FACTORS CONTRIBUTE TO NON-COMPLIANCE OF PUBLIC PROCUREMENT ACT IN PUBLIC SECTORS.

By
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A Research Report Submitted to Mzumbe University, Dar es Salaam Campus College, in Partial Fulfillment of the Requirements for the Award of the Degree of Master of Science in Procurement and Supply Chain Management

2013
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We, the undersigned, certify that we have read and hereby recommend for acceptance by the Mzumbe University, a dissertation/thesis entitled: **factors contribute to non-compliance of Public Procurement Act**, in partial/fulfillment of the requirements for the award of the degree of Master of Science in Procurement and Supply Chain Management.

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The success of this study is due to the inputs of the people and entities acknowledged above, however errors and shortcomings in this work remain solely mine and should not be ascribed to any of the above acknowledged individuals and Institutions.

I say thank you very much.
DEDICATION
This research report is sincerely and entirely dedicated to my lovely parents, mother Mwl. Bazila J. Mrosso, father Mr. Juvenal Mrosso, my young brothers Arestides, Aretas, Jeremiah, Jackson, Ines and my Aunt Mrs. Chailla B. Tarimo for their endless encouragement concern and care while I was working towards this end of MSC-PSCM qualification.
# Abbreviation and Acronyms

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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>APP</td>
<td>Annual Procurement Plan</td>
</tr>
<tr>
<td>CAG</td>
<td>Control and Auditor General</td>
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<td>CPI</td>
<td>Compliance Performance Indicator</td>
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<td>CTB</td>
<td>Central Tender Board</td>
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<td>HQ</td>
<td>Headquarter</td>
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<td>NBMM</td>
<td>National Board of Materials Management</td>
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<td>NPPA</td>
<td>National Public Procurement Authority</td>
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<tr>
<td>PDES</td>
<td>Public and Disposal Entities</td>
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<tr>
<td>PE</td>
<td>Procuring Entity</td>
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<tr>
<td>PMU</td>
<td>Procurement Management Unit</td>
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<td>PPA</td>
<td>Public Procurement Act</td>
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<tr>
<td>PPB</td>
<td>Public Procurement Board</td>
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<tr>
<td>PPDA</td>
<td>Public Procurement Disposal Asset</td>
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<tr>
<td>PPRA</td>
<td>Public Procurement Regulation Authority</td>
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<tr>
<td>URT</td>
<td>United Republic of Tanzania</td>
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<tr>
<td>WB</td>
<td>World Bank</td>
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ABSTRACT

The study has assessed the factors that contribute to non-compliance of Public Procurement Act in the public procurement. The study took place with the justification of the persistence of the practices where the Government procures its goods, works and services with violation to what PPA instructs.

The researcher distributed the questionnaires to collect the primary data and also analyzed the available secondary data. The researcher adopted the purposive sampling procedures as she intended to get opinions from the practitioners in procurement, audit and other regulatory organs for public procurement.

From the study, it became apparent that the major factors contribute to non-compliance to PPA are the human actions deliberately done including corruption and collusions. Another factor that was highly supported by the study to have a substantial bearing on no-compliance to PPA is the Government bureaucracy and lack of enterprising culture in its operations.

In accordance to the findings of the study, the following recommendations have been made by the researcher:-

- The Government is required to put a system in place that will encourage aggregated procurements to enjoy the economies of scale by following what is in PPA and do follow up for the benefit of the nation as whole.

- The Government need to introduce and encourage in its operations the enterprising behaviors to be able to catch up with the attitude of the fellows from the private business community when working under Public Private Partnership (PPP)

- The regulatory bodies and the law enforcement organs must ensure the full compliance with the law while undertaking the public procurements. It will be deterrent measures to discipline the staffs who are proved to have taken part in defrauding the Government during public procurement and will deter others in doing the same.
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CHAPTER ONE

INTRODUCTION

1.0 Introduction
In this section, the researcher will provide background information on how other say about compliance of public procurement Act and give own view that made her wish to assess for the factors contributing to non-compliance of public procurement Act during public procurement, statement of the problem, research objective and significance of the study.

1.1 Background information
The Public Procurement Act No. 21 of 2004 defines procurement as a “Buying, Purchasing, Renting, Leasing or otherwise acquiring any goods, works or services by procuring entity spending public funds on behalf of a ministry, department or regional administration or the Government or public body and includes all functions that pertain to delivery of any goods, works or services, including description of requirement, selection and invitation of tenders, preparation and award of contracts.

It is called Public Procurement Act, but it also caters for all type of business enterprises and no business can operate without it. Sound procurement procedures are very essential with collaboration to its documents. A good performance of procurement in any organization results from following proper procedures accurate documentation while poor performance cause negative impact and abuses of the whole procurement process as stated in a Procurement Act No.3 and 21 of 2004.

In 2002 a Country Procurement Review Assessment was carried out to review the implementation of the Public Procurement Act No. 3 of 2001. The Country Procurement Review Assessment Report (CPAR) recommended further reforms from centralized to decentralized procurement system, hence the enactment of Public Procurement Act No. 21 of 2004.
The Public Procurement Act No. 21 of 2004 established a decentralized procurement system in which Ministries, Departments, Agencies and Local Government Authorities (LGAs) could carry out their procurement without any financial thresholds.

In order to ensure that the Act is properly implemented, it established a Public Procurement Regulatory Authority (PPRA) charged with a task of ensuring that MDAs and LGAs adhere to the provisions of the PPRA Act. PPRA was established under Section 5 of the Act as a body corporate with all a legal personality with the following objectives:

- Ensure the application of fair, competitive, transparent, non-discriminatory and value for money procurement standards and practices;
- Harmonize the procurement policies, systems and practices of the Central Government, local governments and statutory bodies.
- Set standards for the public procurement systems in the United Republic of Tanzania.
- Monitor compliance of procuring entities; and
- In collaboration with relevant professional bodies build procurement capacity in the United Republic of Tanzania.

Although this authority established with the objectives mentioned above, still there is complains of Public procurement Act being not adhered to. My concern here is to investigate why this is happening as the Act was established to direct on how all procurement process should be conducted. So many complains about public procurement not performing its procurement as direct in the PPA, we can see such complains in a newspaper, journal and television. You may say it was by then, but current there was issues of cancellation of tender that was awarded to a company which has no all qualification. Example the issue of VETA been ordered to re-start the tender process. This was published in PPRA journal vol VI dated 5th February 2013. Another current issue published in a PPRA journal vol V dated 29th January
2013 is the one of Ministry of Health and Welfare been order to cancel the procurement process. Despite the fact that several amendments made on the Public procurement Act, the process is still shrouded by secrecy, inefficiency and corruption. In all these cases huge amount of money/resources are wasted.

The aim of this work/study is to investigate factors that contribute to non-compliance of Public Procurement Act 2011, in a public procurement sectors in Tanzania. with a view to identify the gaps, causes of the gaps and giving specific recommendations in the light of public procurement reform initiatives to improve and understand public procurement system as stated in the Act 2011.

1.2 Statement of the problem

Procurement in Public organization should go seamlessly. Without delay and are of good quality as everyone is aware and informed of the Public Procurement Act, 2004 which was amended 2011. Much as PPA No.21 of 2004 requires public institutions, organizations and ministries to operate under given procurement principles and comply with the Act, compliance has not been effectively assessed to find out whether it is adequate or whether public procurement objectives in public organizations have been achieved either fully or partially met in the public organizations.

However, so far there is no evidence on the existence of studies which have been done to assess the compliance of PPA in public organizations. As a result it is not clearly known as to whether such public institutions are complying with the Act or not. It is the researcher’s expectation that this study gives more light on the current status of PPA, compliance in the public organizations.

Compliance of the PPA is necessary in order to eliminate public complaints of favoritism in tendering processes as has been reported to the general public through newspapers several times. Conflict of interest also exists, for example in some organizations there is confusion as to who should carry procurement function for
example engineers or materials management professionals. In recruitment sometimes the procurement professionals are not valued and yet recruitment of right professionals can add value to the organization.

Complaints with regard to corruption in awarding tenders are also among issues reported in the newspapers from time to time, which indicate that there is less transparent procurement system. A very good examples of such complains are the issue of VETA been ordered to re-start the tender process. This was published in PPRA journal vol VI dated 5th February 2013. Another current issue published in a PPRA journal vol V dated 29th January 2013 is the one of Ministry of Health and Welfare been order to cancel the procurement process. This complains result into lack of believe towards public servant.

Existence of violation of expenditure budgets on public funds as has been reported to be happening in some Government offices. The Controller and Auditor General (CAG) has for many years been consistently issuing adverse reports on accounts of many government ministries, departments and local authorities. Example in one government offices, money received for construction of toilets and expansion of hostels were not spent on the planned projects and worse still there are no records on the expenditure. Another example is that of a donor funded project where the money planned for purchase of a bus for carrying patients was used on construction of one of the building.

Today, in many countries, public procurement has become an issue of public attention and debate, and has been subjected to reforms, restructuring, rules and regulations. Public procurement refers to the acquisition of goods, services and works by a procuring entity using public funds (World Bank, 1995a). According to Roodhooft and Abbeele (2006), public bodies have always been big purchasers, dealing with huge budgets. Mahmood, (2010) also reiterated that public procurement represents 18.42% of the world GDP. In developing countries, public procurement is increasingly recognized as essential in service delivery (Basheka and Bisangabasaija, 2010), and it accounts for a high proportion of total expenditure. For example, public
procurement accounts for 60% in Kenya (Akech, 2005), 58% in Angola, 40% in Malawi and 70% of Uganda’s public spending (Wittig, 1999; Government of Uganda, 2006) as cited in Basheka and Bisangabasaija (2010).

This is very high when compared with a global average of 12-20% (Frøystad et al; 2010). Due to the colossal amount of money involved in government procurement and the fact that such money comes from the public, there is need for accountability and transparency, (Hui et al; 2011). Consequently, various countries both in developed and least developed countries have instituted procurement reforms involving laws and regulations. The major obstacle however, has been inadequate regulatory compliance. De Boer and Telgen (1998) confirm that non-compliance problem affects not only the third world countries but also countries in the European Union.

This position is further supported by Gelderman et al (2006) who contend that compliance in public procurement is still a major issue. Hui et al (2011) while analyzing procurement issues in Malaysia established that procurement officers were blamed for malpractice and non-compliance to the procurement policies and procedures. Citing Yukl (1989), Gelderman et al;(2006) stipulate that compliance occurs when the target performs a requested action, but is apathetic about it, rather than enthusiastic, and puts in only a minimal or average effort. However, as an organizational outcome, compliance has traditionally been understood as conformity or obedience to regulations and legislation (Snell, 2004) cited in Lisa, (2010).

Today we have so many complain about Public Procurement Process, being not complied with PPA during procurement process by our Public Sectors. If we ignore this complains, government resources will continue being misused. The researcher is going to assess the factors that contribute for non-compliance of public procurement during procurement process and after data analysis will give some recommendation that might be of help to the public sectors.
1.3 Research objectives

1.3.1 General objectives
The study was intended to find out what factors contribute to non-compliance of PPA during procurement process in public sectors.

