

ANALYSIS OF FACTORS CONTRIBUTING TO POOR PERFORMANCE OF PROCUREMENT FUNCTIONS IN LOCAL GOVERNMENT AUTHORITIES: EMPIRICAL EVIDENCE FROM AUDIT REPORTS

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ABSTRACT: *In Tanzania like any other developing countries, local governments are regarded as key providers of public services to the people in various aspects such as education, health, water, infrastructure, financial transactions. The main objective of this study was to assess the factors that contribute to the poor performance of procurement functions in local government authorities. The specific objectives of this study were: to analyze the effect of internal control, staff capacity, and corruption on procurement performance of the local governments in Tanzania. Through a review of existing scholarly works, documents, records and reports, a conceptual frame work was developed. The findings and recommendations of this paper were made based on audit reports for the period of four consecutive years conducted by the National Audit Office (NAOT) and the Public Procurement Regulatory Authority (PPRA). This study revealed that, Local Government Authorities (LGAs) procurement performance faces serious challenges pertaining to weak internal control, lack of staff capacity, and lack of integrity. The study recommended that the public procurement body (PSPTB) and regulatory body (PPRA) should put more efforts on capacity building and monitoring to the LGAs with inadequate compliance level in order to strengthen and improve their procurement performance. It was further recommended that the LGAs managements should continue strengthening their Procurement Management Units, Tender Boards, User Departments as well as Internal Audit Units in order to obtain value for money on the procurements made.*

KEYWORDS: Poor Performance, Procurement Functions, Local Government.

INTRODUCTION

Background to the Study

Following its national election in 1994, the Government of Tanzania embarked on an ambitious decentralization process enunciated in its 1998 Policy Paper on Local Government Reform which articulated a vision of a system of autonomous local governments. This impetus took place against a backdrop of a checkered history of decentralization, characterized by pendulum swings, from a strong local government inherited during the colonial period to its abolition after independence and then its revival in the 1980s (World Bank, 2016). The report further urged that prior to the 1998 Policy Paper, substantial public sector changes already occurred with the civil service reforms in 1996 (retrenchments and reorganization of the public sector). The drive for reform was also motivated by other factors including political and demographic changes, particularly in the 1980s when there was limited donor influence. The statistics posted by directorate of procuring entities of Public Procurement Regulatory Authority (PPRA) has shown that, as of April 6th 2017, there were 169 (33%) procuring entities registered under Local Government Authorities (City Councils,

Municipal Councils, District Councils, and Town Councils) in Tanzania, of which the total registered procuring entities in other five categories was 508 (<http://tenders.ppra.go.tz/portal/index.php?view=pe&opt=opt>, visited on April 6, 2017).

Procurement is one of the key support functions in public service. The Public Procurement Act No. 7 of 2011 established a decentralized procurement system in which government ministries, independent departments, government agencies/authorities, local government authorities (LGAs), regional administrative secretaries, and parastatal organizations could carry out their procurement without any financial thresholds or intervention from central government. Andrew (2008) mentioned that for decade's procurement performance has been attracting great attention from practitioners, academicians and researchers due to poor levels of performance. This was agreed by Juma (2010), who added that poor procurement performance in the public procuring entities has been a problem due to lack of compliance to procurement regulations, lack of adherence to procurement procedures, lack of professionalism in undertaking procurement activities and lack of transparency in tendering process.

During Financial Year 2015/2016, Value for Money (VFM) audits carried out by Public Procurement Regulatory Authority (PPRA) at Dar es salaam City Council revealed dubious payment made in respect of projects worth TZS 502.98 million where a total of TZS 140.69 million was paid to contractors for non-existing and shoddy works. Likewise the Controller and Audit General (CAG) Report for the year ended 30th June 2015 revealed that, in Morogoro DC, the evaluation committee disqualified the lowest bidder for one missing page contrary to tender evaluation guidelines resulting in a loss of TZS 57,979,200. Similarly CAG audit report for the year ended 30th June 2014 noted that out of 163 LGAs 127, LGAs equivalent to 78% satisfactorily complied with the procurement law, while 36 LGAs (22%) did not satisfactorily comply.

