

**KENYA: ASSESSMENT OF ACCESS TO GOVERNMENT PUBLIC PROCUREMENT  
OPPORTUNITIES FOR WOMEN, YOUTH AND PERSONS WITH DISABILITIES**

**FINAL REPORT**

**By**

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## **Abstract**

*This study sought to Investigate the extent of participation of beneficiaries (women and youth) in accessing the government procurement opportunities in terms of volume and value of government tenders awarded to women owned, youth and PWD owned businesses; Identify existing barriers/challenges that prevent Youth, Women and PWDs from utilizing AGPO opportunities fully including assessing the level of awareness among AGPO target groups; Identify barriers/ challenges for procuring entities (PE) in implementing AGPO and make recommendations of how to strengthen the existing AGPO monitoring/reporting and tracking systems at Public Procurement Regulatory Authority and at the AGPO Secretariat at the National Treasury; and Provide recommendations to the relevant stakeholders including the policy makers, public entities, UN Women and AfDB on how to support the initiative achieve its objectives in compliance with the law. The study used participatory, evidence based, output oriented, and practical methods in data collection and applied both quantitative and qualitative research methods in data analysis. The method for data collection was limited to; document review/desktop, and face to face interviews involving key informants and individual women, youth and persons with disabilities. Data was collected from 5 counties namely Nairobi, Nyeri, Kajiado, Machakos and Nakuru. The sample size consisted of 61 women owned enterprises and 37 key informants comprising of procurement officers, authority to incur expenditure officers and finance officers from public procurement entities. The findings are presented in tables, graphs and in narratives.*

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## **LIST OF ABBREVIATIONS**

AfDB	African Development Bank
AIE	Authority to Incur Expenditure
CBOs	Community based organizations
CPO	Chief Procurement officers
EOIs	Expression of Interest
EWASCO	Embu Water Services Company
FBOs	Faith based organizations
FO	Finance Officers
ICT	Information Communication and Technology
IFMIS	Integrated Financial Management Information System
ISA	Institute of Social Accountability
KI	Key Informant
LPO	Local Purchase Order
LSO	Local Service Order
M&E	Monitoring and Evaluation
MDGs	Millennium Development Goals
NCA	National Construction Authority
NGOs	Non-governmental organizations
NSSF	National Social Security Fund
PPARB	Public Procurement Administrative Review Board
PPEs	Public Procuring Entities
PPOA	Public Procurement Oversight Authority
PPRA	Public Procurement Regulatory Authority
PWDs	Persons with disabilities
RFPs	Request for Proposal
SAGAS	Semi-autonomous government agencies
SMS	Short Message Service
UN	United Nations
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
WEF	Women Enterprise Fund
YEDF	Youth Enterprise Development Fund

## **EXECUTIVE SUMMARY**

Public procurement in Kenya has become a major driver in the economy in Kenya since the government expenditure in Kenya is approximately 10% of Gross Domestic Product. However, although Small and Medium Enterprises (SMEs) can act as engines of growth in Kenya, they face various constraints that prevent them from taking advantage of the AGPO initiative. Despite legislation and other initiatives to encourage greater participation, the uptake of AGPO against the ambitious target of at least 30 percent of annual procurement the uptake still remains low. The UN Women commissioned this study as one of the 3 county studies (Kenya, Senegal and South Africa) to investigate the systemic issues that relate to the Access to Government Procurement Opportunities (AGPO) initiative particularly from the right and duty bearers point of view and how these can be addressed in order for the initiative to benefit the intended target groups (rights holders) and AGPO to be a show case to be emulated by other countries. Hence, the overall objective of the study was to assess the effectiveness of the AGPO as entrenched under the Preference and Reservations Scheme in the Public Procurement and Disposal Act 2015 (Section 12), and make recommendations on how to support the impact of the law.

The specific objectives include;

1. Investigate the extent of participation of beneficiaries (women and youth) in accessing the government procurement opportunities in terms of volume and value of government tenders awarded to women owned, youth and PWD owned businesses;
2. Identify existing barriers/challenges that prevent Youth, Women and PWDs from utilizing AGPO opportunities fully including assessing the level of awareness among AGPO target groups;
3. Identify barriers/ challenges for procuring entities (PE) in implementing AGPO and make recommendations of how to strengthen the existing AGPO monitoring/reporting and tracking systems at Public Procurement Regulatory Authority<sup>1</sup> and at the AGPO Secretariat at the National Treasury;

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<sup>1</sup> However, this objective was not fully addressed because it was impossible to get an interview with the Public Procurement Regulatory Authority as the Director General said that the Authority has contracted KIPPRA to do the same study as the client were doing.



4. Provide recommendations to the relevant stakeholders including the policy makers, public entities, UN Women and AfDB on how to support the initiative achieve its objectives in compliance with the law.

The study used participatory, evidence based, output oriented, and practical methods in data collection and applied both quantitative and qualitative research methods in data analysis. The method for data collection was limited to; document review/desktop, and face to face interviews involving key informants and individual women, youth and persons with disabilities. Data was collected from 5 counties namely Nairobi, Nyeri, Kajiado, Machakos and Nakuru. The sample size consisted of 61 women owned enterprises and 37 key informants comprising of procurement officers, authority to incur expenditure officers and finance officers from public procurement entities<sup>2</sup>. The findings are presented in tables, graphs and in narratives.

From data analysis, the study found that most procuring entities reserve general supplies and agribusiness for the AGPO target groups. The study found that there was general lack of awareness of the AGPO opportunities due to lack of sensitization from both the AGPO secretariat and the procuring entities. The number of contracts applied for differ by county with Nairobi County having more women applying for the tenders. However, very few women win the tenders. For example, out of the 3316 tenders applied for, only 1887 were successful translating to only to a success rate of 56.9% implying that there were some challenges either from the procuring entities or from the applicants.

Women's challenges facing those with AGPO certificates were: (a) in filling standards tender documents; (b) certification, technical and financial challenges; (c) delay in payment for goods and services delivered; (d) corruption; (e) short timelines to respond to tender; and (f) stiff tendering requirements.

The challenges facing those without AGPO certificates were: 1. Lack of awareness of AGPO initiative; 2.Lack of information of how to register a business and for an AGPO certificate; 3. Perception of corruption in government and 4. Fear of suffering loss due to delayed payments.

For those who had embraced the AGPO initiative, 82% said that they had benefited from the AGPO initiative and the benefits ranged from business expansion, employment, payment of fees, provision of basic needs and purchase of property although 54% said they were not satisfied with

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<sup>2</sup> Due to time and financial constraints and the fact that the data was collected during an electioneering season, other key actors such as Kenya Institute of Supplies Management, and the Council of Governors were not interviewed.

the initiative probably due to the challenges they may have faced from registration to winning the tender.

The long term objective of AGPO is to reduce poverty especially among the marginalized women, youth and PWDs. From the study, it is clear that this objective may be achieved if only the uptake of the initiative was much higher than it is now. This is because, doing business with government seems to be benefiting the women in business growth in terms of increased profit margins, increasing the number of employees, increasing the amount of stock and acquisition of new partners among the critical parameters of women empowerment.

From the key informants point of view, the procuring entities face various challenges such as: (i) Lack of funds for capacity building for both the target group and the procurement officers, (ii) Lack of capacity to make returns to The National Treasury and the Public Procurement Regulatory Authority as required by law, (iii) Delayed payments due to funds reallocation to other uses, (iv) Poor flow of information between procurement and finance departments, (v) Corruption, (vi) Lack of coordination between Treasury and the Public Procurement Regulatory Authority, (vii) Strict Regulations Leading to Challenges For the Target Group, (viii) Lack of capacity to use Integrated Financial Management Information Systems (IFMIS) and (ix) Lack of Proper Signage leading to Poor Accessibility.

The study concludes that the AGPO initiative has provided an opportunity for women, youth and persons with disabilities to do business with government. However, due to the small sample size, we are not able to confidently conclude that the long term objective of AGPO of reducing poverty especially among the marginalized women, youth and PWDs is on track. Nevertheless by doing business with government, the target groups seems to be benefiting in terms of increased profit margins, increasing the number of employees, increasing the amount of stock, payment of fees, provision of basic needs and purchase of property which essentially leads to economic empowerment. However, both the target groups and the procuring entities are faced with various challenges that need to be addressed if the AGPO initiative is to progressively succeed.

The challenges faced by the target group and the procurement entities can be addressed using the following measures:

To reduce corruption in the procurement entities and more so among the procurement and financial officers, there is need for officers to adhere to the code of conduct governing public

officers especially on matters of integrity and as necessary take regular training on good ethical practices and effectively streamline the public procurement processes.

Sensitization and capacity building for the target group through use of a targeted approach in order to demystify the AGPO initiative. This training should be done at the National level, at the County level and even at the procurement entity level and targeted to specific group since each group has got its own challenges.

It is also important to ease the still requirements that the target groups complained that prevent them from either registering with AGPO and the funds set aside for payment for goods and services should be ring-fenced to prevent reallocation to other uses. Official timelines set for payment for goods and services delivered should be strictly adhered to and all LPOs/LSOs and tender contracts issued to AGPO beneficiaries should contain a provision that the procuring entity should pay interest at the prevailing mean commercial lending rate as determined by Central Bank of Kenya on delayed payments that are beyond recommended time period the date the invoice was received by the procuring entity. This would ease the pain the supplies go through in paying debts that they incurred in supplying goods and services to the procuring entities.

The National Treasury and the Public Procurement Regulatory Authority should strive towards cooperation and coordination in order to streamline registration of businesses under AGPO in order to avoid possible double registrations by AGPO beneficiary's business entities.

For those procuring entities that do not make returns, it is important to train and build their capacity on how to make the returns and the importance of having up to date data on the performance of AGPO.

It is also important to have a multi-sectoral approach within government departments to the implementation of AGPO to the effect that the planning, finance and procuring departments work together in terms of coordination, communication and cooperation.

There is also need for the procuring entities to work together in publishing the enterprises that have been winning tenders because it is clear that the same enterprises could be winning tenders in almost all procuring entities over the years taking advantage of the lack of a multi-sectoral approach to the implementation of the AGPO initiative. The AGPO certificates could be serialized such that if at any one time a woman has put in a tender application, they cannot at the same time apply for another tender in another ministry, parastatal or SAGA until the

procurement process of evaluation in the first one is over. This would prevent some firms dominating and becoming the dominant suppliers in the procuring entities at the expense of the other firms. This would enhance transparency and accountability.

It is important to train both procurement officers and the target groups on the use of IFMIS and at the same time, sort out the technological issues associated with IFMIS to make it user friendly. Finally this study recommends that UN Women considers organising and facilitating more capacity building initiatives both at the National and County levels on the AGPO initiative

## **CHAPTER ONE**

### **INTRODUCTION AND BACKGROUND**

#### ***1.0 Background***

The Access to Government Procurement Opportunities (AGPO) initiative for women, youth and persons living with disabilities was operationalized in the Public Procurement and Disposal Act 2005. This led to the gazetting of the Public Procurement and Disposal (Preference and Reservations) Regulations, 2011 vide Legal Notice No 58 dated 8th June, 2011.

The purpose of the regulations was to promote local, national and regional industry and support socio-economic development. It defined:

- (a) The target group and eligibility requirements for benefitting from the preference and reservations schemes;
- (b) The percentage margin of the preference, where applicable;
- (c) The goods, works and services set aside or reserved for specified target groups;
- (d) The regions within which to apply the scheme, and
- (e) The means of measuring its effectiveness in achieving the objectives.

In 2013 the Cabinet Secretary, National Treasury, issued an amendment to the Public Procurement and Disposal Act, (No. 3 of 2005) under Legal Notice No. 114 dated 18th June, 2013 and enacted the Public Procurement and Disposal (Preference and Reservations) Amendment Regulations, 2013.

Regulation (31) (1) provided that a procuring entity shall allocate at least thirty percent of its procurement spending for the purposes procuring goods, works and services from micro and small enterprises owned by youth, women and persons with disability.

Regulation (31) (2) for the purpose of paragraph (1) provided that, a procuring entity shall implement the requirement through its budgets, procurement plans, tender notices, contract awards and submit quarterly reports to the Authority. This was to ensure that the disadvantaged groups were not to compete with the well-established firms.

In 2016, Kenya passed a new Public Procurement and Asset Disposal (PPAD) Act in terms of the implementation of the Preference and Reservation Scheme. It fully spells out

- (i) The application of the scheme;

- (ii) Clearly defines the roles and responsibilities of key players in the sector (the National Treasury; the Public Procurement and Regulatory Authority (PPRA) and the Public Procurement Administrative Review Board (PPARB);
- (iii) Provides for enforcement of the scheme while giving immense powers to the Regulator to enforce implementation and provides sanctions for non-compliance.

The law provides a major shift from the past situation whereby the Preference and Reservations Scheme 2011 scheme existed, but implementation was through regulations and periodic circulars issued by the Finance Minister. The Preference and Reservations Scheme is now anchored in an Act of Parliament which does not allow room for non-compliance. Subsequently, the process of developing Regulations for Public Procurement and Asset Disposal Act (PPADA) of 2015 commenced. A task force was constituted by the National Treasury and charged with the mandate of developing the PPADA (2015) regulations. Members of the public and key stakeholders were asked to submit input into the draft regulations. These were expected to be gazetted by early 2017 as required under the Constitution but they are yet to be operationalized put jeopardizing the implementation of the PPAD (2015).

Information on the effectiveness of the AGPO initiative is not readily available including statistics on the uptake and level of awareness of AGPO program by Youth, Women and people with disabilities PWDs.

A rapid assessment study on AGPO was commissioned by United Nations Women (UN Women) Kenya Country Office in 2016 in five target counties of Turkana, Uasin Gishu, Kilifi, Kiambu and Kisumu. The study found that the special groups were not participating fully in government tenders. It also revealed that though the government has put structures and set Trust Funds for the AGPO target beneficiaries groups, the uptake of the 30% of the procurement business opportunities was slow due to inability of majority of the groups to meet the requirements of business registration processes, complex bid documents and securing loans to participate in government tendering. The study recommended more training and capacity building programs for both procurement professionals and the target group, simplifying bidding documents for ease of understanding by the target group, facilitating access to financing by the target group, and UN Women and other development partners to consider organising and facilitating more capacity building initiatives at the counties on preferences and reservation.

### ***1.1 The AGPO Initiative***

The Public Procurement Regulatory Authority (PPRA) is a state corporation responsible for the implementation of the Public Procurement and Disposal Act (PPDA), 2005 and its attendant Regulations. The key objective of the statutes is to ensure public procurement is undertaken in an open, fair, transparent and competitive manner.

One of their mandates under Section 9(c) of the PPDA, 2005 is to develop, support training and the professional development of persons involved in public procurement. The objective of the training program is to improve the capacity of the stakeholders to carry out public procurement in an efficient, effective, transparent and accountable manner.

The Government of Kenya has over the years put in place a number of measures aimed at reducing barriers faced by the target group in doing business with government under the AGPO initiative. Some of these measures worth mentioning are the issues related to: (1) Bid bonds are not required; (2) pre-qualification is automatic once business is AGPO certified; (3) There is an on line tenders portal on the PPRA website which is good platform as information about tenders is easily available; (4) PPRA has a section on its website that provides information about market prices and this is also helpful to MSEs especially when it comes to submitting successful bids; and (5) both the PPRA and National Treasury have developed tools and issued circulars to all Procurement entities for use to file their returns.

On the 13<sup>th</sup> June 2013, the legal notice no. 114 of the public procurement and disposal act (No. 3 of 2005) published and made the following regulations regarding the public procurement and disposal (preference and reservations) (amendment) regulations, 2013. Some of the new regulations were:

- (1) Small or micro enterprise or a disadvantaged group wishing to participate in public procurement shall apply for registration with the National Treasury or the respective county treasury with which they operate and are located in the form set out in the First Schedule to these Regulations.
- (2) All lists of registered enterprises from the national and county levels shall be submitted to the Authority for consolidation and publication.

The number of registered and certified AGPO Small and Medium enterprises as at September 2014 was 14,644. This comprises women, youth and persons living with disabilities. However, as at June 2017, this had increased to 54,306 registered enterprises. Public Procuring entities are

required by law to reserve for women, youth and PWDs at least 30% of their annual procurement spend for goods, works and services in the following areas:

- (a) General Supplies - for stationery, furniture, computer hardware, fittings, computer accessories, printers, photocopiers
- (b) Small Works & Engineering - for construction in categories of electrical works, water works, road works and building works, plumbing works, interior design
- (c) ICT Services - for repair and maintenance of ICT equipment, networking, configuration, web design, programming
- (d) Professional Services & Consultancy - for cleaning services, fumigation services, sanitation services, event organization, catering services, entertainment services, insurance brokerage services, asset valuation services, car hire services, transport services, professional consultancies, veterinary services, asset tagging
- (e) Fresh Produce and Agricultural Products - for supply of fruits, vegetables, grains, cereals, meat products, fertilizers, agro-chemicals

As at 24<sup>th</sup> August 2017, the total number of AGPO registered enterprises from the PPRA website were 71,192 distributed as shown in Table 1.

**Table 1: List of Registered Target Groups by Category and Group**

Target Group	General Supplies	Fresh Produce/Agribusiness	Professional Services & Consultancy	ICT Services	Small Works & Engineering	Total
Youth	29,750	1040	3,390	3,250	3,200	40,630
Women	19,780	870	2,700	710	3,432	27492
PWDs	2,340	125	240	100	265	3070
<b>Total</b>						<b>71,192</b>

Source: Public Procurement Regulatory Authority [www.ppoa.go.ke](http://www.ppoa.go.ke)

However, data from the Treasury shows that as at 6<sup>th</sup> September, 2017, only 68,186 enterprises were registered under AGPO as shown in Table 2.

**Table 2: Registered and Certified Enterprises under AGPO since Inception in 2013**

Target Group by Category	Number	Percentage
Youth	25,549	37.47
Women	39,681	58.20
PWDs	2,956	4.34
<b>Total</b>	<b>68,186</b>	<b>100</b>

AGPO Secretariat at National Treasury

As Table 1 shows, there are more women in the general supplies category than in any other category followed by small engineering works and professional services and consultancy



contrary to expectation because it involves a lot of expenses and plus the fact that one has got to be registered with the National Construction Authority. This could be attributed to the allegation by the procuring entities of women fronting for rich businessmen. It could also be attributed to the fact that the general supplies and construction are the most lucrative compared to the others. Very few women are found in ICT services and fresh produce.

In terms of budgetary reservations, the new regulations states that:

- (1) A procuring entity shall allocate at least thirty percent of its procurement spending for the purposes of procuring goods, works and services from micro and small enterprises owned by youth, women and persons with disability.
- (2) For the purpose of implementing the above regulation, a procuring entity shall implement the requirement through its budgets, procurement plans, tender notices, contract awards and submit quarterly reports to the Authority.

The following are the qualification for preference and reservations schemes:

For the purpose of benefiting from preference and reservations schemes, an enterprise owned by youth, women or persons with disabilities shall be a legal entity that:

- (a) is registered with the relevant government body; and
- (b) has at least seventy percent membership of youth, women or persons with disabilities and the leadership shall be one hundred percent youth, women and persons with disability, respectively.

In order to facilitate for financing of local purchase or service orders, a procuring entity is supposed to facilitate financing of enterprises owned by youth, women or persons with disabilities that have been awarded contracts, by authenticating their notifications of tender awards and local purchase or service orders and subsequently entering into an agreement with the relevant financing institution with conditions that include paying the contracted enterprise through their account opened with the financier.

Every procuring entity should ensure that all money paid out to an enterprise owned by youth, women or persons with disability is paid into an account where the mandatory signatory is a youth, woman or a person with disability.

In order to ensure sustained growth for enterprises owned by youth, women or persons with disabilities, the procuring entities are supposed to make prompt payments for all performed contracts through electronic media where possible and should not delay beyond thirty days.

However, where delay is inevitable, a procuring entity should make at least fifty percent part-payments and should give a written explanation for the delay to the enterprises that have supplied goods or services.

In the event that that delay of payments for works performed are likely to happen, a procuring entity is expected to facilitate invoice discounting arrangements with a financial institution for the purpose of advancing credit to the affected enterprises.

The procuring entities at the national and county level are supposed to make a report after every six months to the PPRA and the report should:

- (i) Certify compliance with the provisions of AGPO and
- (ii) Provide data disaggregated to indicate the number of youth, women and persons with disability whose goods and services have been procured by the procuring entity.
- (iii) They also have to submit quarterly reports on the implementation of AGPO to National Treasury as well as their annual procurement plans by 31<sup>st</sup> August 31 which is within 60 days of the new financial year.

The Authority is supposed to make a report to Parliament after every six months for consideration by the relevant committee responsible for equalization of opportunities for youth, women and persons with disability, and the report should contain details of the procuring entities and how they have complied with the regulations and provisions of AGPO.

The National Treasury operationalized a preference and reservations secretariat (AGPO secretariat) which is responsible for the implementation of the preferences and reservations under the Public Procurement and Asset Disposal Act. The secretariat is responsible for:

- (a) registration, prequalification and certification of the persons, categories of persons or groups as provided for in under Part XII of the Act;
- (b) training and capacity building of the above target groups;
- (c) providing technical and advisory assistance to procuring entities in the implementation of the preferences and reservations under the Act; and
- (d) monitoring and evaluating the implementation of the preferences and reservations under this Act.

On the other hand, the National Treasury is expected to provide adequate staff and resources for the operations of the secretariat.

As mentioned before, the procuring entities are supposed to integrate preferences and reservations in their procurement plans and also submit to the Public Procurement Regulatory Authority the part in its procurement plan demonstrating application of preference and reservation scheme in relation to procurement budget within sixty days after commencement of the financial year. All procurement awards by procuring entities where a preference or reservation scheme was applied are supposed to be reported to the Public Procurement Authority with disaggregated data on a quarterly basis. Whether the institutions mandated to implement the AGPO initiative are doing what they are expected effectively is a question this study intends to investigate.

### ***1.2 Process of Qualifying for an AGPO Contract***

To qualify for a contract under the 30% set aside quota, a woman entrepreneur must first acquire an Access to Government Procurement Opportunities (AGPO) certificate following the following steps as shown in Table 3. The application can be done on line or in a Huduma Centre.

**Table 3: Steps in Acquiring an AGPO Certificate and Cost**

<b>Steps</b>	<b>Documents Required</b>	<b>Cost Ksh.</b>	
Register with AGPO Website	Identity card and provision of contact details	Nil	
Apply for AGPO Certificate	Copy of Identity card	Nil	
	<b>For Sole Proprietorships</b>	Copy business registration certificate	850
		Copy of PIN certificate	Nil
		Copy of Tax compliance certificate	Nil
		Reserve Company Name	150
		Business Permit	6,800-15,200
		Registration with National Construction Authority	5000
		<b>Cost of Procedure</b>	<b>12,800-21,200</b>
	<b>For Partnerships</b>	Copy of business registration certificate	850
		Reserve Company Name	150
		Business Permit	6800-15,200
		Copy of partnership deed	Nil
		Copy of PIN certificate for the partners	Nil
		Copy of Tax compliance certificate for the partners	Nil
		Company Incorporation	10,650
		Registration with National Construction Authority	5000
	<b>Cost of Procedure</b>	<b>23,450-31,850</b>	

Source: [http://www.investmentkenya.com/index.php?option=com\\_content&view=article&id=10&Itemid=170](http://www.investmentkenya.com/index.php?option=com_content&view=article&id=10&Itemid=170)

The total cost of obtaining an AGPO certificate can range from Ksh.7800 if it is not in the construction sector to Ksh.12800 if it is in the construction sector. The cost can also be higher

depending on the type of business permit and the County. Obtaining a single business permit costs Ksh.6,800 in the rural counties like Nyeri and Ksh.15,200 in Nairobi.

### **1.2.1. Qualification Criteria**

#### **Certification**

To qualify for this certificate under the preference and reservations scheme, an enterprise should be a legal entity that:

- (i) Is registered with the relevant government body;
- (ii) Has a proprietorship or directorship of at least 70 per cent of the preference group they wish to apply for, for instance made up of 70 per cent women to qualify for the women's category.

The above is assuming the enterprise has already registered and it has:

- (a) A certificate of incorporation
- (b) Business Registration Certificate/ Certificate of Incorporation.
- (c) PIN/VAT Certificate.
- (d) A Tax Compliance certificate
- (e) Partnership Deed for Partnership Business.
- (f) Memorandum/Articles of Association and CR12 mandatory for Registered Companies indicating where the majority shareholding lies
- (g) All the necessary licenses for example Construction Category, Letter/Certificate from the National Construction Authority, Energy Regulatory Commission or any other Authorized Public Technical Body.