1.3.2 Specific Objectives
The following was specific objectives of the study:

- To identify and evaluate the procurement procedures used during procurement process.
- To evaluate if the staff handling procurement activities have knowledge on the procurement procedures as stated in The Public Procurement Act.
- To examine whether PPRA takes a disciplinary measure to an organization that violate the procurement procedures as stated in a public procurement Act.

1.4 Research questions
In this study the researcher needs to find out the following;

- Does proper procurement procedures applies in public organization during procurement process?
- Are procurement personnel involved in procurement activities qualified for that position? And are they conversant with public procurement procedure as required by public procurement Act?
- Does PPA self-explanatory that every person can read and understand?
- How often does the organization conduct seminars to remind procurement officer on the procedures and regulations during procurement process?

1.5 Significance of the study

- Finding will assist the researcher to have wide knowledge on public procurement act and its regulations.
- The findings of the study and recommendation will help to rectify existing problems and reduce the complains that arises during procurement procedures in Public sectors.
The findings of the study will help the researcher to write a research report to be submitted to Mzumbe of University in partial fulfillment for the awards of Masters of Science in Procurement and Supply Chain Management.

1.6 Scope of the study
This study was conducted specifically at NAOT headquarter in Dar-es-Salaam region, where the researcher dealt with Procurement Management Unit (PMU).

1.7 Limitation of the study
The researcher during the conduct of the study experienced the following constrains or obstacles;

- The reluctant of the staffs to respond positively to the interview or questions rises.
- Due to some of the organization having document and records they think to be confidential this problem hindered the researcher from getting some information needed for his study.
- Due to the shortage of the time during the field period, it was difficult to assess all details in depth for my report.
- Shortage of fund led to the problem of transport, typing cost and data collection for my report.
CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction
This chapter sets a basic framework for the study by giving a general review on some theoretical literature and empirical literature pertaining to Public Procurement. The chapter also introduces some important terms and concepts confined to the efficiency Public Procurement which is the result of compliance to PPA, if understood clearly, will facilitate on the general understanding of the essence of efficiency achievement of Public Procurement process and its impacts to socio-economic activities of the Tanzania society at large. Furthermore, it establishes a simple defined conceptual framework that will guide the discussion throughout this work.

2.1 Theoretical Literature review

Definition of terms

Meaning of Procurement
Procurement is the function responsible for purchase, lease or other legal means of acquisition of the right goods works and services (consultancy, training etc) required to satisfy certain needs, at the right time from the right supplier or service provider, in the right quantities and at the right price (Sumbana, 2004). Purchasing is the buying of materials, services and other assets”. The authors indicate that purchasing is a subset of procurement management which include purchasing itself; transporting, packaging, warehousing and all the other activities related to receiving inbound materials. This indicates that procurement is much broader than purchasing JJ Vogt et-al (2005).

In the Public Procurement Act (PPA No. 21 of 2004:9) section 3 “procurement” means buying, purchasing, renting, leasing or otherwise acquiring any goods, works or services by a procuring entity spending public funds on behalf of a ministry, department or regional administration of the Government or public body and
includes all functions that pertain to the obtaining of any goods, works or services, including description of requirements, selection and invitation of tenders, preparation and award of contracts.

All procurement and disposal of public assets shall be conducted in a manner to maximize competition, and achieve economy, efficiency, transparency and value for money. One way of achieving economy and value for money is through reducing procurement transaction costs. It is the responsibility of the Accounting Officers and Chief Executive Officers to ensure that transaction costs are reduced and to hold responsible employees who do not strive to ensure that value for money is achieved in all procurements carried out by their entities PPA No. 21 of 2004 Section 58(2).

Public procurement is a critical function that impacts on many different elements of the society. It affects buyers and buying enterprises, business community of actual or potential suppliers to the public sector and many others public groups. Public procurement is now used widely as a tool for economic development because the function has a responsibility of ensuring value for expenditures used/value for money. The general public is expected to show satisfaction when they know that expenditures are being made through a system, which is performing in an economically rational and fair manner.

There are several key drivers that impact public sector procurement. These include: -

**Accountability**: This is concerned with making sure that clear lines of responsibility are established for procurement in the process of promoting transparency, equality and fairness in selecting suppliers.

**Modernising agenda**: This suggests that to improve value for money in the provisioning of public services requires the modernization of the procurement process
**Flexibility:** Need to do more with less and hence pressure on the supplies chain.

**Management of complexity:** The task of procurement becomes distinct in complex projects and contracts where scrutiny of purchasing decisions is vital. Public procurement normally makes tendering the default procedure, gives details and steps to be followed in open tendering, invitation, submission, evaluation, defines other procedures to be followed and lays down rules on qualification of tenders, technical specifications and evaluation of tenders. In coordinating and monitoring procurement, consider issues such as public accountability, achieving value for money in cost, delivery, quality service and quantity.

**Meaning of Public Procurement**
Public procurement is about procuring a work, product or services at the best value compared to the required quality using public funds. The core of public procurement is to get economic value of taxpayers’ money through a competitive tendering process. It is meant to be an instrument of safeguarding a fair transparent and efficient purchasing procedure. Good public procurement can be used as a tool by the government to achieve economic growth, as well as certain socio-economic objectives. An effective procurement system will permit government to deliver the quality of services demanded by its voters in accordance with reconstruction and development program principles and other policy objectives, Benedict (2007).

Public procurement in Tanzania is governed by the Public Procurement Act No.21 of 2004 and its regulations of 2005. The Act gives a legal framework for carrying out procurement using public funds. The fundamental principle is to obtain competitive prices through open competition process which is transparent and non-discriminatory amongst bidders. It is worth noting that unlike private procurement, public procurement is a business process within a political system and therefore, requires significant consideration of integrity, accountability, national interest and effectiveness. The overall objective of public procurement is therefore to provide
value for money to the Government by ensuring that public funds are spent in a transparent, efficient and fair manner.

Public Procurement Policy Objectives

Economy
Just like any other buyer, government want value for money spent on the acquisition of goods and services for public purposes. The main instrument used in making public procurement more economical is to encourage competition among potential suppliers and contractors. For this reason, public agencies strive to engage qualified bidders in a tendering contest, which is won by submitting the most advantageous offer based on price and other criteria.

Efficiency
Government and international financing institutions share a concern that funds made available for economic development purposes are used efficiently. A common complaint is that public sector programmes and projects get delayed due to bureaucracy. Cumbersome procurement procedures are often blamed for lack of absorptive capacity among agencies set to manage the economic development process. Decentralization of decision-making powers in procurement may help to overcome such weaknesses. In other instances, and especially for large volume procurement of standard items, coordinated procurement for the entire public sector may prove to be efficient: office supplies and equipment are often cited as examples of products suited for coordinated procurement.

Non-discrimination
Characteristics of public procurement act is its openness to offers from the qualified firms, regardless of nationality or other such traits which have no bearing on the price and quality of the goods or services offered. Therefore, public procurement regulations should contain a minimum of restrictions on the eligibility to bid. In line with the same objective, open tender becomes the preferred method, coupled with active canvassing of bids through advertisements and other means, and using neutral specifications.
**Transparency**
In order to achieve transparency, a system must rest on clear and complete rule, applied in a manner which is open to inspection by the relevant control bodies and so far as possible with regard to the need to keep the process confidential to the interested private parties. Not only so the procurement regulations in general have to be clear, in addition must the bidding document for a particular contract also provide adequate information to the bidders. Of special importance is to include in the bidding documents a full description of the criteria to be used in bid evaluation. Based on those criteria, the contract would be awarded without prior negotiation of price and other essential elements of the bid considered most advantageous.

**Accountability**
Public procurement must be transacted by responsible agents of government. The administrative law of the country must be such as to contain remedies against abuse of power by such public agents. A national procurement system also needs to include anti corruption measures or be linked with a broader set of rules to combat corruption in government.

**Procurement reforms**

**Reforms in Europe**
The European Union (EU) procurement directives reinforce the European Community treaty, which prohibits discrimination on ground of nationality, free movement of goods and services. The procurement directive requires that contracts of above certain value to be based on principles of equal treatment, transparency and competitive procurement.

It provides procedures and rules which have to be followed in award of supplies, works and certain services contracts by public bodies and various utilities where the European court of justice has powers to grant interim remedies or to order that the contract is not to be performed.
The treaty establishing the European Community enshrined four freedoms namely freedom of movement of goods, persons, services and capital. These freedoms remain underpinned by the existence of the single market in which there are no internal frontiers that could pose a barrier to free trade and competition within the external boundaries of what is now the EU. An integral part of promoting such free trade is the existence of the EU Public Procurement Directives.

These directives, of which there are six, apply to contracting authorities defined as being the state, regional or local authorities, bodies covered by public law and association formed by one or several such bodies governed by public law and impose a system for tendering and allocation of contracts that exceed the relevant financial thresholds.

Such bodies having some degree of state control and being providers of major public services, are major users of goods and services regularly contracts worth millions of pounds, the processing of which must comply with the relevant public procurement directives. The importance of public procurement directives focus on value for money.

Community legislation was introduced to ensure that Government contracts were open to all nationalities on equal terms and make tendering procedures more transparent. Contracts above a given threshold must comply with requests. Procedures provide for use of:

i. **Open procedure:** All interested suppliers, contractors or service providers may submit tender.

ii. Restricted procedure: Only those suppliers or service providers invited by the contracting authority may submit tenders.

iii. **Negotiated procedure:** In this case the contracting authority consults suppliers, contractors, or service providers of its choice and negotiates the terms of contract with one or more of them.
In the EU the suppliers, works and service contractors and the contracting organization in general have the choice between open and restricted procedures. The negotiated procedure may be used only in justified cases. For utilities contracts, they can use the three procedures provided that a call for competition notice has been published in the official journal of the European Community.

**Reforms in Africa**

**West Africa**

Drivers of procurement reforms in West African countries like Sierra Leone, Nigeria and Ghana have similar strategies that include: Democratization and accountability, in the national development agenda. International agenda in the three countries covered poverty reduction frameworks/commitment, harmonization processes. In Ghana reforms in 2003 led to creation of Public Procurement Board (PPB)

In Sierra Leone in 1963 procurement was guided by Finance Act 1963, reforms started in 2003 by introducing the CTB circular. In 2004 WB review led to restructuring of the procurement system whereby the National Public Procurement Authority (NPPA) was established.

**Challenges facing reforms in West Africa:**

- Lack of capacity
- Change management inertia (shock to the system) affecting economic development and causing political anxiety
- Reforms are considered to be complex, challenging, and funds are inadequate to drive the reforms
- Weak working relationships between the donors in supporting the reform
- Vested interest political private sector

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1 George Otoo 2005 Crown Agent Workshop on Strategic Procurement
South Africa
In 1998 the government of South Africa introduced a scheme known as Black Economic Empowerment (BEE) scheme under the BEE legislation of 2003. The objective of the BEE is the de-racialisation of capitalist class.