Poor procurement performance is a major hindrance to procuring entities growth since it causes the delay of delivery, increase of defects, delivery of low quality goods or non delivery at all (Gordon & Murray, 2009). Likewise Gunasekaran, (2013) pointed out that despite the fact that there are various studies that focus on procurement performance many procurement activities suffer from neglect, lack of direction, interference, poor co-ordination, lack of open competition and transparency, differing levels of corruption and most importantly not having a cadre of trained and qualified procurement specialists, who are competent to conduct and manage such procurements, in a professional, timely and cost effective manner. It is against this background the author intends to carry out comprehensive study on the factors contributing to poor performance of procurement functions in local government authorities in Tanzania.

Statement of the Problem

Procurement performance in Local Government Authorities is governed by the Public Procurement Act 2011 (PPA 2011), the Public Procurement Regulations 2013 (PPR 2013), the Local Government Authorities Tender Boards (Establishment and Proceedings) Regulations 2014, the Public Procurement Act (Amendments) 2016, the Public Procurement Regulations (Amendments) 2016, and the Local Government Act, 1982. The main objective of these legislations is to enable the LGAs to acquire goods, services and works of the right quality, quantity, price, from right supplier, taking into account, the economy, accountability, transparency, non-discrimination among potential suppliers and respect for international

obligations, in order to protect the public interests. The local government authorities have mandate to undertake procurement functions on behalf of the Ministries for attainment of government core functions of procuring goods, works and services in adherence to established procurement procedures, regulations and policies (PSRP, 2008).

Kamala (2008) pointed that implementation of procurement procedures in local governments has been facing challenges of corruption, unethical staffs and lack of transparent in procurement processes. He also argued that these challenges have led to selection of incapable suppliers, contractors or service provider, delivering goods or services of low quality and paying suppliers and service provider for undelivered goods or services. The annual audits reports conducted by PPRA and CAG disclosed serious shortcomings. The poor procurement performance in Local Governments in Tanzania is evidenced through audit report conducted by PPRA in the financial year 2014/2015 and 2015/2016 which indicated that, compliance to PPA 2011 and PPR 2013 by procuring entities stood at 62 per cent and 70 per cent instead of the expected 69 per cent and 78 per cent respectively. Furthermore the audit report for the financial year 2014/2015 showed that out of 80 audited Procuring Entities (PEs), 17 PEs had poor performance in complying with PPA 2011 and PPR 2013. However out of 17 entities, 8 (47%) entities were LGAs. Furthermore, the CAG audit report for the year ended 30th June 2013 revealed that six Councils procured goods worth Tanzania Shillings 125,681,000/= were ordered and payment was made to the supplier for undelivered goods. In addition to that, the CAG audit report for the year ended 30th June 2012 discovered that twenty-four Councils made procurements worth Tanzania Shillings 541,013,405/= without obtaining approval from the relevant Tender Boards, contrary to the requirement of procurement legislations.

Conflict of interest in LGAs has also been reported several times, as noted by the Prime Minister Hon. Kassim Majaliwa, on December 5, 2016 when addressing Karatu District Council in Arusha region, that ward councillors and public servants are prohibited to apply for tenders floated by their relevant councils. This is in accordance with section 84(3) of PPA 2011. On the other hand, public procurement is one of the government activities most vulnerable to corruption. A study by the OECD and the World Bank shows that corruption in infrastructure and extractives sectors lead to misallocation of public funds and substandard and insufficient services (OECD, 2016). Many studies indicate that corruption, misuse of power and authority and the breaking and disregard for human rights is rampant in local authorities (NACSAP II report, 2010). Thus, a lot is needed at local level to improve the situation of service delivery to the people, and the need to bring about public awareness in the fight against corruption and other vices.

