

## **PART III**

### **CONTRACT MANAGEMENT**

**DETERMINANTS AND CONSTRAINTS TO EFFECTIVE  
PROCUREMENT CONTRACT MANAGEMENT IN UGANDA: A  
PRACTITIONER'S PERSPECTIVE**

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**ABSTRACT.** Contract Management in public procurement has significant implications for service delivery. Any challenges accruing from this function pose several challenges. Yet, contract management offers an important framework for ensuring the success of any procurement undertaking. An understanding of the determinants and constraints to effective contract management provided an impetus for our study. The study findings presented are from 95 respondents out of a sampled population of 200.(response rate of 79.2%). obtained through a randomly selected sample of 120. A closed ended questionnaire was developed through the framework by World Bank Institute and COMESA..The major determinants were found to include structures and processes while the major constraints were: Lack of political will to monitor contracts (2) lack of capacity in contract management and monitoring of various stakeholders, (3) lack of integrity in the contract management process. These findings offer a useful foundation for policy and practical improvement in this important area.

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## 1.0 INTRODUCTION

The goal of public procurement is to provide the required goods, services and works to the public (Errigde and McIlroy, 2002). This ought to be complimented by effective contract management in public procurement. However, existing experiences and literature alludes to several challenges in contract management. Indeed, Ntayi (2009) observes that millions of dollars get wasted in Uganda due to inefficient and ineffective obstacles and challenges in the procurement process of which contract management is a part. Although the author does not give the actual numerical figure of the millions lost, the recent estimates by various agencies on corruption emanating from the public procurement function points to the monetary loss from this activity. Meanwhile contract management continues to receive less attention from policy makers and academics. The Common Market for East and Southern Africa (COMESA, 2011) guidelines observes that neither the COMESA Procurement Directive, nor the UNCITRAL Model Law, specifically address the subject of contract management. Despite the importance of contract management researchers are unable to empirically and systematically pinpoint the determinants and constraints by using objective 'hard data' (Jiang & Qureshi, 2006). In several countries, few articles have rigorously analyzed and empirically tested the factors that actually affect a government agency's decision to manage contracts. Within the relatively scarce empirical evidence on contracting decisions and management (Boyne, 1998; Ferris & Graddy, 1986), there is yet little information on the effectiveness of contract management specific to public procurement.

In Uganda, little empirical evidence does exist on the determinants and constraints to effective contract management based on practitioners' view point despite the increasing drive towards the demand for money. Conceptually, contract management has become a megatrend in many public entities especially as result of social accountability and increased demand of service delivery by citizens (World Bank Institute, 2011; Schiel, 2007; Swinnery and Netssins, 2007; Odhiambo and Kamau, 2003; Andrews, 2003; Witting; 1999). However, Dew (2008); Thai (2005) and Bolton (2006) observe that contract management challenges in both public and private organisations are endemic in any contractual relationship due to lack of transparency and poor record keeping. Successful contract management and

completion is often defined, as procurement of the right item, in the right quantity, for the right price, at the right time, with the right quality, from the right source (Thai, 2004). Prager (1994) contends that proper and effective management and monitoring of contracts helps improve the quality of goods and services and reduces procurement cost thus achieving three broad goals: quality products and services, timely delivery of products and services, and cost effectiveness (within budget).

Several theories explain the determinants and obstacles to effective contract management among which include; ethics, availability of skilled personnel and organizational influences among others (Ackermann, 2002). Organizational challenges in contract management draws lessons from organizational theory. Whereas researchers who work out dominant paradigms have been dismissive of organization theory (Posner, 1993; Reder, 1999), the lens of contract management discloses the lessons of organization theory that are obscured by the dominant paradigm which sometimes are fundamental. Williamson (2002) asserts that all complex contracts are unavoidably incomplete, on which account the parties will be confronted with the need to adapt to unanticipated disturbances that arise by reason of gaps, errors, and omissions in the original contract and realized at the time of implementation. Such adaptation needs are especially consequential especially when self-interest which may be referred to as "frailty of motive" (Simon, 1985) is entertained.

Human actors are not only confronted with needs to adapt to the unforeseen (by reason of bounded rationality) but are also confronted by strategic behavior (by reason by opportunism). This may result in costly contractual breakdowns (refusals of cooperation, mal-adaptation, and demands for renegotiation). When contracts are managed well, then such efforts would be unneeded more so when common knowledge of payoffs and costless bargaining are assumed. However, Kreps and Wilson (1982) and Williamson (1985) contend that both of these are deeply problematic. Moreover, non verifiability problems are posed when bounded rationality, opportunism, and idiosyncratic knowledge are united (Williamson, 1975). The transaction cost theory to contract management as proposed by McIvor (2003), combines economic and management theories which determine the best type of relationship a firm should develop in the market place. Transaction costs arise because it is often impossible to

have complete contracts, and giving rise to subsequent renegotiations when the balance of power between the transacting parties shifts. Contracting proponents whose roots are in economics, argue that effective contract management in one way reduces service costs through competitive efficiencies and economies of scale (Brown, Potoski, & Slyke, 2006).

Contractual theory holds that outsourcing contracts provides a legally bound, institutional framework in which each party's rights, duties, and responsibilities are codified and the goals, policies, and strategies underlying the arrangements are specified. The relational exchange theory postulates that, the key to efficient contract governance lies in the relational norms between the contractor and client. The agent/principal theory can also be applied this study. According to Chiappori, (2002) the underlying principle of the contract theory is that there should be a clear understanding of the needs of the principal and ability of the agent to meet these needs competently. The theory becomes relevant to the study as it highlights the need for strategic planning in procurement. When a procurement contract is well defined and planned, the principal (PDEs) and agents (suppliers) find it easy to meet needs of each other in an efficient way resulting into timely execution of the contract. The main challenge for the government in contract management is to properly appreciate the importance of it. Often procuring entities give full attention to the contract selection process, but then walk away from the procurement once the contractor is in place. On the other hand best value theory by Ellis and Garry (1990) emphasizes accounting for and pursuing the aspirations of local stakeholders by attempting to attain the highest quality and efficiency that are possible at a price people are willing to pay. It requires officials to obtain economic, efficient and effective services so as to respond to local stakeholders. The theory is applicable since contract management and service delivery have both aspects of organizational structure and customer satisfaction resulting from quality and efficiency. The theory explains the relationship between the PDE and the provider. Much as the PDE expects the supplier to deliver right and quality goods, the supplier expects timely payment. The process of awarding public procurement contracts guarantees and safeguards the rights and interests of both government and the contractor as well. However, the application of these theories to explain effective contract management is limited. In this study, we aimed

at identifying the determinants and constraints to effective contract management in Uganda.