The broad-based Black Economic Empowerment Act, 2004 laid down a slew/provision of obligation on companies that may do business with government. To be BEE-compliant, companies are obliged to have a designated share of blacks in upper and middle management, pay for skill development, and make a proportion of their purchases from other BEE companies. Three core BEE elements include:

- Direct empowerment through ownership and control of enterprises and assets – with a target of 25 percent ownership of companies by 2014
- Human resource development and equitable employment
- Indirect empowerment through preferential procurement and enterprises development

East Africa
In the mid-1980s, the need to reform public procurement in the three East African countries became urgent, as there was growing scrutiny and pressure from within and outside to reform the procurement process. The domestic push for reform came mainly from domestic procurement stakeholders. These stakeholders generally expressed dissatisfaction with the public procurement system. The stakeholders complained of misallocation of resources, inadequate infrastructure, inefficient services, high taxes, growing indebtedness and high risks. These concerns were clearly related to the manner and effectiveness of the public procurement process. In reacting to these concerns, the government recognised the need for reviewing the public procurement process and for being more accountable to the various stakeholders.

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2 IPSA & CIPS-UK 2005 Annual Conference paper Johannesburg May 2005
External pressures from donors and multilateral organisations such as World Bank, ITC, UNCTAD and WTO have played an important role in the reform process in the three countries – Kenya, Uganda and Tanzania. The demand by these organizations has been mainly to harmonise the national procurement system with international procurement guidelines, in order to make the process more transparent and to develop procurement to local entities.  

**Kenya**

In 1986, a study was conducted by SGS Consultants to evaluate public procurement systems in Kenya. The major finding of the study was that public procurement was not operating efficiently and that the state was losing a lot of money through shoddy deals. The report strongly indicated the need for reforming the public procurement system in the country. In 1997, the Government in collaboration with the World Bank commissioned another study to assess the countries procurement processes and systems. The World Bank supported the study through the Public Procurement and Capacity Reform Project. This study identified the need for a comprehensive review and an implementation of reform process in the procurement systems. The study revealed that procurement staff were not adequately trained and lacked professionalism.

Lack of professionalism body that would oversee and instil discipline among procurement officers made them vulnerable to corruption. One of the major recommendations was that reforms in public procurement system were paramount if government was to serve resources otherwise lost through exorbitant procurement. The World Bank study argued that improvement in procurement systems had a direct and beneficial effect on the overall economic situation in the country.

The World Bank, the African Development Bank and ITC in conjunction with the Government of Kenya, initiated the public procurement reform process in the late 1990s. The reform process was meant to create a system that allowed among others a proper delegation of authority, incentives, procurement thresholds, planning, and the development of supplies manuals (World Bank 2000). The reform process focused

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3Odhiambo & Kamau 2003
on addressing the issue of procurement laws, establishing appropriate procurement institutions and entities, as well as creating adequate and timely evaluation and monitoring mechanisms. The reforms would also increase transparency in procurement systems.  

The procurement reforms also aimed at ensuring that the procurement laws were streamlined to conform to international procurement laws and standards. A task force was established to take a lead in the reform process. The team was given 24 months to complete the report. This was done. Their recommendations passed over to the parliament for approval. The Minister for Finance approved the Exchequer and Audit according to Public Procurement Regulations 2001, which are currently in use.

**Uganda**

Public procurement reform in Uganda was perceived as part of a policy package focusing on strategies to eradicate poverty in the country, through creation an appropriate policy framework and the re-orienting of government spending in crucial sectors. The reforms were based in part on the findings of a study carried out to assess public procurement and to develop an action plan to improve the country’s system for procuring goods, works and services. The main finding of this study suggests that the legal framework for public procurement is not supportive as the existing laws are inadequate and fragmented. It also reveals that Public procurement in the country is characterised by malpractices, such as under-invoicing and inadequate official documentation. The study in addition, identifies the lack of procurement professional body to regulate the actions of procurement officers. Before the reforms, Procurement was governed by the 1977 public finance (tender board) Regulations and was based on a centralized system with the central tender board being a department under the ministry of finance.

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4 Government of Kenya 2001a  
5 Government of Kenya 2001a
Central Tender Board was a sole buyer for all government entities for goods, services and works above USD 1000. There was no regulator in the procurement and disposal sector.

Procurement reforms commenced in 1997 for following reasons:
Increase in government entities which the central tender board can not handle, Inefficiency of the central tender board, Corruption, Lack of modern and transparent rules and need to introduce transparency in government procurement.

Objectives of the reforms:

i. To promote economy efficiency and effectiveness in procurement and disposal resulting in value for money
ii. To ensure public procurement and disposal is conducted in a fair transparent and non discriminatory manner
iii. To contribute towards the creation of a sound business climate in Uganda
iv. To enhance decentralization policy
v. To give entities the power to plan and execute their own programs
vi. To alleviate poverty

In year 2000, the public finance (Procurement) Regulations 2000 was promulgated. This resulted into a reformed Central Tender Board and Decentralization of the public procurement and disposal function to Procuring and Disposing Entities (PDEs), Creation of Contracts Committee, Creation of procurement and disposal units, Liberalisation of third party procurement, announcement of the Public Procurement Disposal of Public Assets Regulations, Creation of PPDA – a regulatory Authority;

Public Procurement Reforms in Tanzania
Public Procurement Act No. 3 of 2001

In February 2001 new public procurement legislation was passed by the Parliament and was subsequently signed into law (the Public Procurement Act No. 3 of 2001) by
the President. The Act became effective on 1st July 2001. The act is applicable to all procurement financed by public funds.

The Act provides a comprehensive coverage of all regulatory aspects critical to public procurement. The Act provides for:

i. Supplies to all procurements undertaken by public institutions except for financially independent parastatal organizations and for defence procurement

ii. Makes deference to the international obligation of Tanzania at the intergovernmental and international levels.

iii. Does not cover contract performance or implementation phase

iv. Takes into account certain differences between the procurement of goods, works and selection and employment of consultants

v. Establish several tender boards with the responsibility for procurement, review of tender documents and contract awards in accordance with predetermined thresholds. Every ministry established its tender board with the following thresholds:

<table>
<thead>
<tr>
<th>Description</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Works</td>
<td>Up to US$ 500,000</td>
</tr>
<tr>
<td>Goods</td>
<td>Up to US$ 300,000</td>
</tr>
<tr>
<td>Consultancy Services</td>
<td>Up to US$ 100,000</td>
</tr>
</tbody>
</table>

Technical Agencies such as the Tanzania National Roads Agency (Tan Roads) had higher thresholds than ministries as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Works</td>
<td>Up to US$ 5,000,000</td>
</tr>
<tr>
<td>Goods</td>
<td>Up to US$ 3,000,000</td>
</tr>
<tr>
<td>Consultancy Services:</td>
<td>Up to US$ 1,000,000</td>
</tr>
</tbody>
</table>

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6Public Procurement Reform Programme Sensitisation Workshop 2003
Tan Roads regional offices had same thresholds as ministries. The Act also provided for the establishment of the Public Procurement Appeals Authority to settle procurement disputes before judicial review process.

The institutions involved in public procurement include the Procurement Management Units in ministries, government departments, district and urban authorities, tender boards, Government Stores Department, Veterinary Stores and third party procurement agents. Procurement from Government Stores Department (Government Store Department-Ministry of Works, Maji Stores Department, Government Press/Printer, Veterinary Stores and Medical Stores Department) can only be made if the prices offered by these institutions are lower than or equal to the market prices.  

Objectives and Aims of Public Procurement Reform

- To ensure that procurement is conducted in a fair, transparent and accountable manner
- To contribute toward the creation of a sound economic climate in Tanzania
- Increase participation by the Tanzania Private Sector
- Public procurement to be subject to a robust and effective legal regulatory environment
- To institute a practical capacity building and training programme with a view to establishment cadre.

Public Procurement Act No. 21 of 2004

Background

In May 2005, the parliament enacted the new Public Procurement Act No. 21 of 2004 together with two sets of regulations to assist in translating the Act. The two regulations are:

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i. Public Procurement (goods, works, non-consultant services and disposal of public assets by tender) Regulations, 2005 (GN.No. 97);

and

ii. Public Procurement (selection and employment of consultants) Regulations, 2005 (GN No. 98)

The Public Procurement Act 2004 was enacted to repeal the Public Procurement Act No. 3 of 2001, with a view of making better provisions for regulations of Public Procurement in the country. The policy is based on the need to make the best possible use of public funds whilst conducting all procurement with honesty and fairness.

The basic consideration of the public procurement policy are to enhance economy and efficiency in the use of public funds, implementation on projects as well as giving all eligible suppliers, contractors and service providers equal opportunities. It also aims at enhancing integrity, accountability, fairness and transparency in the procurement process.

**Basic principles**

- Equality and opportunity to all prospective suppliers, contractors or consultants
- Fairness of treatment of all parties
- The need to obtain the best value for money in terms of price, quality and delivery having regards to set specification and criteria

**Application**

- All public bodies
- Nonpublic bodies but receiving or using public funds
- Defense and national security organs for non-restricted items
**Procuring entities:**
The procuring entities include: ministries, government departments, autonomous bodies, regions, districts, parastatal, executive agencies, and local government authorities, Tanzania Foreign Embassies & High Commissions. According to the Act the procurement function in all procuring entities will have components as represented in the following diagram.

![Diagram of Procurement Entities Structure](image)

**Tender Board:**
The composition of the tender board includes the following members: not more than 6 head of department, director of procurement or a procurement specialist from the ministry who will also be secretary to the tender board.

**Tender board responsibilities:**

1. Approve the method / issue of tender or the use of an alternative method of procurement
2. Receive tenders and hold tender opening
3. Review tender regulation and recommendation made by procuring entities, accept or reject
4. Authorise awards of contract
5. Ensuring that best practices in relation to procurement and disposal by tender are strictly adhered by procuring entities

**Procurement Management Unit (PMU)**

Head of procurement or supplies and staff should manage PMU and other procurement activities including being a secretary to the Tender Board

**Functions of PMU**

i. Manage all procurement and disposal by tender activities of the procuring entity except adjudication and the award of contract;

ii. Support the functioning of the Tender Board.

iii. Implement the decision of the Tender Board.

iv. Check and prepare statements of the requirement.

v. Prepare contract document.

vi. Issue approved contract document.

vii. Prepare monthly reports for the Tender Board

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**The procedure for checking and monitoring Public Procurement PPRA:**

In order to monitor the public procurement proceedings PPRA has prepared a system which will be used to monitor the compliance of PEs to PPA 2004. Under this procedure the following will be done:

i. Each procuring Entity (PE) is required to prepare Annual Procurement Plan (APP) which will guide them in their procurement undertakings during that financial year.

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8 *Procurement Act 2004 pg 266/7*

9 *PPA Pg 270*
ii. A copy of APP shall be submitted to PPRA which will enable the Authority to have the aggregate procurement statistics on that financial year so as to simplify monitoring of the procurement activities. The statistics will be posted on the Authority’s website to enable stakeholders to access necessary information and hence prepare themselves to trade with different PEs.

iii. PE’s will be required to submit monthly progress reports for ongoing procurements showing clearly tenders in process and those which have been awarded. A comprehensive report will be required for all awarded tenders showing clearly the whole process from advertisement, award and contract implementation stages.

iv. The Authority will verify the submitted information concurrently with collection of opinions from participated bidders regarding the whole tendering process for selected tenders.\(^{10}\)

**PEs & CPIs;**

Having received the information, and after obtaining opinions from bidders, the Authority will assess the performance of PEs by using the established compliance performance indicators (CPIs) as indicated below:

i. Tender advertisements: this indicator will measure the percentage of tenders the PE advertisement to bidders through different media.

ii. Advertisement of tender results: this indicator will measure the percentage of tender results which were advertised by the PEs to bidders through different media.

iii. Time used to prepare the tender: this indicator will measure the average time from tender advertisement to the deadline for submission of tenders.

iv. Bidder’s participation in the tender: this indicator will measure the average number of bidders participating in every tender advertised by the PE.

v. Responsive tenders: this indicator will measure the average number of tenders which complied with the requirements of the tendering documents.