To address compliance issue in local governments, the Government of Tanzania has taken various measurements including procurement reforms where enactment of Public Procurement Act 2011 as amended and its regulations of 2013, as amended (Matto, 2017). However the recent studies indicated that process is still shrouded by secrecy, inefficiency and corruption. In all these cases huge amount of money are wasted. In spite of having various studies undertaken on procurement performance in public procurement, there are still gaps that need to be addressed. The key notable gaps identified for this study include: effects of weak internal control; effects of staff capacity to handle procurement functions; and effects of corruption. The researcher is going to assess the factors that contribute to poor performance of procurement functions in Local Government Authorities (City Councils, Municipal Councils, District Councils, and Town Councils).

Objectives of the Study

The main objective of this study is to assess factors that contribute to the poor performance of procurement functions in local government authorities. The specific objectives of this study were:

- i. To analyze the effect of internal control on procurement performance of the local governments.
- ii. To establish the extent to which staff capacity affects procurement performance of the local governments.
- iii. To explore the effects of corruption on procurement performance of the local governments;

LITERATURE REVIEW

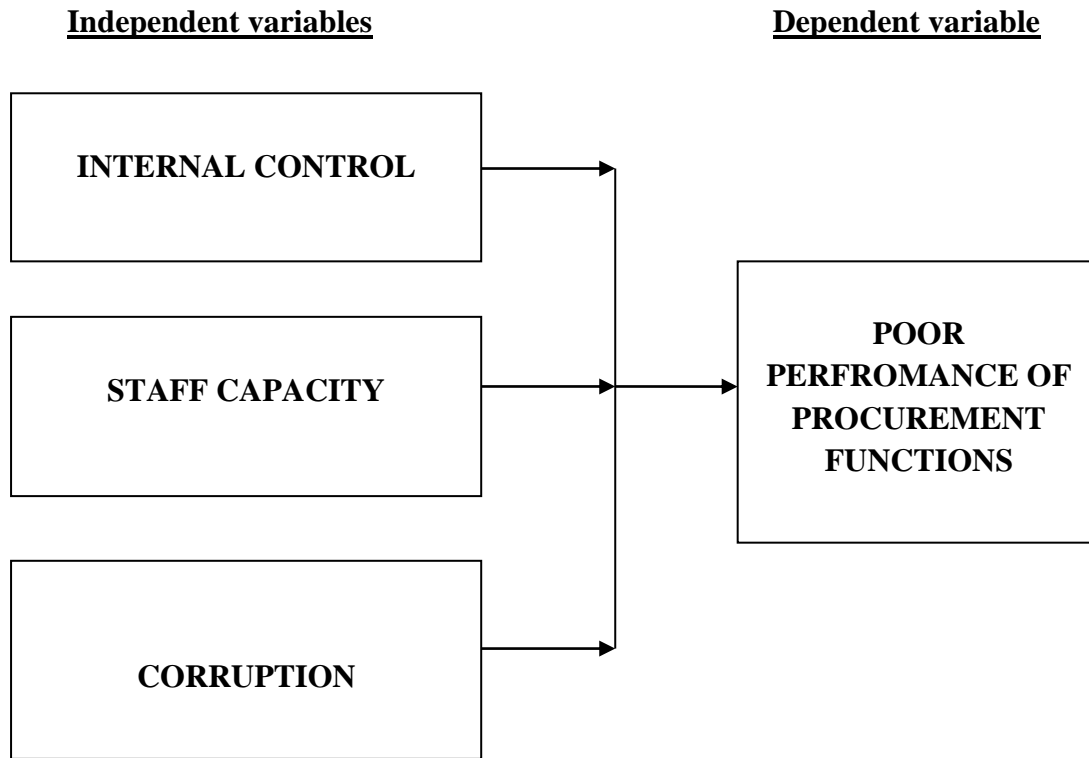
Pursuant to section 3 of PPA 2011, Local government authority defined as a local government authority established under the Local Government (District Authority) Act or local government authority established under the Local Government (Urban Authority) Act. It includes City Councils, Municipal Councils, District Councils, and Town Councils. The CAG annual report for the year ended 30th June 2016 indicated the existence of 171 entities under the local governments category where 131(76%), 18(11%), 17(10%), 5(3%) were District Councils, Municipal Councils, Town Councils and City Councils respectively.

