareness; encourage negotiation; and

- ❖ encourage flexibility between the user and the supplier in a bid to fulfil a contract.

- **Recommendations on penalty**

It is thus suggested that all PDEs should:

- ❖ provide information on penalties online, for enhanced awareness; and
- ❖ encourage flexibility between the user and the supplier in a bid to fulfil a contract.

- **Recommendations on contract termination**

It is thus suggested that all PDEs should:

- ❖ provide information on termination online, for enhanced awareness; and
- ❖ appoint a team to mediate and negotiate before contract termination.

- **Recommendations on imprisonment**

It is thus suggested that all PDEs should:

- ❖ provide online information about ethical standards of the institution;
- ❖ provide training on ethical conduct for staff; and
- ❖ encourage and reward employees who abide by the ethical standards.

### **8.5.7 Recommendations on legal and regulatory framework**

The recommendations offered on legal and regulatory framework (procurement laws and procedures; and terms of reference) are provided next.

- **Recommendations on procurement laws and procedures**

It is thus suggested that all PDEs should:

- ❖ provide the laws and procedures on the entity website for information of all stakeholders;
- ❖ encourage staff to adhere to the existing laws and procedures; and
- ❖ train and sensitize staff on the PPDA Act.

- **Recommendations on terms of reference**

It is thus suggested that all PDEs should:

- ❖ provide technical staff to guide users to design terms of reference; and
- ❖ generate a checklist and avail it online on the terms of reference for various procurements.

#### **8.5.8 Recommendations on evaluation**

The recommendations offered on evaluation (due diligence, evaluation criteria, participation, bidding and awarding contracts) are provided next.

- **Recommendations on due diligence**

It is thus suggested that all PDEs should:

- ❖ facilitate the procurement department and the user department to do due diligence on providers and check their quotations against the market values.

- **Recommendations on evaluation criteria**

It is thus suggested that all PDEs should:

- ❖ develop an online checklist for evaluating bids; and
- ❖ consult technical experts when evaluating technical bids in different fields.

- **Recommendations on participation**

It is thus suggested that all PDEs should:

- ❖ encourage users, procurement officers and committees to actively participate in the tendering process to enable them to make informed decisions regarding the procurement process.

- **Recommendations on awarding contracts**

It is thus suggested that all PDEs should:

- ❖ provide an online mechanism of awarding contracts.

#### **8.5.9 Recommendations on stakeholder involvement**

The recommendations offered on stakeholder involvement (teamwork; coordination; responsibility; and flexibility) are provided next.

- **Recommendations on team work**

It is thus suggested that all PDEs should:

- ❖ encourage stakeholders to work as a team in implementing contracts using online platforms to have involvement of all stakeholders to a more effective contract compliance environment; and
- ❖ encourage weekly and monthly meetings regarding procurements and existing contracts.

- **Recommendations on coordination**

It is thus suggested that all PDEs should:

- ❖ select knowledgeable individuals who are adept at coordinating various functions within the entity; and
- ❖ encourage dialogue between the suppliers and the state department to improve the trust among parties.

- **Recommendations on responsibility**

It is thus suggested that all PDEs should:

- ❖ appoint individuals who are dedicated to the procurement tasks;
- ❖ from the onset set clear boundaries and roles as laid out in the PPDA Act; and
- ❖ train and sensitize staff to take responsibility for any actions that may occur.

- **Recommendations on flexibility**

It is thus suggested that all PDEs should:

- ❖ encourage flexibility in the contracting process by having a complaints and feedback platform;
- ❖ carry out frequent meetings with suppliers and contract managers;
- ❖ remind suppliers on performance; and
- ❖ allow for negotiation and any dynamic changes in terms of price, that may arise during the period of the contract.

#### **8.5.10 Recommendations on contract management**

The recommendations offered on contract management (contract formation; contract implementation, inspection and review; value for money; performance management; customer satisfaction; operational environment; and conflict resolution) are provided next.

- **Recommendations on contract formation**

It is thus suggested that all PDEs should:

- ❖ develop online requisitions for users; and
- ❖ guide and train users on how to form contracts.