#### **Prequalification**

The next stage is pre-qualification where an enterprise can be registered for pre-qualification to supply goods, works, services and consultancies to whichever institution sends out a Notice for Pre-Qualification. Pre-qualification is beneficial, as institutions are supposed to call upon pre-qualified suppliers directly to bid for a tender in their field, as opposed to putting out EOIs (Expression of Interest) or RFPs (Request for Proposal) notices although some institutions announce open EOIs but even then, pre-qualified suppliers have an added advantage.

When tender notices are circulated nationally, bidders are usually given a period to purchase or download the tender document from the procuring agents website. The bids that ultimately comply with the eligibility criteria of the notice and the bidding document are evaluated after

tender opening. The tender is then awarded after an exhaustive evaluation. Filling out the documents can be a tedious and discouraging process and for the less educated women entrepreneurs, it may lead to disqualification if instructions are not followed properly.

### **Preparation of Financial and Technical Proposal**

The next stage is preparation of a financial and a technical proposal. To successfully win a tender, the woman entrepreneur's financial proposal should be the most competitive compared to those of the other competitors. In the tender documents, one needs to specify the credit period because the contract obligates the supplier to continue supplying the goods and services for the duration of the contract even when invoice has not been honored. So the enterprise needs to have a good relationship with a bank which can extend credit required to purchase the goods to supply while waiting for payment for goods supplied or services rendered. This can be quite a challenge for new businesses that do not have a credit history. Banks and other micro-finance institutions are not always ready to lend to a startup because they have no credit history. Recommendations letters may also be required and these can also pose as a challenge for a new business.

### **Award of Tender**

Assuming that a woman wins a tender under the AGPO initiative after having bought the documents and supplied the goods using bank credit, the other challenge is delayed payments. A lot of money is held up for long, which is discouraging if she is servicing a loan. Apart from the challenges that women face as they try to access these opportunities, critics argue that the country's procurement procedures are still bureaucratic and lack the desired transparency. Also, some of the contracts are "abnormally" capital intensive, thus locking out would-be beneficiaries who may not necessarily have the amount of money required to carry out such capital intensive contracts. Because of such limitations, enterprises that qualify to undertake government jobs can only get the very basic contracts. This is a view that is entrenched within government, with all the procuring entities setting aside what is known within the procuring entities as 'grass cutting' jobs for the youth, women and persons with disabilities. Thus contracts set aside for these groups will include delivery of flowers, newspapers, office stationery, cleaning services and maintenance of grounds. The latter involves maintenance of gardens and hence the name grass cutting.

Table 4 gives a summary of the number of contracts awarded to women by some procurement entities under the 30% procurement rule in the 2014/2015 financial year and the value of contracts during the same period.

**Table 4: Summary of Number and Value of Contracts Awarded to Women under the 30% Procurement Rule in the 2014/2015 Financial Year**

No.	Entity	No of Contracts	%	Value of Contract Ksh.	%
1.	Kenya Bureau of Standards	40	20.73	5,422,447.00	7.20
2.	National Industrial Training Authority	23	11.92	32,866,854.70	43.53
3.	Kenya Roads Board	23	11.92	1,915,488.00	2.54
4.	Muranga Teachers College	17	8.81	8,446,890.00	11.21
5.	Water Services Trust Fund	16	8.29	947,591.00	1.26
6.	National Cereals and Produce Board	11	5.70	2,190,685.00	2.91
7.	Ministry of Labor and Social Security	11	5.70	2,035,820.00	2.70
8.	Competition Authority of Kenya	10	5.18	5,823,306.00	7.73
9.	National Construction Authority	10	5.18	5,607,732.50	7.44
10.	Industrial and Commercial Development Corporation	8	4.15	249,610.00	0.33
11.	National Authority for Campaign Against Drug Abuse	8	4.15	3,789,200.00	5.03
12.	Constituency Development Fund Board Secretariat	6	3.11	1,936,700.00	2.57
13.	Machakos Teachers College	3	1.55	211,751.00	0.28
14.	Kericho County	2	1.04	2,385,763.00	3.17
15.	Media Council of Kenya	2	1.04	145,185.00	0.19
16.	Lake Victoria North Water Services Board	1	0.52	19,200.00	0.03
17.	Jomo Kenyatta University of Agriculture and Technology	1	0.52	163,000.00	0.22
18.	Sangalo Institute	1	0.52	1,171,409.60	1.56
	<b>Total</b>	<b>153</b>	<b>100</b>	<b>75,328,632.80</b>	<b>100</b>

**Source: Public Procurement Regulatory Authority Annual Report 2015**

Table 5 shows AGPO performance from 2013 to 2017 by category of procuring entity.

**Table 5: AGPO Performance from 2013 to 2017 by Category of Procuring Entity**

Financial Year	Category of Procuring Entity	No. of Tenders Awarded to Women	Value of Tenders Awarded to Women	% of Tenders to Women	No. of Tenders Awarded to Youth	Value of Tenders Awarded to Youth	% of Tenders to Youth	No. of Tenders Awarded to PWDs	Value of Tenders Awarded to PWDs	% of Tenders to PWDs
2013-2014	Ministries	2,518	4374,809,698	75.77	2,133	1374055269	23.8	50	24942262	0.43
	Parastatals/SAGAs*									
2014-2015	Ministries	3,372	8,807,468,342	52.81	3,416	7511704746	45.04	261	357639358	2.14
	Parastatals/SAGAs	689	420,037,404	41.57	836	554021907	54.83	70	36295303	3.59
2015-2016	Ministries	2,694	5,201,061,451	49.54	2402	5099202420	48.57	186	198541314	1.89
	Parastatals/SAGAs	6,101	2,291,222,470	44.26	5225	2495184952	48.20	741	389808235	7.53
2016-2017	Ministries	4,209	5,256,750,204	48.41	3159	5345724325	49.23	332	256493839	2.36
	Parastatals/SAGAs	7,274	3,093,507,948	47.75	5635	2981648223	46.03	686	402815223	6.22
	Commissions**	441	231,678,547	60.41	352	139111000	36.27	42	12735300	3.32
	Counties***	283	554,421,807	42.17	468	710447339	54.04	27	49,758408	3.78
	<b>Total</b>	<b>27,401</b>	<b>30,230,957,871</b>	<b>51.97</b>	<b>23626</b>	<b>26211100181</b>	<b>45.06</b>	<b>2395</b>	<b>1729029242</b>	<b>2.97</b>

**Source: The National Treasury.**

\*Parastatals/SAGAs reports were not received in 2013/2014 financial year

\*\*Commissions reports were segregated from Parastatals/SAGAs report in 4<sup>th</sup> quarter

\*\*\*Only 4 Counties submitted their 2016/2017 financial year reports information on the identity of these counties was not forthcoming.

During the 2015/2016 financial year, women got 2,694 contracts from ministries worth Ksh5.2 billion and 6,101 contracts from parastatals/SAGAs worth Ksh.2.3 billion which was 49.5% and 44% of tenders awarded by ministries and parastatals/SAGAs respectively. By the end of the 2016/17 financial year, the total number of contracts awarded to women was 27,401 with a value amounting to Ksh.30.2 billion or 52% of tenders awarded to the target group. However, it is important to note that only 4 Counties submitted their 2016/2017 financial year reports on the number and value of tenders awarded to the target groups. Apart from the Counties not submitting, only a very small proportion of government procurement entities have been submitting their reports which makes it very difficult to tell how the program is performing. It may be an indication of systemic challenges facing the procurement entities and hence making it difficult for them to file returns which this study investigates.

### ***1.3 Rationale/justification***

The UN Women Kenya Country Office commissioned a rapid assessment on AGPO in 2015 had various limitations namely:

- **The scope-** The study focussed mainly on target beneficiaries and procuring entities in selected counties. There was minimum participation of the key institutions at the national level responsible for implementation of AGPO namely the National Treasury, Public Procurement Regulatory Authority and State Department for Gender Affairs;
- **Sample size-** Out of 47 counties in Kenya, the study was only done in 5 counties. This sample size cannot be referenced as a true reflection of the status of AGPO across the country;
- The **study methodology** utilised mostly qualitative research methods and less of quantitative.

Building on this assessment, UN Women in partnership with African Development Bank (AfDB) has commissioned this study to investigate the effectiveness of the AGPO in Kenya with the aim of establishing the potential interventions to support the program. Similar studies are being undertaken in two other countries in the region and will offer a comparative insight into preferential procurement schemes.

The current study is therefore intended to look at the systemic issues that relate to the AGPO initiative particularly from the right and duty bearers point of view and how these can be addressed in order for the initiative to benefit the intended target groups (rights holders) and AGPO to be a show case to be emulated by other countries.

#### ***1.4 Research Questions***

Cognizant of these facts, the questions to be addressed are

- a. What are the bottlenecks in the current Monitoring and Evaluation system and how can they be overcome?
- b. What are the challenges that right holders experience in the process of trying to access and benefit from AGPO? How can those be overcome?
- c. What are some of the challenges or systemic issues that the duty bearers experience in the process of implementing the AGPO initiative?
- d. How can these systemic issues be addressed in terms of say, legislation/policies/institutional capacity building/M&E/communication?

#### ***1.5 Objectives***

The overall objective of this assignment is to assess the effectiveness of the AGPO as entrenched under the Preference and Reservations Scheme in the Public Procurement and Disposal Act 2015 (Section 12), and make recommendations on how to support the impact of the law.

The specific objectives include;

1. Investigate the extent of participation of beneficiaries (women and youth) in accessing the government procurement opportunities in terms of volume and value of government tenders awarded to women owned, youth and PWD owned businesses;
2. Identify existing barriers/challenges that prevent Youth, Women and PWDs from utilizing AGPO opportunities fully including assessing the level of awareness among AGPO target groups;
3. Identify barriers/ challenges for procuring entities in implementing AGPO and make recommendations of how to strengthen the existing AGPO monitoring/reporting and tracking systems at Public Procurement Regulatory Authority and at the AGPO Secretariat at the National Treasury;



4. Provide recommendations to the relevant stakeholders including the policy makers, public entities, UN Women and AfDB on how to support the initiative achieve its objectives in compliance with the law.

### ***1.6 Organization of the Report***

The report is presented in five chapters. Chapter One provides the background of the study, and provides a genesis of the AGPO initiative. It also discusses the process of qualifying for an AGPO contract, the rationale/justification of the study and further provides the research questions and the objectives. Chapter Two follows and gives the literature review on public procurement and also discusses the challenges facing women entrepreneurs in Kenya and the affirmative action taken by the government in order to economically empower them.

Chapter Three discusses the methodology used in data collection and analysis, the sample selection and size while Chapter Four presents data analysis and results starting with the extent of participation of women and youth in accessing government procurement opportunities, challenges that prevent women from utilizing government procurement opportunities and how to overcome the challenges faced by women entrepreneurs. The chapter also discusses information from key informants and the systemic issues that procuring entities encounter in the process of implementing AGPO and recommendations of how to address the challenges.

Finally chapter five gives a summary, conclusion and policy recommendations.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### ***2.0 Introduction***

This chapter reviews studies and other written documents on public procurement and specifically on AGPO. The chapter first gives a definition of public procurement and thereafter discusses the challenges that women entrepreneurs face and the various affirmative action initiatives that the government has implemented in order to help women entrepreneurs participate and compete in the government supply chain.

#### ***2.1 Public Procurement Definition***

Public procurement in Kenya has become a major driver in the economy in Kenya since the government spends huge sums of money in providing essential services such as health, education, security and defense, infrastructure, water and so on. To provide these services, the government purchases goods and services from the market place through public procurement. The total value of Public Procurement in Kenya is currently estimated at 10% of the GDP.

Public procurement may be defined as the purchase of commodities and contracting of construction works and services if such acquisition is effected with resources from national budgets. The items involved in public procurement range from simple items or services, to large commercial projects such as the development of infrastructure including roads, power stations and airports. World Bank (2004) defines public procurement as the acquisition of goods, services and works by a procuring entity using public resources. It involves the process of acquiring goods, services and works by public procuring entities. It includes hiring, leasing, purchasing or any other contractual means of engaging suppliers in public services to the public. The main aim of public procurement is to achieve maximum value for money while ensuring fair competition and meeting the needs of the public. It also includes: - minimizing administrative costs, satisfying the customer in terms of the cost, quality and in time, conducting business with integrity fairness and openness and meeting public objectives (Ndolo and Njagi, 2014).

Small and Medium Enterprises (SMEs) can play an important role as a potential supply of public sector goods and services and in the process play a big role in providing employment, income generation, poverty alleviation, and a training ground for the development and upgrading of entrepreneurship skills which are important ingredients for economic growth. Generally, most

large enterprises are owned by men. A study done by the World Bank (<http://www.enterprisesurveys.org>) shows that worldwide, the proportion of firms with female participation in ownership is only 35.4% while in Sub-Saharan Africa, it is only 33.4%. However, there is lack of gender disaggregated data at the National level even from a Survey of Medium, Small and Micro Enterprises done by the Kenya National Bureau of Statistics in 2016. SMEs can therefore act as engines of growth if only the constraints that they face are addressed. However SMEs participation in public procurement faces various constraints including;

- (i) Legal and regulatory constraints due to their informal nature
- (ii) Lack of management skills
- (iii) Competition from large firms
- (iv) Constraints in accessing information
- (v) Low quality service and products due to financial constraints,
- (vi) Interference from scrupulous middlemen and women to then sub-contract to SMEs
- (vii) Poor social background
- (viii) Inadequate and inappropriate training and preparation for entry into MSEs
- (ix) Socio-economic discrimination

Most SMEs are owned and run by women, youth and persons living with Disabilities. The situation is worse for disabled women entrepreneurs who have low self-esteem and view their disability as inability, even in MSEs. However, many women, youth and persons living with disability in Kenya have had problems accessing and securing government procurement tenders/contracts due to the above mentioned constraints even after the government passed a law requiring that all public procuring entities reserve 30% of all their procurement requirements to women, youth and persons living with disabilities due to various challenges.

## ***2.2 Challenges Facing Women Entrepreneurs in Kenya***

Kenya is generally a patriarchal society. Although there are still many gender-related challenges facing the country, a few strides in the form of policy strategy developments and enactment of key legislation have been undertaken in the recent past geared at gender equality and protection. These include the Sexual Offenses Act, Gender Policy Bill and a Presidential Decree of 30% (Government of Kenya, 2000) and an assenting action in terms of official appointees to public positions. The Kenya government indeed illustrated clear devotion to international conventions

such as the Millennium Development Goals (MDGs), Education for All and the Convention on Elimination of All forms of Discrimination against women (Geda and Mwabu, 2005) and continues to create and support women initiatives within the framework of Sustainable Development Goals (SDG).

Women entrepreneurs in Kenya are the key to economic development because their small businesses generate employment. Nonetheless women owned businesses have potential to contribute more. Kenya is unlikely to meet its growth targets without increased focus on gender dimensions. The government of Kenya recognized that women in business have not been on an equivalent footing when it comes to their access to opportunities.

Women's participation at all levels in businesses and community projects is regarded as a vital tool for achieving Kenya's Vision 2030. There are numerous challenges though that women entrepreneurs encounter. They include access to credit due to the high cost of credit, in terms of bank charges and fees, lack of knowledge in business development, market for products and services generated by women enterprises and low participation in matters of policy decision making and implementation. The situation witnessed in Kenya during the year 2008 affirms the need for credit among the low earning entrepreneurs in the likely event of undesirable exogenous events/acts. Many money lenders posing as Pyramid schemes came up, with promises of financial freedom to develop their businesses through lax and lenient borrowing which finally became agents of failure and eminent collapse of women enterprises.

Indeed most women who enter into businesses need financing but they lack the needed guarantee and security to enable them to get bank loans. Obligation of women entrepreneurs to their dependents i.e. children allows them limited chances to make savings or undertake business growth and expansion. Women entrepreneurs are not aware of information about how to acquire a loan and often face discriminatory laws or practices related to finance and credit. The in-depth process of conceptualizing a full business cycle is no doubt the biggest impediment to women.

Loans from Kenyan microfinance organizations tend to have restricted amounts, have no grace period, are short term and have very high interest rates. Therefore, most women entrepreneurs are likely to have numerous short-term loans to provide for both business and social necessities. Formal economic and monetary funding is seen to be too costly for many women entrepreneurs. When women entrepreneurs approach banks for financing, they tend to face discrimination. Women report that bank officials ignore them in meetings and instead engage their husbands or

male business partners in discussions. A number of women get disheartened and turn instead to informal savings enterprises.

### ***2.3 Affirmative Action Targeting Women Entrepreneurs***

The cabinet secretary for the National Treasury Published Public Procurement (Preference and Reservations) (Amendment) regulation 2013 whose aim is to support the special interest groups in Kenya in terms of giving them preference in the provision of goods and services to the public entities. This is in line with one of the key promises of President Uhuru Kenyatta and his government which was to give the youth, women and persons with disabilities at least 30% of all supply contracts to the public entities.

The youth, women and persons with disabilities are categorized as part of vulnerable populations which are normally over looked by government initiatives and programs and are therefore less likely to receive skills training which puts them at a greater risk of being unemployed and having no source of income (Attaran, 2002). This is one of the reasons that the Kenyan government came up with the Access of Government Procurement Opportunities AGPO program. The program is an affirmative action aimed at empowering youth, women and persons with disability who own enterprises by giving them an opportunity to do business with government entities (Republic of Kenya, 2013).

However, despite the government's support by reducing several documentation requirements such as the 2015 Companies Act eliminated the requirement to have registration documents notarized before the Commissioner of Oaths, which reduced procedural complexity and the time to start a business overall; the abolishment of the stamp duty on the memorandum and articles of association and the statement of nominal capital. (like which ones?), financial support through Uwezo Funds, Women Enterprise Fund, Youth Enterprise and Development Fund and the National Fund for Persons with Disability and the introduction of e-procurement to motivate the beneficiaries to participate in public procurement and to reduce the cost of doing business in Kenya, there are still significant challenges that face the procuring entities and the potential beneficiaries that has seen very low utilization of the public procurement opportunities that are available in both levels of government..

Several researchers have investigated the low uptake of the AGPO initiative and made recommendations. For example, Gatere and Shale (2014) studied challenges affecting the

implementation of access to the AGPO program in Nairobi County and found that the legal framework has a duty to facilitate in the implementation of access to government procurement opportunities for the women, youth and persons with disabilities in Kenya. The authors found that the implementers lacked the skills to fully implement the program while the potential beneficiaries did not have enough information on the requirements of the program and the skills to fully take advantage of it. Their study further revealed that majority of the employees in the procurement department were not members of any procurement professional body and they had no working knowledge of other languages other than English thus limiting their potential in handling women who may not understand English language. The authors also found that most of the staff members in procurement lacked motivation in terms of promotions and in-house training and seminars were not often conducted. The study also found that the women were not well informed on the requirements of the tenders and further revealed that uninformed inefficient government suppliers provide poor value to their national government, and are unlikely to engage in any meaningful private sector trading partnerships in the era of global competition (Zwicker and Ringheim, 2004).

The authors recommended that good training for practitioners in procurement will raise the skills of the procurement staff and to familiarize suppliers with the requirement of the AGPO program. The authors also recommended training procurement officers in procurement law and sufficient communication and coordination between the user departments and procurement unit on procurement planning and implementation. There should also be improvements in information access in order to enhance trade prospects by the women suppliers.

While reviewing the National Social Security Fund (NSSF) in respect of the implementation of the procurement law and regulations, the Public Procurement Oversight Authority (PPOA, 2005) identified the challenges faced by NSSF. The challenges basically related to inability of the Fund to translate procurement law and regulations into everyday language so that implementers see and understand the impact of their compliance. They also found that there were inadequate records management and filing systems making document/record retrieval very slow and time consuming and some files and records were also incomplete.

The operating ICT system and applications covering all aspects of procurement were lacking or ineffective; insufficient training in procurement law for the persons involved in the procurement related functions; inadequate contract management and insufficient communication and

coordination between the user departments and procurement unit on procurement planning and implementation (PPOA, 2006).

According to Thai (2001), the basic principles of a good procurement process include accountability, where effective mechanisms must be in place in order to enable procuring entities spend the available resources carefully, knowing clearly that they will account everything to members of the public; competitive supply, which requires procurement to be carried out by competitive bidding process, embracing transparency and efficiency in the system, unless there are convincing reasons for single sourcing; and consistency, which emphasizes the equal treatment of all bidders irrespective of race, nationality or political affiliation. These areas of

Tan et al. (2009) argue that public procurement processes has, for long, been overshadowed with inefficiency, corruption and disregard of fundamental "value for money" considerations. This can adversely impact the rate and quality of progress in realizing the objectives of AGPO initiative. Public procurement agencies should ensure that there is an appropriate focus on good practice in purchasing and that procedures are adhered to in order to ensure compliance with relevant guidelines.

The public procurement goals include; satisfying the customer in terms of cost, quality and in timely manner, minimizing administrative operating costs, conducting business with integrity, fairness and openness and fulfilling public objectives. Rwoti (2005) notes that effective application of procurement ethics is a major challenge facing many organizations around the globe. The level of application of procurement ethics has been used as a measure of the state of organization corporate image and corporate social responsibility practices. Therefore supply chain management ethics is considered a core factor for business success. Low level of procurement regulations compliance by government ministries and lack of effective enforcement of regulations implementation by the government encourages cases of unethical procurement practices in Kenya. The author reckons that the rise of supply chain management and procurement in Kenya is associated to a number of unethical business practices that violates codes of conduct citing instances when the tendering process is not executed in a transparent manner. This implies that suppliers may have chances and vantages to solicit for consideration by advancing bribes and other forms of corruption. Transparency, fair treatment in bidding and awards of tenders, accountability and responsible purchasing and supply have a positive

implication on procurement processes in any organization and could thus result into increased performance and delivery.

According to Rwoti (2005), compliance with the formal elements gives an indication of knowledge of the rules. Procurement officers will comply with the rules if they perceive them as clear. Lack of clarity increases the possibilities for procurement regulations noncompliance. Lack of familiarity with procurement rules results into poor compliance levels and this leads to inefficiency which negatively affects organizations performance. In the year 2005, before the enactment of the Public Procurement and Disposal act 2005 an independent procurement review was carried out jointly by Kenya and European Union. Several critical problems were identified with the 2001 regulations. Among the limitations were weak oversight institutions, lack of transparency, poor linkages between procurements and expenditures, delays and inefficiencies and poor record management. All this deals with ethical practices in the process.

Although the Public Procurement and Disposal Act 2005 address this strategic objective of public procurement through establishment of procedures for efficient public procurement and for the disposal of unserviceable, obsolete or surplus stores, assets and equipment by public entities, complaints from user departments still abound on delays in deliveries, poor quality deliveries of materials, long processes of control in issuing Local Purchase Orders (LPO), Local Service Orders (LSO), and numerous low purchases leading to unconsolidated invoices from vendors.

The Public Procurement and disposal Act addresses effectiveness in the public procurement process through; structuring public procurement through Public Procurement Regulatory Authority (PPRA) and other regulating bodies and Public Procuring Entities (PPEs). PPRA is charged with monitoring public procurement, implementation and operations of public procurement system, public procurement policy, registration of contractors in works, goods and services; administrative review of procurement proceedings. The Act, advocates for the PPEs to be staffed with procurement professionals, compliance with the act, use of open tendering and alternative methods, specifications of requirements, proper documentation, inspections and audits relating to contracts to ensure compliance and prequalification of suppliers. All these are expected to promote ethical practices along the procurement process

Ndolo (2014) in a study on the role of the procurement process in the Embu Water Services Company (EWASCO) in Embu found that despite the firm implementing the government policy on procurement, its full adoption was a challenge since the firm lacks the capacity to do so. Lack



of a procurement ethics training policy was enough proof since all the ethical practices were just mere guess work. The firm did not have a procurement code of ethics despite the respondents suggesting that a procurement code of ethics would assist in minimizing procurement malpractice among the staff involved in procurement. The study recommended the setting up of a procurement code of ethics and training or circulating among the staff so as nurture a culture of integrity. The study also recommended establishment of a procurement training policy and code of ethics. This would provide the staff involved in the process with the much needed knowledge and guidance.

Public Procurement and Disposal (Preference and Reservations) (Amendment) Regulations, 2013, which were adopted as an amendment to the Public Act and Asset Disposal Act of 2015 defines “disadvantaged groups” as: “persons perceived to be denied, by mainstream society access to resources and tools which are useful for their survival in a way that disadvantages them, or individuals who have been subjected to prejudice or cultural bias because of their identities as members of groups without regard to their individual qualities, and includes enterprises in which a majority of the members or shareholders are youth, women, and persons with disabilities.”

The AGPO initiative, in trying to address the issue relating to discrimination of the disadvantaged groups in society to access government procurement opportunities, also targets small enterprises, micro enterprises, citizen contractors, local contractors, and citizen contractors in joint-venture or sub-contracting arrangements with foreign suppliers. The operational Act defines a micro enterprise as “a business undertaking with an initial staff establishment of not more than 10 employees and has an annual turnover or investment not exceeding Kenya shillings five hundred thousand” while a small enterprise has “not less than 11 and not more than 50 employees and has a turnover or investment not exceeding five million Kenya shillings.”