Theoretical Review

This study was guided by the compliance theory. According to Lunenberg (2012) compliance theory is depicted where, organizations can be classified by the type of power they use to direct the behaviour of their members and the type of involvement of the participants. In most organizations, types of power and involvement are related in three predictable combinations: coercive (alternative), utilitarian (calculative) and normative (moral). The public procurement practitioners in local government authorities must comply with Public Procurement Act 2011 and its Regulations 2013, as amended, as well as other laws in various fields in order to enhance value for money in procurement.

Conceptual Framework

According to Kinyua, (2011) a conceptual framework is used to outline possible courses of action or to present a preferred approach to an idea or thought. The study conceptual framework shows the relationship between independent variables and dependent variable. The model below indicated how the three elements are interrelated i.e. internal control, staff capacity and corruption causes poor performance of procurement functions. Therefore, internal control, staff capacity and corruption are independent variables whereas poor performance is dependent variable.



Internal Control: The American Institute of Public Accountants has defined internal control as the plan of organisation and all the co-ordinate methods, and measures adopted within a business to safeguards its assets, check the accuracy and the reliability of its accounting data, promote operational efficiency and encourage adherence to prescribed managerial policies. It consists of a number of checks and controls which are exercised in a business to ensure its efficient and economic working. Thus internal control involves sort vigilance and directions over important matters like budget and finance, procurement and internal administration by the management. Procurement legislations have given Finance Committee, Accounting Officers, Regional Commissioners, Tender Boards, and Internal Audit Units power to monitor and control procurement proceedings (LGA Procurement Regulations, 2014). Furthermore, the limits of authority for procurement and disposal, review of procurement decisions, and roles played by council officers have been stated categorically in the regulations. *Therefore, based on the reviewed studies the author establishes that weak internal control has a negative effect on procurement performance in Local Government Authorities.*

Corruption: According to Transparency International (2006), corruption is the misuse of entrusted power for private gain. The report further articulated that corruption in public procurement can happen in many different ways. These range from the most common form of upfront bribery and facilitation payments to more subtle forms of political corruption. Compliance is deemed to substantially curb corruption in public procurement (Obanda, 2010). The impacts of corruption has been stated clearly by Hui et al (2011) that 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. In Tanzania, the problem of corruption in Public Procurement is underpinned as a major problem. In February 2010, the 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 (NACSAP II report, 2010). *The author proposes that corruption contributes to poor performance of procurement functions in Local Government Authorities.*

Staff Capacity: The quality and quantity of the staff in the procurement units are essential to good procurement administration. The existing staff should have relevant knowledge of the disciplines and the capacity required for carrying out procurement functions. According to a study by Public Procurement Oversight Authority (PPOA) (2007) the procurement regulations were meant to ensure that efficient training had been offered to professionals to serve in procurement. The same study revealed that the available expertise at the procurement units did not meet the need for specialized procurement knowledge despite there being steps towards developing a professional procurement workforce. The study further noted that the overall lack of procurement knowledge remains a major weakness to the efficiency of procurement operations. Section 37(1) & (2) of PPA 2011 required procurement units to be staffed to an appropriate level and consisted of procurement and other technical specialists together with the necessary supporting and administrative staff (PPA 2011). Therefore, to carry out the normal procurement tasks, LGAs should ensure sufficient qualified staff are available. *The author suggests that lack of capacity to handle procurement functions reduces performance of procurement functions in Local Government Authorities.*

METHODOLOGY

The base of this study was the annual general reports of PPRA and CAG for the year ended 30th June, 2013, 30th June, 2014, 30th June, 2015, and 30th June, 2016. The author conducted an intensive review of documentary information relevant to the subject matter. In addition to that the author reviewed the following materials: text books on public procurement, Journals on Procurement, PCCB and PPAA annual reports, standardized documents prepared by oversight bodies, news papers and articles. The procurement performance for about one hundred seventy one LGAs were reviewed, of which 131 were (District Councils), 18 (Municipal Councils), 17 (Town Councils), 5 (City Councils) and the total councils was 171. The gathered data was qualitatively and quantitatively analyzed based on the content analysis relevant to the study.