The rest of the paper is organized in the following manner: Part 2 presents the research problem where an elaboration of the existing knowledge gaps to our understanding of contract management problems is examined. In part 3 the paper reviews some existing literature; a task that is thematically addressed based on determinants and constraints. Part 4 is devoted to the methodology that was used in undertaking the study. Part 5 is for findings and discussions before we draw implications for both practice and policy.

## 2. THE RESEARCH PROBLEM

There is no much doubt that there has been growing interest in contract management in the developed world and hence the many studies of contracting and management ((Rendon, 2008; Rendon, 2009b; Abi-Karam, 2002; Charles & Oludele, 2003; Davison and Wright (2004); Minahan (2007) Ya Ni & Bretschneider, 2007). Despite the emphasis and regulatory framework on contract management, Uganda Public Procurement Compliance Reports sanctioned by the Public Procurement and Disposal of Public Assets Authority have continuously shown contract management as one of the areas where performance of public entities is poor. According to the Baseline Survey Report on Public Procurement Systems in Uganda (PPDAA, January 2010), there were significant variances between the actual and indicative time frames in contract completion. Other variances in the time exhibited were with regard to the contractual payment period. while some contracts, supervisors were not appointed. This cast doubts on contract management compliance which maybe hamper service delivery and value for money.

Studies addressing contracting in general are varied (Azom 1999; Ruchiu (2008); Martin and Miller (2006); Davison and Sebastian (2009a) though not specific to the determinants and constraints in public procurement in Uganda. Ruchiu (2008) argues that despite the fact that contracts are made in good spirit, many contracts are not supervised. This cast doubt whether contract management stage is really taken seriously. If the likely determinants and constraints are ignored, public entities are more likely to suffer shocks that may even bring the institutions to

their 'bended knees'. Inevitably organizations will eventually encounter poor service delivery resulting in loss of clients and market share, declining profitability; erosion of capital, high borrowing costs from banks or public debt, and deteriorating institutional reputation. This study sought to make a contribution by conducting an exploratory study that would form a basis for developing a model of the determinants and constraints to effective contract management specifically in public procurement. It is hoped that the findings will enable scholars and practitioners appreciate the factors and constraints that explain contract management in public entities in Uganda and more empirical studies will be conducted to systematically formulate relevant models.

### **3. LITERATURE REVIEW**

#### **3.1. Determinants of Effective Contract Management**

The prescriptive literature on contract management tends to offer step-by-step procedures for procurement managers and other stakeholders. In the process of ensuring that contract management successfully takes the right course, all the parties involved must keenly pay attention to all provisions in the given or existing contract (Sanders, Locke, Moore, & Autry, 2007; Laratta (2009) and Saunders, 2000). Successful and efficient contract management practices are those that meet the needs of the company's stakeholders, achieve optimum conditions and value in regard to the allocation of scarce tax payers resources (best value for money), ensure rational and efficient of funds available, stimulate valuable competition and manage the risk and potential liabilities to the buyer thus improving service delivery. Thus enforcement of existing regulatory measures must be enforced to avoid pitfalls of inefficient contract management process and eventual poor service delivery. The people in charge of the contracts need to play an important and meaningful role in ensuring that the company's contractual goals are fully achieved at the minimum cost possible. As a result, consideration should be given to address the questions in the procurement contract literature as to how the supplier can provide the buyer with sufficient flexibility while not assuming all the risk due to demand uncertainty (Golovachkina and Bradley, 2002). Equally pertinent is need for trained personnel in contract management and

procurement procedures. But this is not usually the case as supported by Nadiope (2005) who observes that the government lacks trained procurement personnel. In Uganda the need for training personnel particularly to contract management can only be established after what is known about the same has been established. Public Procurement Authorities must continuously formulate and implement strategies to address the existing capacity gaps within PDEs especially in the area of contract award and management. This evidenced by the PPDA Capacity Building Report (2010) which noted that some PDEs had serious constraints in execution and monitoring of contracts.

In an effort to attain these demands, organizations constantly look for employees who have skills necessary to deal with the wide variety of tasks (Monczka et al., 1998; Sauber et al., 2008). Notwithstanding the above, Lan, Riley and Cayer, (2005) posit that finding, hiring and retaining dedicated, energetic, and ethical employees with special skills is always hard. The supervisors (contract managers) should be knowledgeable in contract management. Organisations must, therefore, assign experienced staff to supervise the consultant and contractors. This should be accompanied by proper record keeping.