\(^{10}\) *Mlinga R.S Wednesday July 4, 2007 presentation 2007*
vi. Procedure for tender invitation: this indicator will measure the percentage of procurements where procurement methods as stipulated in PPA 2004 and its Regulations were used.

vii. Time for processing submitted tenders: this indicator will measure the average time from tender opening to the contract award.

Analysis of Underlying Theories
Procurement Policy in Tanzania

According to PPA 2004 Regulation 4(1), “The Public procurement policies are based on the need to make the best possible use of public funds, whilst conducting all procurement with honesty and fairness.” Regulation 4(2) of PPA 04 states, “All public officers and members of tender boards who are undertaking or approving procurement shall be guided by the following basic considerations of the public procurement policy:

i. The need for economy and efficiency in the use of public funds and in the implementation of projects including the provision of related goods and services.

ii. The best interests of a public authority, in giving all eligible suppliers, contractors, and service providers equal opportunities to compete in providing goods or executing works or providing services.

iii. Encouragement of national manufacturing, contracting and service industries.

iv. The importance of integrity, accountability, fairness and transparency in procurement process.

Methods of Procurement

The PPA operates with competitive tendering as the main method for procurement of goods, works, and services. Guided by the thresholds published as part of the Regulations, the procuring entity can use International Competitive Bidding (ICB), National Competitive Bidding (NCB), Restricted Tendering, Competitive Quotations, Single Source Procurement, and Minor Value of Procurement. However the Regulations Article 80(4) allows for the procuring entity to “select an appropriate alternative method of procurement” in “any case where tendering would not be the most economic and efficient method of procurement”. According to Section 58(2) of Public Procurement Act No. 21 of 2004, all procurement and disposal of public assets shall be conducted in a manner to maximize competition,
achieve Economy, Efficiency, Transparency and Value for Money in Procurement. One way of achieving economy and value for money is through reducing procurement transaction costs by applying effective the methods of Procurement narrated above.

It is the responsibility of the Accounting Officers and Chief Executive Officers to ensure that transaction costs are reduced and to hold responsible employees who do not strive to ensure that value for money is achieved in all procurements carried out by their entities. The aim of procurement in any organization notably public organizations are to ensure that goods or services procured are of right quantity, right quality, from a right supplier, right price, and at right time.

**Pillars of public procurement**

The procurement process spans a life cycle from identification of the need, through the selection of suppliers, to post-contract award management, including disposal. There is therefore a duty on the procuring entities to apply the key principles of public procurement which require delivery of VFM, appropriate quality and service (OGC, 2008). This call for policies based on the need to make the best use of public funds, whilst conducting all procurement with honesty and fairness. Public procurement and disposal be conducted in accordance with the principles of transparency, accountability and fairness and in the manner that maximizes competition and achieves value for money underpinned by five pillars. The pillars encompassing core principles and behaviors expected of those entrusted with procurement responsibilities as shown in figure 1 below.
Given the size of government procurement, enhancing both the efficiency of the procurement process through targeted reforms and opening up procurement to foreign competition can bring significant advantages to governments. Studies on the effect of opening up procurement to international competition shows that competitive procurement practices promote efficiency in public spending and help public authorities acquire cheaper, better quality goods and services at lower costs; European Commission (2004) suggests that enhanced competition and transparency reduce prices by around 30%. Open, non-discriminatory and transparent procedures can help boost the competitiveness of firms operating in public procurement markets (The Cecchini report 1988).

Although there are no reliable estimates of the cost to an economy of the absence of a competitive environment, there is widely accepted evidence that competition per se encourages lower prices and increased efficiency, facilitating a business environment conducive to investment and growth (Rod Falvey et al, 2007).

Based on reviewed literature it shows that although much have been written on the concept of VFM in public procurement and it can be achieved, procurement reforms in the country and the impact this might have on the development of the local
contracting industry, the problem of corruption in construction industry in Tanzania this has looked into how corruption can occur and efforts underway to mitigate the problem through the procurement legislation and code of ethics of professionals in the construction industry, applicability and achievable of VFM procurement in Tanzania, professional challenges in implementing the Public Procurement Act 2004 and its regulations of 2005 and problems and challenges of managing internal control systems in monitoring procurement. But there is slight information and research on that have focused in achievement of efficiency Public Procurement.

**Accountability:** Accountability means that officials are responsible for the actions and decisions that they take in relation to procurement and for the resulting outcomes. Officials are answerable for such activity through established lines of accountability including the agency’s executive and senior management, the Government and the Parliament (www.finance.gov.au). This relates to the level of authority and responsibility for procurement within the procurement system. Definitely, this minimises fraud, corruption and favouritism in procurement.

**Transparence:** Public bodies should ensure that there is openness and clarity on Procurement policy and its delivery through adhering to Ethics and Codes of conduct. The Procurement process should be fair and seen to be fair, treat all parties equally, All suppliers accorded fairly and acquitted opportunity and treatment at all stages including consideration of complaints and sufficient and relevant information should be made available to all interested parties consistently and on a timely manner through a widely available means at no or at a reasonable cost. The principal to be applicable to all stages of the procurement process including the general environment, procurement opportunities, purchase requirements evaluation criteria and award of contracts.

**Ethics & Fair dealing:** Suppliers should be treated fairly and without Unfair discrimination, including protection of commercial Confidentiality where required. Public bodies should not impose unnecessary burdens or constraints on potential
Suppliers. This aims to attain fairness and open competition; it opens markets to potential suppliers and contractors who are encouraged to participate in tendering.

**Effectiveness and Efficiencies:** Public bodies should meet the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement and also Procurement processes should be carried out as Cost effectively as possible.

### 2.2 Empirical literature review

In this section the researcher reviewed the work done by other researcher (empirical literature review) which relate to the topic under investigation. It basically aimed relating theoretical literature review with finding of other researchers.

Fransis Albert (2003);“Purchasing practice and its impact toward the organization objectives” states that; one of the central problem in initiating and achievement of efficiency Public Procurement process is that of selecting appropriate method for the particular situation, normally as the organization grows and become more complex, there is an ongoing problem of discarding method that have lost their usefulness and replacing them with more appropriate procedure accordingly and no system of planning can be useful without having an effective and efficient procurement control system; procurement and control are the twin brothers. Also the researcher pinpointed that adherence to laws and regulations in Procurement process leads to achievement of efficiency Public Procurement.

Nchimbi Samwel, (2005);“The effectiveness of purchasing cycle in parastatal organization” states that in many organization some procurement personnel are not in the preparation of annual procurement plans and the work budget, this task has just remained too few procurement personnel together with top management, therefore it is recommended that the procurement staffs should be full involved in the process because they are the key personnel on the financial matter and planning as the results leads to efficiency of Public Procurement in Public sectors.
According to Lolojih P.K (2003) in the report namely “Report on Government Systems” conclude by saying that “The procurement of goods, works and services for Public institutions takes up a huge proportion of the government expenditure that is mainly funded by both public and private taxpayers. It is, therefore, important that such public resources are utilized in an efficient and effective manner. Officers charged with the responsibility of procuring goods, services and works for public institutions need to display high levels of integrity exemplified by their commitment to the basic principles of accountability and transparency in the course of discharging their duties.” The researcher also observed that “Corruption and any other related malpractices in the procurement system is counter-productive, impacts negatively on value for money and national development, and generally erodes the society’s moral fiber.

Institutions and individuals involved in the procurement process have a very critical role to play in any efforts aimed at ensuring an efficient, effective, accountable and transparent procurement system.” The report also reveals that the ZNTB an institution, which is responsible for regulating and controlling the procurement of goods and services, is very old and is not acting according to the changes taking place. The researcher also say that “The governing legislation should, among other things: provide for clear guidelines; reliable and unbiased mechanisms for appeals; and adequate and explicit sanctions for the breach of procurement procedures.” The researcher also make several recommendations including the need to strengthen the ZNTB legal framework in order to seal loopholes for corruption, priority be given to local companies at all time, advertise formal tender in the local press, members of the Central Tender Committee should not be government appointees such as Permanent secretaries. Also the researcher recommends that procurement staff should be trained, procurement units/departments must be well funded and results of the bidding process should be adequately publicized. In general the researcher in this report has tried to indicate that if ZNTB will be improved then procurement system will also be improved and achieve value for money procurement.
Empirical studies from Abroad

Media Publicity: The media play a critical role in corporate compliance. Through the media, the corporate community is made aware of the regulatory outcomes (Zubcic and Sims, 2011). Hui et al (2011) stated that in Malaysia, wide publication of tenders in the media such as newspapers and websites could help reduce corruption by increasing transparency and participation, thereby enhancing public procurement compliance.

According to Borden (2007), media exposure reduces the incidence of wrongdoing through press coverage that highlights instances of wrongdoing. More to that, in an environment of heightened and effective press coverage of misconduct, others contemplating misconduct may be discouraged. Such claims are also supported by Yeung (2002) as cited in (Zubcic and Sims, 2011) who argues that there is a direct correlation between negative media publicity about an organization and their subsequent approach to corporate compliance. At an individual level, it was also argued that corporate executives who have a high standing in the business community are fearful that their own personal reputations and respectability may be tarnished by adverse publicity related to the corporation they manage. Related to this, UNDP (2010) indicated that many procurement scandals have been uncovered by the media and a free and independent press is a powerful tool to promote transparency and accountability.

In Uganda, Nationwide circulated and widely read newspapers such as The New Vision and The Monitor have been used in disseminating procurement information on one hand and exposing individuals flouting procurement procedures on the other. For instance, The Monitor 15th November, (2010) exposed public officials and ministers who were implicated for contravening procurement rules in Uganda. The media assists in exposing corrupt politicians (Ferraz and Finan, 2007) thereby increasing compliance. Manis (2008) cites Clinard (1990) and asserts that publicizing corporate misconduct has a deterrent effect and leads to better corporate compliance (Zubcic and Sims, 2011). We therefore develop the first research proposition;

P1: Media publicity improves public procurement compliance
**Enforcement:** Enforcement could be broadly viewed as any actions taken by regulators to ensure compliance (Zubicic and Sims, 2011). There are mixed opinions regarding the effect of enforcement on compliance. Some scholars such as Sparrow (2000, 1994) doubt the direct effect of enforcement on compliance. They argue that enforcement may make violators more sophisticated in how to prevent, and conceal detection by the authorities.

However many other scholars agree that enforcement improves compliance (Gunningham and Kagan, 2005; Imperato 2005; Sutinen and Kuperan, 1999; Zubicic and Sims, 2011)? According to Zubicic and Sims (2011), enforcement action and increased penalties lead to greater levels of compliance with laws. Corruption among government procurement officials in developing countries such as Bangladesh, India, Sri Lanka, Nigeria and Venezuela has been linked to a weak enforcement of the rule of law (Nwabuzor, 2005) as cited in Raymond (2008). A study on corporate governance in Africa revealed that countries such as Nigeria and Ghana suffer from weak law enforcement mechanisms (Okeahalam, 2004).