PRESENTATION AND DISCUSSION OF FINDINGS

Size of LGAs Procurement Volume

According to the National Audit Office report (2003), Tanzania's total annual expenditure budget was estimated at Tanzania shillings 2.0 trillion (equivalent to US\$ 2.0 billion). It was further learnt that, about Tanzania shillings 1,400 to 1,500 billion or just over 70 percent was annually expended by the Government on public procurements. The size of procurement expenditure can be determined by budget set for a year. For example in the year 2016/2017

total government expenditure was 29,539.6 billion where Shs 4,769.3 billion was budgeted as grant transfer to LGAs. This LGAs budget was allocated in sector wise as follows: Education sector Shs 2,958 billion; Health sector Shs 719.7 billion; Agriculture sector Shs 113.4 billion; Roads Shs 50.96 billion; Water sector Shs 62.248 billion; and Administration Shs 864.94 billion (URT Budget FY 2016/2017). Analysis of the amount spent by the Council for procurement of goods and services during the year is as tabulated in the table 1.

Table 1: Size of LGAs procurement volumes in various financial years

Financial Year	Number of LGA	Volume in TZS
2015/2016	171	1,059,766,536,340
2014/2015	164	1,092,633,470,935
2013/2014	163	1,190,156,489,276
2012/2013	140	1,043,364,884,514

Source: Compiled from CAG audit reports for financial years 2012/2013-2015/2016

Trends of Audit Opinion to the Audited LGAs

The CAG audit which was conducted in line with the International Standards of Supreme Audit Institutions (ISSAIs). ISSAI 1200 requires an auditor to conduct and express an independent opinion as to whether the Financial Statements were prepared in all material respects according to the applicable financial reporting framework. According to ISSAIs 1700 and 1705, an auditor can express different types of opinions depending on the issues noted during the audit. The following types of opinion can be issued: Unqualified, Qualified, Adverse, and Disclaimer. After evaluation of the nature, materiality and pervasiveness of the issues noted during audit for the four consecutive years, the CAG issued the following opinions (see table 2) to the audited LGAs.

Table 2: Trends of Audit Opinion to the audited LGAs

Financial Year	Audit Opinion								Total
	Unqualified		Qualified		Adverse		Disclaimer		
	No.	%	No.	%	No.	%	No.	%	
2015/2016	136	80	34	20	1	1	0	0	171
2014/2015	47	29	113	69	3	2	1	1	164
2013/2014	150	92	13	8	0	0	0	0	163
2012/2013	112	80	27	19	1	1	0	0	140

Source: Compiled from CAG audit reports for financial years 2012/2013-2015/2016

The table 2 indicated that for the four consecutive years an average of 70% LGAs were issued with unqualified opinion meaning that their financial statements presented a true and fair view, an average of 29% LGAs were issued with qualified opinion following meaning that material misstatements existed in the audited financial statements, average of 1% LGAs issued with adverse opinion meaning that, disagreements that existed in the submitted financial statements were both material and pervasive, and less than one percent LGA issued with disclaimer meaning that the auditor was unable to obtain sufficient appropriate audit evidence on which to base the opinion and the auditor concludes that the possible effects on the Financial Statements of undetected misstatements could be both material and pervasive.

Compliance with the Public Procurement Act, 2011 and its Regulations of 2013

Section 48(3) of the Public Procurement Act No. 7 of 2011 requires external auditor (CAG) to state in his annual audit report whether or not the audited entity has complied with the requirements of the Public Procurement Act and its Regulations. Furthermore section 9(1)(i) of the Public Procurement Act, gives mandate PPRA to carry out compliance and value for money audit. The findings for the five consecutive years are shown in the table 3. This information was supplemented by the audit findings by the PPRA for the same financial years where LGAs scored below the expected target, as indicated in the table 4.