- **Recommendations on contract implementation, inspection and review**

It is thus suggested that all PDEs should:

- ❖ develop an online checklist for implementation, inspection and review of contract;
- ❖ recruit competent individuals to monitor contracts; and
- ❖ sensitize and train staff on the related activities.

- **Recommendations on value for money**

It is thus suggested that all PDEs should:

- ❖ facilitate the procurement department and user department to do due diligence and market surveys to check the quality of deliveries and reduce the risk of delivering poor quality supplies.



- **Recommendations on performance management**

It is thus suggested that all PDEs should:

- ❖ establish a strong contract monitoring mechanism that targets the performance of providers and contract managers;
- ❖ institute technology based monitoring and evaluation systems that can ease tracking of procurement processes from initiation of a contract to payment of the suppliers; and
- ❖ monitor practices such as having contract management plans, regular reporting, processing of payments; management of records; contractor appraisal; inspections; audits; and dispute resolution.

- **Recommendations on customer satisfaction**

It is thus suggested that all PDEs should:

- ❖ establish and implement appropriate performance measures for contract procedures, processes and plans in order to enhance customer satisfaction and employee productivity.

- **Recommendations on operational environment**

It is thus suggested that all PDEs should:

- ❖ scan the environment for any potential risks that may arise; and
- ❖ provide for flexibility in case the environment has changed by organising meetings to discuss contract progress.

- **Recommendations on conflict resolution**

It is thus suggested that all PDEs should:

- ❖ scan the environment for any potential risks that may arise;
- ❖ train staff involved in procurement in the area of conflict resolution; and
- ❖ provide for flexibility in case the environment has changed by organising meetings to discuss contract progress.

### **8.5.11 Recommendations on funding**

The recommendations offered on funding (realistic plans; timely payments; budget allocation; supervisor facilitation; advance payments; and budgeting) are provided next.

- **Recommendations on realistic plans**

It is thus suggested that all PDEs should:

- ❖ guide user departments on making realistic plans. Each entity should indicate their actual procurement expenditures against the projected plans, which will help to provide valid data to further determine the national expenditure on procurement related activities. With the aforementioned information, relevant government bodies such as the National Planning Authority and Ministry of Finance, Planning and Economic Development will make more informed decisions in planning for priority spending for national development.

- **Recommendations on timely payments**

It is thus suggested that all PDEs should:

- ❖ process timely payments to suppliers;
- ❖ follow up to check the progress of suppliers; and
- ❖ create an online checklist to pay suppliers.

- **Recommendations on budget allocation**

It is thus suggested that all PDEs should:

- ❖ lobby government to allocate adequate financial resources for procurements to ensure timely payment of providers and enhance timely services delivery.

- **Recommendations on supervisor facilitation**

It is thus suggested that all PDEs should:

- ❖ provide financial facilitation to contract managers to supervise the contract; and
- ❖ sensitize contract managers on how to manage the contracts.

- **Recommendations on advance payment**

It is thus suggested that all PDEs should:

- ❖ process advance payments to suppliers to finance them especially the big contracts; and
- ❖ develop a mechanism for applying for advance payment.

- **Recommendations on budgeting**

It is thus suggested that all PDEs should:

- ❖ guide the user departments to budget in accordance with the procurement plans and overall strategic plans.

## **8.5.12 Recommendations on openness**

The recommendations offered on openness (advertising, shortlisting of bidders, open bidding, transparency, fairness and open door policy) are provided next.

- **Recommendations on advertising**

It is thus suggested that all PDEs should:

- ❖ use all means of communicating information for example online and offline including social media, noticeboards and national newspapers to attract competitive bidders.

- **Recommendations on shortlisting of bidders**

It is thus suggested that all PDEs should:

- ❖ develop a shortlist of bidders who can be called upon at any time to supply quality goods and services to the entity;
- ❖ train and educate the bidders on submitting bids and fulfilling the contract; and

- ❖ avail the shortlist of bidders online.

- **Recommendations on open bidding**

It is thus suggested that all PDEs should:

- ❖ use all means of communicating information for example online and offline including social media, noticeboards and national newspapers to attract competitive bidders.

- **Recommendations on transparency**

It is thus suggested that all PDEs should:

- ❖ provide all necessary information online and offline to the public via the entity website, notice boards; and
- ❖ encourage walk-ins and meetings with providers.