A study by Oduku (2017) of The Institute for Social Accountability (TISA) on the challenges in accessing AGPO tenders found that 80% of the potential beneficiaries did not possess an AGPO certificate and only 20% had. This scenario does illustrate that the stringent requirements in operationalizing the Act are cumbersome and unaffordable to economically disadvantaged groups. However, as mentioned earlier, the target groups do not have to register as limited companies or partnerships since they can register as sole proprietors where the process is relatively easy and cheaper and would only cost Ksh.12800. Nevertheless, even this figure might

be beyond the reach of most Women, Youth and PWDs. It is therefore important to institute reforms in these requirements and also reduce the time, complexity, and costs of business registration.

The Institute of Social Accountability (ISA) also found that majority of the respondents (40%) learnt about AGPO through the media, 30% through referrals, and 10% by word of mouth

The other weakness of AGPO is the presumption of homogeneity in the target population. It presumes that all youth, women, and PWDs are “persons perceived to be denied, by mainstream society access to resources and tools which are useful for their survival”, that all members of the target group are socially and economically disadvantaged. While well intended, it opens the process to abuse, as evidenced by the corruption allegations against well to do women, youth and even PWDs who win tenders hence deny the genuinely disadvantaged groups the chance to benefit from public procurement.

Lack of access to bank loans and corruption will continue to lock out deserving applications, leaving only a minority who are able to finance LPO/LSOs and pay bribes, disguised as “informal fee”, to benefit from government procurement opportunities.

Ngeno, Namusonge and Nteere (2014) contend that criterion for AGPO allocation for the women, youth and PWDs is centred on compliance with AGPO regulations. Registration and pre-qualification of Youth, Women and Persons with Disability owned enterprises is done as a basic foundation of accessibility to government tenders and contracts. They found that many enterprises owned by youth, women or persons with disabilities are legal entities, registered with the relevant government body; and have at least 70% membership failed to be prequalified (Public Procurement and Disposal Regulations, 2013). The regulations also provide that the Procurement Unit in a procuring entity shall select suppliers through appraisal of potential suppliers in order to compile and maintain a suppliers’ database or list for awards of contracts for supply of specific goods and or services (Public Procurement and Disposal Regulations, 2013). The authors also argue that there are concerns by procuring entities because small and micro enterprises are not consistent and are also not known to produce quality goods and services. The authors also found that there was zero compliance to AGPO by all county government procurement entities, public schools, public universities, cooperative societies and a number of parastatals in their contract awards.

Nancy and Muturi (2015) investigated determinants of compliance in public procurement regulations in the public sector focusing on Kisii county government in Kenya with the objective of establishing the extent to which ethics, awareness levels and supplier training on compliance of public procurement regulations influence performance in the public sector. The study revealed that there exists a significant correlation between procurement ethics and compliance which increases the performance of the public sector in terms of procurement issues.

In a related study, Mwangi, Karanja, and Namusonge (2017) found that pre-qualification criteria do affect compliance with AGPO regulations in public universities. The study revealed that the pre-qualification criteria contributed significantly and hence negatively affected the level of compliance with AGPO regulations for special groups by Public Universities in Kenya. Failure to address regulations on accountability in procurement, slow adoption of ICT and improper disclosure of protected information also affects compliance with AGPO regulations for special groups by Public Universities in Kenya. Their study further revealed that inadequate ethics training and seminars to increase awareness on ethical behaviour constrained compliance with AGPO regulations for special groups and that inefficient internal process contributed negatively to level of compliance with AGPO regulations. They authors recommend a high level of accountability, efficiency in internal processes and adhering to ethical behaviour as these would improve compliance with AGPO regulations for special groups by Public Universities in Kenya.

## **CHAPTER THREE**

### **METHODOLOGY**

#### ***3.0 Introduction***

This chapter deals with the various methods used in data collection and analysis including, document review, the preparation for data collection, sampling, data collection process, data entry and analysis.

#### ***3.1 Methodology***

The method used in data collection was participatory, evidence based, output oriented and both quantitative and qualitative. It involved document review/desktop, and face to face interviews involving key informants and individual women enterprises. Informal discussions with experts on women empowerment were also used.

Relevant documents containing data and information were reviewed including existing baseline surveys, Government policy documents, reports of Ministries dealing with women affairs such as Ministry of Public Service, Youth and Gender Affairs and specifically the State Department of Gender Affairs, The National Treasury, Department of Public Procurement, and the department that deals with the Integrated Financial Management Information Systems (IFMIS) and AGPO Secretariat, Kenya Law Reports such as Public Procurement and Disposal Act and Regulations, Public Procurement and Disposal General Manual, Public Procurement Preference and Reservations (Amendment) Regulation, Public Procurement and Regulatory Authority Circulars, The National Treasury Circulars, Public Procurement and Regulatory Authority Annual Reports and other reports that were relevant to the assignment including other existing studies relating to women affairs and especially on issues of government procurement.

Face to face interviews were used in data collection from both key informants and women owned enterprise respondents using a questionnaire (see attached). Open-ended interviews were also used where necessary mainly when having discussions with gender experts.

#### ***3.2 Sampling***

Purposeful random sampling method was used to select the counties to be included in the study for both key informants and individual women entrepreneurs. A list of AGPO certified women businesses was obtained from two sources such as Women Enterprise Fund and from National

Treasury in the Directorate that deals with AGPO and it was used to randomly select a sample of women to be interviewed.

The five selected counties were selected to represent a fair presentation of the Kenyan regions with due regard to the following factors.

- a. Predominant economic activities in the counties namely: trade and manufacturing, livestock/pastoralism rural agriculture. The predominant economic activities are important because they could have a bearing on the tenders that the women bid for. Security/insecurity in a region was also considered in the selection of study counties.
- b. Whether a county has got government support mechanisms such as Huduma centers for business registration, Women Enterprise Funds, Youth Enterprise Development Fund, National Fund for Persons with Disabilities and Uwezo Fund.
- c. Existence of business development services as provided by financial institutions (banks, insurance services, capital markets and so on).
- d. Existence of women businesses and other supports organizations such as Non-Governmental Organizations supporting women empowerment, Civil Society and Community and Faith Based Organizations.
- e. Ease of accessing County Headquarters was also considered in selecting the counties.

The counties selected are as shown in Table 6.

**Table 6: Regions and Counties Sampled for the Study**

Eastern	Central Rift Valley	Central	South Rift	Urban
Machakos	Nakuru	Nyeri	Kajiado	Nairobi

Nairobi was selected as an urban metropolitan county, a high population and with vibrant economic activities in business, manufacturing, professional services, building and construction, retail, wholesale trade, hospitality, ICT, security and cleaning services where there are the rights holders<sup>3</sup> and duty bearers. The list of AGPO registered businesses as at 9<sup>th</sup> June 2017 shows that out of 54,306 registered businesses in Kenya, Nairobi has the majority of these businesses. This implies that Nairobi has relatively more women entrepreneurs who are enlightened on the existence of the AGPO. Also, virtually all government ministries/agencies are located in Nairobi implying that most of the tenders emanate from Nairobi. Nairobi has also got the majority of

<sup>3</sup> Refer to the list of AGPO registered businesses as at 9<sup>th</sup> June 2017. <http://agpo.go.ke/pages/about-agpo>

business development services such as banks, insurance services, capital markets and so on. Most local and International non-governmental organizations (NGOs), Community based organizations (CBOs) and faith based organizations (FBOs), though they could be operating in the counties usually have their headquarters in Nairobi hence providing support services to women entrepreneurs. It is easier for women to do business in Nairobi due to easy availability of transport and communication infrastructure. Due to logistical issues in terms of moving from one organization to another, Nairobi stands out to be the most appropriate for the exercise.

Kajiado County is in the South Rift valley and was selected as representative of a rural/urban<sup>4</sup> area. The rural area of Kajiado is mainly inhabited by pastoralists and women in this county have started businesses of collecting and selling milk from cows and goats mainly supported by NGOs and CBOs. Ngong, Kitengela, Ongata Rongai, Kiserian, and Isinya are major urban centers with thriving women businesses in Kajiado County and they are part of the greater Nairobi Metropolis. There are about 602 AGPO certified businesses but whether they are taking advantage of Government tenders is not clearly known.

Machakos represents the eastern region of Kenya and is both a rural/urban county. Mlolongo and Athi River may not bear any semblance of a rural county. However, the rest of Machakos County is mainly agricultural. A quick glance at the list of AGPO certified businesses as at 9<sup>th</sup> June 2017 shows a very small proportion (<10%) of women businesses registered with AGPO certificates as compared to the national figure of 54,306 AGPO certified businesses.

The proximity of Machakos and Kajiado to the City of Nairobi is such that women entrepreneurs operating in these counties have their businesses spilling over to the city implying that they may also be taking advantage of the tenders available from procuring entities in Nairobi. Transport and communication infrastructure is also easy in Machakos especially because of Mombasa road which cuts through Machakos and Namanga Road which also cut through Kajiado County and passes through Isinya and Kitengela.

Nakuru represents the Central Rift Valley and is also a metropolitan region. The largest part of Nakuru County is rural where agriculture/horticulture is practiced. It is also an industrial town and with a high population. Nakuru also hosts a number of business development institutions such as banks, insurance companies, and so on. It also has the semblance of county government infrastructure such as local business licensing, Huduma centers and business support services as

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<sup>4</sup> Ongata Rongai, Ngong, Kiserian and Kitengela are in Kajiado and may not bear any semblance of a rural county

provided by the various institutions in the county. It is a vast county with the advantage of the Nairobi-Nakuru-Eldoret Highway cutting through the town. However, there are logistical issues in the county as some urban centers within Nakuru County are kilometers away from Nakuru town where most business services are located. Nakuru has also very small proportion of AGPO certified businesses as at June 2017 compared to the national figure of 54,306 AGPO certified businesses.

Nyeri is a representative of a purely rural county where the main economic activity is agriculture and just like Nakuru, it hosts a number of business development institutions such as banks, insurance companies, and so on. It also has the features of county government infrastructure such as local business licensing, Huduma centers, business support services such as NGOs and so on. It is a small county and well-connected in terms of road infrastructure. However, it has equally a small proportion of AGPO certified businesses.

### ***3.3 Study Sample***

The study population comprised of formally registered women enterprises that were all sole proprietorships from the three eligible categories namely: women, youth and persons with disability. In these three categories, there were: those that applied for and got tenders; those that applied for and didn't get the tenders; and those that didn't apply at all. Information was sought on accessibility of these 30% reserved tenders. The total sample from individual women and key informants was 152. The study team identified 10 women enterprises from 4 of the 5 selected counties plus 20 women from the County of Nairobi making it a total of 60 women owned enterprises. This study used both quantitative and qualitative approaches to achieve the study objectives. An in-depth questionnaire was administered to a responsible member (if possible the owner) from each of the 60 women owned enterprises selected in the 5 counties. Although this number of women individual enterprises was envisaged, the exercise ended up with 61 enterprises as illustrated in Table 8 since in Nyeri, one extra women owned enterprise was interviewed, in Nakuru only 8 were interviewed while in Nairobi, two extra women enterprises were interviewed.

In addition to data collection at the national level, data was collected through a structured interview from 37 representatives of key government ministries, parastatals and semi-autonomous government agencies (SAGAS) that are responsible for implementation of the 30%

reserved procurement who are the duty bearers in order to understand the challenges or systemic issues that they experience in the process of implementing the AGPO initiative at the national and county governments as shown below and in Appendix V.

1. Head of Public Procurement Regulatory Authority or his representative<sup>5</sup>
2. Head of AGPO secretariat or his representative
3. Chief procurement officer at National Treasury
4. Ministry of Education
5. Ministry of Public Service, Youth and Gender Affairs
6. Ministry of Devolution and Planning
7. Kenya Industrial Property Institute
8. Kenya Revenue Authority
9. Controller of Budget
10. Centre for Multiparty Democracy.
11. Auditor General's Office
12. Postal Corporation of Kenya
13. Kenya Broadcasting Corporation
14. County government of Nyeri
15. County government of Machakos
16. County government of Kajiado
17. County government of Nairobi
18. County government of Nakuru

Chief Procurement officers or their representatives, Finance Officers and AIE holders served as key informants. The answers sought from respondents include but not limited to: number of beneficiaries; accessibility of the tenders; number of the successful applicants; number of unsuccessful applicants; nature of the contract/tenders; challenges encountered, time taken to process payment as shown in Questionnaire in Appendix I and II for both Key informants and women owned enterprises). The data was analyzed using different qualitative and quantitative statistical and social science methods and is presented in Tables and graphs.

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<sup>5</sup> Unfortunately it was impossible to get information from the Public Procurement and Regulatory Authority as the Director General claimed that they had contracted KIPRRA to do a similar study.



## CHAPTER FOUR

### DATA ANALYSIS AND RESULTS

#### *4.0 Introduction*

This chapter discusses data analysis and presentation of the results. The results are presented with due regard to the objectives of the study. The number of women owned businesses interviewed were 61 while the number of key informants was 37 making a total sample size of 98 as shown in Tables 7 and 8.

**Table 7: Number of Interviewees Number by Type and County**

<b>County</b>	<b>Type of Interviewee</b>	<b>Number</b>
Nairobi	Key informants	25
	Individual women owned businesses	22
	<b>Total</b>	<b>47</b>
Nakuru	Key informants	2
	Individual women owned businesses	8
	<b>Total</b>	<b>10</b>
Nyeri	Key informants	3
	Individual women owned businesses	11
	<b>Total</b>	<b>14</b>
Machakos	Key informants	4
	Individual women owned businesses	10
	<b>Total</b>	<b>14</b>
Kajiado	Key informants	3
	Individual women owned businesses	10
	<b>Total</b>	<b>13</b>
Sub Total	Key Informants	37
Sub Total	Individual women owned businesses	61
<b>Total</b>		<b>98</b>

Source: Field Data

The process of data collection from individual women owned businesses faced certain challenges because of fear and suspicion as to the motive of the data collection in some counties such as Nakuru while other counties such as Nyeri and Kajiado, the women were very cooperative and were even willing to have their businesses photographed and they even gave the interviewers copies of their AGPO certificates. As such, Nakuru had only 8 individual women owned businesses included in the sample of respondents while Nyeri, had 11, Nairobi had 22, Machakos and Kajiado had 10 women owned businesses in the sample of respondents as shown in Table 8.

**Table 8: Number of Interviewees for Women Owned Businesses**

County	Number of Interviewees	Percent
Kajiado	10	16
Nairobi	22	36
Nakuru	8	13
Machakos	10	16
Nyeri	11	18
<b>TOTAL</b>	<b>61</b>	<b>100</b>

Source: Field Data

The number of Key informants in Nakuru was 2, Nyeri and Kajiado had 3 each, Machakos 4 while Nairobi had the highest number of Key informants at 25 as shown in Table 9.

**Table 9: Number of Key Informants by County**

County	Number of Interviewees	Percentage
Kajiado	3	8
Nairobi	25	68
Nakuru	2	5
Machakos	4	11
Nyeri	3	8
<b>Total</b>	<b>37</b>	<b>100</b>

Source: Field Data

Information was also informally collected from experts in women empowerment both in studies and in practice as shown in Appendix V. However others would not want to have their names divulged. We first discuss the data from individual women owned businesses before discussing the information from key informants. We first discuss the extent of participation of women in AGPO and thereafter the challenges that they face and how they can be overcome.

#### ***4.1 Extent of Participation of Women and Youth in Access to Government Procurement Opportunities***

Data was entered in excel and then analyzed. There were women who were doing more than one category of businesses hence giving a total of 87. The results show that there are more women doing agribusiness and food supplies at 34% than in all the other categories of businesses followed by retail/wholesale trade which stood at 23% and construction work at 13% as shown in Table 10 and Figure 1. This could be attributed to the fact that it is easier for women to start an agribusiness or retail as it may not require a lot of capital than in manufacturing which is quite capital intensive and requires specialized skills which the women may not have. The sector with the least proportion of women doing business in was manufacturing/mechanics at only 2%.

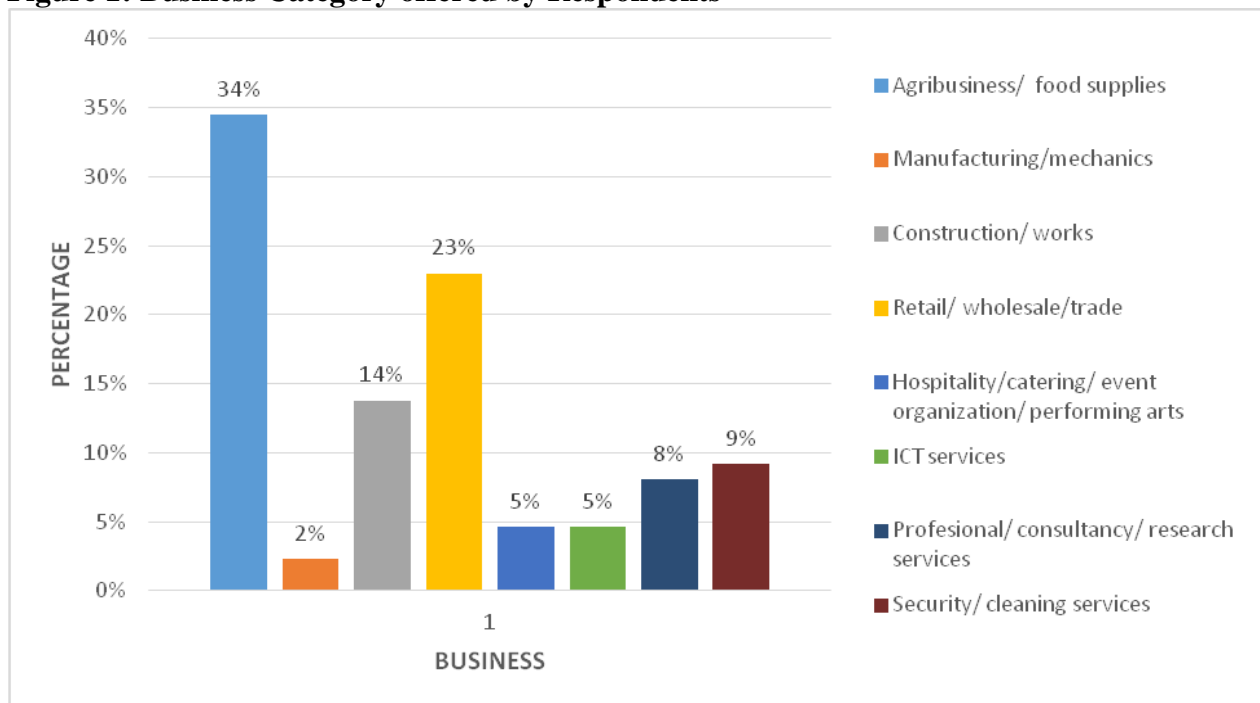
There was an equal proportion of women in hospitality/catering/event organization/performing arts and those offering ICT services at 5%. Professional/consultancy/research services were only offered by 8% of the women respondents while security and cleaning services were offered by only 9%.

**Table 10: Business Category offered by Respondents**

S/N	Business	No.	Percent
1	Agribusiness/ food supplies	30	34
2	Manufacturing/mechanics	2	2
3	Construction/ works	12	14
4	Retail/ wholesale/trade	20	23
5	Hospitality/catering/ event organization/ performing arts	4	5
6	ICT services	4	5
7	Professional/ consultancy/ research services	7	8
8	Security/ cleaning services	8	9
	<b>TOTAL</b>	<b>87</b>	<b>100</b>

Source: Field Data

**Figure 1: Business Category offered by Respondents**



From the data collected and analyzed, majority (48%) of the women's businesses were less than 5 years as shown in Table 11 and in Figure 2. These could be businesses that were registered by women when the 30% preference and reservation scheme was enacted and it may be that the

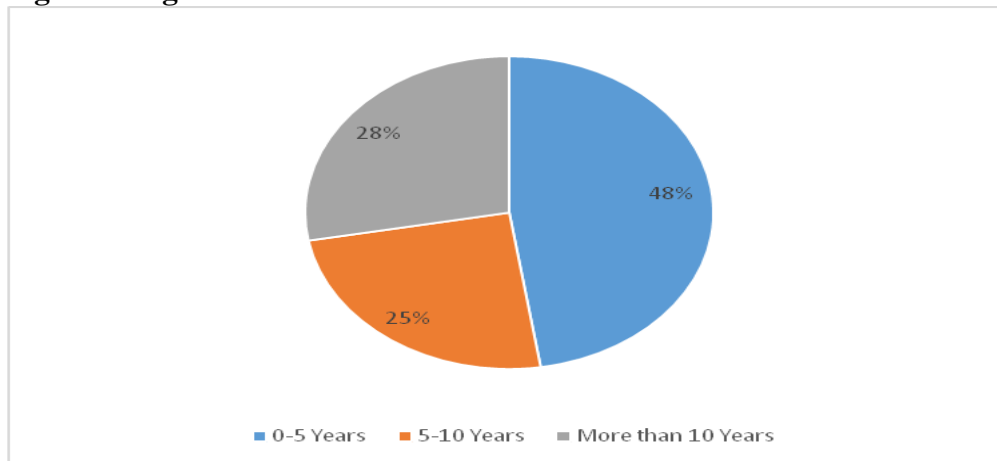
women wanted to take advantage of the initiative. Those that were more than 10 years formed 28% of the sample while those that were more than 5 years and less than 10 years were 25%.

**Table 11: Age of Business**

<b>Business Age</b>	<b>No.</b>	<b>Percent</b>
0-5 Years	29	48
5-10 Years	15	25
More than 10 Years	17	28
<b>Total</b>	<b>61</b>	<b>100</b>

Source: Field Data

**Figure 2: Age of Business**



For a woman entrepreneur to qualify for the AGPO initiative (contract under the 30% preference and reservation), they must have gone through the rigors of getting an AGPO certificate as mentioned earlier. The women said that they have to first register as part of a disadvantaged group at the county level and get a certificate of registration signed by the county treasurer in that county and thereafter apply for a certificate of registration signed by the national treasurer at the national level as shown in the specimens of the certificates for Rware Stationers in Nyeri County in appendices III and IV. The certificate is valid for only 2 years after which it is renewed. The women said that this process is tedious and expensive and they would want the process made a bit easier although obtaining the certificate and renewal is free of charge but one has got to obtain a business permit which cost approximately Ksh.6800 for a single business permit in the rural counties. Most of the women businesses had acquired their AGPO certificates fairly recently as shown in Table 12 and in Figure 3.

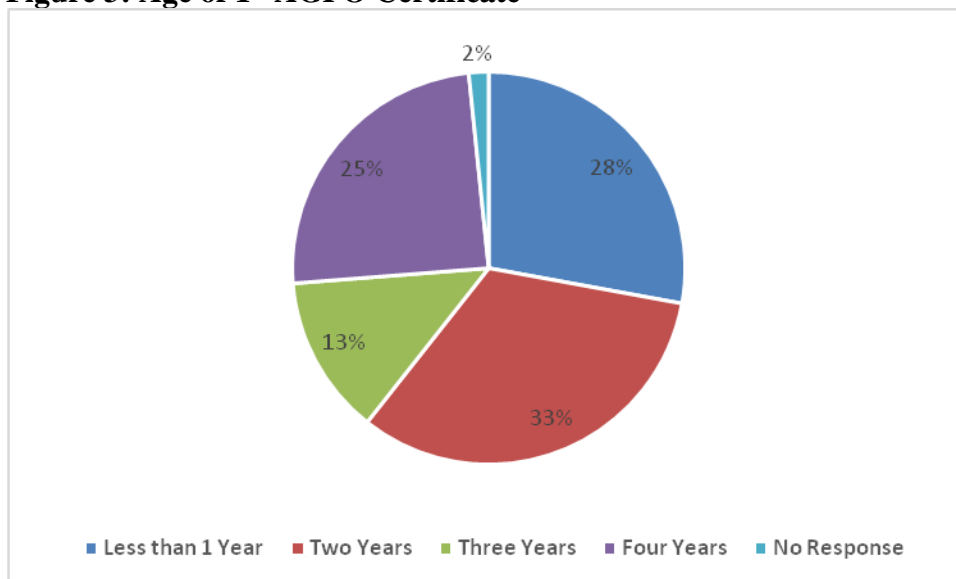
**Table 12: Age of 1<sup>st</sup> AGPO Certificate**

Age in Years	No.	Percent
Less than 1 Year	17	27.9
Two Years	20	32.8
Three Years	8	13.1
Four Years	15	24.6
No response	1	1.6
<b>Total</b>	<b>61</b>	<b>100</b>

Source: Field Data

About 32.8% of the women reported that they their certificates were two years old while 27.9% had certificates that were less than 1 year. Approximately 24.6% of the respondents must have applied for the certificates immediately the preference and reservation Act was enacted in 2013 as their certificates were 4 years old and only 13.1% of the respondents had certificates that were 3 years old.