Table 3: Compliance with PPA 2011 and PPR 2013 by CAG

Financial Year	Total LGAs	# of LGAs Complied		# of LGAs Not Complied	
		No.	%	No.	%
2015/2016	171	121	71%	50	29%
2014/2015	164	140	85%	24	15%
2013/2014	163	127	78%	36	22%
2012/2013	140	Nil	Nil	not satisfactory	
2011/2012	134	Nil	Nil	not satisfactory	

Source: Compiled from CAG audit reports for financial years 2012/2013-2015/2016

Table 4: Compliance with PPA 2011 and PPR 2013 by PPRA

Audit Financial Year	Compliance level	Target level for the year under review	Variance
2011/2012	67%	80%	-13%
2012/2013	60%	80%	-20%
2013/2014	62%	75%	-12%
2014/2015	67%	75%	-8%
2015/2016	70%	78%	-8%

Source: Compiled from PPRA audit reports for financial years 2012/2013-2015/2016

Specific Findings Related to Poor Performance

The miscellaneous findings related to the study are presented in the table 5. This depicts serious weaknesses in management of procurement functions in LGAs. The possible causes for each finding are also indicated in the last column.

Table 5: Specific findings related to poor performance for the period of four years

Issue contributed poor performance	Financial Years/# of LGA				Possible Causes
	2015/2016	2014/2015	2013/2014	2012/2013	
Procurements made without competitive bidding (Reg. 163 & 164, PPR 2013) TZS 2,120,374,651; 337,093,387;	36	11	6	13	• Integrity and corruption

Issue contributed poor performance	Financial Years/# of LGA				Possible Causes
	2015/ 2016	2014/ 2015	2013/ 2014	2012/ 2013	
176,919,303; 254,040,434 – fy 2015/16-2012/13 respectively					
Goods and services procured without Tender Board approval (Sect 35 (3), PPA, 2011 and Reg. 55, PPR 2013); TZS 907,898,325; 824,726,260; 201,377,615; & 344,129,357 - fy 2015/16-2012/13 respectively	17	11	6	16	<ul style="list-style-type: none"> • Lack of capacity • Integrity & corruption • Weak internal control
Goods and services procured from unapproved suppliers (Reg. 131(5), PPR 2013) TZS 1,182,526,122; 672,423,123; 318,160,711; 755,813,087 - fy 2015/16-2012/13 respectively	27	28	19	26	<ul style="list-style-type: none"> • Lack of capacity • Integrity & corruption
Goods received but not inspected (Regulations 244 & 245, PPR 2013) TZS 789,824,270; 599,569,700; 338,994,365 - fy 2015/16-2013/14 respectively	25	12	7	No data	<ul style="list-style-type: none"> • Lack of capacity • Integrity & corruption
Procurements made out of the annual procurement plan (Regulation 69(3) PPR, 2013) TZS 1,720,839,381; 8,133,314,354; & 4,237,790,791 fy 2015/16-2013/14 respectively	20	5	7	No data	<ul style="list-style-type: none"> • Lack of capacity • Weak internal control
Goods and Services Paid for but not Delivered (Order 70 of the Local Government Financial Management of 2009) TZS 64,763,450; 156,710,739; 150,649,237 - fy 2015/16, 2013/14 & 2012/13 respectively	9	No data	7	9	<ul style="list-style-type: none"> • Integrity & corruption • Weak internal audit unit
Inadequate Contracts Documentation (section 61, PPA 2011)	21	7	No data	18	<ul style="list-style-type: none"> • Lack of capacity
Failure to demand performance bonds/securities (Regulation 29, PPR 2013)	13	16	No data	No data	<ul style="list-style-type: none"> • Lack of capacity
Dubious payments made by LGAs to contractors for non existing and shoddy works TZS (in Mill) 140.69; 321.8;	1	7	No data	16	<ul style="list-style-type: none"> • Integrity & corruption • Weak internal