- **Recommendations on fairness**

It is thus suggested that all PDEs should:

- ❖ provide information to all bidders equally, at the same time;
- ❖ invite all bidders to pre-bid meetings and bid openings; and
- ❖ provide online information on procurements.

- **Recommendations on open door policy**

It is thus suggested that all PDEs should:

- ❖ develop online supplier platforms to listen and provide solutions to supplier problems;
- ❖ train staff in the procurement office to handle and communicate with the suppliers;
- ❖ invite suppliers for regular meetings to share experiences and concerns to create trust; and
- ❖ address supplier challenges in a timely manner.

### **8.5.13 Recommendations on ethical orientation**

The recommendations offered on ethical orientation (equality, positive work attitude, integrity, confidentiality, honesty and freedom) are provided next.

- **Recommendations on equality**

It is thus suggested that all PDEs should:

- ❖ create an ethical committee which should ensure equal treatment for bidders.

- **Recommendations on positive work attitude**

It is thus suggested that all PDEs should:

- ❖ recruit staff with a positive work attitude who have the institution at heart, are hardworking and are ethical; and
- ❖ train staff to have a positive work attitude and ethics in handling procurement matters.

- **Recommendations on integrity**

It is thus suggested that all PDEs should:

- ❖ reward staff who have reliable and honest in their dealings; and
- ❖ train staff to have integrity in handling procurement matters.

- **Recommendations on confidentiality**

It is thus suggested that all PDEs should:

- ❖ have a verification system with secure log-ins and passcodes for authorised access; and
- ❖ establish signed forms with confidentiality clauses online and offline.

- **Recommendations on honesty**

It is thus suggested that all PDEs should:

- ❖ appoint trustworthy staff that have values and have procurement at heart.

- **Recommendations on freedom**

It is thus suggested that all PDEs should:

- ❖ encourage bidders and suppliers to express their thoughts, feelings and opinions on the contract using a technology checklist; and
- ❖ encourage online conversations with suppliers about the freedom to contract.

#### **8.5.14 Recommendations on capacity building**

The recommendations offered on capacity building (training, knowledgeability, consultation and education) are provided next.

- **Recommendations on training**

It is thus suggested that all PDEs should:

- ❖ provide opportunities to professionally train all procurement personnel in higher institutions of learning;
- ❖ engage the regulatory body of PPDA Authority to train different stakeholders including suppliers and user departments to better understand procurement procedures. Such bodies handle the procurement process as stipulated in the Public Procurement and Disposal of Public Assets (PPDA) Act and regulations; and
- ❖ Hold short term trainings should specifically focus on areas including e-procurement, international and national public procurement regulations, standard bidding documents, negotiation, management, basic consultancy practices, contract management, contract drafting and monitoring and evaluation. Provision of training programmes for procurement staff and contract managers will promote best practices of public procurement in state departments.

- **Recommendations on knowledgeability**

It is thus suggested that all PDEs should:

- ❖ recruit experienced and knowledgeable individuals to boost technical capacity within the institution; and
- ❖ initiate mentorship programmes with experienced staff within and outside the institution.

- **Recommendations on consultation**

It is thus suggested that all PDEs should:

- ❖ consider to adopt technology based consultations especially on social media; and
- ❖ collaborate with other PDEs with more technical knowledge especially in the infrastructural contracts.

- **Recommendations on education**

It is thus suggested that all PDEs should:

- ❖ train suppliers on bidding opportunities.

The following section provides the contributions of the study to theory and practice.

## **8.6 CONTRIBUTIONS OF THE STUDY TO THEORY AND PRACTICE**

This research is important, because it provided evidence on the enabling factors necessary for contract compliance and how it can be effectively used to assist PDEs in the Ugandan context as limited research has been conducted in this field. The research study has:

- ❖ built a body of contract compliance literature by exploring the enabling factors necessary for contract compliance in Uganda;
- ❖ identified the various benefits and challenges associated with contract compliance in Uganda which have high non-compliance rates;
- ❖ followed a qualitative research approach since most studies have been focusing on quantitative research approaches;

- ❖ adapted a multi theoretical approach to explain some of the concepts in contract compliance in state departments in Uganda and few studies have done this;
- ❖ provided guidance on contract compliance in state departments in Uganda on the necessary strategies for effective implementation;
- ❖ empowered stakeholders through their participation in the contract compliance process;
- ❖ providing guidelines towards achieving compliance by the policy makers; and
- ❖ adopted a multi theoretical approach to provide a deeper understanding of the enabling factors necessary for contract compliance using the principal-agent theory, legitimacy theory, stakeholder theory and the institutional theory.