The public procurement regulatory framework dictates that contracts must be drawn carefully involving all stakeholders for completeness to avoid as unnecessary deviations. Therefore, key responsibility centres, as they relate to different procurement processes must be established. Minahan (2007) *observes* that it is possible to design contracts that are robust enough to profitably continue operations in the face of expected deviations and unexpected disruptions and quickly recover from disasters. The foundation is a strong, stable supply network forged from good supply base management, strong supplier links, and continuous improvement and a corporate culture that embraces change and flexibility. But one may ask whether multi-stakeholder collaborations are important and how sustainable are they? While attending the Common Market for Eastern and Southern African (COMESA) Trainers of Trainers Workshop held in Addis Ababa, Ethiopia from 25<sup>th</sup> July-5<sup>th</sup> August 2010, participants identified key issues that can influence contract management as follows:



**Table 1: Practitioners' opinions on the determinants of successful contract management (COMESA, 2011)**

Determinants	Indicators
<b>Putting in place Structure and resources</b>	Identifying and defining processes and a clear contract management plan, with a focus on outputs and milestones to performance;
<b>Ensuring the right people are in place</b>	<ul style="list-style-type: none"> <li>The contract manager has a detailed knowledge of the contract;</li> </ul>
<b>Clear Roles and responsibilities</b>	Clearly defining the responsibilities of the contract manager and the contractor supplier in a contract;
<b>Feedback and communications mechanisms</b>	Regular and routine feedback is given to suppliers on their performance; Users understand what the contract is intended to deliver;
<b>Payment and incentives</b>	Ensuring payments are made to the supplier in line with the contract ;
<b>Managing risks;</b>	<ul style="list-style-type: none"> <li>Identifying and anticipating risk such as service failure, reputation as, damage and additional costs.</li> </ul>

Using the fore going framework, five determinants were derived as such: apportioning of resources; clear reporting lines, defining of roles and responsibilities, ensuring timely payments and managing of risks. Rendon (2010) further outlines critical success factors for both project and contract management as being qualified workforce, clear processes, relationships, resources, leadership and policies all of which have an direct impact on an organization's project management and contract management processes as well as resulting outcomes. We used the above framework to test their applicability in the Procuring and Disposal Entities (PDEs) in Uganda's central government. The assumption was that countries operate in different political, legal, social economic and technological environments.

### 3.2 Constraints to Effective Contract Management

Rendon & Snider (2008) cited in Rendon (2010) affirm that the quintessence of contract management evolves proper

planning, award, and administration of contracts and the monitoring of providers' performance. Once this is deficient, it increases the risk of endangering value for money. Recently corruption has turned out to be one of the most challenging phenomena of our time that can easily make the process of contract management unsuccessful. A World Bank survey of government and civil representatives in the sixty developing countries confirmed that corruption is one of the greatest obstacles to successful contract management (Charles & Oludele, 2003). The procurement function of an enterprise is for example one area that is targeted second most by fraudsters (Plavsic, 2004). Helsby and Kaizer (2003) contends that enterprises should do more to prevent fraud by actively evaluating and estimating the obstacles that maybe encountered in the process of execution and that these measures should be closely supported by ongoing monitoring. Corruption in Africa is significant, unabated and country specific, driven by conditions ripe for unaccountable and less than transparent behavior. Of the 34 African countries ranked in the Corruption Perception Index (CPI) produced by Transparency International in 2004, only six African countries were ranked in the top 50 per cent of the 146 country index. This assertion could probably explain Uganda's poor Corruption Perception Index (CPI Reports, 2009; 2010 and 2011) as being as low as 2.5. A research study done by Kramer (2003) and Cooper, Farank and Kemp (2000) indicates that the most significant fraud schemes occur in, or as part of, the procurement process partly because of the huge public procurement expenditure where money is exchanged through commercial bribery, kickbacks and other fraud arising from the process. Once this is done, then the likelihood of 'air' supply and delivery of substandard goods can be very high (Coronel and Tirol, 2002).

Inflation is also another challenge that can make the contract management system in any business organization fail to carry out or rather implement its policies successfully and smoothly. This normally happens when the prices for the products to be supplied keep on changing. If the price of the commodity to be supplied increases greatly compared to the one that was set at the time the contract is signed, the supplier is more likely not supply such commodities on time hence sabotaging the smooth running of the business organization. Contract requirements are often subject to change throughout the life of the contract (Azom 1999). It should

be noted that most often than not, it may not always be possible to predict all variations. At times variations to a contract made during its life may not always be as a result of contract monitoring and control but could be as a result in slight change to the requirement due to external factors. This is exemplified in the increasing cost of raw materials due to inflation, thus having a large impact on the suppliers' margins; and distressing the supplier base (Levy and Ferazani 2006). Thus, the actual per unit production cost to the supplier is unknown at the time of contracting. Even risk in raw materials prices cannot always be hedged (Sherefkin, 2006). Notwithstanding the above, it will normally be the role of the contract manager to ensure that the need for any contract variation is recorded and the contract is varied in line with the applicable procurement procedures for variations. The variation must be clearly tied in with the main contract so a clear audit trail is possible. Azhar and Farouqui (2008) observe that the trend of cost overrun is prevalent worldwide although more severe in developing countries. For instance, most of the construction projects in Uganda have had problems with delay in completion and cost overruns and this has caused a lot of concern.

Mc Crudden (2004) highlights factors such as delayed funding from the government, bureaucracy in the procurement system and poor capacity of local contractors contributing poor contract implementation, hence hurting service delivery. In Uganda, funds are only released only when a district has met the basic accountability requirements and when there is money in the treasury. All this makes it almost impossible for the service providers to do their work effectively and in the shortest time possible and hence making it hard for them to meet the scheduled deadlines. This is supported by Martin and Miller (2006) who argue that standards set are usually weak and are often not adhered to and as a result quality is compromised. Abi-Karam (2002) suggests six types of constraints: proposal writing, surety and liability schedule, contractual, performance and price constraints. Davison and Wright (2004) further expound on the definition of these challenges to include their relationship to the procurement process and the criteria for successful contracting. They further break down the challenges as such: Acceptance of wrong Products either as a result of poor specifications or laxity of the suppliers causing unnecessary delays in service delivery; abscondment of the contractor; alteration in the commercial

environment outside the control of all stakeholders. Overall these problems are largely related to a lack of understanding between all parties to a contract. However, Davison and Wright (2004) findings were not empirically tested. Buchanan (2001) argues that whatever the rules of the game, the lens of contract and its eventual management must usefully be brought to bear on the play of the game. The author submits that contract management entails efforts by the immediate parties to a transaction to align incentives and craft governance structures that are better attuned to their exchange needs and due allowance being made for the mitigation of contractual hazards.

