

# The Process of Contract Compliance: A Public Procurement Perspective

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## Abstract

**Purpose/Objectives:** The purpose of this study was to determine the ideal contract compliance process in Uganda from a state department perspective.

**Design/Methodology/Approach:** In conducting this study, the interpretivist approach using the qualitative methodology was employed. Telephonic interviews and focus group discussions via the Zoom online platform with semi-structured interviews were conducted among 29 procurement officers, heads of finance departments, heads of procurement departments, auditors and accounting officers. The interviews explored matters concerning what is regarded as the ideal contract compliance process.

**Findings:** The findings indicate that the ideal contract compliance involves the following nine stages: understanding the law; procurement planning; requisitioning; establishing funds availability for the items procured; sourcing providers; contract awarding; appointing contract managers; monitoring deliveries; and payment.

**Practical Implications:** Studies such as the current one widen the management scope and suggest that state departments should read the mind of society and continuously engage with them; make SMART plans and budgets; streamline processes; involve technical people; legally assess the contract; and follow the existing laws.

**Originality/Value:** The cost of contract non-compliance is high and could lead to missed deadlines; delays in executing contracts; litigation and even cancellation of contracts. This could result in a lack of transparency and accountability; poor performance; inefficiency; and poor resource usage. To



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prevent these negative impacts, state departments could add policy recommendations to implement an effective contract compliance process.

**Keywords:** contract compliance; contract compliance process; procurement, public procurement, state departments; Uganda

## Introduction

Contract compliance plays a critical role in the strategic management of state departments (Abutabenjeh et al. 2022) whose role is to procure goods, services and works through the awarding of contracts in a bid to carry out their duties and responsibilities. It is argued that worldwide, US\$11 trillion was spent on public procurement in 2018, amounting to 12% of the global gross domestic product (Broms, Dahlström and Fazekas 2019; OECD 2017). Due to the magnitude of public procurement contracts, contract compliance has the potential to be a powerful tool to tackle societal, economic and environmental challenges. Developed nations, such as the United States, Japan and Switzerland, have become innovative by using machine learning algorithms to detect and prove bid rigging and non-competitive bids (Rodríguez et al. 2022). This is because investigations into and prosecution against non-compliant individuals and institutions has been challenging (OECD 2018). Developing nations, including those in Africa, have integrated technology and socio-economic empowerment policies into public procurement contracting to improve compliance, mitigate risks and reduce loss of public funds (Makiva 2021).

A case in point is Kenya's Access to Government Opportunity Programme which facilitates enterprises owned by women, youth and persons with disability to access government contracts (Mutangili 2021). Contract compliance is vital for the effective delivery of quality public services worldwide despite the economic status of nations, including Uganda, and it is believed that more than half of the world's population lack access to essential services (Hoekman and Sanfilippo 2018). Uganda's reform strategy was boosted by the Public Procurement and Disposal of Public Assets (PPDA) Act (Act 1 of 2003) which was later revised in 2014. Resultantly, institutions, such as the Ombudsman (Inspectorate of Government), State House Anti-Corruption Unit, Auditor General's Office and the Public Procurement and Disposal of Public Assets Authority were established (Basheka 2021). Further, the Buy Uganda Build Uganda (BUBU) policy in Uganda which was initiated in 2014 was intended to boost local firms to participate in government contracting (Tangri and Mwenda 2019). This was all in addition to the continued reviews of the existing legal framework and guidelines to strengthen the implementation of preference and reservation schemes in Uganda. On the border between the private suppliers and the state department, procurement contracts are vulnerable to contract non-compliance. Some of the contributing factors to contract non-compliance include quality challenges; procurement delays; political interference; lack of capacity; political instability; late payments; using inferior materials; and putting profits first (Benaya 2020). This has resulted in distorted competition, unfairness, limited market access and reduced business appetite for foreign investment (Rukuni,

Maziriri and Mulaudzi 2020). Thus, continuous and satisfactory contract compliance is a key element in managing public procurement contracting and subsequent public service delivery.