**Figure 3: Age of 1<sup>st</sup> AGPO Certificate**



After getting the AGPO certificates, some business women had used them to apply for government tenders either at the county or national levels of government. Some applied and won while others did not win the tenders. Table 13 and Figure 4 show the number of contracts applied for and those won by county in answer to Question 5 which asked whether the respondents had ever won a contract with the government through AGPO.

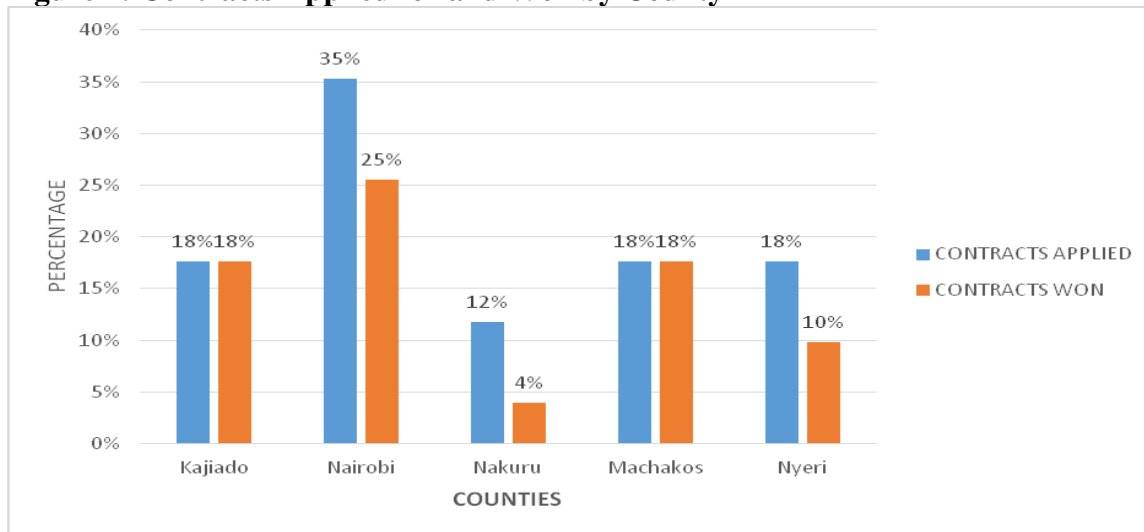
**Table 13: Contracts Applied for and Won by County**

County	Number of Contracts Applied	Percent Contracts Applied	Number of Contracts Won	Percent of Contracts Won
Kajiado	9	17.6	9	18
Nairobi	18	35.3	13	25
Nakuru	6	11.9	2	4
Machakos	9	17.6	9	18
Nyeri	9	17.6	5	10
<b>Total</b>	<b>51</b>	<b>100</b>	<b>38</b>	<b>75</b>

Source: Field Data

Table 13 shows that out of the 61 women who had been interviewed, only 51 had applied for tenders under the AGPO scheme and 38 or 75% won. The number of contracts applied for differ by county with Nairobi County having more women applying for the tenders (35.3%) and out of the 18 contracts that were applied for in Nairobi, only 13 women won the tenders which would be 72.2% but only 25% out of all the tenders won in the sample. On the other hand, all the women respondents in Kajiado and Machakos who said they had applied for the tenders, indicated that they all won them which translates to 100% but only 18% for each out of all the tenders won in the sample. In Nakuru County the situation was not good as only 6 women respondents applied for the tenders and out of these only 2 women won. Figure 4 presents this information.

**Figure 4: Contracts Applied for and Won by County**



A number of reasons were given by the women for the failure to win the tenders. Some of these were attributed to corruption, stiff requirements, lack of funds or inactive bank accounts or balances as shown in Table 14 and Figure 5. All of these perceived reasons were corroborated by the PEs as shown later in this report.

**Table 14: Respondents’ Perceived Reasons for Unsuccessful Tenders**

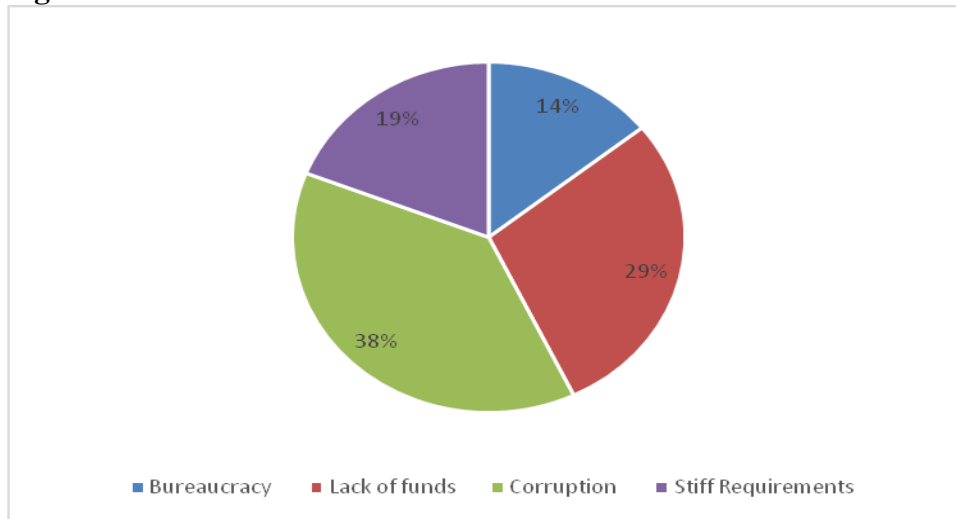
<b>Reasons</b>	<b>Number</b>	<b>Percent</b>
Bureaucracy	3	14
Lack of funds	6	29
Corruption	8	38
Stiff Requirements	4	19
<b>Total</b>	<b>21</b>	<b>100</b>

Source: Field Data

Corruption was cited by 38% of respondents as the reason why the tenders were rejected. According to them, it did not matter whether one’s tender was the most competitive from a technical or financial side. All that mattered is whether you know someone in the organization, how much bribe one has given, what tribe one belongs to and other discriminatory references. The various forms of corruption mentioned were favoritism, tribalism and nepotism. They also said that to win a tender, one needs to give a financial incentive (bribe) to the procurement officers or someone in that particular arm of government whether national, county, parastatal or semi-autonomous government agency.

To successfully win a tender, the woman entrepreneur’s financial proposal should be the most competitive compared to those of the other competitors. In the tender documents, one needs to specify the credit period because the contract obligates the supplier to continue supplying the goods and services for the duration of the contract even when the invoice has not been honored. So the enterprise needs to have a good relationship with a bank which can extend credit facilities required to purchase the goods to supply while waiting for payment for goods supplied or services rendered. This can be quite a challenge for new businesses that do not have a credit history. Banks and other micro-finance institutions are not always ready to lend to startups because they have no credit history. In this study, lack of funds was cited by 29% of the respondents as one reason for the rejection of tenders. Some tenders could be worth millions of shillings and most women find it difficult to apply for such tenders and those who do end up with their tenders being rejected. They may be relying on chama (informal socio-collateral savings) money which is not usually a lot and not enough to service a huge tender.

**Figure 5: Reasons for Unsuccessful Tenders**



To qualify as a supplier, one has got to show that they are capable of supplying what they have tendered for in the right quantities, the right quality and at the right time. This requires money. One is also supposed to have an active bank account and the women said that it is hard to maintain an active bank balance with the meager resources that they have. Such stiff requirements were cited by 19% of the respondents while bureaucracy was cited by 14% of the respondents as reasons for women's tender applications being rejected. However, most of the women did not know that they can ask for a review at any stage of the tendering process as provided in the Public Procurement and Disposal Act 2015 Section 167 (1) which provides that a candidate or a tenderer, who claims to have suffered or to risk suffering, loss or damage due to the breach of a duty imposed on a procuring entity by this Act or the Regulations, may seek administrative review within fourteen days of notification of award or date of occurrence of the alleged breach at any stage of the procurement process, or disposal process as in such manner as may be prescribed. For those women who knew about a review, they were apprehensive as to whether they can ever win from such a review plus the fact that it involves paying a deposit for it which makes the whole process quite expensive for them.

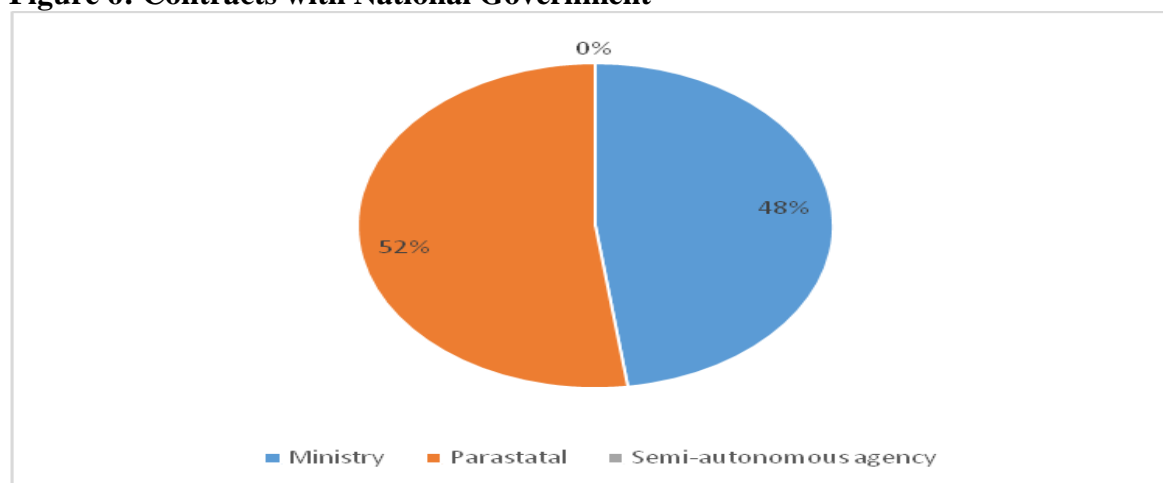
From the study, for those women whose tenders were approved, 23 of them had won with national government with most of the tenders (52%) emanating from parastatals and 48% coming from the ministries as shown in Table 15 and Figure 6. There were no tenders allocated by the semi-autonomous government agencies.



**Table 15: Contracts with National Government**

National Government Entity	Number	Percent
Ministries	11	48
Parastatals	12	52
Semi-autonomous agencies	0	0
<b>Total</b>	<b>23</b>	<b>100</b>

Source: Field Data

**Figure 6: Contracts with National Government**

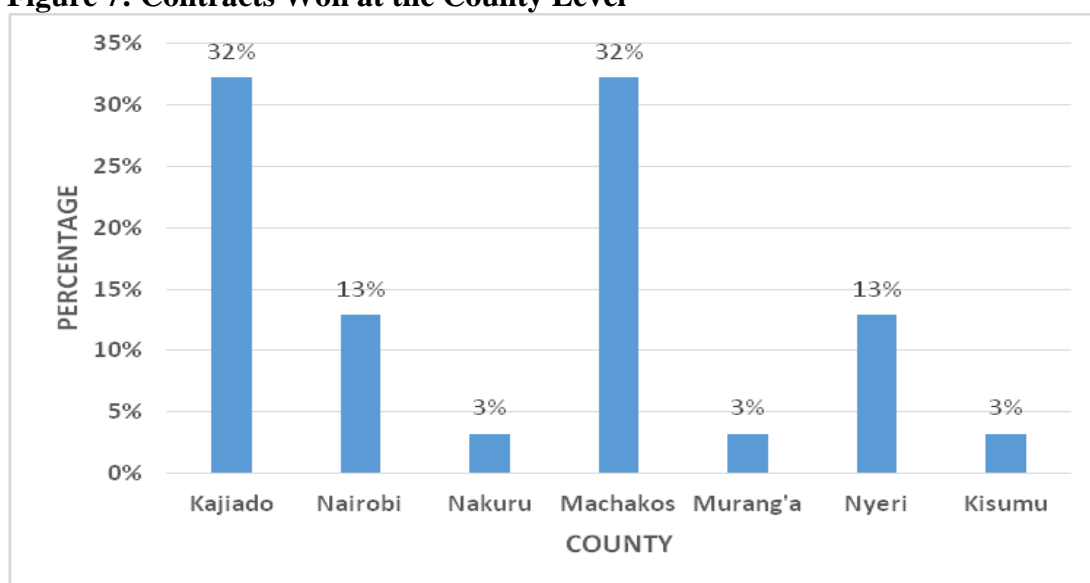
Women with a national AGPO certificate can apply for tenders anywhere in the country and not necessarily in the county that they live in or where they were born. Hence, from our survey, there were some women who had won tenders in Kisumu, Muranga and not necessarily in the counties that were in study sample implying that a woman in the study sample applied and won a contract in another county in response to Question 8 of the Women Respondents questionnaire which asked in them if the won contract was with a county government and which county it was. There were 31 contracts that were won at the County level with Kajiado and Machakos having the highest number of contracts won (32%) as shown in Table 16 and in Figure 7.

**Table 16: Contracts Won at the County Level**

County	Number	Percent
Kajiado	10	32
Nairobi	4	13
Nakuru	1	3
Machakos	10	32
Murang'a	1	3
Nyeri	4	13
Kisumu	1	3
<b>Total</b>	<b>31</b>	<b>100</b>

Source: Field Data

**Figure 7: Contracts Won at the County Level**



Nakuru, Muranga and Kisumu had the least number of contracts won at 3% while Nairobi and Nyeri tied at 13%.

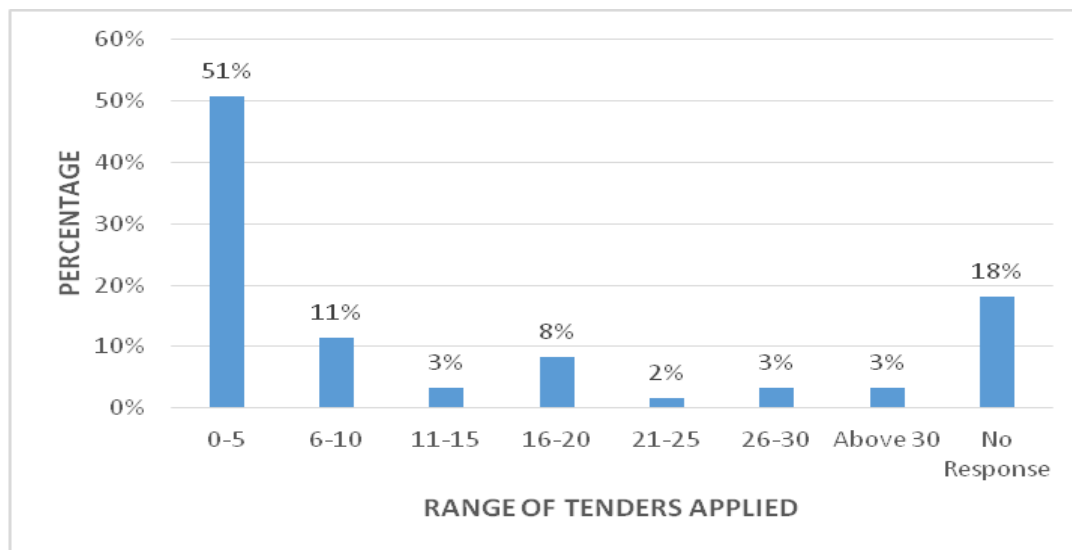
In order to increase their chances of winning a tender, some women had developed a strategy of applying for many contracts in one year hoping that at least they might succeed in one or all. This trend is as shown in Table 17 and in Figure 8.

**Table 17: Number of Tenders Applied for Annually**

Number of Tenders	Number of Respondents	Percent
1-5	31	51
6-10	7	11
11-15	2	3
16-20	5	8
21-25	1	2
26-30	2	3
Above 30	2	3
No Response	11	18
<b>Total</b>	<b>61</b>	<b>100</b>
<b>Average</b>	<b>8</b>	

Source: Field Data

**Figure 8: Number of Tenders Applied for Annually**



The study found that on average, 8 women would apply for more than one tender per year. At least 51% of the women applied for between 1 and 5 tenders per year while 11% applied for between 6 to 10 tenders. About 3% applied for more than 30 tenders annually.

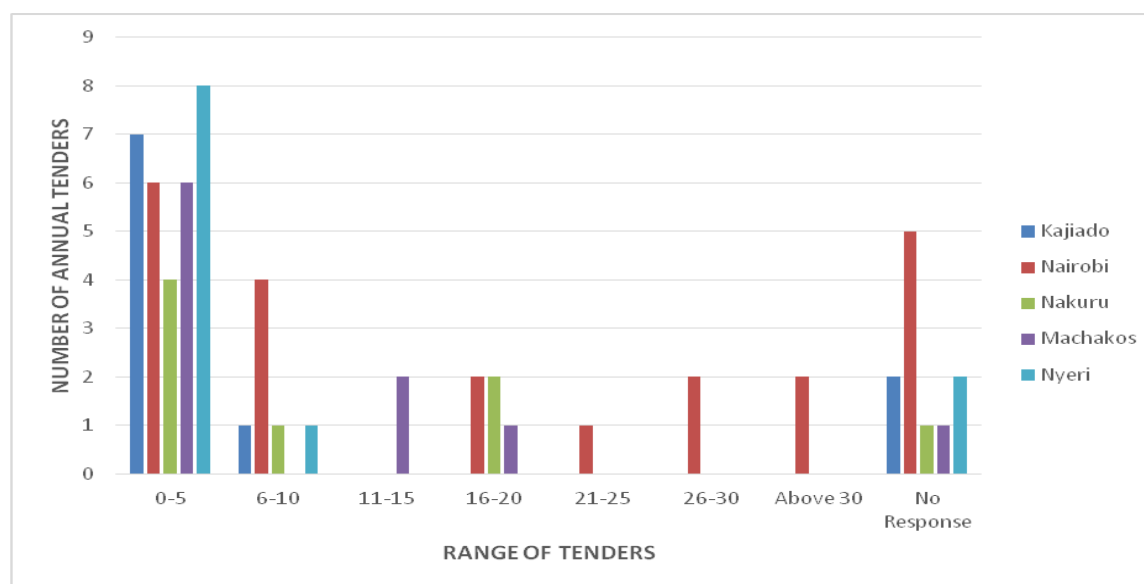
This scenario however was found to differ by county as shown in Table 18 and in Figure 9.

**Table 18: Number of Tenders Applied for By County**

County	Range of the Number of Tenders								Total
	0-5	6-10	11-15	16-20	21-25	26-30	Above 30	No Response	
Kajiado	7	1	0	0	0	0	0	2	10
Nairobi	6	4	0	2	1	2	2	5	22
Nakuru	4	1	0	2	0	0	0	1	8
Machakos	6	0	2	1	0	0	0	1	10
Nyeri	8	1	0	0	0	0	0	2	11
<b>TOTAL</b>	<b>31</b>	<b>7</b>	<b>2</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>11</b>	<b>61</b>

Source: Field Data

**Figure 9: Number of Tenders Applied for By County**



From Table 18 it is clear that Nairobi had the highest number of women applying for more than one tender followed by Nyeri, then Kajiado and Machakos while Nakuru had the least number of women applying for more than one tender. Nairobi had women applying for even more than 30 tenders annually. This would imply that it could be the same women applying and winning the tenders as attested by the key informants later in this report hence making it impossible for others to benefit from the AGPO initiative and hence constraining logistical consistency in women empowerment program.

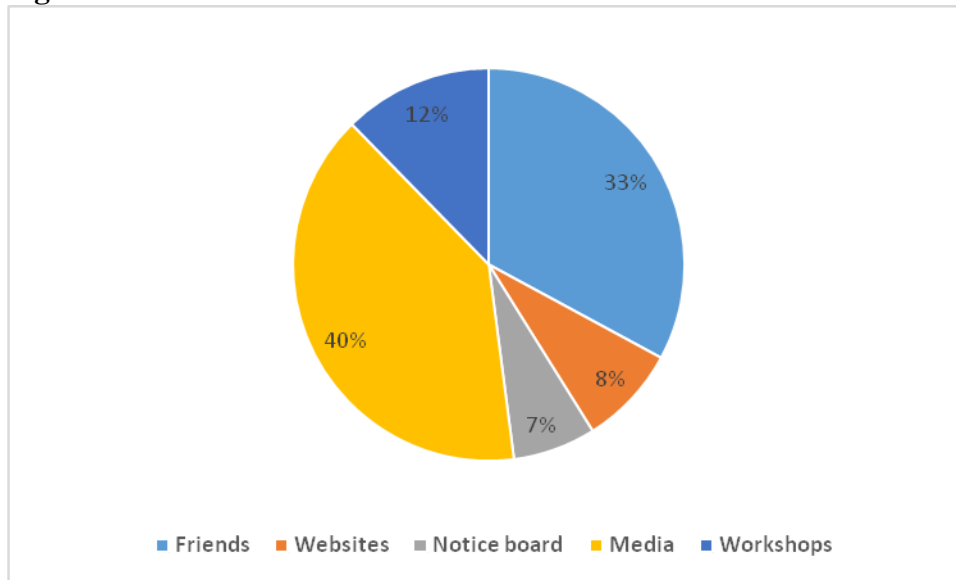
It is important that information on tenders is disseminated to as many people as possible and strategically placed so that it reaches as many people as possible. From the study, it emerged that majority of the women got the information from the media (40%) mainly newspapers. This source was followed closely by friends at 33% as shown in Table 19 and in Figure 10.

**Table 19: Source of Information on Tenders**

Source	Number	Percent
Friends	24	33
Websites	6	8
Notice board	5	7
Media	29	40
Workshops	9	12
<b>Total</b>	<b>73</b>	<b>100</b>

Source: Field Data

**Figure 10: Source of Information on Tenders**



It seems that when both county and national governments advertise tenders on their websites, it reaches very few people as shown in Figure 10 where only 8% of the respondents said that they got the information from the government websites. Also, placing the advertisements on notice boards reached only 7% of the respondents. However, if the notice boards are strategically placed such as outside churches, mosques, market centers, at the chief’s and other administrators offices, it can reach many people. Holding workshops helped reach 12% of the respondents and these workshops can also be used to build capacity on the women entrepreneurs on how to apply for the AGPO certificates, how to fill the tender forms, how to do both a technical and financial proposal among the critical tender appraisal issues. .

**4.2 Challenges that Prevent Women from Utilizing Government Procurement Opportunities**

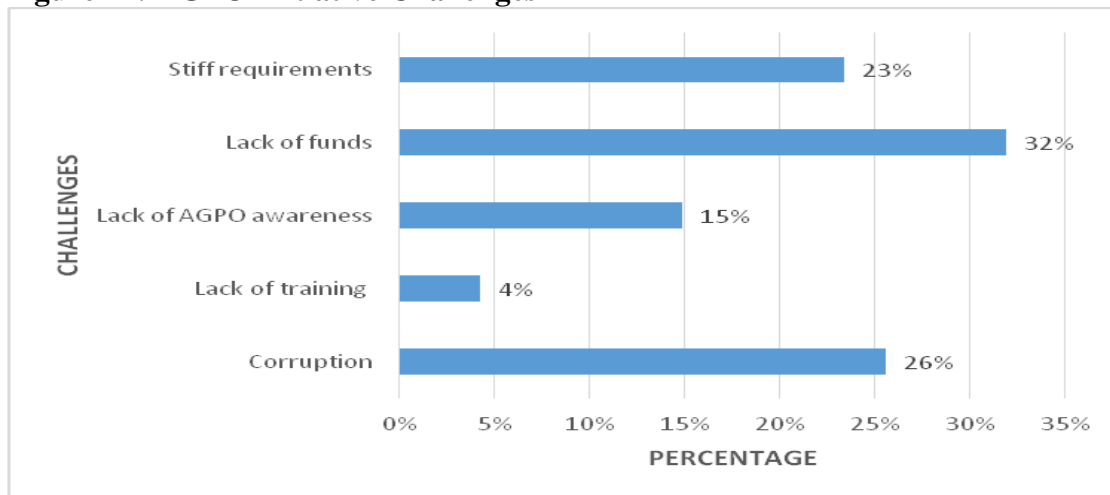
The women were asked what challenges they faced in utilizing the opportunities that the AGPO initiative came with and their responses are shown in Table 20 and Figure 11.