Contract management may also be constrained by dispute resolution by the courts which is costly and unreliable. In that event, private ordering efforts are required to support governance structures, thereby mitigating prospective contractual impasses and breakdowns which may have merit. Private ordering efforts to craft governance structure supports contractual relations during the contract implementation interval thus making their manifestation vital. However, not only do alternative modes of governance differ in kind, but each generic mode of governance is defined by an internally consistent syndrome of attributes which is to say that each mode of governance possesses distinctive strengths and weaknesses. The challenge is to enunciate the relevant attributes for describing governance structures, thereafter to align different kinds of transactions with discrete modes of governance in an economizing way.

Behavioral regularities challenges draws from organization theory. For example, efforts by bosses to impose controls on workers have both intended and unintended consequences. Out of awareness that workers are not passive contractual agents, naïve efforts which focus entirely on intended effects will be supplanted by more sophisticated mechanisms where provision is made for consequences of both kinds. More generally, the awareness that organizations have a life of their own (Selznick, 1950) serves to uncover a variety of behavioral regularities (of which bureaucratization is one) for which stakeholders should be alerted and thereafter factored into the organizational design.

Because parties to transactions are bilaterally dependent and vulnerable (in that buyers cannot easily turn to alternative sources of supply, while suppliers can redeploy the specialized assets to their next best use or user only at a loss of productive value

(Klein, Crawford, and Alchian, 1978), value preserving governance structures are sought to infuse order, thereby mitigating conflict, realize mutual gain and improve service delivery. Simple market exchange thus gives way to credible contracting (to include penalties for premature termination, information disclosure and verification mechanisms, specialized dispute settlement mechanisms, and the like). Unified ownership (vertical integration) is predicted as bilateral dependency hazards successively build up.

In June 2011, the World Bank Institute (WBI) organized a contract monitoring action planning workshop for East and Southern Africa from 31 May to 3 June 2011 in Kampala, Uganda. One of the objective of this workshop was to build a common understanding of the current reality of contract monitoring in the region given the fact that the World Bank's new Africa Regional Strategy places social accountability in a central focus and specifically mentions contract watch as one of the key accountability tools. The workshop was attended by close to 70 participants from the private sector, civil society and government drawn from Kenya, Uganda, Tanzania, Rwanda and Zambia. Each country had its own priority sectors represented at the meeting, notably construction and extractive industries. Cognizant of the variance in country contexts, country group discussions were held and identified the five most challenging issues associated with contract management and monitoring in each country. We assume that the opinions were enlisted freely and openly without prejudice (World Bank Institute (2011).

Although the discussions were not specifically on public procurement, it provided researchers a tentative framework which was used to test in field to either confirm or reject. Eight broad emergent themes of constraint were derived as listed below.

- ✓ Lack of access to information;
- ✓ Weak legal framework;
- ✓ Lack of political will to monitor contracts ;
- ✓ Lack of whistle blower protection in case of suspected corruption;
- ✓ Limited stake holder involvement / participation;
- ✓ Lack of integrity in the procurement process ;

- ✓ Lack of capacity in contract management and monitoring
- ✓ Lack of holistic approach to contract monitoring

It was observed that the views were divergent. We adopted the above arguments for our research so as to confirm or reject the argument from a purely practitioners' view point and to encourage procurement professionals to acknowledge and devise strategies for managing all these complex constraints. This is supported by Lamoureux (2006) *who argues that true resilience from supply challenges comes from attacking supply chain constraints from all the angles and having operational, tactical, and strategic plans to deal with it.* The professionals must be seen as champions of efficiency and effectiveness and must acknowledge the challenges and their various forms, and their sources. In the previously published research, Davison and Sebastian (2009a) established the likelihood of contract problems for a given type of contract, and which type of contract is likely to encounter the most problems. For example, for construction contracts, change order, delays, and cost have a statistically similar chance of occurring and were significantly more likely to occur than the remaining problems, and that construction contracts are more likely to experience problems than other types of contracts. Carr and Pearson (1999) proved a positive correlation between supplier relationships and contract performance. While Supplier Relationship Management is generally considered to be a resource-intensive effort entered into with a small number of critical suppliers. Lambert (2004) and De Luca (2006) contends that it can include specific discussions to mitigate constraints with a greater number of suppliers.

It is, however, now increasingly accepted that "one size does not fit all" when it comes to designing contract management strategies to support a wide range of products with different characteristics sold in a diversity of markets (Shewchuck, 1998). However Chopra (2005) observes that many shortcomings in the contract management process occur because the buyer and the supplier are two different entities, each trying to optimize its own profits thus hurting service delivery.

#### 4. METHODOLOGY

This study was exploratory intended to validate the determinants and constraints of contract management in public sector organizations of Uganda. Exploratory studies (termed as formulative research studies) have their main purpose as being formulating a problem for more precise investigation or being the development of the working hypotheses from an operational point of view (Kothari, 2004). In such studies, the major emphasis is the discovery of ideas and insights. Exploratory studies are undertaken when not much is known about the situation at hand, or no information is available (Sekaran, 2003, p. 119). A comprehensive literature base gave foundation to develop basic guiding framework upon which our assumptions and argument was developed. The idea was to use this framework to confirm or reject the argument from a purely practitioners' view point. Constraints and determinants of contract management in Uganda have limited information and the subject has not been studied and therefore less understood. In particular, there is lack of systematic efforts in documenting the determinants and constraints which supposedly favor its adoption in the country's public sector context. Such circumstances favor the use of exploratory research approaches. According to Amin (2005, p. 201), exploratory research may take the form (1) review of available literature, (2) expert surveys, (3) analysis of case studies and (4) pilot studies. In our study two expert interviews were used as described above. Given the infancy of the subject in the field of public procurement, we reviewed extensive international literature and case studies on success stories for contract management.