In counties with complaint and review mechanisms, bidders are allowed to verify whether the procurement processes conform to the prescribed procedures. The possibility of review is also a strong incentive for procurement officials to abide by the rules (Hui et al 2011). Firms might choose to implement ineffective compliance systems if legal violations may be profitable in cases where the legal system under-enforces, either because penalties are set too low or because detection is imperfect or ineffective. Gunningham and Kagan (2005) argue that the threat of legal sanctions is essential to regulatory compliance and that enforcement action has a cumulative effect on the consciousness of regulated companies and it reminds companies and individuals that violators will be punished and to check their own compliance programs.

This is also supported by Gunningham and Kagan (2005) who opined that the outcome of sustained enforcement action instilled a culture of compliance and had a direct impact on corporate compliant behaviour. Sutinen and Kuperan, (1999) further
argue that coercive enforcement measures remain an essential ingredient in any compliance regime. We therefore make the second proposition;

*P2: Enforcement has a positive effect on public procurement compliance*

**Records Management:** In any contemporary industry, the data and reports showing compliance to regulatory needs must be robust and come from a reliable source. Many developing countries lack a systematic approach to managing records. It is argued that accurate and readily accessible records of judicial rulings reduce the potential for illicit manipulation resulting from delays, corruption, and inaccuracies. Dysfunctional records management undermines legal and judicial reform creating room for corruption or collusion between court officials and lawyers (Thurston, 2005). This negatively affects enforcement and reduces compliance.

According to Ambrose (2008), the source of data must be safeguarded against tampering such that no one can alter data without leaving some evidence of that change. A study conducted in Kenya found out that poor records management had adverse effect on service delivery. It forces individuals to act on ad hoc basis, makes it intricate to carry out meaningful audits and to prove fraud (Kemoni and Ngulube, 2008). This undoubtedly contributes to non-compliant behavior.

Similarly, Akech, (2005) asserted that due to poor records management, a Minister in Kenya unlawfully obtained confidential information on the tender and used it to interfere with the procurement process. Other studies have shown that current lack of data collection and records by organs of state prevents the effective monitoring targeted on the transparency of the tendering process (Bolton, 2006). In support of this view, it has been suggested that in order to allow proper accountability in the procurement process, details of procurements undertaken together with all necessary documentations should be available (Jones, 2007). In Uganda, the procurement integrity survey on Uganda (2006) revealed that public procurement system in Uganda is marred by poor record keeping culture, which has resulted in lack of comprehensive statistics on the value of goods, services and works procured.
In addition, there is hardly any public procurement report in Uganda that passes without identifying records management and transparency challenges in PDEs (PPDA base line survey, 2010; PPDA compliance audit report, 2008; PPDA workshop report, 2008; PPDA compliance audit report, 2009). Most recently, the PPDA Capacity Building Strategy Report (2011-2014) revealed that there is low compliance in record keeping in Uganda. As Ambrose (2008) suggests, systems without the ability to provide an inviolable audit trail would make their use unacceptable in most compliance and regulatory environments. Proper records management controls, managing who can access and modify key documents and records have been identified as an integral part of achieving compliance (Alfresco, 2009). We therefore propose as follows;

\[ P3: \text{Records management affects public procurement compliance} \]

**Organizational culture:** Due to regulatory reforms and changing community expectations, the role of culture in organizational compliance has gained momentum (Lisa, 2010). Basing on the competing values model (hierarchical culture), which involves enforcement of rules, conformity and attention to technical matters, individual conformity and compliance are achieved through enforcement of formerly stated rules and procedures (Zammuto and Krakower, 1991) as cited in Parker and Bradley (2000).

Although there is no single definition of culture, one can define it as ‘the structure of behaviors, ideas, attitudes, values, habits, beliefs, customs, language, rituals, ceremonies, and practices of a particular group of people that provides them with a general design for living and patterns for interpreting behavior’ (Rice, 2007). According to Lisa, (2010), culture plays a central role in the compliance process and associated outcomes; conducted a study on culture in Uganda’s public sector and depicted culture as a hindrance to reforms. It is also contended that in a specific type of culture, characterized by specific values such as openness, trust, and honesty (Arjoon, 2006) as cited in Lisa, (2010), employees are more likely to engage in compliance behaviours, which collectively will contribute to organizational compliance. Parker and Bradley (2000) further indicated that awareness of the nature
of public organizational culture is vital in explaining and assessing the appropriateness and outcome of the current reform process. This applies to developing countries where waves of procurement reforms have resulted into enactment of procurement rules and regulations. This leads us to the following proposition;

*P4: Organizational culture affects public procurement compliance*

**Political Interference:** Public procurement is considered an inherently a politically sensitive activity (Schapper et al; 2006). Murray (2009) contended that in public procurement, managers take on the role of agent for elected representatives. However, Pillary (2004) argues that senior officials and political leaders use public office for private gain and this has weakened the motivation to remain honest. Raymond (2008) also opined that ministers and political parties receive clandestine payments in government procurement.

This ultimately interferes with the procurement process and constrains compliance. This is also re-echoed by Lodhia and. Burritt, (2004), who recognizes that social and political influences have an important bearing on public sector reform. In developing countries; one of the major obstacles to the procurement system is ministerial interference with the tender process where ministers intervene and influence tender awards. The threat of being suspended or fired has in many cases intimidated public officers into obeying illegal ministerial directives leading to non-compliance (Akech, 2005).

In support of this, Hui et al; (2011) asserted that interference from the local politicians, businesspersons, members of parliament and very influential top management individuals has interrupted the procurement processes and deterred transparency. In Uganda, many political figures especially government ministers have been implicated in high value procurement related scandals such as the US$550 million Bujagali Dam hydro-electric project (Prayas Energy Group, 2002), CHOGM Summit in which 1.6 billion Ugandan shillings was lost in dubious deals, Global fund scandal, the influence peddling in the purchase of Temangalo land by National
Social Security Fund and the political interference and conflict of interest in the procurement of a communication system in which the contract was inflated by about 4.1 billion Ugandan shillings (The Monitor 15th November, 2010). Lodhia and Burritt, (2004) further stated that political influence in public sector management limits information, transparency and favour is extended without management being held to account. Coviello and Gagliarducci (2010) also revealed that politicians influence public procurement through non-compliance acts such as collusion. We therefore propose thus;

**P5: Political interference has a negative effect on public procurement compliance**

**Professionalism:** According to Raymond (2008), professionalism in public procurement relates not only to the levels of education and qualifications of the workforce but also to the professional approach in the conduct of business activities. If the workforce is not adequately educated in procurement matters, serious consequences; including, breaches of codes of conduct occur. According to Atkinson (2003) cited in Raymond(2008), there are approximately 500,000 professional purchasing people in the United States and only 10 per cent of these have been members of a professional body and the rest are not even aware that there are ethical and legal standards involved in procurement. Raymond (2008) also linked lack of a high degree of professionalism in public procurement to corruption, which ultimately impedes compliance.

The procurement officers must be trained and aware about all regulations in relation to procurement and related procedures (Hui et al 2011). Rossi, (2010) asserts that ethical code is not only a deterrent of incorrect behaviour but also an enabler for all members of the organisation to safeguard the ethical legacy of the firm. In Uganda, the PPDA Audit Report (2008) revealed that lack of professionalism was high amongst public procurement officers. This position is further confirmed by Basheka and Mugabira (2008) who state that the level of professionalism in public procurement in Uganda is low or non – existent. De Boer and Telgen, (1998) also attributed non-compliance in public procurement to lack of purchasing professionalism in the public sector. Thus, we posit that;
**P6: Purchasing professionalism increases public procurement compliance**

**Organizational Incentives:** Teutemann (1990) as cited in Gelderman et al; (2006) argued that public bureaucrats normally try to exhaust their budget fully as to avoid reductions in their future budget. Gelderman et al; (2006) also stated that the problematic transfer of budgets in many public agencies is likely to have a negative impact on the compliance with the EU rules. Sutinen and Kuperan (1999) argue that purchasers will take into account the risk of sanctions, imposed by the organisation in case of non-compliance. Gelderman et al; (2006) further asserted that more impact on procurement compliance can be expected from the internal incentives established by the organisation. Parker and Hartley (2003) highlighted that military personnel do not necessarily behave efficiently, because they neither share in any profits from efficient behaviour or experience losses from poor performance. Ntayi et al; (2010) also argued that in Africa, pressure on public procurement budgets coupled with delayed payments provide incentives to engage in deviant behaviors. Consequently, these deviant behaviours are linked to non-compliance in public procurement. We therefore propose that;

**P7: Organizational incentives improve compliance in public procurement**

**Perceived rule legitimacy, moral obligation and social influence:** Sutinen and Kuperan (1999) maintain that the willingness to comply because of moral obligation and social influence is based, among others on the perceived legitimacy of the authorities charged with implementing the regulations. Hui et al; (2011) stipulated that legitimacy theory provides a sufficient and superior lens for understanding government procurement system. Lazarides, (2011) adds that voluntary compliance is the result of personal or corporate ethics, motivation schemes and in most cases the result of corporate interest alignment with the legal provisions behavior. Sutinen and Kuperan (1999) also assert that moral obligation, may be a significant motivation explaining much of the evidence on compliance behavior. They also add that Groupthink has been found to have a serious implication on effective compliance. As cited in Lisa (2010), the higher the compliance by others the stronger the individual’s incentive to comply. This is an indication of the role of social influence on
compliance. The OECD (2005) further observes that, it is difficult to combat fraud and corruption in public procurement if a group of individuals in an organisation collude with common interests in maintaining secrecy around their corrupt acts. As moral obligation and social influence are weakened, regulatory compliance also weakens (Sutinen and Kuperan, 1999). We therefore make the following proposition;

\textit{P8: Perceived rule legitimacy improves moral obligation}

\textit{P9: Moral obligation improves public procurement compliance}

\textit{P10: Social influence affects public procurement compliance}

\textbf{Purchaser’s familiarity with the rules:} According to Rossi (2010), compliance with the formal elements gives an indication of knowledge of the rules. Gelderman et al; (2006) maintained that public purchasers will comply with the rules if they perceive them as clear. They added that the simple fact that the management of a public agency is familiar with the essence of the EU rules could function as an organizational incentive to comply. It is further argued that Lack of clarity is believed to increase the possibilities for (un)deliberate non-compliance. Educating and training public purchasers will be an effective tool for increasing the compliance with the directives (Gelderman et al; 2006). Eyaa and Oluka, (2011) stated that lack of familiarity with procurement rules results into poor compliance levels. They also found out that in the Ugandan context, familiarity with procurement regulations significantly predicted compliance with procurement regulations. A study by Heneghan and O’Donnell, (2007) indicated that the high levels of non-compliance were partly attributable to the complex legislative requirements of the Irish Company Acts. Lazarides, (2011) also adds that compulsory compliance is the result of among other factors clarity or lack of vagueness of provisions. Thus increasing knowledge of the law can improve compliance .The following proposition is therefore advanced;

\textit{P11: Familiarity with the procurement rules increases public procurement compliance.}

\textbf{Top management support:} Hui et al (2011) stipulates that efficient management is one of the most effective preventive mechanisms for it promotes transparency and accountability, facilitates oversight and provides a good basis to prevent corruption.
Rossi, (2010) opines that formal controls must first be defined, agreed, and applied top-down internally within an organization if they are to be effective.