## **8.7 LIMITATIONS OF THE STUDY**

In this study, all the objectives outlined in Chapter 1 were met. The present study has made a significant contribution to the body of knowledge on enabling factors necessary for contract compliance and how it can be effectively used to assist PDEs in the Ugandan context. However, 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.

Despite this limitation, the findings of this study contribute to the body of knowledge by means of the enabling factors necessary for contract compliance and how it may be effectively used to assist PDEs in the Ugandan context which is an under-researched field.

Recommendations for future studies are indicated in the following section.

## **8.8 RECOMMENDATIONS FOR FUTURE STUDIES**

Based on the outcomes of this research, the following specific recommendations are made for future research:



- future studies should broaden the scope of the present research by exploring the change that may occur over time by carrying out longitudinal studies in contract compliance; and
- expand the study globally into Africa and the rest of the world to carry out a comparative study about the factors that enable contract compliance.

## **8.9 FINAL CONCLUSION**

The contribution of this research is significant for the implementation of measures of contract compliance in state departments in Uganda, which has been long overdue.

Contract compliance is vital for economic growth and development. This is because it encourages transparency, timely delivery and trustworthiness in the procurement process. It also enhances value for money through proper allocation of government funds. The study proposed a conceptual model for enabling factors for contract compliance in PDEs in state departments in Uganda which include: communication, reporting and records management, institutional structure, compliance checks, enforcement, legal and regulatory framework, evaluation, stakeholder involvement, contract management, funding, openness, ethical orientation and capacity building.

Communication, openness and reporting between contracting parties matter for contract compliance. If procurement managers pass on information openly to suppliers, they will enhance a positive relationship and feedback will easily be acted upon. Therefore, contract managers need to report regularly and provide information to the relevant stakeholders, for contract compliance. This study encourages stakeholders in state departments to communicate all the necessary procurement information through ICT and social media platforms to create an enabling contract compliance environment.

Records management enhances contract compliance among PDEs. Keeping records including bidding documents, contract management reports, procurement forms and signed contracts forms a basis for making payments, provides reference for service delivery and overall compliance with the procurement process.

Institutional structure, legal and regulatory framework and contract management are vital for contract compliance. Structures and regulatory framework are a basis for

providing the roles and responsibilities for each actor, enable more informed decision making and timely service delivery. Further, the legal framework indicates the rules and regulations governing the procurement process.

Enforcement and compliance checks are vital in state departments. Accounting officers, Parliament, Public Procurement and Disposal of Public Assets Authority and Inspectorate of Government carry out compliance checks and ensure that the Public Procurement and Disposal of Public Assets Act is followed in state departments. This reduces fraud and corruption which would have affected contract compliance.

Stakeholder involvement, evaluation and capacity building matter for contract compliance. Involving the various stakeholders builds trust and creates a way of buying in for the suppliers and the public to get involved in the process such as evaluation and capacity building. It also boosts transparency since individuals would be willing to participate in procurements that concern them. Training of suppliers, procurement officers and the public about the bidding process and contract management reduces risks, increases follow up and proper contract negotiation.

Availability of funds attracts quality suppliers who supply quality products on time, which in turn improves contract compliance.

Ethical orientation is key in contract compliance. Having morally upright procurement officers boosts supplier confidence which in turn helps to reduce incidences of misuse of government resources, fraud and corruption.

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## APPENDIX 1

### INTERVIEW GUIDE



#### CONTRACT COMPLIANCE IN PROCURING AND DISPOSING ENTITIES (PDES) IN STATE DEPARTMENTS IN UGANDA

Dear Respondent,

I am a doctoral student at Nelson Mandela University, located in Port Elizabeth, South Africa, and I am currently (2020) conducting research on Contract compliance in Procuring and Disposing Entities (PDEs) in state departments in Uganda.