A quantitative approach was used and was largely descriptive relying on responses from procurement professionals, Contract Committee members, Heads of departments and Heads of section and evaluation committee members. The aim was to build theory (Forza, 2002) about contract management in Uganda. To collect data, a self administered questionnaire was used as the survey instrument. The reliability alpha of the survey instrument for the 78 items was very high (0.98). The sample of respondents for this survey was suitable due to their relevance to the focus and purpose of the study (Creswell, 2003; Neumann, 2003). The study population was selected on the basis of their involvement in public procurement. Out of the total population of 200, of these 120 were sampled for the study. Of the expected

120 respondents, 96 returned the filled survey instrument, representing almost 80% response rate. Data was analyzed descriptively where we used percentages and frequency distributions. We also conducted an exploratory factor analysis to determine the major constraints to contract management in Uganda. The study used a closed ended self-administered questionnaire. The responses were expected on a five-likert scale (5=strongly agree,4= Agree, 3=No comment,2=Disagree, and 1=Strongly disagree)

## 5. FINDINGS AND DISCUSSIONS

The questionnaire asked a number of background questions, including: education and experience of the respondent; and current position and contracting responsibilities. Our analysis confirms that the majority of the respondents 49 (51.0%) were from the procurement and disposal unit, 14 (14.6%) from the contracts committee, 13 (13.5%) from the Heads of department and 11(11.5%) from the Heads of Section and others were 9 (9.4%). The highest number of respondents 52 (54.2%) had served in the organization for less than 5 years and very few 4 (4.2%) for more than 15 years. Majority 46 (47.9%) of the respondents were post graduates and 34 (35.4%) were degree holders. This means that the entities have a highly qualified group of employees and quite experienced in procurement related issues. We were concerned with examining the major determinants and constraints to effective Procurement Contract Management in Uganda. In table 3, the descriptive results on the extent to which structure and resources are a determinant of compliance to contract management are presented. We then analyzed respondent's perceptions on the major determinants to effective contract management. Table 3 presents the summary of the findings on the structural and process constraints.

**Table 2: Structure and resources**

Items	SA	A	N	D	SD	M
Structures and resources to manage contracts	45(46.9%)	40(41.7%)	1(1.0%)	2(2.1%)	8(8.3%)	4.17
Define processes and a clear contract	43(44.8%)	43(44.8%)	1(1.0%)	4(4.2%)	5(5.2%)	4.20



management plan						
Align organizational governance processes, and risk structures	34(35.2%)	48(50.0%)	4(4.2%)	3(3.1%)	7(7.3%)	4.03
Regular assessment and evaluation are usually in place	38(39.6%)	43(44.8%)	4(4.2%)	4(4.2%)	7(7.3%)	4.05
Methods of capturing key data and lessons from contract management process	46(47.9%)	37(38.5%)	5(5.2%)	2(2.1%)	6(6.3%)	4.20
Holding customers accountable for proper requirements	44(45.8%)	35(36.5%)	8(8.3%)	1(1.0%)	7(7.3%)	3.99
Clear requirements/ Clear statement of work/ terms of references	29(30.2%)	47(49.0%)	9(9.4%)	4(4.2%)	7(7.3%)	4.14
Proper technical review of requirements before assignment to contract specialists	45(46.9%)	40(41.7%)	1(1.0%)	2(2.1%)	8(8.3%)	3.91

A comparative analysis of the mean scores for all the above items suggests a relatively high ranking of all the measures of structure and resources. The highest mean score of 4.20 computed on the basis of a 5-likert scale confirms that most organizations have a problem in defining processes and formulating a clear contract management plan and appropriate methods of capturing key data and lessons from contract management process. These are the two major structural and process determinants to lack of effective contract management. Proper technical review of requirements before assignment to contract specialists had the least ranking from respondents of 3.91 with a standard deviation of 8. These findings confirm the existing information in the literature. Brown et, al., (2000) further argues that though defining the contract terms is crucial contract management plan should be developed early in the process, and must explicitly state the deliverables that will be created through a joint effort between the contractor and the client and must decide what will constitute success. Svennberg (2001) on his part reaffirms that the plan must also be audited to ensure that the variances are catered for and rectified. However, contract

planning is fundamental; it is a challenging activity in the management and execution of contract (Holmes, 2002). Structures cannot work alone without other support functions. We thus examined the extent to which human resource factors could be a determinant to effective contract management in Uganda.

**Table 4- Ensuring the right people are in place**

Items	SA	A	N	D	SD	M
The contract manager usually has a detailed knowledge of the contract	38(39.6%)	43(44.8%)	5(5.2%)	8(8.3%)	2(2.1%)	4.11
The contract manager has the appropriate skills	44(45.8%)	35(36.5%)	4(4.2%)	4(4.2%)	8(8.3%)	4.08
job descriptions, and roles must be defined accurately	42(43.8%)	40(41.7%)	5(5.2%)	3(3.1%)	6(6.3%)	4.14
Clear objectives and reporting lines and performance	36(37.5%)	42(43.8%)	9(9.4%)	4(4.2%)	4(4.2%)	4.07
The contract manager must have appropriate delegated authority	34(35.4%)	44(45.8%)	7(7.3%)	5(5.3%)	6(6.3%)	3.99
Crucial to Manage the physical contract and setting a realistic timetable	35(36.6%)	42(43.8%)	11(11.5%)	1(1.0%)	7(7.3%)	4.01
Good records keeping is critical and contracts must be accessible when required	40(41.7%)	39(40.6%)	8(8.3%)	3(3.15)	6(6.3%)	4.08
Use of contract management information technology for recording key information	42(43.8%)	37(38.5%)	7(7.3%)	3(3.1%)	7(7.3%)	4.08

Regular adhoc reporting of contract management information is a must	35(36.5%)	36(37.5%)	9(9.4%)	9(9.4%)	6(6.3%)	3.89
Mechanisms should be in place for handling disputes	40(41.7%)	38(39.6%)	8(8.3%)	4(4.25)	6(6.3%)	4.06

In contract management, the procurement laws prescribe that there should be an appointed contract manager who ought to be very clear on his or her roles and responsibilities. However, a close analysis of the above findings suggests that there are human resource related determinants. The most rated human resource management factors were the fact that (1) job descriptions, and roles are not defined accurately and (2) the contract manager usually has limited knowledge of the contract. Moreover, Rendon (2010) have rightly observed; in support of our findings, that some of the critical success factors for both project and contract management is being qualified workforce, clear processes, relationships, resources, leadership and policies all of which have an direct impact on an organization's project management and contract management processes as well as resulting outcomes. On this same observation, Nadiope (2005) is of the view that most governments lack trained procurement personnel; a fact that may add to the contract management problems. We argue that procurement staffs need to offer technical advice to the accounting officers on the appropriate contract management framework and the kind of people that ought to be in charge. Where such are missing, then the procurement staff take some blame.