An organization with a genuine commitment to legal compliance is evidenced by top management’s dedication to ethical corporate behavior (Krawiec, 2003). As cited in Heneghan and O’Donnell, (2007), a compliance culture in an organization must start in the boardroom and should be reflected and evidenced in directors’ own behaviours and attitudes. In a related argument, Obanda, (2010) stipulated that strong institutional support at top levels of government is needed by procurement personnel in order to promote integrity, monitor the public procurement process and apply procurement law appropriately. This leads us to the following proposition;

*P12: Top management support improves public procurement compliance*

**Cognitive dissonance and employee motivation:** According to cognitive dissonance theory, a powerful motive to maintain cognitive consistency can give rise to irrational and sometimes maladaptive behaviour (Festinger 1957). Cognitive dissonance is described as the feeling of uncomfortable tension that comes from holding two conflicting thoughts in the mind at the same time.

Dissonance is a healthy element of identity formation and is most powerful when it is about one’s professional self-image. Haizlip, (2011) opined that individual’s professional identity is also related to professional efficacy and effectiveness. Festinger (1957) theory of cognitive dissonance indicated a number of derivations about opinion change following forced compliance. It was argued that when someone is forced to do (publicly) something they (privately) really do not want to do; dissonance is created between their cognition (I did not want to do this) and their behavior (I did it). Forced public procurement compliance can therefore culminate into cognitive dissonance. To enforce public procurement rules, constant control and monitoring is inevitable.

However, Huberts et al; (2008) asserted that this can reduce employee trust and have a demoralizing effect on government employees, many of whom chose to work in
government precisely for the opportunity to exercise their judgment on behalf of the public. As cited by Lager (2009), the concentration of control and structuring of activities negatively affects government employees’ motivation (Vandenabeele et al; 2004). The following propositions is made:

P13: Public procurement compliance increases cognitive dissonance among employees

P14: Public procurement compliance reduces employee motivation

Corruption: According to Transparency International (2006), corruption is the misuse of entrusted power for private gain. Raymond (2008) stated that procurement related corruption tends to be a serious problem in developing countries rather than in developed countries. Developing counties such as Bangladesh, India, Sri Lanka, Nigeria, Kenya and Venezuela were identified as having high levels of corruption. As stated by Hui et al; (2011), public procurement corruption could threaten legitimacy and as such, the policies and procedures should be created to curb any possible corruption activities and enhance transparency, accountability and integrity. Citing The New Vision (2005), Obanda (2010) indicated that the Executive Director of the PPDA asserted that the government of Uganda would save 330 billion Uganda shillings by eliminating losses incurred through corruption in public procurement.

It was further stressed that corruption is because the law has many loopholes and the prescribed practices are laxly or impractical to enforce. Obanda (2010) also found out that compliance is deemed to substantially curb corruption in public procurement. OECD (2007) also added that the establishment of clear rules and regulations complemented by substantial and effectively enforced penalties, applied by public administrations and courts, are considered the most effective deterrents to bribery and corruption in public procurement. We therefore propose that;

P15: Compliance in public procurement reduces corruption.

Corporate governance: Corporate ownership and governance structures depend on corporate conventions and rules of behavior (Lazarides, 2011). According to Collier (2002), corporate compliance equates to corporate governance and refers to the
mechanisms by which corporations are directed and controlled, and by which those who direct and control corporations are monitored and supervised and made accountable for their actions.

Collier (2002) further maintains that enforcement has a greater regulatory impact beyond the violators and reminds directors and others involved in corporate management of their responsibilities and the risks attached to a failure to fulfill those responsibilities. Imperato (2005) also argues that enforcement action aiming at ensuring compliance plays an important role in corporate governance.

To ensure that effective corporate governance standards are employed and corporate scandals are best prevented frequent monitoring and enforcement should be ensured (Proimos, 2005). Anecdotal evidence suggests that in order to enhance the level of corporate governance in Africa, there should be a simple ideal regulatory process. This should consist of setting the rules and effectively monitoring compliance and enforcement (Okeahalam, 2004).

Similarly, Eyaa and Oluka, (2011) stated that hinging on some theorists, complying with the new procurement and disposal law automatically improves governance. It is further argued that compliance should go beyond merely obeying applicable laws and regulations and should extend to complying with principles of good governance (Zubcic and Sims, 2011). It was also asserted that the external drivers of good corporate governance are laws, rules and institutions that provide a competitive playing field and discipline the behavior of managers and shareholders (Okeahalam, 2004).
Conceptual framework

Figure 2: Conceptual model for achieving efficiency Public Procurement by upholding Public Procurement Act.

Description of the modals
Increase competition in Public Procurement to confidence that Procuring Entities adhering to Public Procurement Act and its regulation which indicate that there is good governance. Therefore magnitude of competition and openness tendering is supposed to be reflected in the attainment of public procurement goal which is (VFM)

Adherence to PPA will decrease level of complaints by suppliers, hence; efficiency of contract management, quality of the product or service provided. Public Procurement Act and its regulation encourage open and competitive public procurement procedures that reflect transparency, fairness and accountability and hence achieve Value for money in Procurement. The competitive public procurement procedures are advisable irrespective of the cost of procurement, as they contribute to sustainable use of public funds (ADB/OECD 2006). The principle objective of the efficiency public procurement is to encourage adherence of Public Procurement Act No. 21 of 2004 and its regulation of 2005.
Based on reviewed literature it shows that although much have been written on the concept of Public Procurement but achievement of efficiency Public Procurement needs adherence of laws and regulations. In Tanzania the problem of corruption in Public Procurement is underpinned as a major problem. Public Procurement Regulatory Authority (PPRA) and Prevention and Combating Corruption Bureau (PCCB) signed memorandum of understanding to foster closer working in implementing newly developed anti-corruption strategy in Public Procurement, PPRA Journal No. 13 Volume II. This justifying that corruption is the major challenge in achieving efficiency Public Procurement in Tanzania.
CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction
In this section, the researcher will provide a description on how the study was conducted and also gives a brief on how data was collected and the methods used in collecting the data, analyzing and presentation of data.

3.1 Research design
The study employ a case study research design where an explanatory research was conducted at National Audit Office of Tanzania (NAOT) (in this case the particular group in the public sectors was taken as a case study).

A case study research design involves in depth and detailed study of unique phenomenon. The researcher preferred this design because of its opportunities to apply to all the possible data collection techniques namely, Observation, questionnaires, interviews and documentary review.

3.2 Area of the study
National Audit Office of Tanzania (NAOT) Headquarter located in Dar es Salaam along Samora streets was the area of study. The Organization has been chosen simply because is a big and well known public Organization which has big procurement unit involving huge purchasing that facilitated to provide accurate data during my study.

3.3 Data collection and procedures
Both primary and secondary data was used in conducting this research.

3.3.1 Primary Data
The study use the following Procedures or method in gathering Primary data
Interview method; the researcher used both structured and unstructured interview guides in collecting data for analysis.
This method covered the information detailed by both semi-skilled and unskilled workers. Through this method of collecting data the researcher faced personnel concern and asked them questions that was prepared and structured for the purpose of interviewing them.

This was conducted at the respondents’ area of work. It involved personnel from different user department through use of Structured and unstructured, open-ended and closed ended question was adopted during the time of conducting the interview.

**Questionnaires;** Precise questionnaires was provided for the purpose of obtaining information about the research problem, copies of questionnaires was provided to every person in procurement department and one copy was be given to user department within an organization. This strategy was applied to ensure that all necessary information was ascertained.

**Documentation;** This method used in collecting data in the organization’s premises. This technique refers to acquisition of data from various documents. These include. LPO CLOSED AND OPENED ORDER, CONTRACTS etc. This helped in comparing the information provided and what is in the documents.

### 3.3.2 Secondary Data

This was used to obtain data by making references of different information which available or collected by other people and any relevant documents and Internet search.

### 3.4 Sampling method and procedure

#### 3.4.1 Target population

The sample size of 35 respondents was selected; these include fifteen (15) Personnel from Procurement section/department, five (5) from user department, and fifteen (15) procurement officers from other public organization.
3.4.2 **Purposive sampling**

This method was applied to the heads of departments (i.e. Procurement department) as stipulated in the unity of inquiry. Purposive sampling was employed to heads of departments because it is believed that they are knowledgeable and experienced about the matter.

3.4.3 **Simple random sampling**

This method was used to sample outside the members of procurement user department like Administration and member of tender board. The simple random sampling in this case was conducted based on common sense where a sample of 15 people was interviewed.

3.4.4 **Data analysis**

Data being collected was processed by summarizing the bulk data and analyzing them using both qualitative and quantitative methods. The analysis involves calculations, averages, percentages and trends. Presentation of data will be in the form of tables. Finally the conclusion and recommendation will base on the findings of the research.
CHAPTER FOUR

ANALYSIS AND PRESENTATION OF RESEARCH FINDINGS

4.0 Introduction

In this chapter, the findings dealt with are from unstructured personal interview, observations, questionnaires and documentary review. All data collected during the period have been analyzed to reach conclusions and form a basis for assessment of the research questions and conclusions drawn from these may impact the answering of the selected questions. Generally, the intent of the research was to compile data that assessing factors contribute to non-compliance of public procurement act and its regulation.

4.1 Presentation of findings

The researcher’s plan was to collect data on the perceptions of the respondents on the factors contribute to non-compliance of public procurement act and its regulations. The researcher began by studying the research questions and then developed questions that could serve as a questionnaire guide that provided answers to the research questions.

Personal unstructured Interview was one of the methods used to collect data in the organization concern. This was the easy way since most of the respondents responded quickly and positively. The questions were asked orally to the procurement officers, buyers, and ordinary people who are the role model of the study. The researcher intended to obtain some more important information by simply basing on the respondents’ professions, participation, experience and decision making capacity.

Furthermore, the researcher wanted to know whether the respondents were dealing with local purchasing in their daily activities. 66.67% of the interviewed respondents agreed that they deal with local purchasing in their daily activities only 33.33%
disagreed. This, so far, has given the researcher a great confidence interval of reliance and hence significance use of their information in this potential research.

Observation through viewing records, seen the situation, hearing some comments and laments from some officers contributed a lot in data collected. This method was very important because it assisted the researcher to observe what was happening in the organization and how local purchasing is conducted in the organization concern.

4.2 Analysis of data

In relation to the proposed methods of data collection, in this case the researcher was able to collect relevant data from thirty five respondents for the whole study as a population. However not all respondents showed a positive response since other respondents did not return their questionnaires and not responded to be interviewed by the researcher. The tables below shows response of the respondent towards the questions addressed to them.