## Problem Statement

Various researchers have tried to explore public procurement from different perspectives including e-procurement (Afolabi et al. 2019); corruption and sustainable public procurement (Grandia and Voncken 2019); and strategic procurement (Guarnieri and Gomes 2019). However, while such studies have examined several aspects related to public procurement, there is scant research on the contract compliance process. As findings on contract compliance processes vary across nations, some studies are needed in the local setting to increase the relevance and accuracy of the results. The extant procurement literature has not distinctively identified the stages of the contract compliance process as: understanding the law; procurement planning; requisitioning; establishing funds availability for the items procured; sourcing providers; contract awarding; appointing contract managers; monitoring deliveries; and payment.

In terms of the contract compliance process proposed in this study, it can be noted that it is one of a kind. Thus, this study adds to the literature by taking results from a geographically distinct context, namely, a developing country such as Uganda.

Consequently, this article aims to provide a more informed and empirically based image of the contract compliance process from a state department perspective. Therefore, the article seeks to answer the following primary research question:

- What is the ideal contract compliance process, from the perspective of a state department?

This article discusses the ideal contract compliance process in the context of a state department and it is organised as follows: first, the empirical literature is presented; then the research design and methodology is presented; followed by a presentation of the results and the discussions. The final sections of the article discuss the implications, limitations and future research directions.

## Literature Review

### Defining Contract Compliance

Public procurement is one of the areas where contract compliance is not a common phenomenon. According to Larbi, Baiden and Agyekum (2019), the hallmark of contract compliance must be based on accountability, transparency, fairness and equity, and must adhere to the rule of law. Sönnichsen and Clement (2020) allude that contract compliance regards the fulfilment of procurement criteria that are set in the procurement agreements. Contract compliance is the pursuit of government objectives via applicable regulatory frameworks (Mwelu et al. 2018). It indicates that laws, rules and directives

that govern the process of procurement have to be followed. The Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention, the United Nations Convention against Corruption, and the African Union Convention on Preventing and Combating Corruption are some of the common international frameworks followed by governments (Makiva 2021). In the context of Uganda, the foremost basis for contract compliance is the PPDA Act. With better contract compliance comes better procurement management and improved best practices by institutions, whether state owned or otherwise.

## Possible Stages in the Contract Compliance Process

### **Needs Assessment**

It is a prerequisite that state department work plans are designed with a strict foundation on the identified users' needs. With a needs assessment, the goods and services that are to be procured must serve the intended purpose of the end users as earlier identified while performing the needs assessment itself (Nuwagaba et al. 2021). In ascertaining the users' needs, the users themselves must be involved in the assessment. User requirements in terms of product or service type, quality and quantity provide a basis for the start of the contracting process (Wankmüller and Reiner 2021). Feasibility studies and a cost benefit analysis should be completed before the procurement planning and budgeting stage commences. An effective needs assessment delivers an accurate description of the requirements that are essential to commence the procurement or disposal process.

### **Procurement Planning and Budgeting**

Procurement planning and budgeting is mandatory for state departments at all levels. State departments are required to plan and budget for all expected procurements and disposals in a coherent manner and to avoid emergency procurements. They are also required to aggregate the procurement and disposal requirements. It is the process adopted by institutions to plan procurement activities for a specified period of time (Nuwagaba et al. 2021). The process involves user departments and the lower local governments compiling annual work plans that focus on the approved budgets and submitting them to the Procurement and Disposal Unit (PDU). Procurement plans and budgets are then amalgamated into the general expenditure programme of the particular state department. 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. All procurements or disposals undertaken by an institution should be approved by the accounting officer before the commencement of any procurement or disposal process (Muhwezi, Musiime and Onyutha 2020). The planning process is guided by the budgeting cycle of each individual state department.

## **Procurement Requisitioning**

Procurement requisitioning is when a buyer or a user department identifies a need and places an order for required items or services. Procurement requisitions are initiated by the user departments and are expected to be extracted from and within the approved procurement plan. When requisitioning, the state department should ensure that there is value for money for the items or services being requested (Mugambi et al. 2021). At this stage, multiple players are involved to contribute their expertise, manpower and resources to achieve the procurement goal (Wankmüller and Reiner 2021). All procurement procedures should only be initiated or continued on confirmation that funding is available at the time the contract commitment is made. 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. So, in the different institutions, heads of user departments advise the staff in the department to ensure that what is being requisitioned is allowable and justifiable.