Successful and efficient contract management practices are those that meet the needs of the company's stakeholders, achieve optimum conditions and value in regard to the allocation of scarce tax payers resources (best value for money), ensure rational and efficient of funds available, stimulate valuable competition and manage the risk and potential liabilities to the buyer thus improving service delivery. Among the key stakeholders are the suppliers.

#### **Developing strong internal and external relationships**

Effective communication between the contract managers was the most influential factor in developing strong internal and external relationships. This is evidenced by the highest mean of 4.14 and standard deviation of 2 got from responses to the items exposed to respondents. This was followed by supplier performance which is assessed using clear, objective and meaningful metrics. This item had a mean of 4.11 and standard deviation of 5 (see table 5 in the annex) . Ross and Goulding (2007) argue that contract management must support the attainment of mutual interests especially parties must agree to behave responsibly rather than seeking individual gains. This may entail distributing copies of contracts between all stakeholders for effective contract monitoring and control. Transparency International (2004) observes that promoting better access to information for all stakeholders strengthens the accountability of all actors to local development goals as well as to other actors and stakeholders.

#### **Payment and incentives**

Respondents were asked whether payments and incentives were critical determinant to contract management. What emerged as the key variable (as shown in table 6 in the annex) was that PDEs must ensure that retained payments are linked to specific contract deliverables. This item scored a mean of 4.04 with a standard deviation of 6. This was followed by the need for PDEs to always ensure that individual payments do not exceed the cost. Notwithstanding the above, Davison and Sebastian (2009a) argues that the above will depend on the nature of the contract. They further illustrate that construction contracts, are more likely to encounter cost overruns due to changes in existing designs and inflation. Unpaid contractors lose their incentive to do good work and inevitably raise their prices in future procurements. For the contractor the challenge is to perform the work in a satisfactory manner and to obtain timely payment for the effort. In this regard, the contractor takes the risk that the government will delay necessary approvals or fail to pay on time. An experienced contractor will add some measure of protection for this risk in its contract price, even if it becomes slightly less competitive as a result.

#### **Constraints to effective contracts Management**

Respondents were requested to score their opinions on deterrents to effective contract management the following were the results. 68.8% of the respondents agreed that there was lack of compliance with regulations and statutes (see table 7 in the annex). The finding agrees with the findings of Gelderman et al., (2006). The authors attributed this to lack of professionalism and lack of familiarity with procurement laws. However Eyaa and Oluka (2010) surprisingly found out in their study that professionalism was not a significant predictor of compliance and yet the Public Procurement and Disposal of Assets Authority (PPDAA), that is charged with regulating public procurement in Uganda, is focusing on building professionalism amongst procurement cadre in order to improve public procurement performance. Eyaa and Oluka (ibid) further assert that non-compliance has cost the government and tax payers a lot of money through shoddy work, affecting public procurement performance, service delivery and the quality of life in the country. In toe 68.7% of the respondents agreed that flexibility with regulations was too burdensome. This finding is supported by Wee (2005) who asserts that public procurement guidelines are unnecessarily bureaucratic. Behavioral irregularities could possibly explain this phenomenon as proposed by Selznick (1950) of which bureaucratization is one for which stakeholders should be alerted and thereafter factored into the organizational design. This was followed by 67.7% who agreed that there was specific interpretation of regulations and lack of whistle blower protection in case of suspected corruption.

Meanwhile, 66.6% agreed that there was lack of regular follow-up and 65.6% of the respondents agreed that, there was lack of compliance with established deadline and integrity in the contract management process (corruption including fraud, bribery and kickback. 65.7% of the respondents agreed that there was late release of funds by government. This opinion is supported by Mc Crudden 's (2004), finding that asserted that delayed funding from the government or the donors, bureaucracy in the system right from the sub-county level, poor capacity of local contractors and the weather could also lead to poor service delivery. It should, however, be noted that both central and local governments depend on government and donors funds for all big projects yet the government grants are inconsistent. In Uganda, funds are only released only when an entity has met the basic accountability requirements and when there is money in the treasury. All this

makes it almost impossible for the buying entities to do their work effectively and in the shortest time meet the scheduled deadlines.

It was also established that 65.6% of the respondents agreed that, there was lack of compliance with established deadlines and lack of integrity in the contract management process (corruption including fraud, bribery and kickback ), Kramer (2003) and Cooper, Farank and Kemp (2000) indicates that the most significant fraud schemes occur in, or as part of, the procurement process partly because of the huge public procurement expenditure where money is exchanged through commercial bribery, kickbacks and other fraud arising from the process or as a result of opportunism. Lack of access to information regarding the contract scored 64.4% while 63.5% of the respondents agreed that the ambiguous cost overrun was due to inflation. This finding is supported by Azom (1999) and Levy and Ferazani (2006). The authors observed contract requirements are often subject to change throughout the life of the contract and therefore, it may not always be possible to predict all variations. However, we note that at times variations to a contract may not always be as a result of contract monitoring and control but could be as a result in slight change to the requirement due to external factors such as inflation, When respondent were asked whether there was lack of reliable, dispute resolution mechanisms, 60.4% of the respondents agreed while 59.4% of the respondents agreed that some contractors fail to deliver the required items. Davison and Wright (2004) argues that one of the constraints to contract management is acceptance of wrong products either as results of poor specifications or laxity of the suppliers thus causing delays in service delivery. Mean while 58.3% agreed there was lack of capacity in contract management and monitoring of various stakeholders (media, SO, implementers and monitors).