**Table 1: Response of the respondents asked whether they are aware of public procurement act if it does exist.**

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th>NO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>%</td>
<td>No.</td>
</tr>
<tr>
<td>Do you aware of existence of Public procurement act?</td>
<td>29</td>
<td>82</td>
<td>6</td>
</tr>
</tbody>
</table>

**Source:** Researcher’s Estimated Sample (2013)

Basing on this response as shown on **Table 1** above, it can be noted that most of people are aware of it. The research shows that 18% of the respondents pointed out that they are not aware; this was the response from ordinary people as researcher has been trying to know from them.
Table 2: Response of the respondents asked about whether purchasing staff are professionals

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th>NO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you have professional staff in purchasing/supplier in your organization?</td>
<td>35</td>
<td>100</td>
<td>35 100</td>
</tr>
</tbody>
</table>

Source: Researcher’s Estimated Sample (2013)

Looking on whether procurement department has professional staffs, the response of respondent as showed on Table 2, revealed that 100% of the respondents pointed out that procurement staffs are professional.

Table 3: Response of respondents about any factors contributes to non-compliance to Public procurement act and its regulation.

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th>NO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there any factors contribute to non-compliance of Public procurement Act?</td>
<td>30</td>
<td>86</td>
<td>35 100</td>
</tr>
</tbody>
</table>

Source: Researcher’s Estimated Sample (2013)

Basing on the Table 3 response from the respondents, 86 percent responded that there some factors during procurement contribute to non-compliance to Public procurement act and its regulation such as urgency of the item, too many and unnecessary procedures, ignorance, unqualified procurement professionals dealing with procurement activities, misconduct, corruption and bribery practices among procurement practitioners, procurement practitioner’s interest, insufficient emphasis from governing institution on PPA, no disciplinary measures are taken to defaulters of PPA and luck of knowledgeable practitioners on PPA.
Table 4: Response of respondents if the management employs any strategies to rectify those factors contributes to non-compliance to Public Procurement Act.

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th></th>
<th></th>
<th>TOTAL</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>%</td>
<td>No</td>
<td>%</td>
<td>No</td>
</tr>
<tr>
<td>Does the Management employ any strategies to rectify those factors contribute to non-compliance to Public procurement Act.</td>
<td>22</td>
<td>63</td>
<td>13</td>
<td>37</td>
<td>35</td>
</tr>
</tbody>
</table>

Source: Researcher’s Estimated Sample (2013)

Basing on the Table 4, response from the respondents, 63% of the respondent said that the management of the company has employed some strategy to rectify the situation. Such strategies are conducting seminars, plan to recruit qualified personnel and give punishment that makes the staff to adhere to Public Procurement Act and its Regulations.

Table 5: Response of respondents on ifdoes the procurement department in your organization follows the procurement policies and procedures as it is in PPA?

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th></th>
<th></th>
<th>TOTAL</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>%</td>
<td>No</td>
<td>%</td>
<td>No</td>
</tr>
<tr>
<td>Does procurement department in your organization follow the procurement policies and procedures as it is in PPA?</td>
<td>16</td>
<td>46</td>
<td>19</td>
<td>54</td>
<td>35</td>
</tr>
</tbody>
</table>

Source: Researcher’s Estimated Sample (2013)

Basing on the response on Table 5, it can be noted that Public Procurement facing many challenges. The research shows that 46% of the respondents pointed out that procurement department follow procurement policies and procedure but there are some things that make them divert to serve a certain work. Those things are urgent work that cannot be hold to follow the procedure as required by PPA.
Table 6: Do you think in your experience there is any areas in Public Procurement Act to some extent affect achievement of efficiency Public Procurement?

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th>NO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you think in your experience there is any areas in Public Procurement Act to some extent affect achievement of efficiency Public Procurement?</td>
<td>22</td>
<td>63</td>
<td>35</td>
</tr>
</tbody>
</table>

Source: Researcher’s Estimated Sample (2013)

Basing on Table 6, it can be noted that there are some areas in PPA that hinder efficiency of procurement process. The research shows that 63% of the respondents pointed out that there are so many procedures that make them skip them depend on how agent the work is and by skipping them makes no effect but they are there in the PPA.

Table 7: Response of respondents if there any challenges faced by procurement department in complying with PPA in your organization?

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th>NO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there any challenges, which faced by procurement department in complying with PPA in your organization?</td>
<td>12</td>
<td>60</td>
<td>35</td>
</tr>
</tbody>
</table>

Source: Researcher’s Estimated Sample (2013)

Basing on the response above, it can be noted that there are some challenges, such as too many procedures that make some job to delay, it is too complicated. The research shows that 60% of the respondents pointed out that PPA have some challenges which need to be modified for the act to be real and user friend.

Inadequate capacity in purchasing planning, Inadequate records management system for purchasing process, Conflict of interest between end user and purchasing unit upon the receipt of goods or services that do not meet user expectation, bribery and
corruption in some purchasing processes. Some suppliers and services provider had lost confidence in purchasing process as they see it as wastage of time and money, they hold the belief that in order to win a contract there should be a motivation factor either in terms of bribe, gift or relation with key people on contract committee is mandatory.

Table 8: Does PPA self-explanatory that every person participating in procurement process can understand it?

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th>NO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>%</td>
<td>No</td>
</tr>
<tr>
<td>Does PPA self-explanatory that every person participating in procurement process can understand it?</td>
<td>27</td>
<td>77</td>
<td>8</td>
</tr>
</tbody>
</table>

Source: Researcher’s Estimated Sample (2013)

Basing on the response on Table 8, it can be noted that Public Procurement Act is self explanatory that anybody dealing with procurement process can read and understand it. As 77% of the respondent replied so.

Table 9: Is there a specific punishment to the officers who went against the Public Procurement Act in your organization?

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th>NO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>%</td>
<td>No</td>
</tr>
<tr>
<td>Is there a specific punishment to the officers who went against the Public Procurement Act in your organization?</td>
<td>-</td>
<td>-</td>
<td>35</td>
</tr>
</tbody>
</table>

Source: Researcher’s Estimated Sample (2013)

Basing on the response on Table 9, the research shows that 100% of the respondents pointed out that there is no punishment enacted to make people responsible. If an officer court liable for giving tender or work to unqualified company or person can be moved from the position he/she has to another one or gets transfer to other
region offices where the scandal is not known and works there as he had a normal transfer. So that punishment is not strong and no officers scare it.

**Table 10: How often does the organization conduct seminars to remind procurement practitioners on the procedures and regulations during procurement process**

<table>
<thead>
<tr>
<th>SITUATION</th>
<th>YES</th>
<th>NO</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>How often does the organization conduct seminars to remind procurement officer on the procedures and regulations during procurement process?</td>
<td>23</td>
<td>12</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>65</td>
<td>35</td>
<td>100</td>
</tr>
</tbody>
</table>

**Source:** Researcher’s Estimated Sample (2013)

Basing on the response on **Table 10**, the research shows that 65% of the respondents pointed out that organization conducts seminar for the officers twice a year and sometimes they do attend seminars from NBMM.

In general, the study revealed that Public Procurement Act is well known to all procurement offers but there are some challenges faced by them to comply with it full. The study also revealed that most of the factors contribute to non-compliance to Public Procurement Act are due to bureaucracy, its regulation such as urgency of the item, too many and unnecessary procedures, ignorance, unqualified procurement professionals dealing with procurement activities, misconduct, corruption, bribery practices among procurement practitioners, insufficient emphasis from the governing institution, procurement practitioners’ interest, no disciplinary measure taken to defaulters of PPA and lack of knowledgeable practitioners on PPA.

The research also revealed In Tanzania the problem of corruption during purchasing is a major problem, this is because of unethical Public officers who do not adhere to code of conduct.
CHAPTER FIVE

DISCUSSION

5.0 Introduction
This chapter discusses the findings and relates them to the literature review and theory. It basically guided by the research objectives and research questions in relation to the literature review in chapter two and the findings from the analysis in chapter four. The specific objectives and research questions were:

- The study was intended to find out what factors contribute to non-compliance of PPA during procurement process in public sectors.
- To identify and evaluate the procurement procedures used during procurement process.
- To evaluate if the staff handling procurement activities have knowledge on the procurement procedures as stated in The Public Procurement Act.
- To examine whether PPRA takes a disciplinary measure to an organization that violate the procurement procedures as stated in a public procurement Act.

- This research was also guided by research questions which were aimed at establishing relationships between various variables and were developed as follows;

- What factors contribute to non-compliance of PPA during procurement process in public sectors?
- Does proper procurement procedures applies in public organizations during procurement process?
- Are procurement personnel involved in procurement activities qualified for that position? And are they conversant with public procurement procedure as required by public procurement Act?
- Does PPA self-explanatory that every person can read and understand?
How often does the organization conduct seminars to remind procurement officer on the procedures and regulations during procurement process?

5.1 General discussion
Public Procurement Act is the act enacted by Public Procurement Regulatory Authority to give directives on how procurement in public sector should be conducted.

The researcher discusses on availability of professional staff in a procurement department, training be conducted, factors contribute to non-compliance to public procurement act and challenges faced by the organization in adhere to the requirement of the PPA.

5.2 Public Procurement Act
Fair and effectiveness represents a key precondition to promote wide participation in procurement transaction and as such procurement entities must ensure transparency.

The PPA 2004 for instance makes transparency a primary consideration throughout the procurement process, from the initial identification of need through to the final disposal of any property.

5.3 Factors contribute to non-compliance of Public procurement Act
The study revealed that there are many factors contribute to non-compliance of Public Procurement Act, supported by the view from the organization of the study; this research paper was based on positive result.

When conducting research at NAOT, and other public institutions to get more data to support my research. The research found the following factors;

- The study shows that urgency of the item and service to be procured is one of the factors contribute to non-compliance of Public Procurement Act; for example you may find a machine breakdown and without it
no work will proceed in the organization. To make sure the work will proceed immediately, the item has to be purchased urgently without following the procedure provided by public procurement act as it will take long and compromise some other activities from taking place

- The researcher also found that too much procedure in the Act. This is the problem due to the fact that, organization might need to buy goods with less time as too much procedures hinder their performance. Some of these procedures found to be of not important that’s why they do ignore them.

- The researcher has also revealed that ignorance by the procurement people. There are some procurement personnel just ignore the act as there is no serious implementation of the act. Sometimes the punishment given to the personnel is not severe; they just get moved from one organization to another, these makes people work carelessly.

- The research study also revealed that unqualified procurement personnel dealing with procurement activities contribute to non-compliance to public procurement act. Some personnel were employed with no qualifications and they are not taking initiatives getting to know the act and do they work the way the know other than following the procedure provided by the procurement act.

- The research study also revealed that misconduct/corruption and bribery practice among procurement practitioners does contribute to non compliance of Public Procurement Act. Sometimes procurement practitioners may get something from suppliers so that they can be favoured to get a certain work/tender. In Public Procurement Act it requires the practitioners to observe transparency, integrity and accountability. due to these act of corruption PPA is not been complied to by some practitioners.
• It has also been revealed during the research study that lack of knowledgeable practitioners on PPA and its regulation.

• The research study also revealed that insufficient emphasis from governing institutions on Public Procurement Act. Procurement practitioners does contribute to non compliance of Public Procurement Act as no emphasis be given during procurement so the just do work as a routine not as required by PPA.

• The research study also revealed that no disciplinary measures taken to defaulters of Public Procurement Act, hence procurement practitioners take it for granted. This does contribute to non compliance of Public Procurement Act. Sometimes procurement practitioners may get something from suppliers so that they can be favoured to get a certain work/tender and no disciplinary action against them and they keep breach the Act.