I am collecting information in the form of telephone interviews and focus group discussions via Zoom online platform. In this study, a Procuring and Disposing Entity (PDE) will be regarded as a government ministry, department or agency. Contract compliance refers to carrying out the right 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. Information will be sought from accounting officers, heads of finance departments, auditors, procurement officers and heads of procurement and disposal units, who will provide insight into their perception of contract compliance. This study will provide insight on how to create an enabling environment for contract compliance to occur.

Ethical clearance has been obtained from the Nelson Mandela University Research and Ethics Committee. The Ethical clearance number is: H20-BES-BMA-056. All information will be treated in the strictest confidence and would be used for research purposes only. I would appreciate it if you could participate in the study. **Please note that to participate, you must have been involved at some stage in the contract compliance process in PDEs.**

The interview guide comprises of six sections:

Section 1: Bibliography

Section 2: Contract Compliance

Section 3: Enforcement (Regulatory and legislative framework)

Section 4: Moral Obligation (Attitude, awareness and action)

Section 5: Disclosure (Openness and publication)

Section 6: Records Management (Accessibility, accuracy and completeness)

Your cooperation is highly appreciated.

Sincerely,

Hamidah Babirye

E-mail: [hbabirye@mubs.ac.ug](mailto:hbabirye@mubs.ac.ug)

Promotor: Prof. Madele Tait

E-mail: [madele.tait@mandela.ac.za](mailto:madele.tait@mandela.ac.za)

Co-Promotor: Prof. Nadine Oosthuizen

E-mail: [n.oosthuizen@ru.ac.za](mailto:n.oosthuizen@ru.ac.za)

## **INTERVIEW GUIDE**

Research Topic: **Contract Compliance in Procuring and Disposing Entities (PDEs) in state departments in Uganda**

**Primary research objective:** To determine the enabling factors necessary for contract compliance and how it can be effectively used to assist PDEs in the Ugandan context.

### **Interview questions**

#### **SECTION 1: Bibliography**

- 1.1 Participant's name (Optional).
- 1.2 How long have you been working at the institution (years)?
- 1.3 What is your position at the institution?
- 1.4 What is your highest qualification?
- 1.5 Briefly describe your job.

#### **SECTION 2: Contract Compliance**

- 2.1 In your own opinion, what is contract compliance?
- 2.2 Can you tell me why you think contract compliance is important?
- 2.3 What would you regard as the ideal contract compliance process?
- 2.4 In your view, what is the role and responsibility (mandate) of contract managers?
- 2.5 What are the challenges faced in trying to ensure contract compliance?
- 2.6 How has the organisation empowered/assisted you to ensure contract compliance?
- 2.7 In your opinion, what are the driving factors of contract compliance?
- 2.8 What would you propose as the most effective strategies to ensure contract compliance?
- 2.9 What constitutes a suitable contract compliance environment?

#### **SECTION 3: Enforcement (Regulatory and legislative framework)**

- 3.1 What are the existing compliance checks at your institution?
- 3.2 Which laws and policies guide you in the procurement process at your institution?
- 3.3 Which regulatory measures have been instituted at your institution to check contract compliance?
- 3.4 In case of non-compliance, which enforcement measures are in place at your institution?



#### **SECTION 4: Moral Obligation (Attitude, awareness and action)**

- 4.1 What do you regard as the moral duties of officers engaged in the procurement process?
- 4.2 What do you think are some of the right and wrong actions when carrying out contract compliance activities?

#### **SECTION 5: Disclosure (Openness and publication)**

- 5.1 How does your institution maintain openness in the procurement process?
- 5.2 Which documents does your institution display to the public?
- 5.3 How is the relationship with suppliers developed and how is it maintained?

#### **SECTION 6: Records management (Accessibility, accuracy and completeness)**

- 6.1 What are some of the records kept in this institution and how are they accessed?
- 6.2 Who keeps these records and for how long are they kept?
- 6.3 How are the accuracy and completeness of procurement records maintained in your institution?