**Table 5: Factor analysis on the constraints to effective contracts management**

Component items	1	2	3
<b>COMPONENT 1</b>			
1. Flexibility With Regulations Too Burdensome	0.73		
2. Ambiguous Cost Overrun Due To Inflation	0.73		
3. Users May Specify Wrong Products	0.71		

4.	The Contractor May Fail To Deliver The Require Items	0.67		
5.	Poor Relationship To The Procurement Process And The Criterai For Successful Contracting	0.67		
6.	Compliance With Regulations, Statuses And Congressional Mandates	0.64		
7.	Lack Of Regular Follow Up	0.60		
<b>COMPONENT 2</b>				
8.	Lack of Political Will To Monitor Contracts		0.82	
9.	Weak Legal Framework To Blacklist Inefficient Firms		0.65	
10.	Lack Of Whistle Blower Protection In Case Of Suspected Corruption		0.64	
<b>COMPONENT 3</b>				
11.	Lack Of Capacity In Contract Management And Monitoring Of Various Stakeholders			0.76
12.	Lack Of Integrity In The Contract Management Process			0.75
13.	Lack Of Reliable, Uncouthly, Dispute Resolution Mechanisms			0.73

All the variables which were used to measure the constraints were subjected to exploratory factor analysis. Initially, we had a total of 18 items but after factor analysis, these were reduced to only 13 items with a total variance of 63%. The data was adequate for fctor analysis as confirmed from the KMO of 0.84 which was higher than the recommended 0.6. The Bartlett's Test of Sphericity of also high with an approximate chi-square of 663.916 (df=91 and sig=0.000). The items loaded on three principle components had 7 items with a variance of 47% followed by the second principle with 9% and the third had a total variance of 7%. Each component was associated with factor loadings that indicated the strengths of a major factor. Form the above analysis, the major constraints to effective contract management include (1) Lack Of Political Will To Monitor Contracts, (2) Lack Of Capacity In Contract Management And Monitoring Of Various Stakeholders, (3) Lack Of Integrity In The Contract Management Process, (4) Lack Of Reliable, Uncostly, Dispute Resolution Mechanisms, (5) Flexibility with regulations too Burdensome, and (6) ambiguous cost overrun due to inflation. These findings offer useful information on which areas policy makers and practitioners need to put emphasis.

### IMPLICATIONS

Our study raises a number of implications that have to be addressed if contract management is to be improved. The study has underlined key determinants and constraints to effective contract management and hence the desire to minimize them cannot be emphasized. Among the major determinants to effective contract management were that most entities have problem in defining processes and formulating a clear contract management plan and appropriate methods of capturing key data and lessons from contract management process. Others were human resource management factors related to job descriptions, accurate definition of roles and diverse contract management knowledge of the contract manager. We argue that procurement staff needs to offer technical advice to the accounting officers on the appropriate contract management framework and the kind of people that ought to be in charge. Where such are missing, then the contract management function can be outsourced to competent firms/persons. The Regulatory Authority (PPDAA) and the public entities especially user department should work together to improve function of contract management through capacity building. This can be done through taking procurement skills assessment and training staff through refresher courses, workshops, seminars and conferences where staff meet and share experiences.

As far as constraints are concerned, government ministries, private sector and civil society organizations need to engage with each other so that their voices are heard or taken seriously by policymakers at all levels of the contract management process. The coalition-building approach will enable the three parties – government, the private sector and civil society organizations to find areas of common interest where no single government or company would otherwise be willing to unilaterally apply more responsible standards of behaviour. Citizens too should be compelled to hold government officials accountable through social accountability movements. Government should enhance New Public Management (NPM) which advocates the use of markets in contract management in particular and public service delivery in general.

### LIMITATION AND FUTURE RESEARCH



Our study is limited by a number of factors. First and foremost, we only focused on central government entities in Kampala and did not cover central government entities outside Kampala and the Local Government entities. Studies in future should extend this study to the local governments and central government entities outside Kampala. Secondly, the study focused categories of employees like contracts committee members, evaluation committee members, contract managers and members of user departments whose activities affect public procurement in public entities. Studies carried out on contract management in the public sector should take into account other respondents whose decisions and activities impact on contract management in the public procurement process such as vendors. The third limitation of the study was that the study only focused on only determinants and constraints yet there are a number of factors like social norms, subjective norms, to mention but a few that can effective contract management in Uganda. Future researchers can focus on looking at the other critical success factors other than the ones mentioned in the paper.

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## ANNEXES

**Table 1: Practitioners' opinions on the determinants of successful contract management (COMESA, 2011)**

Determinants	Indicators
<b>Putting in place Structure and resources:</b>	Identifying and defining processes and a clear contract management plan, with a focus on outputs and milestones to performance; Method of regular assessment and evaluation
<b>Ensuring the right people are in place to carry out the contract management activities</b>	<ul style="list-style-type: none"> <li>The contract manager has a detailed knowledge of the contract; The contract manager has the appropriate skills (both specific contract management skills and more general commercial awareness and expertise), with relevant training and development; Appropriate delegated authority to manage the contract effectively and Balanced contract management teams are setup, with an appropriate range of skills;</li> </ul>

<b>Clear Roles and responsibilities</b>	Clearly defining the responsibilities of the contract manager and the contractor supplier in a contract; A performance management framework is in place when the contract is signed. and Service levels agreements are in place, , understood by the supplier, and monitored by the contract manager and/or end users.
<b>Feedback and communications mechanisms</b>	Regular and routine feedback is given to suppliers on their performance; Users understand what the contract is intended to deliver; variations well captured and considered as part of formal contract management processes and there are formal performance reviews with suppliers
<b>Payment and incentives</b>	Ensuring payments are made to the supplier in line with the contract ; The costs of the services delivered and contract management costs are mapped against budgets and allocated appropriately; Contract variations are made according to agreed contractual provisions
<b>Managing risks;</b>	<ul style="list-style-type: none"> <li>• Identifying and anticipating risk such as service failure, reputation as, damage and additional costs.</li> </ul>