**Table 20: AGPO Initiative Challenges**

Challenges	Number	Percent
Corruption	12	26
Lack of training	2	4
Lack of AGPO awareness	7	15
Lack of funds	15	32
Stiff requirements	11	23
<b>Total</b>	<b>47</b>	<b>100</b>

Source: Field Data

**Figure 11: AGPO Initiative Challenges**



Lack of Funds was mentioned by the majority (32%) of respondents, followed by corruption (26%). Stiff Requirements was cited by 23% of the respondents followed by lack of AGPO awareness that was mentioned by approximately 15% of the respondents who said that they were not even aware of the AGPO opportunities and they were surprised that such an opportunity existed. Another 4% said that even though they were aware of the AGPO initiative, they had not been given any training on how to take advantage of the benefits that it comes with.

Other challenges mentioned by those who applied for the tenders were the following:

**(i) Filling the Tender Forms**

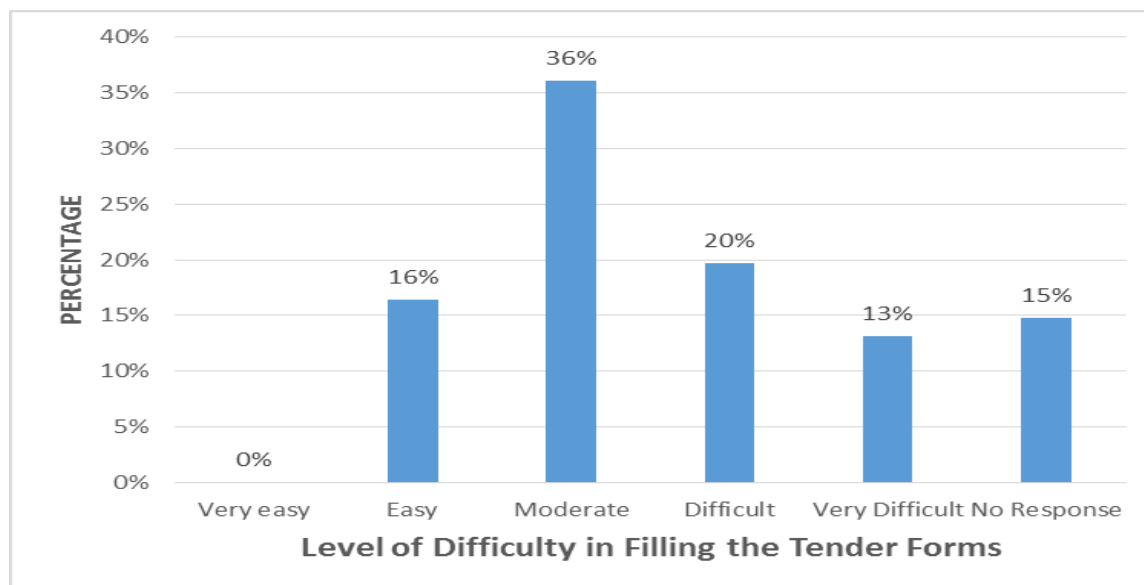
Because of lack of training, the women respondents cited various challenges in filling the tender forms and these were put on a scale of 1 to 5 with 1 being very easy, 2 being easy, 3 being moderate, 4 difficult and 5 being very difficult. This information is shown in Table 21 and in Figure 12.

**Table 21: Level of Difficulty in Filling the Tender Forms**

Tendering Process	Number	Percent
Very easy	0	0
Easy	10	16
Moderate	22	36
Difficult	12	20
Very Difficult	8	13
No Response	9	15
<b>Total</b>	<b>61</b>	<b>100</b>

Source: Field Data

**Figure 12: Level of Difficulty in Filling the Tender Forms**



From Table 21 and Figure 12, it is clear that the process of filling the tender forms is not an easy task and only 16% of the women respondents said that it was easy. On the other hand, 20% and 13% said it is difficult and very difficult respectively. Majority of the respondents (36%) said the process of filling the tender forms was moderate in other words, not easy and not difficult.

**(ii) Certification, Technical and Financial Challenges**

The most challenging part of the tendering process faced by the women is getting finances to start the registration process to get the AGPO certificate, the technical part of preparing the proposal and the financing of the tenders as shown in Table 22 and in Figure 13. Women face challenges in coming up with a technical proposal and this was cited by 30% of the respondents. This they attributed to lack of skills on how to fill out a standard tender document.

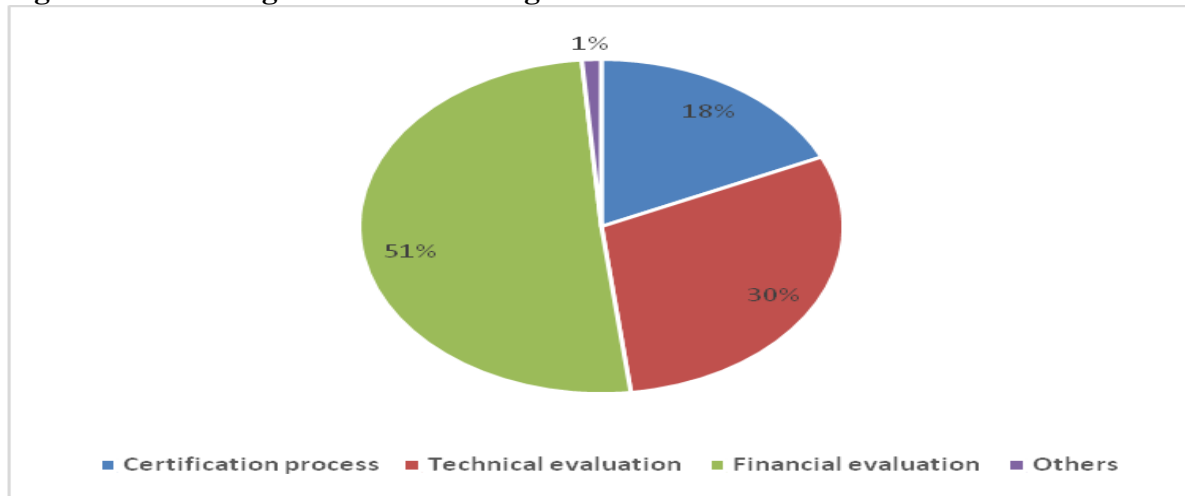
**Table 22: Challenges in the Tendering Process**

Stages	Number	Percent
Certification process	14	18
Technical evaluation	23	30
Financial evaluation	39	51
Others	1	1
<b>Total</b>	<b>77<sup>6</sup></b>	<b>100</b>

Source: Field Data

<sup>6</sup> The respondents gave more than one answer

**Figure 13: Challenges in the Tendering Process**



As Table 22 and Figure 13 show women entrepreneurs also face financial challenges in the tendering process and this starts right from the registration and certification since money is required for this and possible financial capability to meet the tender delivery timelines including commodity/service price competitiveness. Essentially lack of finance to fulfill the tender requirements is a major challenge to women entrepreneurs. For example, in Nyeri County, one has got first register the business using certain prescribed documents and of course this requires money and thereafter one has to pay Ksh.6000 for a single business permit.

However, although these documents may not all cost money, they require moving from home or where the business is situated to the nearest Huduma center or the County Treasury to apply for a business permit. So the certification process although challenging is compounded by financial challenges which may even make it difficult for a woman entrepreneur to win a tender. Financial challenges were mentioned by 51% of the women respondents while the certification challenges were mentioned by 18% of the respondents. Effectively, from the study, most women (58%) said that they rely on loans to service the tenders that they win as shown in Table 23 and in Figure 14. These loans are often sourced from formal banks, affirmative funds such as Women Enterprise Fund, Youth Enterprise Development Fund, the National Fund for the PWDs, UWEZO Fund, shylocks or from family and friends including informal socio-collateral savings.

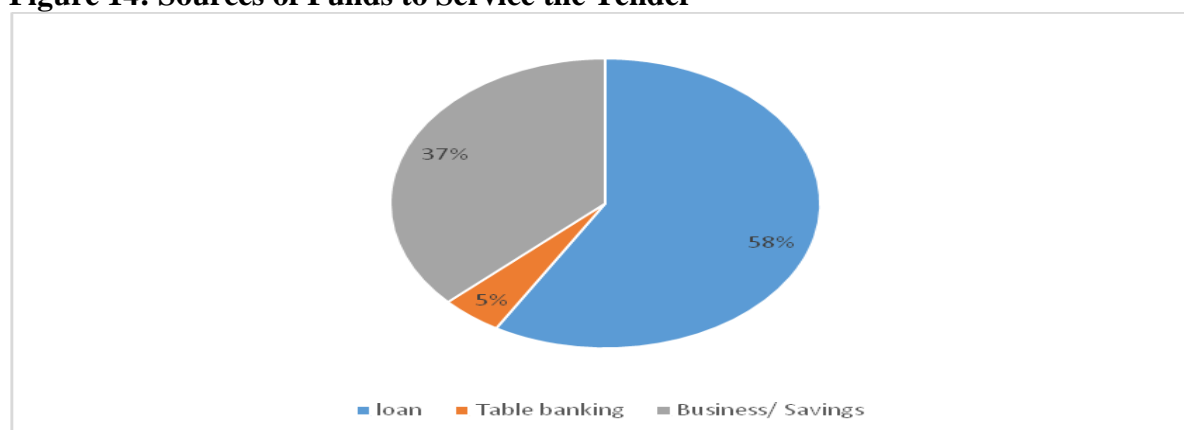


**Table 23: Sources of Funds to Service Tender**

Source	Number	Percent
Loan	38	58
Table banking	3	5
Business/ Savings	24	37
<b>Total</b>	<b>65</b>	<b>100</b>

Source: Field Data

**Figure 14: Sources of Funds to Service the Tender**



Other women (37%) said that they rely on their savings while a small proportion (5%) said that they rely on table banking<sup>7</sup> for the funds to service a tender.

On the question as to whether they had approached or utilized any of the affirmative action funds, 25% said that they had not and 64% said that they had approached and even used the affirmative action funds such as Uwezo Fund, Youth Enterprise Development Fund, Women Enterprise Fund and the National Fund for the Disabled. However, majority of the respondents (61%) had utilized the Women Enterprise Fund as shown in Table 24 and in Figure 15.

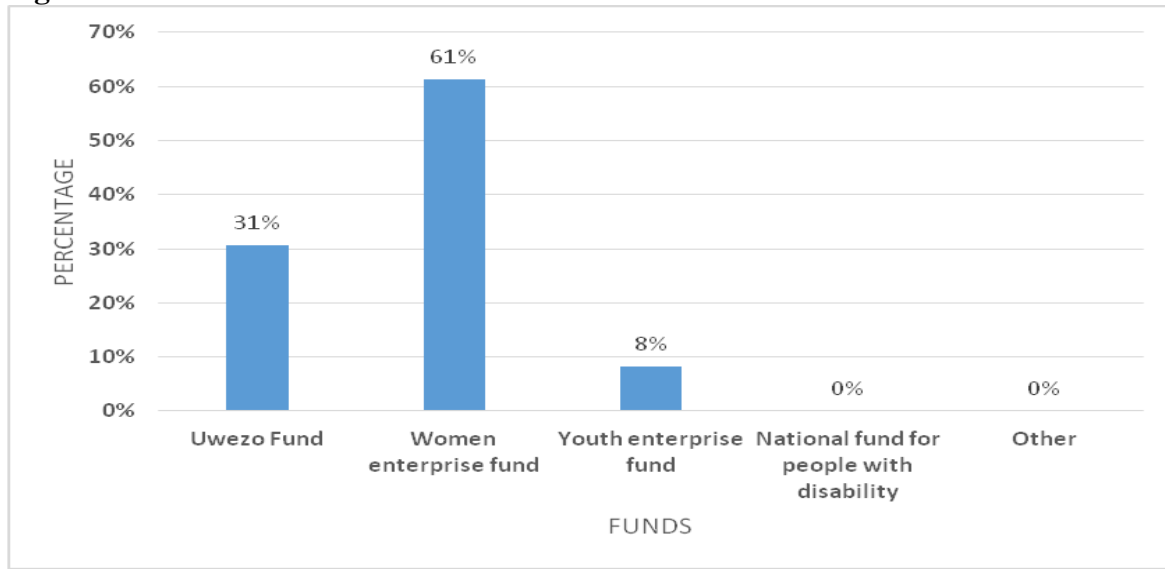
**Table 24: Use of Affirmative Action Funds**

Affirmative Action Fund	Number	Percent
Uwezo Fund	15	31
Women Enterprise Fund	30	61
Youth Enterprise Development Fund	4	8
National Fund for People with Disability	0	0
Other	0	0
<b>Total</b>	<b>49</b>	<b>100</b>

Source: Field Data

<sup>7</sup> Table banking is a group based funding strategy in which members save once per month or week and the money is immediately borrowed by the members.

**Figure 15: Use of Affirmative Action Funds**



From Table 24 and Figure 15, it is clear that the Women Enterprise Fund is quite popular with the women entrepreneurs as a source of funds to service the tenders. This is followed by the Uwezo Fund at 31% while the Youth Enterprise Development Fund was only mentioned by 8% of the respondents as a source of funds to service the tenders. There was none among the respondents who had utilized the National Fund for People with Disability as there were no persons living with disability were interviewed.

### **(iii) Formation of Groups**

Some women said that the requirement that they must look for 100 people to form a group in order to qualify for an AGPO certificate was a herculean task for them and the bureaucracy involved in this made them decide not to apply for a certificate. Of course this is not a requirement for an AGPO certificate and it shows the lack of knowledge and skills in implementing the AGPO initiative on the part of the procurement officers.

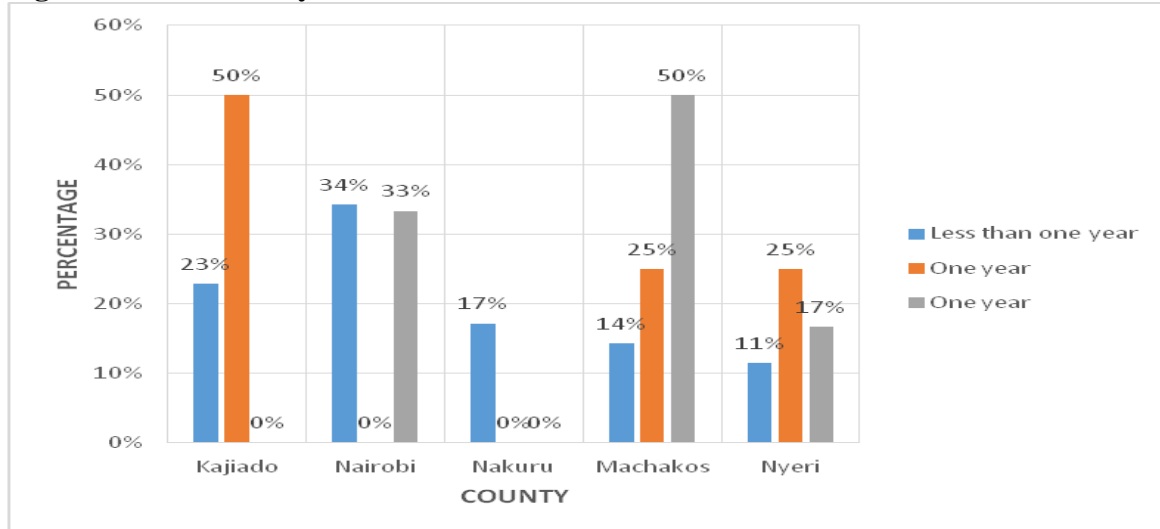
### **(iv) Delay in Payment for Goods and Services Delivered**

Women cited delays in payment for goods and services already delivered to county governments as some of the challenges that prevents them from repeat application for tenders since they may not have more money for new tenders.

Ideally, payment for goods delivered and services rendered is supposed to be within duration of less than 3 months. However, there were reported cases where payment was taking more than one year. This however varied with counties for example, 50% of the respondents in Machakos said that they were paid after more than one year as shown in Figure 17. On the other hand, 50%

of the respondents from Kajiado said they were paid in one year. Also, those ones who were paid in less than one year were 23% from Kajiado, 34% from Nairobi, 17% from Nakuru, 14% from Machakos and 11% from Nyeri as shown in Figure 16.

**Figure 16: Tender Payment Duration**



This kind of long delays in payment can adversely affect the women’s cash flow and they can end up closing their businesses as especially so for those who may have a loan to service the tender or those who may have used their savings.

**(v) High Transport Costs and Requirement for Quality**

Other respondents complained of high transport costs, the constant complaints of the quality of the products that they supply and that they do not read the specifications of the products they are supposed to supply.

**(vi) Corruption**

Others cited favoritism, nepotism, tribalism and corruption as other challenges that prevent them from taking advantage of the AGPO initiative. This was mentioned by 26% of the participants. The women said that they would never have won the tenders if they had not known someone in the organizations that gave them the tenders. For those that did not initially know someone, they had to part with some money (bribe) in order to win the tender. This of course puts off those who may not have the money to bribe or they do not know anyone in those organizations that advertise for tenders.

**(vii) Stiff Tendering Requirements**

After a woman entrepreneur gets the AGPO certificate, then they can now apply for government tenders advertised either by the County or National governments. There are various requirements for one to qualify for a tender and women cited these requirements as being to punitive.

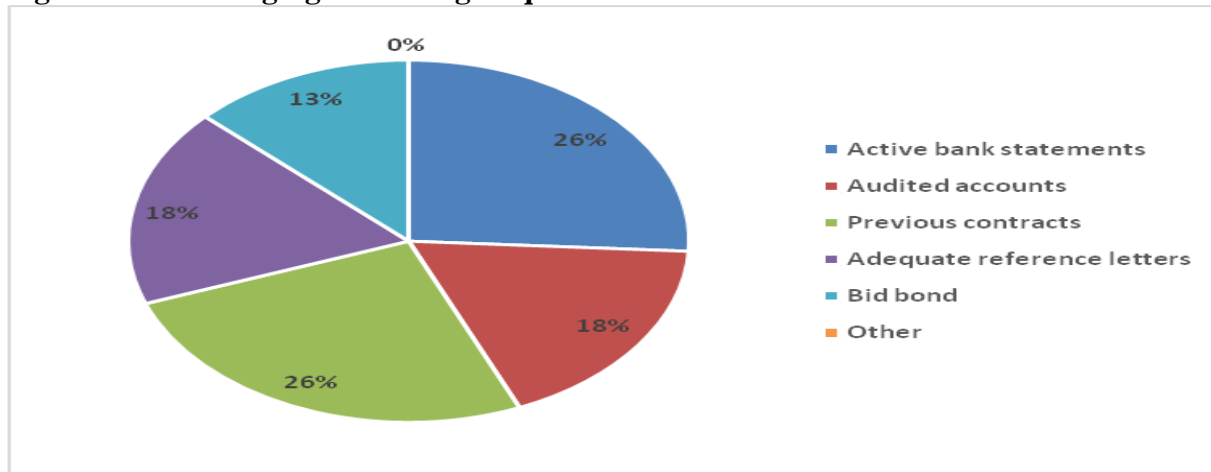
The women (23%) said that the stiff tendering requirements made it difficult for them to do business with government using the AGPO initiative as shown in Table 25 and Figure 17.

**Table 25: Challenging Tendering Requirements**

Requirements	Number	Percent
Active bank statements	22	26
Audited accounts	15	18
Previous contracts	22	26
Adequate reference letters	15	18
Bid bond	11	13
Other	0	0
<b>Total</b>	<b>85<sup>8</sup></b>	<b>100</b>

Source: Field Data

**Figure 17: Challenging Tendering Requirements**



Active bank accounts and previous contracts were cited by 26% of the respondents respectively as some of the requirements that make it very difficult for them to take advantage of the AGPO initiative. They explained that a new business takes time to operate an active bank account since the basic savings of the disadvantaged woman is largely used to feed their children and rarely do they keep money in the bank.

Audited accounts and adequate reference letters were also cited by 18% of the respondents respectively as contributing to the low update of AGPO while the requirement for a bid bond was

<sup>8</sup> The respondents gave more than one answer

cited by 13% of the respondents. However The National Treasury Circular of 15<sup>th</sup> January 2015 states that “no tender securities shall be required from small and micro enterprises or enterprises owned by disadvantaged groups participating in procurement proceedings”.

**4.3 How to Overcome the Challenges Faced by Women Entrepreneurs**

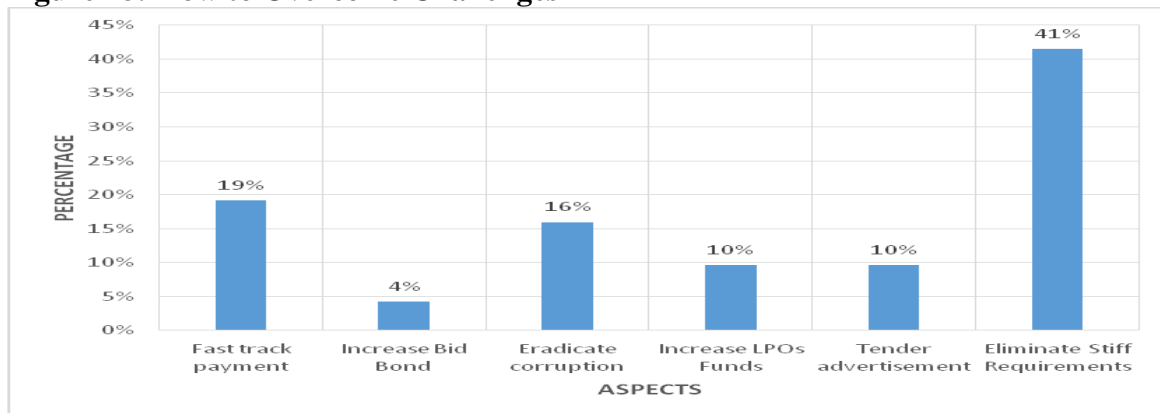
The women proposed solutions to some of the challenges mentioned in section 4.1. For example, one business woman said that United Nations Women Organization should come up with a system of helping women entrepreneurs who would want to trade with government through AGPO to get funds in terms of loans in order to be able to supply the goods and services that they apply for through AGPO. This is because according to her, most women do not win tenders because they do not have bank accounts and those who have accounts do not have enough money or their accounts are not active to service a tender. Their applications are therefore knocked off at the financial evaluation stage even when the technical evaluation may have been favorable to them. From face to face interviews, the women entrepreneurs gave some proposals on how to overcome some of the challenges that they said had contributed to the slow uptake of government tenders. The various suggestions are as shown in Table 26 and in Figure 18.

**Table 26: How to Overcome Challenges**

Aspects	Number	Percent
Fast track payment	18	19
Increase Bid Bond	4	4
Eradicate corruption	15	16
Increase LPOs/LSOs Financing	9	10
Diversify Tender advertisement	9	10
Eliminate Stiff Requirements	39	41
<b>Total</b>	<b>94</b>	<b>100</b>

Source: Field Data

**Figure 18: How to Overcome Challenges**



**(a) Eliminate Stiff Requirements**

Eliminating the stiff requirements in the tendering process was proposed by 41% of the respondents. As mentioned before, the stiff requirements and the bureaucracy that follows makes it very difficult for women to take advantage of the tenders under the preference and reservation scheme.

**(b) Fast track Payment for Goods Delivered and Services Rendered**

Eliminating stiff requirements in the tendering process was followed by fast tracking payment for goods and services delivered which was proposed by 19% of the respondents. The women said that if this payment is fast tracked, they would be able to apply for more tenders and also pay for the monies they may have borrowed to service the first tender.

**(c) Eradication of corruption**

Eradicating corruption was recommended by 16% of the respondents. Corruption is fueled by government bureaucracy and the belief on the part of the entrepreneurs that they can never win a tender without bribing or knowing someone in the organization that one is applying a tender to supply either goods or services.

**(c) Change the way tenders are advertised**

About 10% of the women said that improving the way the AGPO tenders are advertised would increase their uptake. They said that most times the time given is usually too short for one to put all the paper work together including getting adequate finances to service the tender if they win. Apart from the time, they also said that they get to know the tender advertisements when it is already too late and especially if it was advertised in the government website. This is because majority of the women may not be internet savvy or even computer literate. So they recommended that advertisements for low value tenders be strategically placed in places such as, outside churches, at the chief's or other administrative offices where they normally visit and also in newspapers, radios, Televisions among the strategic areas.

**(h) Increasing the Local Purchase/Service Order Financing**

The women said that most times when they are able to get an LPO/LSO financing from either the Women Enterprise Fund or the Youth Enterprise Development fund, it is usually not enough to service the whole tender and they have to look for money elsewhere mainly from chamas (informal socio-collateral savings), table banking, relatives or even shylocks which is usually quite expensive for them and especially when this is coupled with delayed payment for goods

delivered or services rendered. They therefore recommended an increase in the LPO/LSO financing to facilitate servicing of the tender awards and this was recommended by 10% of the respondents.