Are there any other issues that you would like to share that can promote Contract Compliance in Procuring and Disposing Entities (PDEs) in state departments in Uganda?

Student Name: **Hamidah Babirye**

Student Number: **219643229**

Programme of study: **Doctor of Philosophy in Business Management**

Promoter: **Prof. M. Tait**

Co-promoter: **Prof. N. Oosthuizen**

## APPENDIX 2

### INFORMED CONSENT LETTER TO RESPONDENTS

Dear Respondent,

I am a doctoral student at Nelson Mandela University, located in Port Elizabeth, South Africa, and I am currently (2020) conducting research on Contract compliance in Procuring and Disposing Entities (PDEs) in state departments in Uganda. I seek your participation in this interview for about forty five (45) minutes to one (1) hour.

I am collecting information in the form of telephone interviews and focus group discussions via Zoom online platform. In this study, a Procuring and Disposing Entity (PDE) will be regarded as a government ministry, department or agency. Contract compliance refers to carrying out the right to 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. Information will be sought from accounting officers, heads of finance departments, auditors, procurement officers and heads of procurement and disposal units, who will provide insight into their perception of contract compliance. This study will provide insight about the enabling factors necessary for contract compliance, their importance and how they can be effectively used to assist PDEs in the Ugandan context

Ethics clearance has been obtained from the Nelson Mandela University Research Ethics Committee. The Ethics clearance number is H20-BES-BMA-056.

All information will be treated in the strictest confidence and would be used for research purposes only. I would appreciate it if you could participate in the study. If you wish to withdraw at any time during this study, you could inform the researcher and therefore your information will not be included in the study.

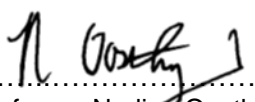
Please note that to participate, you must have been involved at some stage in the contract compliance process in PDEs and for the focus group discussions, confidentiality may not be fully guaranteed.

Your cooperation is highly appreciated.

Yours sincerely,

  
.....  
Hamidah Babirye

  
.....  
Professor Madéle Tait

  
.....  
Professor Nadine Oosthuizen

Researcher

Promotor

Co-promotor

I hereby give consent to be interviewed by the researcher.

.....  
Respondent

### APPENDIX 3

#### WRITTEN INFORMATION GIVEN TO PARTICIPANT PRIOR TO PARTICIPATION

Dear Respondent,

I am a doctoral student at Nelson Mandela University, located in Port Elizabeth, South Africa, and I am currently (2020) conducting research on Contract compliance in Procuring and Disposing Entities (PDEs) in state departments in Uganda. I seek your participation in this interview for about forty five (45) minutes to one (1) hour.

I am collecting information in the form of telephone interviews and focus group discussions via Zoom online platform. In this study, a Procuring and Disposing Entity (PDE) will be regarded as a government ministry, department or agency. Contract compliance refers to carrying out the right to 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. Information will be sought from accounting officers, heads of finance departments, auditors, procurement officers and heads of procurement and disposal units, who will provide insight into their perception of contract compliance. This study will provide insight on how to create and enabling environment for contract compliance to occur.

Ethics clearance has been obtained from the Nelson Mandela University Research Ethics Committee. The Ethics clearance number is H20-BES-BMA-056.

All information will be treated in the strictest confidence and would be used for research purposes only. I would appreciate it if you could participate in the study.

**Please note that to participate, you must have been involved at some stage in the contract compliance process in PDEs.**

Your cooperation is highly appreciated.

Yours sincerely



.....  
.....  
Hamidah Babirye  
Oosthuizen  
Researcher



.....  
.....  
Professor Madéle Tait  
Promotor



.....  
.....  
Professor Nadine  
Co-promotor

## APPENDIX 4

### REQUEST FOR SIGNING INFORMED CONSENT FORM



**Public Procurement and Disposal of Public Assets Authority**  
Plot 37 Nakasero Road, UEDCL Tower 5th floor, P.O. Box 3925, Kampala, Uganda  
☎ +256 (0414) 311100

Our Ref: **PPDA/MUS/138**.....

Your Ref:.....