Issue contributed poor performance	Financial Years/# of LGA				Possible Causes
	2015/ 2016	2014/ 2015	2013/ 2014	2012/ 2013	
1,464.1 - fy 2015/16, 2014/15 & 2012/13 respectively					control
LGAs with poor performance in project management	4	4	No data	17	<ul style="list-style-type: none"> • Weak internal control • Lack of capacity
LGAs with high red flags	3	6	No data	15	<ul style="list-style-type: none"> • Integrity & corruption

Source: Compiled from CAG and PPRA audit reports for financial years 2012/2013-2015/2016

Analysis of Contributing Factors to Poor Performance of Procurement Functions

This study established that among of factors contributing to the poor performance of procurement functions are: weak internal control with regard to accounting officer, tender board, internal audit unit, and budget approving authority. Areas which have shown major weaknesses were procurement planning, tender documents and advertising, tender evaluation and award, variation and contract changes. Therefore, the LGAs need to revisit their procurement control mechanisms to make sure that they are as per public procurement procedures. This is evidenced by 32 LGAs made procurement worth 14,091.9 million out of the annual procurement plan contrary to Regulation 69(3) PPR, 2013. Tender board, accounting officer and internal audit unit failed to play their administrative role and control in procurement functions.

Lack of capacity to the staff to execute procurement functions, for example low level of qualifications among the procurement officers with majority having certificates and diploma academic qualification with few degree holders, little understanding of legal requirements pertaining to public procurement among the procurement officers, tender board members and user departments, procurement management units are not staffed to an appropriate level as required in section 37(2) PPA 2011. This was observed in CAG audit report fy 2015/2016 where established PMUs were not composed of technical specialists which affected discharge of duties in the following LGAs: Kondoa DC, Chunya DC, Mbeya CC, Kigoma DC, Mpwapwa DC, Kiteto DC, Buhigwe DC, Chamwino DC and Uvinza DC.

Lack of Integrity as well as corrupt practices, for example the audit reports have been indicating lack of transparency in procurement, especially during tendering process contributes to the inefficient of procurement in the public sector. For example 24 LGAs have shown high red flags for the three financial years, while the other twenty four LGA has effected dubious payments to contractors for non existing and shoddy works worth TZS 1,926.6 million for the three years. Meanwhile 25 LGAs effected payments for the goods and services worth TZS 744.12 million but not delivered or provided respectively.

CONCLUSION AND RECOMMENDATIONS

Conclusion

The Government of Tanzania has long realized the importance of Public Procurement to the economic development of the country and its contribution to poverty reduction. The government has taken initiatives in order to improve procurement performance in LGAs. These initiatives includes the enactment of public procurement act and its regulations, awareness programme on the principles of public procurement to LGAs staff, development of procurement guidelines and standard procurement documents, conducting regular procurement audits, fundamental reform of government procurement to ensure effective procurement procedures and combating corruption in public procurement by ensuring that procurement personnel are responsible for their conduct. Generally, this study revealed that, LGAs procurement performance faces serious challenges pertaining to weak internal control, lack of staff capacity, and lack of integrity as well as corrupt practices. LGAs will not attain the effectiveness, efficiency and economy for its procurements due to non-compliance with the requirement of the Public Procurement Act No.7 of 2011 and its Regulations of 2013.

Recommendations

The study recommends that

1. The public procurement body (PSPTB) and regulatory body (PPRA) should put more efforts on capacity building and monitoring to the LGAs with inadequate compliance level in order to strengthen and improve their procurement performance.
2. The LGAs managements should continue strengthening their Procurement Management Units, Tender Boards, User Departments as well as Internal Audit Units in order to obtain value for money on the procurements made.
3. In order for the performance of procurement functions to be efficient and effective, the procurement system should be understood by the practitioners. The researcher recommended that conducting regular seminars and workshops could be the best way to minimize poor performance of procurement functions in LGAs.
4. The policy maker should ensure that public procurement processes are carried out with much integrity by stakeholders of procurement system. The government should through PCCB make sure that they punish those individuals caught taking bribe in procurement of goods and services.

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