**(i) Increase Bid Bond**

This was recommended by only 4% of the respondents. This was as expected given that fulfilling the bid bond requirements implies entering into more financial obligations as required by those institutions providing them since it acts as security to the procuring entity to the effect that goods or services shall be delivered as per the tender requirements. The women proposed that, a person who has an AGPO certificate and applies for a tender is supposed to be excluded from the requirement of availing a bid bond and they are instead supposed to fill in and sign a tender securing declaration form. This implies that there is lack of knowledge on these requirements on the side of the women or from the AGPO implementers who probably insist on the provision of bid bonds. As mentioned earlier, the 15<sup>th</sup> January 2015 National Treasury Circular states that no securities should be required from SMES owned by disadvantaged groups participating in the procuring proceedings. This shows that both sellers and procurers need to be trained on AGPO measures that the Government has put in place to ease barriers to entry and increase the uptake of these opportunities.

**(j) Training and Capacity Building**

The government, local and international NGOs, CBOs and FBOs need to train and build capacity of the women entrepreneurs on what opportunities exist for them and more so the AGPO initiative. This will not only increase awareness but also help them overcome the challenges that they have been going through in the tendering process.

***4.4 Reasons for not Applying for Government Tenders***

Out of the 61 women interviewed, the study found that there were 10 women entrepreneurs who had not applied for tenders under the AGPO initiative and they gave the following reasons as shown in Table 27. For the women who had never applied for the AGPO opportunities, majority of them cited lack of awareness, lack of AGPO certificate and corruption in government as the reasons why they had not taken up the preference and reservation scheme opportunities. The others said lack of information on the requirements of AGPO and delay in payments as other reasons they would not want to do business with government as shown in Table 27.

**Table 27: Reasons for not taking up the AGPO Opportunities**

<b>Reason</b>	<b>Number</b>	<b>Percent</b>
Lack of AGPO certificate	3	23.1
Lack of AGPO Awareness	3	23.1
Corruption in Government	3	23.1
Inadequate Information	2	15.4
Delay in payments	2	15.4
<b>Total</b>	<b>13<sup>9</sup></b>	<b>100</b>

Source: Field Data

It is therefore important to remove the perceived bureaucracy that is there in a woman acquiring an AGPO certificate, increase the level of awareness of AGPO, eradicate perceived corruption in government, provide information on AGPO through workshops and conferences and fast track payment on goods delivered so that those who would not have taken up these opportunities can see what they are missing.

#### ***4.5 Women's Final Evaluation of the AGPO Initiative***

The respondents were asked whether they were satisfied with the AGPO initiative and majority of them (54%) answered in the affirmative and 34% said that they were not satisfied as shown in Table 28.

**Table 28: Final Evaluation of AGPO**

<b>Satisfied/Not Satisfied</b>	<b>Number</b>	<b>Percent</b>
Satisfied	33	54
Not Satisfied	21	34
No Response	7	11
<b>Total</b>	<b>61</b>	<b>100</b>

Source: Field Data

A big proportion of the respondents (82%) said that they had benefited from the AGPO initiative and the benefits ranged from business expansion, employment, payment of fees, provision of basic needs and purchase of property as shown in Table 29 and Figure 19. It is interesting that although 82% of the respondents said that they had benefited from AGPO initiative, 54% were not satisfied with the initiative probably due to the challenges they may have faced from registration to winning the tender as mentioned in the previous section.

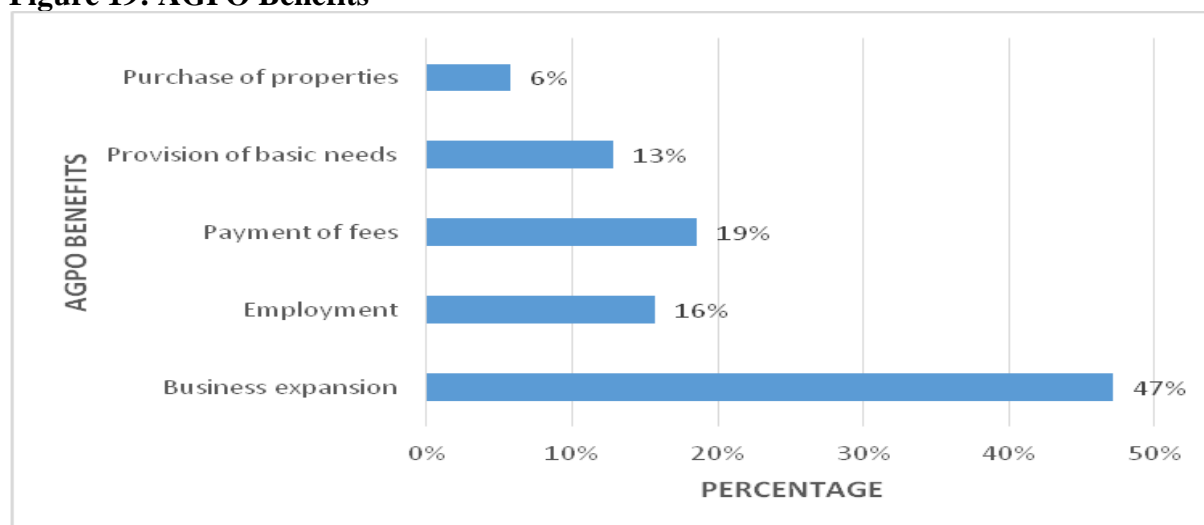
<sup>9</sup> Some women gave more than one response



**Table 29: AGPO Benefits**

<b>Benefited Women</b>	<b>Number</b>	<b>Percent</b>
Yes	50	82
No	2	3
No Response	9	15
<b>Total</b>	<b>61</b>	<b>100</b>
<b>Benefits</b>	<b>Number</b>	<b>Percent</b>
Business expansion	33	47
Employment	11	16
Payment of fees	13	19
Provision of basic needs	9	13
Purchase of properties	4	6
<b>Total</b>	<b>70</b>	<b>100</b>

Source: Field Data

**Figure 19: AGPO Benefits**

From Table 29 and Figure 19, it is clear that those women who have utilized the AGPO opportunities, majority have seen their businesses grow (47%), 19% have managed to pay fees for their children, 16% have increased the number of employees in their businesses, 13% have managed to provide basic needs both for themselves and their families while 6% have even managed to purchase properties.

The long term objective of AGPO is to reduce poverty especially among the marginalized women, youth and PWDs. From the study, it is clear that this objective may be achieved if only the uptake of the initiative was much higher than it is now. This is because, doing business with government seems to be benefiting the women in business growth in terms of increased profit margins, increasing the number of employees, increasing the amount of stock and acquisition of

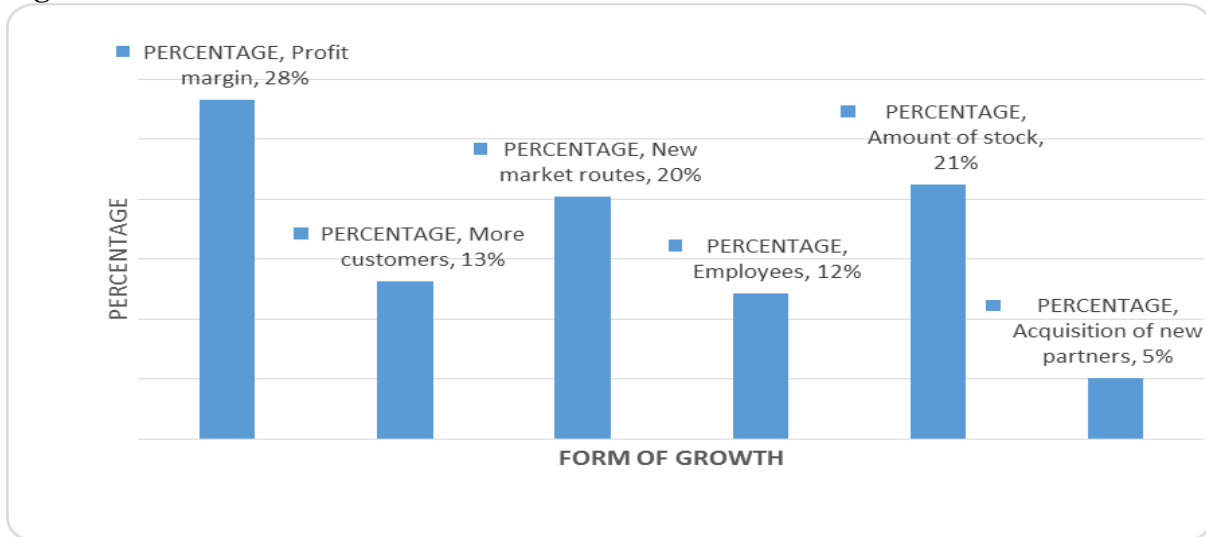
new partners among the critical parameters of women empowerment. as shown in Table 30 and Figure 20.

**Table 30: Forms of Business Expansion**

Form of Growth	Number	Percent
Profit margin	28	28
More customers	13	13
New market routes	20	20
Employees	12	12
Amount of stock	21	21
Acquisition of new partners	5	5
<b>Total</b>	<b>99</b>	<b>100</b>

Source: Field Data

**Figure 20: Forms of Business Growth**



From Figure 20, it is clear that doing business with government has led to an increase in profit margins for the women owned business as attested by 28% of the respondents. On the other hand, 21% of the respondents said that they had managed to increase the amount of stock in their business while 20% had found new market routes for their merchandise, 13% said the number of customers had increased and 12% had increased the number of employees and 5% had expanded their business by acquiring new partners.

It would therefore be advisable to remove the bottlenecks or challenges that have been preventing more women from taking up the AGPO opportunities.

#### 4.6 The Key Informants

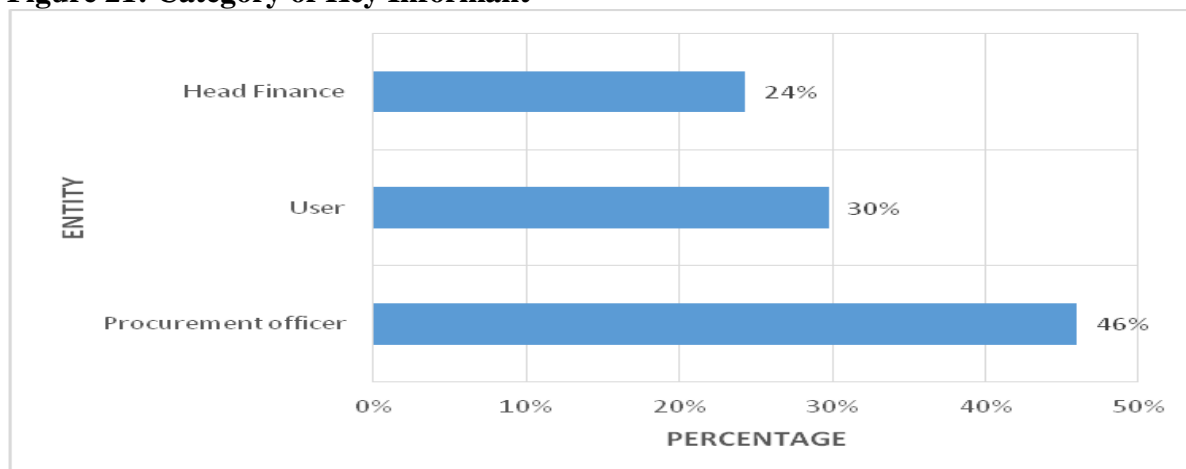
Information was also gathered from key informants from the 5 counties and these included procurement (supply chain) officers, finance officers and authority to incur expenditure (AIE) officers as shown in Table 31 and in Figure 21.

**Table 31: Category of Key Informants**

Category	Number	Percentage
Procurement officer	17	46
User-AIE holder	11	30
Head Finance	9	24
<b>Total</b>	<b>37</b>	<b>100</b>

Source: Field Data

**Figure 21: Category of Key Informant**



From Table 31 and Figure 21, it is clear that there were more procurement officers interviewed (46%) compared to finance and user officers (AIE holders) who represented 24% and 30% respectively out of the total number of key informants interviewed. This was done deliberately because the procurement officers are more familiar with AGPO than the user or finance officers and they deal directly with the women who apply for tenders whether under the 30 percent set aside AGPO quota or under the open tenders.

##### 4.6.1 Category of Tenders Reserved for the Women under AGPO

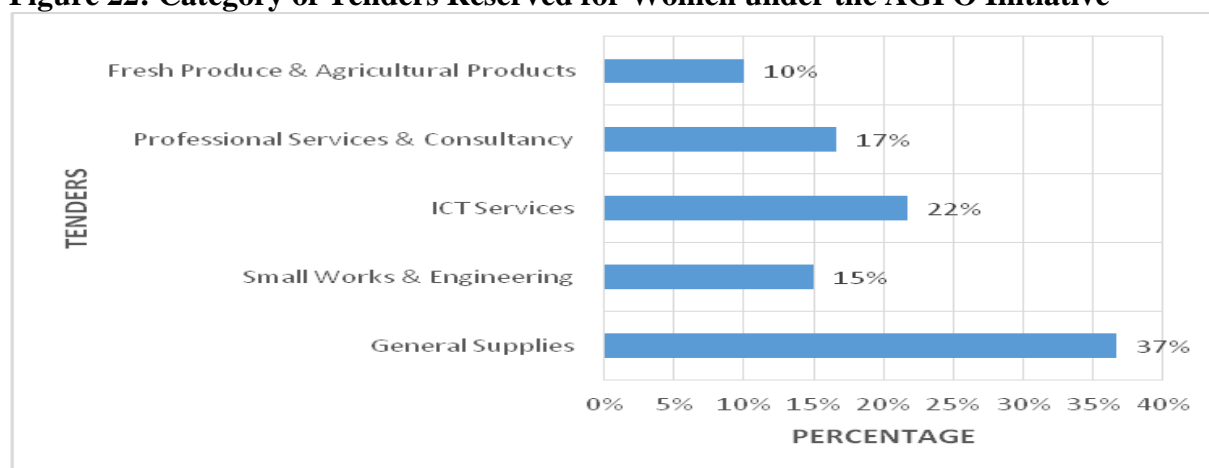
The procurement officers were asked what tenders they usually reserve for women applying under AGPO and majority of the tenders for women under this category is in general supplies at 37% followed by ICT services at 22% as shown in Table 32 and in Figure 22.

**Table 32: Category of Tenders Reserved for Women under the AGPO Initiative**

Category	Number	Percentage
General Supplies	22	37
Small Works & Engineering	9	15
ICT Services	13	22
Professional Services & Consultancy	10	17
Fresh Produce & Agricultural Products	6	10
<b>Total</b>	<b>60</b>	<b>100</b>

Source: Field Data

**Figure 22: Category of Tenders Reserved for Women under the AGPO Initiative**



This information contradicts that provided by the women respondents that they prefer tenders in fresh produce and agricultural products (34%) since from the Key Informants point of view, this category forms only 10% of the reserved tenders under the AGPO initiative.

#### **4.6.2 Applications and Success Cases**

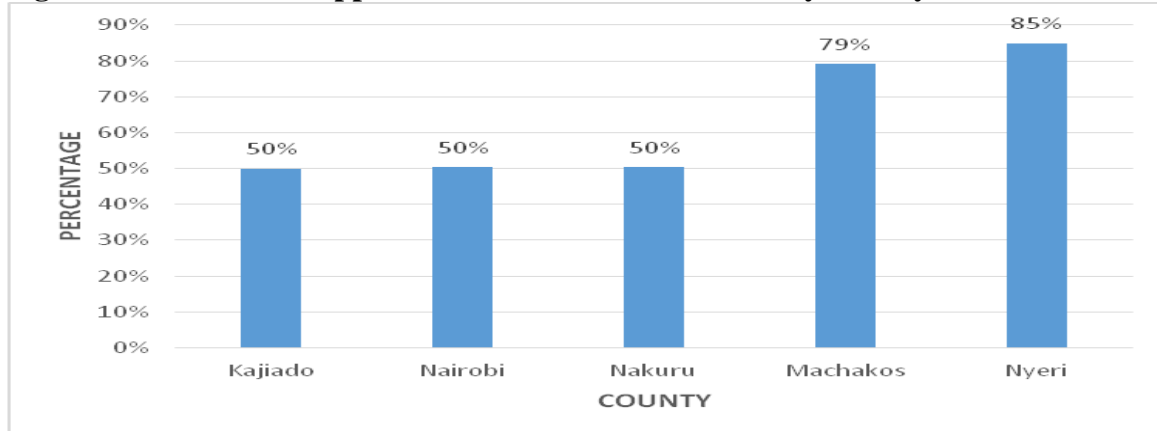
Information from key informants after administering a questionnaire shows that Nairobi received the bulk of the applications for tenders under AGPO from the women applicants at 71% compared to Nakuru at 3% as shown in Table 33 and Figure 23.

**Table 33: Number of Applications and Successful Cases by County 2014-2017**

County	Number Applied	Percentage	Successful Tenders	Successful Percentage
Kajiado	200	6	100	50
Nairobi	2346	71	1184	50
Nakuru	105	3	53	50
Machakos	265	8	210	79
Nyeri	400	12	340	85
<b>Total</b>	<b>3316</b>	<b>100</b>	<b>1887</b>	<b>56.9</b>

Source: Field Data

**Figure 23: Number of Applications and Successful Cases by County**



However, from Figure 23, the success rate in Nairobi was only 50% compared to Nyeri at 85% and Machakos at 79%. Out of a total of 3316 applications received by the 5 counties, only 1887 were successful which translates to an overall success rate of 56.9% implying that there were some challenges either from the procuring entities or from the applicants.

**4.6.3 Payment Period**

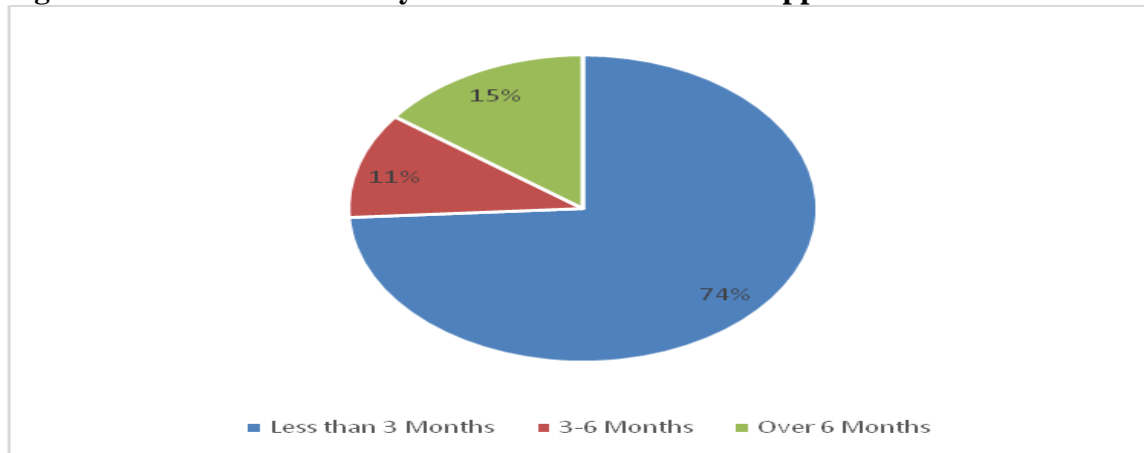
From the time the applicants deliver goods or services to the procuring entity and the goods are inspected and approved for payment, it takes at least 3 months before the applicants are paid as shown in Table 34 and in Figure 24.

**Table 34: Time Taken to Pay for Goods and Services Supplied**

Duration	Number	Percentage
Less than 3 Months	20	74
3-6 Months	3	11
Over 6 Months	4	15
<b>Total</b>	<b>27</b>	<b>100</b>

Source: Field Data

**Figure 24: Time Taken to Pay for Goods and Services Supplied**



According to the majority of key informants, it takes less than 3 months to pay although there were instances where payment would take more than 6 months due to certain challenges as shown in Table 35 and Figure 25. The key informants said that the less than the 3 months’ timelines is informed by policy requirements that goods and services delivered should be paid for within the shortest time possible but should not take more than 3 months. However, sometimes payment can take a bit longer due to time taken in document verification and more so when the delivery documents are not in order.

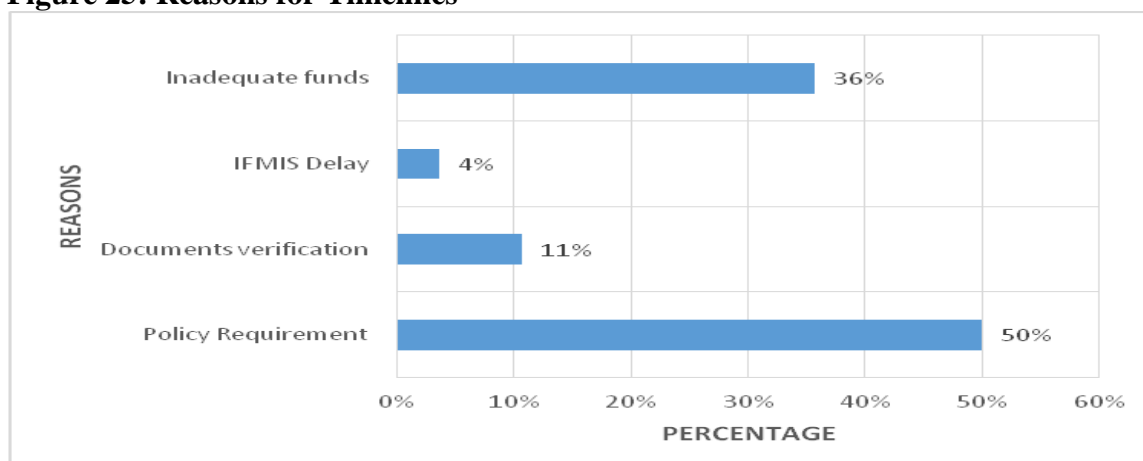
**Table 35: Reasons for Timelines**

Reason	Number	Percentage
Policy Requirement that payment should be in less than 3 months	14	50
Documents verification	3	11
IFMIS Delay	1	4
Inadequate funds <sup>10</sup>	10	36
<b>Total</b>	<b>28</b>	<b>100</b>

Source: Field Data

<sup>10</sup> According to the Key informants, funds released by the National Treasury for tenders awarded are diverted to other uses and therefore, when payment is due, there are no funds to pay causing a delay in payment for goods or services delivered.

**Figure 25: Reasons for Timelines**



Other times, payment delay is due to the IFMIS delay (technology failure) when the system hangs for hours or days and no payments can be processed during this time. Other times, delay could be due to inadequate funds as a result of reallocation/diversion of procurement funds to other activities.

#### **4.6.4 Rejection of Tender Applications**

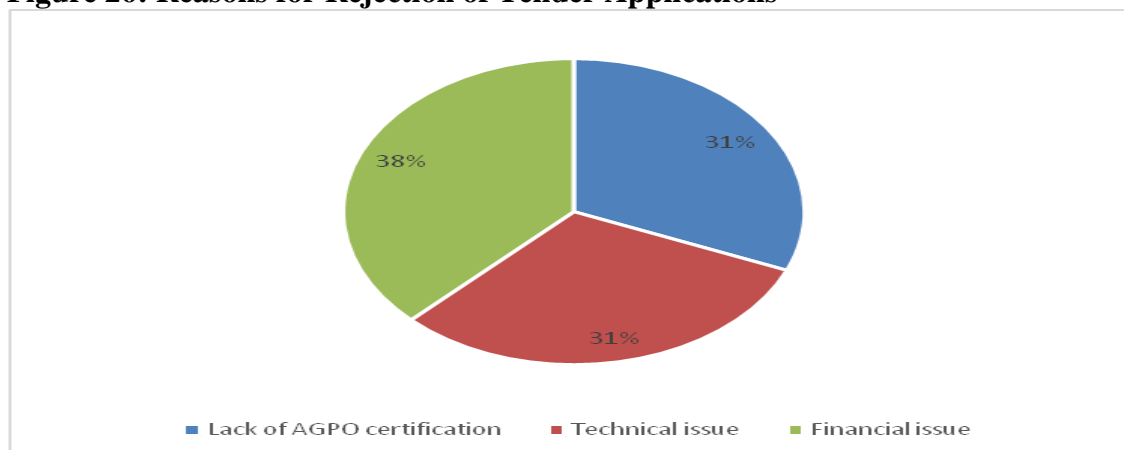
The key informants were asked the main reasons why and at what stage some tender applications are rejected. Their responses are shown in Table 36 and in Figure 26. From their responses, it is clear that most tenders are rejected at the financial evaluation stage (38%) where the women may quote a higher than the reserved price or a very low price such that the evaluators can detect that even if they gave the tender to the prospective supplier, they may end up not supplying because it may not be profitable to do so. This mainly applies to those new in business who may not know how to quote properly and especially on the 46% rule constituting 16% VAT and 30% profit. The women need to be in business a bit longer in order to understand the kind of profit margin they can get after supplying the tender.