• The research study also revealed that practitioner’s interest. Practitioners dealing with procurement activities with interest on some works/tender tend to violet public procurement act so as to favour themselves. Some personnel has business that make them bias as they need the tender and not adhere to PPA regardless of been of no qualifications for the work offered to them.
CHAPTER SIX

SUMMARY, CONCLUSIONS AND POLICY IMPLICATIONS

6.0 Introduction
This study has evaluated the factors contribute to non-compliance to Public Procurement Act in the public procurements. The study was done with the reference to the objectives of the study as stated in section 1.3 which were:-

- To find out what factors contribute to non-compliance of PPA during procurement process in public sectors.
- To identify and evaluate the procurement procedures used during procurement process.
- To evaluate if the staff handling procurement activities have knowledge on the procurement procedures as stated in The Public Procurement Act.
- To examine whether PPRA takes a disciplinary measure to an organization that violate the procurement procedures as stated in a public procurement Act.

On the basis of the theoretical and literature review in chapter two, presentation of the findings in chapter four and a discussion of the findings in chapter five, the following summary and conclusions are drawn.

6.1 Summary
This research report is organized in six chapters. Chapter one of the reports sets background of the study while chapter two reviewed related local and global theoretical and empirical literatures on the causes for public procurement costs escalation.

Chapter three of this report provide the research design and methodology used in conducting the study, the data collection procedures and data quality assurance, chapter four presented the findings, chapter five presented the discussion of the
findings and lastly chapter six presented the summary, conclusions and policy implications of the research conclusions.

Public procurement is an important function of any Government. The importance of procurement as a function lies on the magnitude of funds used, a great impact on the economy and a need for it to be well managed. To explain the significance of the procurement function for goods, works and services, literature shows that it has been established for procurement to account for between 70% and 80% of the Government budget yearly in Tanzania.

Although procurement has all the attributes of the importance in the performance of the Government in furtherance of the social development, non-compliance to Public Procurement Act has proved to be a stumbling block in Tanzania. The research established the knowledge gap that exists in explaining the factors that contribute to non-compliance of Public Procurement Act during public procurements.

This study aimed at addressing three research questions in as far as the research problem is concerned. The questions were:

- What are factors contribute to non-compliance of Public Procurement Act.
- Does proper procurement procedures applies in public organizations during procurement process?
- Are procurement personnel involved in procurement activities qualified for that position? And are they conversant with public procurement procedure as required by public procurement Act?
- Does PPA self-explanatory that every person can read and understand?
- How often does the organization conduct seminars to remind procurement officer on the procedures and regulations during procurement process?

Initially factors contribute to non-compliance to Public Procurement Act in public procurements and the impacts there from were reviewed from the existing literatures and thereafter primary data were collected through questionnaires and the interviews to obtain views of the practitioners regarding the subject.
From the data analysis whereby the primary and secondary data were synchronized, findings show that mainly procurement cost is affected by human conducts which are driven by the corruption attitude. This is done through collusion that is forged between the staff and suppliers with intentions of defrauding the Government and creates the personal wealth.

It was made clear also that the Government bureaucratic systems and lack of the enterprising culture in its processes makes the Government to stand a negative chance of making a saving out of the procurement transactions when dealing with the businessmen from the private sector.

The reason is that, when the staff from the Government will be keen in observing laws, procedures and directives, the suppliers from the business community will be negotiating the prices upwards taking into account all bureaucratic costs. Other factors that were examined include misconduct/bribery procurement practitioners’ conducts including corruptive practices.

However, the respondents urged that misconduct and bribery conduct are the factors whose controllability is vivid but influenced by some other primary factors some of which are beyond the control. Example of this is when the government procuring entity is forced to enter into emergency procurement to meet the ad hock project directed by the government out of political ambitions.

Government suffers the lack of trust from citizens and donors also economically; the government is suffering from investing the limited resources into the avenues that does not live longer because of the procurement irregularities.

It is the Government which suffers the impact of poor quality of projects which needs severe maintenance which keeps on eroding the funds that otherwise would have been available to improve other economic sectors.
6.2 Conclusions

From the summary in 6.2 above, the researcher makes the following conclusions:-

a) The procurement is a significant economic activity in the operation of any organization whether it is public or private. This conclusion is reached at considering the magnitude of funds that goes into it and its importance for the day to day operation as indicated in the literature review chapter two.

b) However, control framework has been enhanced on the use of the public money in procurements; the deliberate irregularities which contribute to non-compliance of PPA have been persisting.

c) Staffs have been identified as the major stumbling block in ensuring PPA is adhered to during procurements in the public sector. This is due to the fact that staff engages themselves in collusion with suppliers under the influence of corruption to realize their personal gain.

d) The government bureaucracy on urgent items and services and its dominance culture of a lack for enterprising culture denies it the opportunities to comply with PPA during procurement processes. This is because, the procurement staff in the public sector while exercising their procurement role they are forced to violet the law, regulations, policies and circulars to cutter for those urgent items and services. PPA should not provide the room for these urgent item as it gives room for staffs to violet the PPA and its regulations.

e) The procurement legal framework has put forward the provisions which shows the prohibitions and clearly stated that whoever fails to comply with the requirements of the law, commits an offence. The research rooted up and concludes that failure of the Government to take disciplinary measures to deter the staff from engaging themselves in corruptive practices stimulates staff to take part.
6.3 Policy Implications
From the summary of the study results presented in chapter five, non-compliance of Public procurement Act during public procurement is mainly caused by human factors including urgent of an item and services, misconduct, corruption and bribery, ignorance, procurement practitioner’s interest, unqualified procurement professionals, too many procedures, staff collusion with suppliers and dishonesty in the processes. The following are policy implications of the findings and conclusions.

6.3.1 Coordination of procurement activities
There is a need for a co-ordinate approach to procurement if the Government is to achieve best value in its use of public funds. This co-ordination could be provided within a public procurement regulatory Authority indicating the recommended procurement does and don’ts, Develop a “code of procurement professional ethics; Provide professional advice and support to the individual procuring entities which are seen to need the support; issue a good practice guides in relation to procurement and undertake research into the needs of procuring entities;

6.3.2 Addressing Human deliberate inefficiencies
The aspects of human inefficiencies in non-compliance to PPA during public procurement register a big contribution in the causing factors. There are both factors on the deliberately caused and non-deliberately caused inefficiencies.

The Government has to ensure that the deterrent measures are taken to ensure that staffs do not get involved in the corrupt practices and other factors which push higher the procurement costs. On the aspects that are not the deliberate human inefficiencies the assessment has to be done to identify the appropriate course of action including intensive training and workshops for capacity building.

6.4 Recommendations for Further Research
This study has evaluated the factors contribute to non-compliance of Public Procurement Act in the public procurements. Although the study has attempted to
uncover the factors grounding to non-compliance to PPA in public procurement, some issues came up but could not be looked into in detail.

It is therefore felt that future research can take into the considerations more areas including the following:

i. The reasons which makes the public officers vulnerable to corruptive practices to the extent of compromising public funds.

ii. What can be the appropriate mode of operation in the Government operations considering the importance of bureaucracy, transparency and the need of enterprising culture when implementing the PPA?

iii. What are the reasons for persisting acts of officers engaging in corruptive practices despite the existence of robust legal framework with the relevant provisions?
ANNEXES

Annex 1
Research budget
The researcher will be required to have sufficient fund for conducting the study. Source of funds to finance the study will be from sponsors, parents, relatives and friends.

<table>
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<th>TRANSACTIONS/ITEMS</th>
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<td>2.</td>
<td>Emergency</td>
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<tr>
<td>3.</td>
<td>Transportation</td>
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<tr>
<td>4.</td>
<td>Meals</td>
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<td></td>
<td><strong>GRAND TOTAL</strong></td>
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Annex 2
Schedule of activities
The study will take 20 weeks from March to the end of July. The activities of the study will comprise the following:

<table>
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<tr>
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<th>WEEKS</th>
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<tr>
<td>1</td>
<td>Orientation and formalization to the organization.</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Reviewing of documents of the organization</td>
<td>2</td>
</tr>
<tr>
<td>3</td>
<td>Administering interview and questionnaires</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>Compiling answers from the questionnaires</td>
<td>3</td>
</tr>
<tr>
<td>5</td>
<td>Data interpretation and analysis</td>
<td>3</td>
</tr>
<tr>
<td>6</td>
<td>Report writing and submission</td>
<td>3</td>
</tr>
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<td></td>
<td><strong>TOTAL DURATION IN WEEKS</strong></td>
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URT 2006 Materials Management Journal Issue No. 30

URT 2006 Public Procurement Regulatory Authority Document for Tender
Board Secretaries

URT 2006 Value for Money Workshop

Appendix 1

Research questionnaires
Dear respondents,

My name is Jackline Martin, a student pursuing Masters of Science in Procurement and Supply Chain Management (MSc. PSCM) at Mzumbe University, Dar es Salaam Campus College.

I am doing research on factors contributing to non-compliance of Public Procurement Act during procurement process in Public Sectors. I kindly request you to take some times in answering the following questions as honesty as possible. The information given will be treated as confidential and used solely for the purpose of this study.

Thank you very much for your time and cooperation.

INSTRUCTIONS:
*Just put a tick for the question with multiple choice answers and fill in the blank spaces with your own answers.*

1. Do you know what Public Procurement Act is?
   Yes No

2. If yes, please explain in brief what it and its role.
   
   ……………………………………………………………………………………………
   ……………………………………………………………………………………………
   ……………………………………………………………………………………………

Does the organization follow Public Procurement Act No.21 2004 and its regulations of 2005?
Yes No

4. If yes to what extent is useful in achievement of efficiency Procurement in your organization?
   a. Excellent  b. High  c. Moderate  d. Low  e. poor
5 Do you think in your experience there is any areas in Public Procurement Act No. 21 of 2004 and its regulation of 2005 affect achievement of efficiency Public Procurement?
Yes No

6 If yes, please mention those areas
1 ....................................................
2 ....................................................
3 ....................................................
4 ....................................................
5 ....................................................

7 Does the organization face any Challenges in applying PPA during Procurement process?
Yes No

8 If yes, please mention them
i. ....................................................
ii. ....................................................
iii. ....................................................
iv. ....................................................
v. ....................................................

9 To what extent these challenges affect achievement of efficiency Public Procurement in your organization?
   a. Very High b. High c. Moderate d. Low d. poor

10 Does the organization employ any strategies to rectify these Challenges?
Yes No

11 If yes, to what extent those strategies are effective and efficiency?
a. very high b. High c. Moderate d. Low d. poor
12. What are factors that contribute to non-compliance of PPA during procurement process in your organization?
   i. ...........................................................................................................
   ii. ...........................................................................................................
   iii. ...........................................................................................................
   iv. ...........................................................................................................

13. Does PPA self-explanatory that every person participating in procurement process can understand it?
   Yes   No

14. If No, give your opinions
   i. ...........................................................................................................
   ii. ...........................................................................................................
   iii. ...........................................................................................................
   iv. ...........................................................................................................

15. Does the punishment given to officers who involve themselves in breaking the procurement procedures severe enough?
   Yes

Thank you for your Time.