## **Development of Specifications/Terms of Reference/Statement of Works**

In order to achieve the intended objectives of institutions, there is a necessity for specifications, terms of reference and statements of works to be appropriate, clearly and unambiguously described (Benaya 2020). Specifications, terms of reference and statements of works are developed as part of the procurement cycle requirements and to prepare for the invitation of bids. It is the role of the PDU to prepare the terms of reference and statement of works with input from the users. It is a document that contains a full and complete description of the requirements that are the subject of the procurement. Failure to specify items or services correctly may result in disruption of the production process, dormant stocks and increased wastage.

## **Prequalification**

The Public Procurement and Disposal of Public Assets Authority and state department maintain a prequalification register of providers of supplies, services and works. Prequalification of providers allows the entity to generate a shortlist of bidders who will provide the required items or services. According to Kogdenko (2020), prequalification may be based on selection by industry affiliation; form of ownership; legal status; affiliation of participants; degree of competition; and corporate, financial, market and social reputation of suppliers. The prequalification process rectifies the maximum suitable applicants, affirming their willingness to take part in the tendering process. The prequalification register provides state departments with dependable, current information about the providers and what they have to offer.

## **Preparation of Bid Documents**

The preparation of bid documents is performed by bidders who bear the associated costs of bid preparation. Deshpande et al. (2020) cite that the preparation of bid documents starts with planning, where documents regarding the bid are prepared by first assessing

the entities required for that particular tender and researching the related internal and financial needs. Once the aforementioned aspects are known, sanctions are issued, costs are laid out and officials are assigned to the tender. Bid documents contain particulars regarding the bidding procedure, the specifications of the requirements and the contract. Additionally, the bid documents contain the bid fee, earnest money deposit or bid security, performance security and period during which they can be accessed, pre-bid meetings, bid submissions, bid reviews and evaluations. Bidders are expected to collect and inspect bid documents for correctness and completeness.

### **Invitation to Bid**

On behalf of state departments, the PDU invites bidders to submit offers or bids for the provision of supplies and related services specified in the statement of requirements. Invitations to bid are done using the respective procurement methods laid down in the law, rules or regulations either through selective means (from a prequalified supplier list) or through competitive means (from the public domain) (Basheka 2021). Methods may vary depending on the nature of what is being procured and the value of money involved. Bidder selection methods are either by publication of a bid notice in a newspaper of wide circulation, by means of a prequalification exercise or by developing a short-list (Choi et al. 2021). 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 state departments. For a bidder to participate in public procurement they must meet the eligibility criteria and the contracts committee is mandated to verify the authenticity of the eligibility documents provided by a bidder.

### **Receipt of Bids**

During competitive bidding, any company or organisation that has the capacity to provide a good or service is able to submit a bid or proposal (Lessambo 2022). Methods adopted for receiving bids include receipt of bids in person and issuing a receipt; and using a bid box. A PDU is required in order to keep a record of all bids received. Bidding should close at the precise time on the deadline specified in the advertisement (Deshpande et al. 2020). Bids received after the closing time and date for submission are declared late, labelled as such and returned unopened to the bidder. In bid advertisements, bid submission requirements, such as the deadline, place and manner of submission, are clearly stipulated as part of instructions to bidders, though it may be later revised by an addendum. Bid closing is managed by the PDU 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 PDU and witnessed by the contracts committee (Colonnelli and Ntungire 2018). 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.

### **Evaluation of Bids**

Evaluating bids is the responsibility of the evaluation committee, an ad hoc committee constituted for every procurement to determine the best evaluated bid out of which an evaluation report is prepared. Evaluation committees are approved by the contracts committee and report to the PDU. Evaluation involves assessing bid offers from service providers and is conducted according to the methodology and criteria stated in the bid solicitation documents. It is conducted in three stages, namely: the preliminary examination (to determine the eligibility of a bidder and administrative compliance); the detailed evaluation (to determine the commercial and technical responsiveness of the eligible and compliant bids); and the financial evaluation (to compare costs of the eligible, compliant, responsive bids received to determine the best choice). Evaluation criteria are used to assess compliance with the statement of requirements (Deshpande et al. 2020). Fairness and transparency are key and all the bidders, whether successful or not, should be informed of the final decision.