**Table 36: Reasons for Rejection of Tender Applications**

<b>Reason</b>	<b>Number</b>	<b>Percentage</b>
Lack of AGPO certification	15	31
Technical issue	15	31
Financial issue	18	38
<b>Total</b>	<b>48</b>	<b>100</b>

Source: Field Data

**Figure 26: Reasons for Rejection of Tender Applications**



Another reason given for tender rejection is lack of AGPO certification (31%) where in most cases, an applicant may have registered under AGPO at the county level in their county but apply for a tender in another county but they do not appear in the list of suppliers in that county as they may not have registered at the national level. Other times it could be due to an expired AGPO certificate which is supposed to be renewed after 2 years.

Technical issues (31%) also contribute to a tender application being rejected. The key informants said that this mainly applies to those tenders where technical knowhow is required such as in engineering, ICT services, and consultancy services among the principal technical services. However, it was not clear whether the applicants are usually informed of the reasons for rejection of tender applications.

#### **4.6.5 Training of Women Entrepreneurs**

It emerged that very few procuring entities offer awareness forums on the AGPO opportunities or training on how to fill in tender documents in order to increase the number of women who apply for tenders or to reduce the number of tender applications rejected as shown in Table 37.

**Table 37: Training Offered on Tendering and Business Development**

<b>Training Offered</b>	<b>Number</b>	<b>Percentage</b>
Yes	13	41
No	19	59
<b>Total</b>	<b>32</b>	<b>100</b>

Source: Field Data

From Table 37, only 41% of the key informants said that they offer training on tendering and in business development and 59% said that they had not trained any women. For those who indicated that they have trained about 40% reported having trained between 50 and 100 women



while another 40% said that they had trained more than 100 women. On the other hand, 20% said they had only managed to train less than 50 women. Of those procuring entities that had trained, 86% claimed that they had seen a change in the AGPO uptake after the training while 14% said that there was no change. It should also be noted that the kind of training offered was largely on tender application procedures (e-procurement) rather than business development.

#### ***4.6.6 Reasons for not Training***

The Public Procurement and Disposal Act 2015 states that the National Treasury shall provide technical assistance on procurement and assist in the implementation and operation of the public procurement and asset disposal system. However, this does not seem to be happening as evidenced in the responses from those Key Informants who did not offer any training.

For those procuring entities that had not offered any training, various reasons were given for not offering the training as shown in Table 38.

**Table 38: Reasons for Not Offering Training**

<b>Reason</b>	<b>Number</b>	<b>Percentage</b>
Lack of Funds	8	50
Lack Training Personnel	8	50
<b>Total</b>	<b>16</b>	<b>100</b>

Source: Field Data

An equal proportion (50%) of those entities not offering training attributed their failure to lack of funds and lack of personnel to do the training. Those who said lack of funds was the reason said that there was no budgetary allocation for this activity. There was however a general agreement that training of women entrepreneurs in areas of government procurement processes and business development is critical. Such training does allow women and especially those entering into business for the very first time to first understand issues of business viability and AGPO application procedures.

#### ***4.7 Monitoring and Evaluation Framework<sup>11</sup>***

This is basically a program management tool. It involves agreeing during the program planning phase how performance will be measured and checking those measures during and after implementation. Therefore to be able to track the performance of AGPO, there was need to have a monitoring and evaluation framework.

<sup>11</sup> The Reporting Template and Procurement Plan Template are in Appendix VII and VIII

The Public Procurement and Disposal Act 2015 under Section 9(1) states that the Public Procurement and Regulatory Authority is supposed to monitor, assess and review the public procurement and asset disposal system to ensure that they respect the national values and other provisions of the Constitution, including Article 227 and make recommendations for improvements and under Section 9 (1), it is also supposed to monitor and evaluate the preference and reservations provided for under the Act and provide quarterly public reports.

Section 157(12) of the Public Procurement and Asset Disposal Act, 2015 provides for the procuring entity to report to PPRA every 6 months providing disaggregated data on number of AGPO beneficiaries that have been procured by the procuring entity while Section 158 (3) of the Act provides all procurement awards by procuring entities where a preference or reservation scheme was applied shall be reported with disaggregated data to the Authority on a quarterly basis.

Section 158(2) of the Act provides that the procuring entity shall submit to the Authority the part in its procurement plan demonstrating application of preference and reservation schemes in relation to procurement budget within sixty days after commencement of the financial year.

It therefore means that the procurement entities are supposed to work closely with the Public Procurement and Regulatory Authority in providing their procurement plans and their procurement awards implying that the procurement entities also need to have a monitoring and evaluation system of their own which they can use to monitor how they are implementing the AGPO initiative, However, from the study results, only 41% of the procuring entities said that they have a monitoring and evaluation framework while 30% said their institutions did not have such a framework. Another 30% said that they were not aware of the existence or non-existence of such a framework as shown in Table 39.

**Table 39: Existence of Monitoring and Evaluation Framework**

<b>Monitoring and Evaluation</b>	<b>Number</b>	<b>Percentage</b>
Yes	15	41
No	11	30
No Response	11	30
<b>Total</b>	<b>37</b>	<b>100</b>

Source: Field Data

For those procuring entities that had a monitoring and evaluation framework, 41% said that the framework was very effective in monitoring the performance of AGPO. On the other hand, for

those procuring entities that did not have a monitoring and evaluation framework, various reasons were given for the failure to have one as shown in Table 40 and Figure 27.

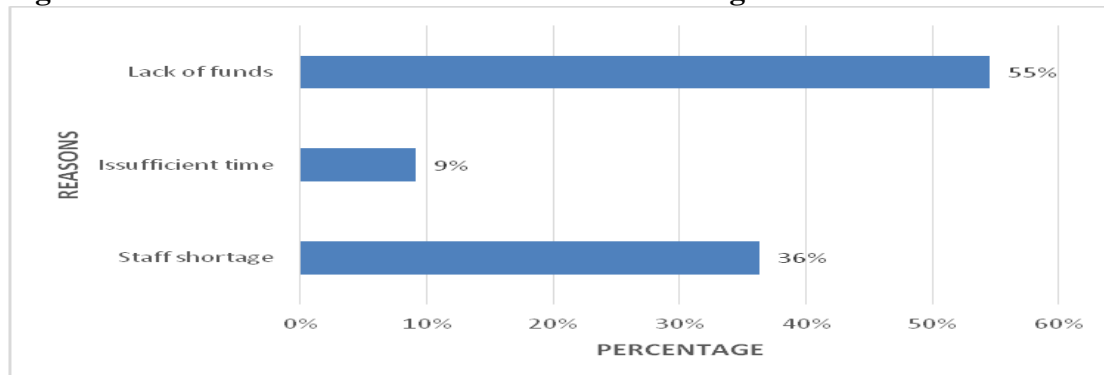
**Table 40: Reasons for Non-Existence of a Monitoring and Evaluation Framework**

Reason	Number	Percentage
Staff shortage	4	36
Insufficient time	1	9
Lack of funds	6	55
<b>Total</b>	<b>11</b>	<b>100</b>

Source: Field Data

The main reason given for the non-existence of a monitoring and evaluation framework was lack of funds at 55% followed by shortage of staff well versed with monitoring and evaluation procedures at 36% and insufficient time at 6%. Essentially the popular view by a majority of officers at the state departments that participated in the research exercise was that monitoring and evaluation is largely the function which is provided by the Treasury through the department of Monitoring and Evaluation.

**Figure 27: Reasons for Non-Existence of a Monitoring and Evaluation Framework**



From the findings, it means therefore that the procuring entities failure to have a monitoring and evaluation system impacts negatively on the Public Procurement and Regulatory Authority and National Treasury ability to monitor and evaluate the performance of the preference and reservation scheme especially if the procuring entity’s reporting system is faulty or not forthcoming.

#### **4.8 Challenges or Systemic Issues Faced by Procuring Entities in Implementing AGPO**

Key informants and some experts gave their opinion on the performance of AGPO initiative and identified some of the systematic issues faced by the procuring entities. The reported issues were seen as the constraint factors to the successful implementation of the AGPO initiative by the procuring entities. Some of these constraint issues are shown in Table 41 and in Figure 28.

**Table 41: Procurement Challenges Faced by Procurement Entities**

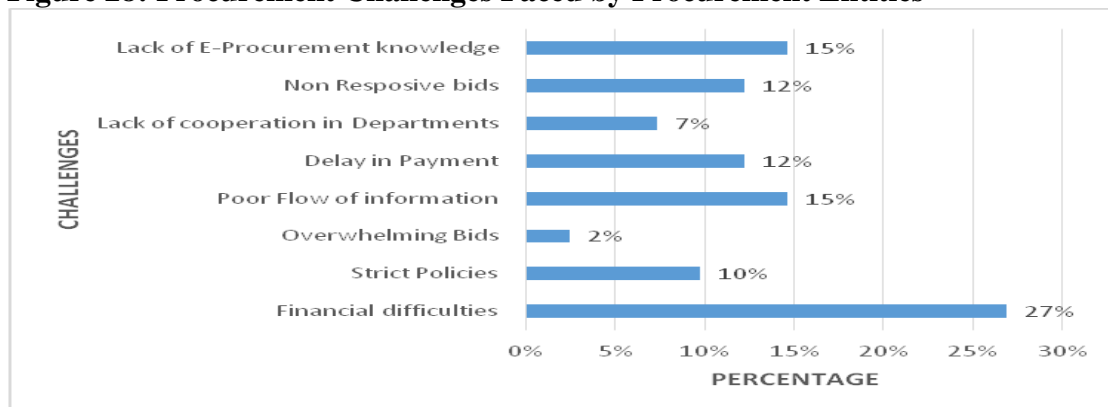
Challenges	Number	Percentage
Financial difficulties	11	27
Strict Policies	4	10
Overwhelming Bids	1	2
Poor Flow of information	6	15
Delay in Payment	5	12
Lack of cooperation in Departments	3	7
Non Responsive bids	5	12
Lack of E-Procurement knowledge	6	15
<b>Total</b>	<b>41</b>	<b>100</b>

**Source: Field Data**

**Poor Flow of Information**

Information gathered from the face to face interviews indicates that financial difficulties or lack of funds was the most cited difficulty faced by the procuring entities. This is an issue from the perspective of a situation where funds set aside for procurement are diverted or reallocated to other votes and hence leading to pending bills. Poor flow of information from the procurement departments to the finance departments and lack of E-procurement knowledge among the procurement officers were also cited as challenges by key informants followed by delays in payment emanating from some documents missing, unethical activities of cartels, and missing files.

**Figure 28: Procurement Challenges Faced by Procurement Entities**



**Lack of Knowledge of the Law by Procurement Officers**

Some key informants claimed that the law is not clear on the proportions that should go to this marginalized group. According to them, women are more privileged than the other groups since they have many avenues to get funds, for example, from their husbands, relatives, affirmative action funds and chamas but the law is not very clear on the specific allocation for each group of

the marginalized. For example, should the disabled be given 2% out of the 30% of the tenders reserved for women, youth and persons with disability? However, it seems the key informants who should be more informed of the law did not know that there is a circular from National Treasury to this effect which states that for People with Disabilities should be awarded at least 2% and not more than 50% to the other two groups. It seems this information is not trickling down to all the procurement officers on ground.

### **Corruption**

The experts<sup>12</sup> and procurement officers were not sure if the tenders were really going to women or to other individuals. They had observed that the rich and able bodied people, mainly men were using women, the youth and the disabled as a front for securing tenders. They apparently help the women go through the process of tendering and when the tender is won, the woman is given a small amount of money while the real business belongs to the rich people. This is a form of corruption.

The key informants also cited corruption in the procurement departments as a hindrance to women taking up the tenders. They said that most times it is the same women who win the tenders since they are known by the procurement officers or they have to give a bribe in order to win the tender. The corruption is fueled more by government stiff requirements in the tendering process and unethical activities of cartels operating within the public procurement offices. There is also the aspect of lack of enough personnel who have adequate experience in e-government procurement and more so in the AGPO initiative.

There were also claims of undue influence of who should get the tenders from other officers in the ministries or SAGAs who have vested interests (there were even claims that some of the beneficiaries were relatives of employees in the procuring entities) leading to single sourcing. Some key informants actually said that there were very influential cartels in the procuring entities.

### **Lack of Coordination**

There seems to be lack of coordination between the Treasury and the Public Procurement Regulatory Authority. An informal conversation from some employees of PPRA shows that the PPRA blames the Treasury for allowing Counties to register Women, Youth and PWDs for AGPO where they are given AGPO certificates at the county level. However, this prevents such people from benefiting from contracts in other counties. It also makes it difficult to know the

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<sup>12</sup> See attached list in Appendix V of Key informants and experts

exact number of AGPO registered enterprises at any one point since the data at the county level is not necessarily transmitted to the national level or there is no real time reporting by the Counties.

There was claim of lack of an up to date list of the target group enterprises due to registration of suppliers at the procurement entity level or even at the county level. It emerged that the PPRA published list of AGPO enterprises on its website may have enterprises registered more than once since Counties send their lists of AGPO registered enterprises to the AGPO secretariat at the National Treasury which sends the same to PPRA without any change. On the other hand, these same women apply for a national AGPO certificate at the AGPO secretariat at the National Treasury and this list is then sent to the PPRA. It is no wonder then that the PPRA published list of AGPO enterprises on its website shows 71,192 enterprises registered while that given to the consultant by the National Treasury (AGPO secretariat) shows 68,186 registered enterprises.

The key informants said that there is no close working relationship between the procurement office, the AIE holders, finance and the planning unit making it very hard to implement AGPO.

#### **Failure of Procurement Entities to Make Returns**

Although all government procurement entities ranging from primary schools, secondary schools up to the parastatals and ministries, numbering 31,000 are supposed to make returns to the National Treasury, very few make returns although they still use government money to procure goods and services. The key informants from Treasury said that at least 29,000 public procurement entities do not comply with the requirement of making returns as reflected by the fact that slightly less than 2000 out of the 31,000 procuring entities spread across 44 state departments, 300 parastatals and other SAGAS make returns. On the question on why they do not make returns, the experts and key informants said that there could be a possibility that they do not know how to do it hence the need for capacity building.

#### **Strict Regulations Leading to Challenges For the Target Group**

Another expert said that the AGPO law is good since it is supposed to help women attain their economic potential and improve their living standards and livelihoods. However, he said that he had noticed that very few women qualify for tenders and most of them supply stationary or what one would call small contracts due to lack of financial muscle. Apart from this, there is usually a very short notification (usually 14 days) period between the time the tender is advertised and the expression of interest date and since most women lack financial muscle and may not have active bank accounts their tenders get knocked off at the financial evaluation stage. There were claims

that some women whose tender applications are rejected send their documents the wrong way due to lack of knowledge and especially the new ones in business.

The target groups do not understand the public procurement and disposal process and mandatory requirements for them to be in the list of registered suppliers. In most instances AGPO beneficiaries do not appreciate why they are required to have a PIN/VAT certificate, Tax Compliance and County Government business licenses which are mandatory requirements under the AGPO initiative.

The AIE holders complained of poor quality goods supplied by women that do not meet the standards required by the AIE holders. There was also concern of PWDs not responding to registration of their enterprises under AGPO and therefore most procuring entities are not able to shortlist them as suppliers in their institutions.

#### **Financial Difficulties Leading to Delayed Payments**

There are exchequer challenges in the sense that funds meant for procurement are reallocated and diverted for other purposes leading to pending bills as suppliers wait for months to be paid. The experts said that they were aware of women who had supplied goods by taking advantage of AGPO but had not been paid more than one than year later due to apparently lack of funds to pay the suppliers as the money is diverted to other uses.

#### **Lack of Capacity to use IFMIS**

IFMIS was mentioned severally as a challenge for both the procuring entities and the target groups as most of the women are not computer literate and they do not know how to quote using the IFMIS portal. There were also claims of the system not being very user friendly as in most times, due to internet challenges, one gets timed out and they have to start the process all over again which is time consuming and frustrating. There were claims that the E-procurement officers are not well trained to handle AGPO and more so using IFMIS.

#### **Lack of Proper Signage leading to Poor Accessibility**

In some cases, the low rate of response to AGPO adverts was attributed to the lack of accessibility of government, parastatals and SAGAs offices as some are housed in private buildings and with no proper signage, hence the women may not know exactly where to drop the tender documents and at times they are even time barred while looking for the building to drop the tender.

#### ***4.9 How to Overcome the Challenges and Strengthen the Existing AGPO Monitoring/reporting and Tracking Systems***

##### **Deal with Corruption**

There is need for proper and thorough vetting of the women who apply for tenders under AGPO and to monitor the winning enterprises to prevent businessmen from exploiting the women in the tendering process. Procurement entities could also insist on having all the owners (directors) of the enterprises appearing during the tender opening evaluation stage and also insist on all of them being signatories in the bank account. To reduce corruption in the procurement entities and more so among the procurement and financial officers, there is need for officers to adhere to the code of conduct governing public officers especially on matters of integrity and as necessary take regular training on good ethical practices and effectively streamline the public procurement processes.

##### **Sensitization and Capacity Building to Target Group**

There is need for sensitization of women through chief's community meetings to make them aware of the AGPO opportunities that is intended to empower them financially. Also, the requests for expression of interest under AGPO should be displayed in accessible points such as places where women meet for chamas (socio-collateral meetings), churches, and dispensaries and at the chief's camps especially for low value tenders.

There is need to introduce women, youth and PWDs to mobile registration using their mobile telephone numbers and a short message service (sms) alert to contact them whenever a tender is advertised for them to apply. The target groups can also leverage on the use of social media. For example, an AGPO page on Facebook (<https://www.facebook.com/AGPOKenya/posts/60044674340569>) frequently advertises the available opportunities for the groups. However, this would appeal more to the youth but would tend to leave out older women who may not be computer savvy and may not know what Facebook is. It is also important to remember that different target groups have different needs as espoused by the key informants who said that PWDs are not usually responsive to requests for tenders and therefore do not appear in the procuring entities' list of supplies. It is therefore advisable to have a targeted approach which is disability friendly to enable the PWDs to access information relating to the available AGPO opportunities.



It is important for the National Treasury and County Treasuries to provide training and capacity building opportunities for AGPO beneficiaries on the public procurement and disposal processes and the reason for requiring them to have the mandatory documents.

Also, procurement entities should provide training and capacity building opportunities for AGPO beneficiaries that engage with their particular entity. Such trainings should complete the ones provided by the National and County Treasuries and these maybe more specific to address procurement requirements of the entities. This can help demystify the jargons in procurement process. Since some of the procurement entities that did not provide training cited lack of funds, then it is important that to have a capacity building levy which can be used to fund training and capacity building opportunities targeting AGPO beneficiaries.

There is also need to hire more personnel and build capacity in procurement entities in order to properly implement this very important initiative for women youth and PWDs.

### **Ease Stiff Requirements**

There is need to ease the stiff requirements such as active bank accounts, to make it easy for women who are new in business to benefit from the tenders and in the process, corruption networks would and effectively be reduced.

### **Adhere to Set Payment Periods**

Women get discouraged when they hear of stories of how long it takes for one to be paid after supplying goods and services to government procurement entities. Hence the suppliers should be paid in good time for goods delivered because delay in paying them could lead to closure of their businesses or incurring huge interest penalties from banks who may have lent them money to be able to honour the tender.

This study recommends that all LPOs/LSOs and tender contracts issued to AGPO beneficiaries should contain a provision that the procuring entity should pay interest at the prevailing mean commercial lending rate as determined by Central Bank of Kenya on delayed payments that are beyond recommended time period the date the invoice was received by the procuring entity. This would ease the pain the supplies go through in paying debts that they incurred in supplying goods and services to the procuring entities.

There was mention of delayed payment that last for more than one year apparently due to lack of funds. If for sure the delay is due to lack of funds, then there is need to make sure that before a tender is floated under AGPO, funds for payment should be allocated and ready (ring fenced) in

order to make prompt payment for goods delivered and services rendered. If the funds are there but payment is withheld or delayed, it is important to investigate the reasons for such delays and sort them out immediately. If the delay is a deliberate effort by procurement officers or financial officers to extract bribes from the suppliers in order to fast track the payment, then those officers should be sacked and charged with corruption.

### **Address Lack of Finances**

Banks, Uwezo Fund, Youth Enterprise Development Fund and Women Enterprise Fund should fast track loans for women who have won tenders to enable easy and fast delivery of goods tendered.

### **Cooperation and Coordination**

There should be effective and continuous coordination and cooperation between the National Treasury and PPRA in order to streamline registration of businesses under AGPO in order to avoid possible double registrations by AGPO beneficiary's business entities.

In order to make sure that target group benefits from tenders from all the counties, registration should be at the national level and not at the county level as the study found that those enterprises that had county AGPO certificates could only qualify for tenders in those counties where their businesses are located.

### **Comply with the Law on Reporting**

For those procuring entities that do not make returns, it is important to train and build their capacity on how to make the returns and the importance of having up to date data on the performance of AGPO. Since some procuring entities said that they do not have a monitoring and evaluation framework due to lack of funds and therefore are not able to track the performance of AGPO, it is important to also set aside funds for an M&E in order to monitor and evaluate the performance of this very important initiative and make improvements where necessary.

It is also important to have a multi-sectoral approach within government departments to the implementation of AGPO to the effect that the planning, finance and procuring departments work together in terms of coordination, communication and cooperation.

There is also need for the procuring entities to work together in publishing the enterprises that have been winning tenders because it is clear that the same enterprises could be winning tenders in almost all procuring entities over the years taking advantage of the lack of a multi-sectoral approach to the implementation of the AGPO initiative. The AGPO certificates could be

serialized such that if at any one time a woman has put in a tender application, they cannot at the same time apply for another tender in another ministry, parastatal or SAGA until the procurement process of evaluation in the first one is over. This would prevent some firms dominating and becoming the dominant suppliers in the procuring entities at the expense of the other firms. This would enhance transparency and accountability.

### **Capacity Building on use of IFMIS and E-Procurement**

It is important to train both procurement officers and the target groups on the use of IFMIS and at the same time, sort out the technological issues associated with IFMIS to make it user friendly.

## CHAPTER FIVE

### SUMMARY, CONCLUSION AND POLICY RECOMMENDATIONS

#### *5.0 Summary*

This study sought to investigate the effectiveness of the AGPO in Kenya with the aim of establishing the potential interventions to support the program. It investigates the systemic issues that relate to the AGPO initiative particularly from the right and duty bearers point of view and how these can be addressed in order for the initiative to benefit the intended target groups (rights holders) and AGPO to be a show case to be emulated by other countries.

The overall objective of this study was to assess the effectiveness of the AGPO as entrenched under the Preference and Reservations Scheme in the Public Procurement and Disposal Act 2015 (Section 12), and make recommendations on how to support the impact of the law.

The specific objectives were:

1. Investigate the extent of participation of beneficiaries (women and youth) in accessing the government procurement opportunities in terms of volume and value of government tenders awarded to women owned, youth and PWD owned businesses;
2. Identify existing barriers/challenges that prevent Youth, Women and PWDs from utilizing AGPO opportunities fully including assessing the level of awareness among AGPO target groups;
3. Identify barriers/ challenges for procuring entities in implementing AGPO and make recommendations of how to strengthen the existing AGPO monitoring/reporting and tracking systems at Public Procurement Regulatory Authority and at the AGPO Secretariat at the National Treasury;
4. Provide recommendations to the relevant stakeholders including the policy makers, public entities, UN Women and AfDB on how to support the initiative achieve its objectives in compliance with the law.

The method used in data collection was participatory, evidence based, output oriented and both quantitative and qualitative. It involved document review/desktop, and face to face interviews involving key informants and individual women enterprises. Informal discussions with experts on women empowerment were also used.

Relevant documents containing data and information were reviewed including existing baseline surveys, Government policy documents, reports of Ministries dealing with women affairs such as

Ministry of Public Service, Youth and Gender Affairs and specifically the State Department of Gender Affairs, The National Treasury, Department of Public Procurement, and the department that deals with the Integrated Financial Management Information Systems (IFMIS) and AGPO Secretariat, Kenya Law Reports such as Public Procurement and Disposal Act and Regulations, Public Procurement and Disposal General Manual, Public Procurement Preference and Reservations (Amendment) Regulation, Public Procurement and Regulatory Authority Circulars, The National Treasury Circulars, Public Procurement and Regulatory Authority Annual Reports and other reports that were relevant to the assignment including other existing studies relating to women affairs and especially on issues of government procurement.

Face to face interviews were used in data collection from both key informants and women owned enterprise respondents using a questionnaire (see attached). Open-ended interviews were also used where necessary mainly when having discussions with gender experts.

Purposeful random sampling method was used to select 5 counties to be included in the study for both key informants and individual women entrepreneurs. These were Machakos, Nakuru, Nairobi, Kajiado and Kajiado. A list of AGPO certified women businesses was obtained from two sources such as Women Enterprise Fund and from National Treasury in the Directorate that deals with AGPO and it was used to randomly select a sample of women to be interviewed.