8<sup>th</sup> September 2020

Assistant Director,  
Contracts Management and Monitoring Unit,  
P.O. Box 1337,  
**KAMPALA.**

**RE: REQUEST FOR SIGNING INFORMED CONSENT FORM.**

Reference is made to your letter dated 25<sup>th</sup> August 2020, in which you requested the Public Procurement and Disposal of Public Assets Authority (PPDA) to sign an informed consent form for your research on **Contract Compliance in Procuring and Disposing Entities (PDEs) in state departments in Uganda.**

This is to inform you that the form has been signed and also to request you to share the research findings of your study with the Authority.

A handwritten signature in black ink, appearing to read 'Moses Ojambo', is written over the printed name.

Moses Ojambo  
For **EXECUTIVE DIRECTOR.**

---

**"Promoting Value for Money"**

✉ [info@ppda.go.ug](mailto:info@ppda.go.ug) 🌐 [www.ppda.go.ug](http://www.ppda.go.ug) 📱 [ppdauganda](#) 📺 [@PPDAUganda](#)

## APPENDIX 5

### INFORMED CONSENT LETTER



## APPENDIX 5

### INFORMED CONSENT LETTER TO PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS (PPDA) AUTHORITY OF UGANDA

Dear Sir/Madam,

I am a doctoral student at Nelson Mandela University, located in Port Elizabeth, South Africa, and I am currently (2020) conducting research on Contract compliance in Procuring and Disposing Entities (PDEs) in state departments in Uganda.

The topic of my thesis is **Contract compliance in procuring and disposing entities (PDEs) in state departments in Uganda.**

I am collecting information in the form of telephone interviews and focus group discussions via zoom online platform. In this study, a Procuring and Disposing Entity (PDE) will be regarded as a government ministry, department of agency. Contract compliance refers to carrying out the right to 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. Information will be sought from accounting officers, heads of finance departments, auditors, procurement officers and heads of procurement and disposal units, who will provide insight into their perception of contract compliance. This study will provide insight on how to create and enabling environment for contract compliance to occur.



**NELSON MANDELA**  
UNIVERSITY

Ethics clearance has been obtained from the Nelson Mandela University Research Ethics Committee. The Ethics clearance number is H20-BES-BMA-056.

All information will be treated in the strictest confidence and would be used for research purposes only.

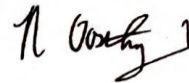
Yours sincerely



.....  
Hamidah Babirye  
**Researcher**

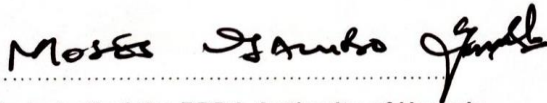


.....  
Professor Madéle Tait  
**Promotor**



.....  
Professor Nadine Oosthuizen  
**Co-promotor**

I hereby give consent for the study to be undertaken in Uganda.



.....  
On behalf of the PPDA Authority of Uganda

## APPENDIX 6

### LETTER FROM THE LANGUAGE PRACTITIONER



One Stop Solution  
24 Firenze Gardens  
Warbler Road  
Cotswold Ext  
Port Elizabeth  
6045  
[www.onestopsolution.co.za](http://www.onestopsolution.co.za)

#### TO WHOM IT MAY CONCERN

I, Michele van Niekerk, declare that I have done the language editing for the dissertation of:

**HAMIDAH BABIRYE (219643229)**

entitled:

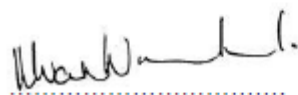
#### **CONTRACT COMPLIANCE IN PROCURING AND DISPOSING ENTITIES (PDES) IN STATE DEPARTMENTS IN UGANDA**

Submitted in fulfilment of the requirements for the degree of Doctor of Philosophy In Business Management in the Faculty of Business and Economic Sciences at the Nelson Mandela University.

I cannot guarantee that the changes that I have suggested have been implemented nor do I take responsibility for any other changes or additions that may have been made subsequently.

Any other queries related to the language editing of this treatise may be directed to me at 076 481 8341.

Signed at Port Elizabeth on 06 November 2020



Mrs M van Niekerk



## APPENDIX 7

### TURNITIN REPORT

Contract compliance in Procuring and Disposing Entities in state departments in Uganda

#### ORIGINALITY REPORT

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SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

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