### **Procedures Approval**

All procurement and disposal procedures should be approved before commencement of procurement. Only the procurement plan is approved by the entity boards or councils; other approvals are made by the contracts committee, the evaluation committee and the accounting officer at the various levels (Colonnelli and Ntungire 2018). The powers and functions of the contracts committee include: approval of bid and contract documents; authorisation of procurement and disposal procedures; methods of approval of solicitation documents; and evaluation requirements.

### **Contract Awarding**

Contracts are awarded by the contracts committee following an evaluation of the bidders. An award is confirmed by a written contract signed by both the service provider and the state department after the period specified elapses and the availability of funding is confirmed by the accounting officer. Contract awarding may be granted to providers who meet the quality, legal and ethical requirements of the entity. 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. Traditionally, awarding a contract was based on the lowest bidder but many state departments have adjusted to include other criteria, such as quality, to select the winning bid. With the exception of micro-procurements, the process of contract awarding can take a long time, especially for approvals to be performed, which at times affects the quotation of prices. For instance, large contracts valued in excess of 200 million Ugandan shillings require the Solicitor General's approval (Kalinzi, Ntayi and Kabagambe 2021).

## **Communication of Award**

Contract awarding is an approved decision that is formally communicated as a means to commence the fulfilment of a pledge (Kinuthia, Odundo and Nyagah 2019). A state department is required 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 state department'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 contract has been awarded.

## **Contract Management**

Contract management is the last stage in the bidding process and the beginning of a contractual link between the state department and the selected provider. It is crucial in ensuring provider compliance (Modisakeng et al. 2020). After contract placement, contract management passes from the PDU to the user department. A contract management plan is prepared by the approved contract manager who submits the copy to the PDU for monitoring purposes. 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 state department meets all payment and other obligations; and ensuring that there is adequate cost, quality and time control (Shija 2019). 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.

## **Contract Monitoring and Evaluating Compliance**

Contract monitoring and evaluating compliance with the terms and conditions of the contract is the obligation of all contracting parties. Concerned parties may include the users, the accounting officer, the PDU, the contracts committee and the evaluation committee on behalf of the institution; and the provider, ombudsman and the public on the other side. The process of monitoring and evaluation of compliance is performed throughout the contract implementation stage. Medzhybovska and Lew (2019) indicate that regular reports on monitoring and evaluating contracts mitigate the risk associated with contracting and save costs that may arise out of litigation.

## **Methodology**

This article reports on a descriptive and exploratory study and that used a qualitative approach, which was appropriate in order to provide a deeper understanding of the ideal contract compliance process. The qualitative approach was used as it produces more in-depth, comprehensive information than the quantitative approach (Creswell and Creswell 2018). It allows the researcher more diversity in responses and it has the ability to adapt to new developments during the research process. Qualitative research is frequently underpinned by a constructivist philosophy/paradigm. According to Bryman



and Bell (2014), constructivism subscribes to the viewpoint that reality is in a constant state of flux, is subjective and is a social human construct based on interpretation.

The data was collected in two phases by conducting telephonic interviews and focus group discussions via the Zoom online platform. The target population was 29 participants (Creswell 2014) including 10 auditors (ADT1–ADT10), two accounting officers (AOF1–AOF2), five procurement officers (POF1–POF5), three heads of procurement departments (HPD1–HPD3), and four heads of finance departments (HFD1–HFD4) in state departments in Kampala Capital City, Uganda. Kampala Capital City was selected for this study due to the possibility of obtaining the most reliable and valid data basing on the contextualised problem. The participants were added until the saturation point had been reached, as per the recommendations advanced by Mason (2010) and Creswell (2014), who recommend at least 29 participants in doctoral studies.

The participants were purposively and conveniently selected based on the positions they held, their experience and ease of access (Babbie 2011). Ethical clearance was sought from the Public Procurement and Disposal of Public Assets Authority. After the Nelson Mandela University Ethics Committees granted permission for the study to be conducted, invitations were sent out and a total of 29 participants were interviewed for the study.

A semi-structured interview guide was developed specifically for this study in line with the study objectives. Telephonic interviews were recorded using the telephone voice recorder, while the focus group discussions were recorded using the Zoom online platform recorder. Permission to use a voice recorder was sought by the researchers and granted by each of the participants in the study. The recordings were transcribed verbatim by the interviewer, after which the transcripts were checked against the recordings and any errors therein were corrected. The data was analysed using content and thematic analysis involving familiarisation with the data; coding; searching for themes; reviewing themes; defining and naming themes; and writing them up (Clarke and Braun 2013). Any responses clearly linked to the objectives of the research questions were kept and considered, while irrelevant information was discarded. Useful data was then categorised and utilised. The findings were structured according to the areas of interrogation as per the interview guide.