The study population comprised of formally registered women enterprises that were all sole proprietorships from the three eligible categories namely: women, youth and persons with disability. In these three categories, there were: those that applied for and got tenders; those that applied for and didn't get the tenders; and those that didn't apply at all. Information was sought on accessibility of these 30% reserved tenders. The total sample from individual women and key informants was 98 comprising of 61 women owned businesses and 27 key informants. An in-depth questionnaire was administered to a responsible member (if possible the owner) from each of the 61 women owned enterprises and 37 key informants from key government ministries, parastatals and semi-autonomous government agencies that are responsible for implementation of the 30% reserved procurement who are the duty bearers. The data was analyzed using different qualitative and quantitative statistical and social science methods and is presented in Tables and graphs.

The major challenges facing women owned business that had AGPO certificates were: (i) challenges in filling standards tender documents; (ii) certification, Technical and Financial

Challenges; (iii) delay in payment for goods and services delivered; (iv) corruption; (v) short timelines to respond to tender; and (vi) stiff tendering requirements.

The challenges facing those without AGPO certificates were: (1) lack of awareness of AGPO initiative; (2) lack of information of how to register a business and for an AGPO certificate; (3) perception of corruption in government; and (4) fear of suffering loss due to delayed payments.

For those who had embraced the AGPO initiative, 82% said that they had benefited from the AGPO initiative and the benefits ranged from business expansion, employment, payment of fees, provision of basic needs and purchase of property although 54% said they were not satisfied with the initiative probably due to the challenges they may have faced from registration to winning the tender.

The long term objective of AGPO is to reduce poverty especially among the marginalized women, youth and PWDs. From the study, it is clear that this objective may be achieved if only the uptake of the initiative was much higher than it is now. This is because, doing business with government seems to be benefiting the women in business growth in terms of increased profit margins, increasing the number of employees, increasing the amount of stock and acquisition of new partners among the critical parameters of women empowerment.

From the key informants point of view, the procuring entities face various challenges such as: (i) Lack of funds for capacity building for both the target group and the procurement officers; (ii) lack of capacity to make returns to The National Treasury and the Public Procurement Regulatory Authority as required by law; (iii) delayed payments due to funds reallocation to other uses; (iv) poor flow of information between procurement and finance departments; (v) Corruption; (vi) lack of coordination between Treasury and the Public Procurement Regulatory Authority; (vii) strict regulations leading to challenges for the target group; (viii) lack of capacity to use IFMIS; and (ix) lack of proper signage leading to poor accessibility.

### ***5.1 Conclusion***

The AGPO initiative has provided an opportunity for women, youth and persons with disabilities to do business with government. The long term objective of AGPO of reducing poverty especially among the marginalized women, youth and PWDs seems to be achieved because doing business with government seems to be benefiting the women in terms of increased profit margins, increasing the number of employees, increasing the amount of stock, payment of fees,

provision of basic needs and purchase of property which essentially leads to economic empowerment. However, both the target groups and the procurement entities are faced with various challenges that need to be addressed if the AGPO initiative is to succeed.

### ***5.2 Policy Recommendations***

Challenges faced by the target group and the procurement entities need to be addressed and this study recommends the following:

To reduce corruption in the procurement entities and more so among the procurement and financial officers, there is need for officers to adhere to the code of conduct governing public officers especially on matters of integrity and as necessary take regular training on good ethical practices and effectively streamline the public procurement processes.

Sensitization and capacity building for the target group through use of a targeted approach in order to demystify the AGPO initiative. This training should be done at the National level, at the County level and even at the procurement entity level and targeted to specific group since each group has got its own challenges.

It is also important to ease the still requirements that the target groups complained that prevent them from either registering with AGPO and the funds set aside for payment for goods and services should be ring-fenced to prevent reallocation to other uses. Official timelines set for payment for goods and services delivered should be strictly adhered to and all LPOs/LSOs and tender contracts issued to AGPO beneficiaries should contain a provision that the procuring entity should pay interest at the prevailing mean commercial lending rate as determined by Central Bank of Kenya on delayed payments that are beyond recommended time period the date the invoice was received by the procuring entity. This would ease the pain the supplies go through in paying debts that they incurred in supplying goods and services to the procuring entities.

The National Treasury and the Public Procurement Regulatory Authority should strive towards cooperation and coordination in order to streamline registration of businesses under AGPO in order to avoid possible double registrations by AGPO beneficiary's business entities.

For those procuring entities that do not make returns, it is important to train and build their capacity on how to make the returns and the importance of having up to date data on the performance of AGPO.

It is also important to have a multi-sectoral approach within government departments to the implementation of AGPO to the effect that the planning, finance and procuring departments work together in terms of coordination, communication and cooperation.

There is also need for the procuring entities to work together in publishing the enterprises that have been winning tenders because it is clear that the same enterprises could be winning tenders in almost all procuring entities over the years taking advantage of the lack of a multi-sectoral approach to the implementation of the AGPO initiative. The AGPO certificates could be serialized such that if at any one time a woman has put in a tender application, they cannot at the same time apply for another tender in another ministry, parastatal or SAGA until the procurement process of evaluation in the first one is over. This would prevent some firms dominating and becoming the dominant suppliers in the procuring entities at the expense of the other firms. This would enhance transparency and accountability.

It is important to train both procurement officers and the target groups on the use of IFMIS and at the same time, sort out the technological issues associated with IFMIS to make it user friendly. Finally this study recommends that UN Women and other development partners should consider organising and facilitating more capacity building initiatives both at the National and County levels on the AGPO initiative in order to address the challenges faced by both the target group, the procurement entities, the National Treasury and the Public Procurement Regulatory Authority and enhance uptake of the AGPO initiative.



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**APPENDICES**

**APPENDIX I: KEY INFORMANT (duty bearers) QUESTIONNAIRE**

**ASSESSMENT OF ACCESS TO GOVERNMENT PUBLIC PROCUREMENT OPPORTUNITIES FOR WOMEN, YOUTH AND PERSONS WITH DISABILITIES**

---

**NAME OF COUNTY** \_\_\_\_\_

**NAME OF INTERVIEWER** \_\_\_\_\_

**NAME OF INTERVIEWEE** \_\_\_\_\_

**POSITION OF INTERVIEWEE** \_\_\_\_\_

**DATE OF INTERVIEW** \_\_\_\_\_

1. Are you are procurement entity or a user?
  - (a) Procurement
  - (b) User
  - (c) Head of Finance
  
2. If a procurement entity, what sort of tenders have you been reserving for women under the AGPO initiative?
  1. General Supplies - for stationery, furniture, computer hardware, fittings, computer accessories, printers, photocopiers
  2. Small Works & Engineering - for construction in categories of electrical works, water works, road works and building works, plumbing works, interior design
  3. ICT Services - for repair and maintenance of ICT equipment, networking, configuration, web design, programming
  4. Professional Services & Consultancy - for cleaning services, fumigation services, sanitation services, event organisation, catering services, entertainment services, insurance brokerage services, asset valuation services, car hire services, transport services, professional consultancies, veterinary services, asset tagging
  5. Fresh Produce and Agricultural Products - for supply of fruits, vegetables, grains, cereals, meat products, fertilizers, agro-chemicals
  
3. How many women have applied for contracts/tenders under AGPO in your organizations? \_\_\_\_\_
  
4. How many applied and succeeded in getting tenders under the AGPO initiative in your organization? \_\_\_\_\_
  
5. For those ones whose tender applications were rejected, what were some of the reasons for their rejection?
  - (a) Lack of AGPO certification
  - (b) Technical issue
  - (c) Financial Issue
  
6. What sort of challenges do you as procuring agencies experience in the process of implementing the AGPO initiative?

Explain.....  
.....  
.....  
.....

7. How should these challenges be addressed?

Explain.....  
.....  
.....  
.....

8. If you are a user department, what sort of challenges do you experience in the process of utilizing the goods/services procured under the AGPO initiative?

- (a) quality related
- (b) Timelines/delays

© Any other

9. How should these challenges be addressed?

Explain.....  
.....  
.....  
.....

10. Do you offer business development services such as training and capacity building for the target groups?

- (i) Yes ( )
- (ii) No ( )

11. If yes to Q 10, how many people have you trained on business development? .....

12. Did you see any change in the uptake of the AGPO initiative after the training?

- (i) Yes ( )
- (ii) No ( )

13. If No to Q 10, what prevents you from offering the services?

Explain.....  
.....  
.....  
.....

14. Is there a monitoring and evaluation framework on the uptake of the AGPO Initiative?

- (a) Yes ( )
- (b) No ( )

15. If Yes to Q 14 how effective is it in monitoring the uptake of AGPO?

- (a) Effective
- (b) Not effective

16. If the M&E is not effective, what are the reasons that make it ineffective in monitoring the uptake of AGPO?

Explain.....  
.....  
.....

17. If there is no monitoring and evaluation framework, what has prevented you from initiating an M&E framework?

Explain.....  
.....  
.....

18. What are some of your recommendations for the successful implementation of the AGPO initiative?

Explain.....  
.....  
.....

19. How quickly do you process payment for good/services delivered?

- (b) <3 months
- (c) 3-6 months
- (d) >6 months

20. Give reasons for the timelines

.....  
.....  
.....  
.....

***APPENDIX II: QUESTIONNAIRE FOR INDIVIDUAL WOMEN***

**ASSESSMENT OF ACCESS TO GOVERNMENT PUBLIC PROCUREMENT OPPORTUNITIES FOR WOMEN, YOUTH AND PERSONS WITH DISABILITIES**

---

**NAME OF COUNTY** \_\_\_\_\_

**NAME OF INTERVIEWER** \_\_\_\_\_

**NAME OF INTERVIEWEE** \_\_\_\_\_

**DATE OF INTERVIEW** \_\_\_\_\_

1. Which kind of business are you involved in?
  - a) Agribusinesses/food supplies ( )
  - b) Manufacturing/mechanics ( )
  - c) Construction/works ( )
  - d) Retail/wholesale/trade ( )
  - e) Hospitality/catering/event organization/performing arts ( )
  - f) ICT services ( )
  - g) Professional/consultancy/research services ( )
  - h) Security/cleaning services ( )
2. How long has your business been in existence?
  - a) 0-5 years ( )
  - b) 5-10years ( )
  - c) More than 10years ( )
3. How long has it been since your 1<sup>st</sup> AGPO certificate?
  - (a) <1 year ( )
  - (b) 2 years ( )
  - (c) 3 years ( )
  - (d) 4 years ( )
4. In that time, have you applied for a contract with the government through the AGPO
  - (a) Yes ( )
  - (b) No ( ) (Move to Question 30)
5. Have you ever won a contract with the government through AGPO?
  - (a) Yes ( )
  - (b) No ( )
6. If No to Q 5, explain why your application was not successful

- .....
- .....
- .....
7. If yes to Q 5, was this contract with
    - a) National Government ( )
    - b) County Government ( )
    - c) Both ( )
  8. If it was a contract with a county government, which county was it?.....
  9. If your contract was with the National government, which entity did you win your contract from?
    - (a) Ministry ( )
    - (b) Parastatal ( )
    - (c) Semi-autonomous agency ( )
  10. Since you won the contract has there been any expansion of your business?
    - (a) Yes ( )
    - (b) No ( )
  11. If yes to Q 10, in what form of expansion has your business experienced as a result of the AGPO initiative?
    - (a) Profit Margin ( )
    - (b) More customers ( )
    - (c) New Marketing routes ( )
    - (d) Employees ( )
    - (e) Amount of stock ( )
    - (f) Acquisition of new partners ( )
    - (g) Others ( ) Specify
  12. On average, how many government tenders do you apply annually? .....
  13. How did you learn about government tenders especially those reserved for AGPO groups?.....
- .....
- .....

14. On a scale of 1 to 5, with 1 being easy and 5 being difficult, how challenging was it to get the government tender filled?

- (a) 1 ( ) Very easy
- (b) 2 ( ) Easy
- (c) 3 ( ) Moderate
- (d) 4 ( ) Difficult
- (e) 5 ( ) Very difficult

15. What stage of the tender application process do you find the most challenging?

- (a) Certification process ( )
- (b) Technical Evaluation ( )
- (c) Financial Evaluation ( )
- (d) Other (Specify) ( )

16. When applying for AGPO tenders, what requirements are most difficult for your enterprise to meet?

- (a) Active bank statement ( )
- (b) Audited Accounts ( )
- (c) Previous contracts ( )
- (d) Adequate reference letters ( )
- (e) Bid bond ( )
- (f) Other ( )

17. What aspects of the tender requirements would you want the government to review in order to improve your chances of winning AGPO tenders?

.....

.....

.....

.....

.....

18. Do you have the following in your enterprise?

- (a) Accountant/book keeper ( )
- (b) Auditor ( )
- (c) Procurement experts ( )



19. Do you know the LPO/LSO financing options

(a) Yes ( )

(b) No ( )

20. What was the source of financing for the LPO/LSO?

.....  
.....

21. How long did it take you from the time of getting the LPO/LSO to supplying

(a) <1 year

(b) 1 Year

(c) >1 year

22. How long did it take you from the time of supplying to the time of payment?

(a) <1 year

(b) 1 Year

(c) >1 year

23. Have you used or approached any of the affirmative action revolving funds by government to get financing?

(a) Yes ( )

(b) No ( )

24. If yes, which ones?

(a) Uwezo fund ( )

(b) Women Enterprise Fund ( )

(c) Youth Enterprise Fund ( )

(d) National Fund for Persons with Disability ( )

(e) Other (specify) ..... ( )

25. Are you satisfied with the AGPO initiative in relation to doing business?

(a) Yes ( )

(b) No ( )

26. If no to Q 23, what are the barriers/challenges you are experiencing?

.....  
.....  
.....

27. How should the identified barriers/challenges be addressed?

.....  
.....  
.....  
.....

28. Has the AGPO initiative contributed to creating an enabling environment for women, to participate in business in Kenya?

(a) Yes ( )

(b) No ( )

29. If yes to Q 25, could you explain how?

.....  
.....

30. If no to Q 4, what was (were) the reason(s) for your failure to apply for the AGPO initiative?

(a) Lack of AGPO certificate

(b) Don't have a bank account

(c) Don't have someone to audit my accounts

(d) Any other explain

.....  
.....  
.....

**APPENDIX III: CERTIFICATE OF REGISTRATION AT COUNTY LEVEL**

CGN/PPD/DGW/0027

REPUBLIC OF KENYA



COUNTY GOVERNMENT OF NYERI  
CERTIFICATE OF REGISTRATION  
Disadvantaged Group - Women

*RWARE STATIONERS*  
P.O. Box...*2162 NYERI*...has on this...*25<sup>TH</sup>*...day of...*JUNE*...20*15*...  
been duly registered under The Public Procurement and Disposal Act  
(Preference and Reservations) regulations, 2013 for a period of two years.

*GENERAL SUPPLIES*  
CATEGORY



*[Signature]*  
CHIEF OFFICER  
COUNTY TREASURY


Serial NO.: 0027

Note: The contents of this certificate should not be erased, altered or defaced in any way.

**APPENDIX 1V: CERTIFICATE OF REGISTRATION AT NATIONAL LEVEL**

1421

NO.NT/PPD/DGW/8964/E





REPUBLIC OF KENYA  
CERTIFICATE OF REGISTRATION  
DISADVANTAGED GROUP—WOMEN

MIS RWADE STATIONERS

P.O. Box 2162-10100 NYERI.....has on this 30<sup>TH</sup> day of SEPTEMBER.....2015, been duly registered under The Public Procurement and Disposal Act (Preference and Reservations) Regulations, 2011, 2013 for a period of two years.

General Supplies  
CATEGORY

  
ERIC KORIR  
For: Principal Secretary / National Treasury



DISCLAIMER: CONFIRM VALIDITY OF THE CERTIFICATE ON THE PUBLIC PROCUREMENT OVERSIGHT AUTHORITY WEBSITE WWW.PPOA.GO.KE

**APPENDIX V: KEY INFORMANTS AND GENDER AND YOUTH EXPERTS**

No.	NAME	ORGANIZATION	DESIGNATION
<b>EXPERTS</b>			
1.	Simon Okoth	The National Treasury	Senior Clerical Officer in charge of AGPO
2.	E. K. Korir	The National Treasury	Acting Director: Public Procurement Department
3.	Vena Omweli	The National Treasury	National Treasury :Procurement M& E
4.	Nancy Gitonga	East African Business Council	Coordinator: East African Women in Business Platform
5.	Haika W. Lawere	Mbezi Garden Hotel Ltd	Executive Director, Mbezi Garden Hotel Ltd
6.	Roselyne Mwangi	Ebony Global Travel & Tours	Director: Ebony Global Travel & Tours
7.	Nancy Mutugu	United Women SACCO	Chief Executive Officer: United Women SACCO
8.	Prof. Wanjiku Kabira	African Women Studies Centre University of Nairobi	Director: African Women Studies Centre University of Nairobi
9.	Edward Githaiga	Vision 2030 Youth Entrepreneurs Associate	Chief Executive Officer: Vision 2030 Youth Entrepreneurs Associate
<b>KEY INFORMANTS</b>			
1.	Mr. Mulavu	National Treasury	Assistant Director: Procurement Department
2.	Mr. Mokua	Devolution and Planning	Head of Supply Chain
3.	Mr. Andrew Kimuku	Gender and Youth	Ag. Head: Procurement
4.	Mr. Martin Wambua	Min. of Education (University)	Head of Supply Chain
5.	Mr. Wesley Onyoni	Kenya Intellectual Property Institute	Procurement Officer
6.	Mr. Ahmed Yussuf	Kenya Revenue Authority	Procurement Officer
7.	Mr. Musau Martin	Controller of Budget User Department	Research Officer
8.	Mr. Lusuli Anthony	Controller of Budget	Supply Manager/Supply Chain
9.	Mr. Irungu Nelson	Controller of Budget	Finance Officer
10.	Ms. Judy Home	Centre for Multiparty Democracy	Office Manager in charge of Supplies
11.	Mr. Christopher Njogu	Centre for Multiparty Democracy	Finance Officer
12.	Mr. Mwathi Katau	Postal Corporation of Kenya	Procurement Officer
13.	Mr. Nelson Mwashigadi	Auditor General	Finance Officer
14.	Ms. Linet Ndeda	Auditor General	Auditor
15.	Ms. Hellen Waliaura	Kenya Broadcasting Corporation	Finance Officer
16.	Mr. Bernard Ngao	Kenya Broadcasting Corporation	Procurement Officer
17.	Ms. Anne Murimi	Kenya Broadcasting Corporation	Auditor
18.	Mr. George Mwaura	Kenya Revenue Authority	Finance Officer
19.	Mr. Horrace Oyuke	Auditor General	Procurement Officer
20.	Mr. Abraham Nyaga	Postal Corporation of Kenya	Auditor
21.	Mr. Geoffrey Mwangi	Postal Corporation of Kenya	Finance Officer
22.	Mr. Nicholas Murila	Kenya Revenue Authority	Researcher

23.	Mr. Mwitwa Range	Centre for Multiparty Democracy	Gender Officer
24.	Mr. Mbugua	Nyeri County	Finance
25.	Ms. Mary Wairimu	Nyeri County	Principal Administor
26.	Mr. Gitobu	Nyeri County	Procurement Officer
27.	Mr. Polycarp Oduor	Nairobi County	Procurement Officer
28.	Mr. Luke Najulo	Kajiado County	Deputy Director Supply Chain
29.	Mr. Job Kaikai	Kajiado County	Education Officer
30.	Mr. Ken Pulei	Kajiado County	Accountant
31.	Mr. Rodgers	Nairobi County	Finance
32.	Mr. Bernard Muli	Machakos County	Accountant
33.	Ms. Patricia Kioko	Machakos County	Head: Supply Chain
34.	Mr. John Kilonzo	Machakos County	Chief Officer: Education
35.	Ms. Agnes Mutheu	Machakos County	Department of Tourism
36.	Mr. Charles Chege	Nakuru County	Supply Chain Officer
37.	Ms. Nancy Jeruto	Nakuru County	ICT Officer

**ANNEX VI: LIST OF PHOTOS OF SOME WOMEN RESPONDENTS**

**Photos 1:** An Agribusiness Facility Operated by a Mature Woman and who applies for tenders to supply Vegetables, potatoes, Onions, Rice, Maize and other dry goods to government institutions



**Photos 2:** A Cybercafe operated by a Youthful Entrepreneur and who applies for tenders to supply stationery to institutions



**Photos 3: A Dry Goods Facility Operated by a Middle Aged Woman and who applies for tenders to supply cereals in institutions such as Schools, colleges and other government institutions**



**Photos 4: A Clothing Shop Operated by a Middle Aged Woman and Tenders for School Uniforms**





**Photos 5: A Youth who Tenders for Cleaning Services**



**APPENDIX VII: PUBLIC PROCUREMENT REPORTING FORMAT**

<b>PROCUREMENT REPORTING FORMAT (REVISED)</b>	
<b>Reporting Quarter</b>	
<b>A: GENERAL INFORMATION</b>	
Procuring Entity Name	
Name of Accounting /Authorised Officer	
Designation of Accounting /Authorised Officer	
Contract Award for	
Contract Value Ksh.	
Invitation/Proposal Reference No.	
Procurement Method	
<b>B: FUNDING</b>	
Budget and Source of Funds	
Development Partner (if applicable)	
<b>C: SPECIFIC INFORMATION</b>	
Project/Programme Code/Ref N0 (if applicable)	
Project/Programme Name (if applicable)	
Tender/Proposal No.	
Tender/Proposal Name	
Date of Advertisement (dd/mm/yyyy)	
Date of Notification of Award (dd/mm/yyyy)	
Date of Contract Signing (dd/mm/yyyy)	
Proposed Date of Contract Completion	
No. of Tenders / Proposals Sold	
No. of Tenders / Proposals Received	
No. of Responsive Tenders / Proposals	
<b>D: CONTRACT AWARD INFORMATION</b>	
Brief Description of Contract	
Contract Value	
Name of Supplier / Contractor / Consultant	
Location of Supplier / Contractor / Consultant	
Location of Delivery/Works/Consultancy	
Is the Contract Signed with the same person stated in the Notification of Award?	
If No give reason why	
Was the Performance/Guarantee/Security provided in due time?	
If No give reason why	
Was the Contract Signed in due time?	
If No give reason why	

**APPENDIX VIII: ANNUAL PROCUREMENT PLAN**

**ANNUAL PROCUREMENT PLAN  
& PROCUREMENT IMPLEMENTATION REPORT**

Ministry/Parastatal .....

Procuring Entity's Name .....

Project Name (if applicable) .....

Financial Year .....

No.	Description of Goods	Unit	Quantity	Procurement Method	Source of Funds	Estimated Cost Kshs. '000	Time Process	Invite/ Advertise Tender	Open Tender	Evaluate Tender	Committee Award Approval	Notifi- cation of Award	Contract Signing	Total time to contract signature	Time for completion of contract		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16		
1.							Planned Dates										
							Planned Days										
							Actual Days										
2.							Planned Dates										
							Planned Days										
							Actual Days										
3.																	
4.																	
	<b>Total</b>																

Prepared by Head of Procurement Unit: Name \_\_\_\_\_ Sign \_\_\_\_\_ Date \_\_\_\_\_

Approved by Head of Procuring Entity: Name \_\_\_\_\_ Sign \_\_\_\_\_ Date \_\_\_\_\_

Guidance notes on preparing the procurement plan as per column: -

1. Represents a number at the PE's discretion.
2. Description of the goods being procured. This should be comprehensive but not go to the level of specifications.
3. Unit of purchase or issue.
4. Quantity should be expressed in universally acceptable terms, for instance, number (No.), kilogrammes (Kg), tonnes. Etc.
5. Procurement method – the methods are limited to only open tender, direct, restricted, request for quotation and low value.
6. Source of funds – could either be from GoK or a donor.
7. Estimated cost – represents the total cost at which the goods are estimated to be procured. The cost should be established through market surveys.
8. Time process – represents the planned dates for execution of the various activities, planned days those activities are expected to take and actual dates taken in each specified activity. The actual dates should be filled after the activities are concluded.
9. Invite/advertise tender – this is the date when tenders are advertised in the newspapers or when bidders are invited to collect tender documents under the restricted procurement method.
10. Tender opening – this is the date when tender documents are opened.
11. Tender evaluation – is the process used to identify the most preferred bidder technically and financially. The maximum time allocated is provided in the Act.
12. Committee approval to award – this is the date that either the tender or procurement committee awards the subject procurement.
13. Notification of award – this is the date that notification of award letter is sent to the preferred bidder.
14. Signing of contract – this is the date on which the contract is signed between the PE and the supplier/contractor.
15. Total time to contract signature – this is the number of days taken between issuance of notification of award and signing of the contract.
16. Time for completion of contract – this is the time in days to be taken before the contract is completed.