Table 5

	SA	A	N	D	SD	M
The contract manager must understand his/her own role	41(42.7%)	39(40.6%)	3(3.1%)	4(4.2%)	7(7.3%)	4.10
The respective responsibilities of the contract manager	35(36.5%)	43(44.8%)	10(10.4%)	<b>1(1.0)</b>	7(7.3%)	<b>4.02</b>
<b>Feedback and communication mechanisms</b>						
Well defined regular structured and informal communication routes	36(37.5%)	40(41.7%)	10(10.4%)	6(6.3%)	4(4.2%)	<b>4.02</b>
There should be Clear understanding of expectations	33(34.4%)	48(50.0%)	8(8.3%)	1(1.0%)	6(6.5%)	4.05
Effective communications between the contract manager	35(36.5%)	47(49.0%)	6(6.3%)	5(5.2%)	2(2.1%)	<b>4.14</b>
Regular and routine feedback is given to suppliers on their performance	44(45.8%)	33(34.4%)	8(8.3%)	5(5.2%)	6(6.3%)	4.08
Both parties should understand the service they are required to deliver based on contract	45(46.9%)	31(32.3%)	7(7.3%)	4(4.2%)	9(9.4%)	<b>4.03</b>
A performance management framework is in place by the time contract is signed	43(44.8%)	33(34.4%)	8(8.3%)	4(4.2%)	7(7.3%)	4.06
Service levels agreements should be in place and are linked to business needs	41(42.7%)	35(36.5%)	11(11.5%)	4(4.2%)	5(5.2%)	<b>4.07</b>
Supplier performance	41(42.7%)	39(40.6%)	7(7.3%)	4(4.2%)	5(5.2%)	<b>4.11</b>

should be assessed using clear, objective and meaningful metrics						
There are formal performance reviews with suppliers, with documented improvement plans	37(38.5%)	38(39.6%)	10(10.4%)	6(6.3%)	5(5.2%)	<b>4.00</b>
Clear processes are in place to handle operational problem resolution and resolve issues	29(30.2%)	43(44.8%)	11(11.5%)	8(8.3%)	5(5.2%)	<b>3.86</b>
Where appropriate, user compliance with the contract is monitored and managed	35(36.5%)	37(38.5%)	13(13.5%)	5(5.2%)	6(6.3%)	<b>3.94</b>
Parties must understand the service they are required to deliver based on contract	34(35.4%)	38(39.6%)	8(8.3%)	8(8.3%)	8(8.3%)	<b>3.85</b>
Changes in user requirements are captured and considered as part of formal change	34(35.4%)	37(38.5%)	16(16.7%)	4(4.2%)	5(5.2%)	<b>3.95</b>

**Table 6: Payments and incentives**

	<b>SA</b>	<b>A</b>	<b>N</b>	<b>D</b>	<b>SD</b>	<b>M</b>
Ensuring payments are made to the supplier in line with the contract	29(30.2%)	40(41.7%)	10(10.4%)	12(12.5%)	5(5.2%)	3.79

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The costs of the services delivered and contract management costs are mapped	31(32.3%)	40(41.7%)	<b>12(12.5%)</b>	10(10.4%)	3(3.1%)	<b>3.90</b>
Contract variations are made using contractual provisions	25(26.0%)	40(41.7%)	18(18.8%)	8(8.3%)	5(5.2%)	3.75
The contract manager takes action where necessary to avoid the price escalation	35(36.5%)	36(37.5%)	9(9.4%)	12(12.5%)	4(4.2%)	<b>3.90</b>
PDEs always ensure that advance payments are made only where applicable	33(34.4%)	36(37.5%)	14(14.6%)	7(7.3%)	6(6.3%)	3.86
PDEs always ensure that an advance payment security	30(31.3%)	37(38.5%)	14(14.6%)	8(8.3%)	7(7.3%)	<b>3.78</b>
PDEs always ensure that stage payment linked to specific deliverables stated	29(30.2%)	44(45.8%)	11(11.5%)	6(6.3%)	6(6.3%)	3.88
PDES always ensure that individual payments do not exceed the cost	33(34.5%)	44(45.8%)	<b>8(8.3%)</b>	6(6.3%)	5(5.2%)	<b>3.98</b>
PDEs always ensure that individual payments do not exceed the cost	37(38.5%)	37(38.5%)	13(13.5%)	<b>4(4.2%)</b>	5(5.2%)	<b>4.01</b>
PDEs always ensure obtaining a	30(31.3%)	40(41.7%)	13(13.5%)	9(9.4%)	4(4.2%)	<b>3.86</b>



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payment security if during the delivery of the works						
PDEs always ensure that regular interim payments are based on general progress	34(35.4%)	41(42.7%)	7(7.3%)	8(8.3%)	6(6.3%)	3.93
PDEs always ensure that retained payments are linked to specific contract events	40(41.7%)	37(38.5%)	6(6.3%)	6(6.3%)	6(6.3%)	4.04

Table 7 : Constraints to effective contract management

Late release of funds by government / delayed funding from the government	SA	A	N	D	SD
Lack of access to information regarding the contract	35(36.5%)	28(29.2%)	14(14.6%)	9 (9.4%)	9 (9.4%)
Weak legal framework to blacklist inefficient firms	27(28.1%)	35(36.5%)	14(14.6%)	13(13.5%)	7 (7.3%)
Lack of political will to monitor contracts	23(24.0%)	30(31.3%)	20(20.8%)	11(11.5%)	12(12.5%)
Lack of whistle blower protection in case of suspected corruption	30(30.3%)	26(27.1%)	18(18.8%)	14(14.6%)	8(8.3%)
Limited stake holder involvement / participation in monitoring contracts	33(34.4%)	32(33.3%)	13(13.5%)	9(9.4%)	9(9.4%)