The research findings were (as far as possible) the result of the participants' experiences and ideas obtained by using member checking to give the participants the opportunity to confirm that the summaries reflected their views, experiences and feelings (confirmability). If the research study were to be repeated in the same context, with the same methods and with the same participants, similar results would most probably be obtained due to the fact that the Ugandan state departments have the same dynamics (dependability). The study measured what was actually intended, namely, an investigation of the ideal contract compliance process in state departments (credibility). The findings can be applied among various state departments (transferability).

## Findings and Discussion

The results and discussion are explained in line with the purpose and research objectives of the current study which sought to explore the ideal contract compliance process from the perspective of a state department. Participants from phase one – individual telephonic interviews – and phase two – focus group discussions via the Zoom online platform – identified the contract compliance process to involve a series of repetitive activities that are implemented alongside each other to produce a result. In order to determine the ideal contract compliance process, the following were identified to be the nine major themes forming the key stages in the process: understanding the law; procurement planning; requisitioning; establishing funds availability for the items procured; sourcing providers; contract awarding; appointing contract managers; monitoring deliveries; and payment.

### **Understanding the Law**

Contract compliance begins with understanding the relevant laws, such as the PPDA Act, the Environmental Act (Act 5 of 2019), the Education Act (Act 13 of 2008) and the National Audit Act (Act 7 of 2008), 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 state departments 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 three auditors in the telephonic 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.

ADT6: ... that ideal is prescribed by the PPDA law ...

### **Procurement Planning**

User departments indicate their needs through planning, coming up with specifications and budgeting from which they make requisitions. Planning involves defining the goals of the procurement and identifying the resources that are required to successfully achieve the goals. User departments ordinarily do the planning that results in a procurement plan, which is sent to the PDU, after approval by the accounting officer.

As noted by two telephonic interview participants:

POF1: ... from the point of planning on why needs are required, it is important that people get it right the first time ...

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.

### **Requisitioning**

Requisitioning is done by the user departments against the approved procurement plans. Depending on which regime is being followed, whether it is the World Bank, government of Uganda, or 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 two telephonic interview participants:

HFD2: ... first of all, the user makes the requisition, stipulating the specifications. There is a Form 5, where that is filled.

HPD2: 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.

As emphasised by a procurement officer in the focus group discussions:

POF5: ... an ideal contract compliance process starts from the initiation ...

### **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 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 advertisement, invitation to bid and contract, using the terms of reference to source for providers therein.

As noted by a telephonic interview participant:

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?"

## **Sourcing Providers**

Suitable providers are sourced by the 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 awarding the contract to the accounting officer. The 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 three telephonic interview participants:

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 ...

HFD1: Then you source for a supplier, then you have a contract with him ...

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 ...

## **Contract Awarding**

The accounting officer notifies the bidders of the successful bid in a best evaluated bidder notice and this is also pinned on the entity's noticeboards and published on the entity's website. Contract awarding comes after the evaluation committee and contracts committee have recommended the best evaluated bidder to the accounting officer for award. Contracts exceeding 200 000 000 Ugandan shillings by law require the approval of the Solicitor General before they can be awarded.

As highlighted by several telephonic interview participants:

HPD2: ... awarding of contract, legal assessment of the contract, that is very critical ...

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.

AOF1: Parties must have the opportunity to review the terms and conditions before the contract is finally signed.

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.

HPD3: Then from there you give the contract to the supplier ...

As emphasised by two auditors in the focus group discussions:

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 ...

### **Appointing 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 several telephonic interview participants:

HPD1: There are many agents who are involved in the contract such as the contract manager.

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.

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 ...

ADT4: ... they'll usually be someone who is in charge of supervising that contract ...

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 discussions:

ADT10: ... each party has a contract manager, who has a checklist of rights and obligations from each side ...

### **Monitoring Deliveries**

A contract manager is appointed to ensure that the specifications of the contract are adhered to. Issues, such as time of delivery; 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 several telephonic interview participants:

HPD1: 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. The 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.

HFD2: ... me as the contract manager of my department I have to get involved to ensure that everything is monitored and is in place.

AOF2: ... 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: There is also oversight; those who are outside that system but play an oversight role like the auditors for that independent opinion.

ADT7: ... monitoring timelines ... 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.

HPD3: After conforming to the original needs assessment or requirements, then they say, "Now you are complying."

As emphasised by an auditor in the focus group discussions:

ADT9: ... you should keep to your obligations as clearly spelt out in the contract.

## **Payment**

After deliveries have been made and approved, this signals 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 of the date the invoice is received.

As noted by several telephonic interview participants:

HPD1: 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.

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)?"

## **Major Findings**

In line with the findings and discussion, the participants from phase one – individual telephonic interviews – and phase two – focus group discussion via the Zoom online platform – identified the following nine major findings of this study: understanding the law; procurement planning; requisitioning; establishing funds availability for the items procured; sourcing providers; contract awarding; appointing contract managers; monitoring deliveries; and payment (see Table 1).

**Table 1:** Major findings

<b>Finding</b>	<b>Major theme</b>
Finding 1	Understanding the law: Contract compliance begins with an understanding of the existing or applicable laws, which stipulate the legally binding process of handling procurement contracts.
Finding 2	Procurement planning: Entities need to define procurement contract goals and identify the required resources to meet the set goals.
Finding 3	Requisitioning: Procurement requests with specifications are made by user departments after due consultations with technical departments
Finding 4	Establishing funds availability for the items procured: The finance department and accounting officer approve procurement requisitions after confirming that the procurements were planned for and have adequate funding
Finding 5	Sourcing providers: The PDU, contracts committees and evaluation committees take charge of the bidding process to identify the best bidder
Finding 6	Contract Awarding: The best bidder is awarded the contract by the accounting officer/entity
Finding 7	Appointing contract managers: The accounting officer appoints a contract manager to ensure that the terms of the contract are met
Finding 8	Monitoring deliveries: Offices, including stores, internal audit, technical departments and users, assess the achievement of the terms as per the contract awarded
Finding 9	Payment: After confirming the deliveries, the finance department effects payment to the provider

**Source:** Researchers' own construction

## Conclusion

### Managerial Implications

The managerial implication of the findings of this study is that ignorance of the identified ideal contract compliance process can be detrimental for successful implementation. Since contract compliance is not merely a procurement responsibility, but is also a business imperative, senior managers need to be actively involved in the contract compliance process by making the following stages a substantial part of their managerial priorities: procurement planning; requisitioning; establishing funds availability for the items procured; sourcing providers; and contract awarding. Managers must also be ready to devote a significant amount of time and provide adequate support to other stakeholders towards a deeper understanding of the relevant laws, policies and regulations; appointing competent, dedicated and knowledgeable contract managers; monitoring deliveries; and making timely payment to providers. Only by doing so will managerial involvement manifest as an enabler rather than a barrier to the successful implementation of contract compliance.



## Theoretical Implications

The findings of this study contribute to the academic body of knowledge by identifying the ideal contract compliance process. The findings also corroborate the literature which suggests a poor understanding of the contract compliance process. Nine major themes were identified, namely: understanding the law; procurement planning; requisitioning; establishing funds availability for the items procured; sourcing providers; contract awarding; appointing contract managers; monitoring deliveries; and payment.

## Limitations

In Uganda, the state departments are complex, multi-faceted and operate in a highly context-sensitive environment. It cannot be suggested that all state departments would necessarily experience and identify the same contract compliance process. The transferability of the findings on the identification of the ideal contract compliance process as a whole may therefore be limited. Nonetheless, the proposed contract compliance process transcends the research environment in which it was developed. As a result, this outcome of the study may also be of practical value in other public procurement environments.

## Conclusion

This study attempted to determine the ideal contract compliance process in state departments in Uganda. Identifying the ideal contract compliance process will empower state departments to address current and future contract compliance challenges effectively and efficiently, and assist in the realisation of state department goals and objectives in order to improve public service delivery, which is the mandate of the state. By taking note of the ideal contract compliance process proposed in this study, the management of contract compliance within state departments may be improved. Additionally, knowing the ideal contract compliance process to follow will assist policy makers and managers to direct policies towards addressing and improving contract compliance in state departments in Uganda.

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