

**CHALLENGES OF COMPLIANCE TO PUBLIC PROCUREMENT
ACT NO. 7 OF 2011 THE CASE OF TANZANIA PORTS AUTHORITY**

RICHARD ALPHONCE BIRAMATA

**A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF MASTER FOR BUSINESS
ADMINISTRATION OF THE OPEN UNIVERSITY OF TANZANIA**

2014

CERTIFICATION

The undersigned certifies that he has read and hereby recommends for acceptance by the Open University of Tanzania a dissertation entitled “*The Challenges of Compliance to Public Procurement Act 2011: A Case Study of Tanzania Ports Authority*” in partial fulfillment of the requirements for the Degree of Master for Business Administration (Finance) of the Open University of Tanzania

.....

Dr. Chacha Matoka

(Supervisor)

.....

Date

COPYRIGHT

All rights reserved. No part of this dissertation may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the author or the Open University of Tanzania in that behalf.

DECLARATION

I, **Richard Alphonse Biramata**, do hereby declare that this dissertation is my own original work, and that it has not been presented and will not be presented to any other University for similar or any other degree award.

.....

Signature

.....

Date

DEDICATION

I dedicate this work to my wife Faustina Kokushobolola, my parents Ta Alphonse Biramata Njungani and Ma Francisca Nyamwiza Mugasha and my children Priscilla Kaihula, Edgar Mwombeki, Innocent Mwesiga and Doris Humbya without forgetting Jovia, my brothers and sisters who encouraged me, through their prayers from the beginning of my studies to the end of this dissertation.

ACKNOWLEDGEMENTS

The success of any research is a product of the researcher on one hand and of the research subject on the other. To enable this research to reach completion, many individuals were involved. In the God's, I would like to meet them to convey my sincere gratitude personally for the distinguished hospitality they have extended to me. Unfortunately this is not easy, due to the long list. My foremost gratitude to the entire Management of TPA who allowed me to pursue the study as well as their support and their encouragement they extended to me.

My deepest note of gratitude is also reserved for my major supervisor Dr. Chacha Matoka, who generously accepted to supervise me. He has been great help to me particularly on his through and insightful reading and re-reading of numerous drafts and for his persistence in getting me to revise and improve in organizing the thesis. His immense contributions helped me not only to accomplish this study but also to come up with expected standards. Sincerely he deserves all kind of credits. I also appreciate an effort made by Dr. Rafael Gwahula for reminding me time to time.

Furthermore I would like to thank my family member, specifically my beloved wife Faustina Kokushobolola Faustin, my children Priscilla Kaihula, Edgar Mwombeki, Innocent Mwesiga and Doris Humbya without forgetting Jovia Novat, for their understanding, patience and their everlasting support and encouragement in so many ways. I wish to state hereby that all deficiencies or errors that may be contained in this document are absolutely my sore responsibility.

ABSTRACT

This descriptive study examined the challenges of compliance to Public Procurement Act 2011 to Tanzania procurement entities. Specific objectives included to investigate the reasons of non-compliance to PPA 2011 internal and external to the Tanzania Procurement Entities, to analyzing the challenges of procedures and guidelines of PPA 2011 to the whole procurement system and to establish the extent to which the implementation of the PPA 2011 affects the performance of public entities in Tanzania. The study was conducted in TPA and used both quantitative and qualitative research approach to the case study. This study used data collection methods, with a selected TPA, PPRA and PSPTB and involved thirty eight respondents. The analysis was facilitated by the computer based Microsoft Excel. Results from the study revealed that some procuring entities did not comply with Public Procurement Act 2011 mainly due to many factors such as corruption, bureaucracy and tendering procedures. Generally, the findings of this research indicated that tendering procedures should be improved and PPRA policy should match with organizational objectives. TPA should also organize training programs for its procurement employees to update their knowledge and skills.

TABLE OF CONTENTS

COPYRIGHT	iii
DECLARATION	iv
DEDICATION	v
ACKNOWLEDGEMENTS	vi
ABSTRACT	vii
LIST OF TABLES	xii
LIST OF FIGURES	xiii
LIST OF APPENDICES	xiv
LIST OF ABBREVIATIONS	xv
CHAPTER ONE.....	1
1.0 INTRODUCTION	1
1.1 Background of the study	1
1.2 Statement of the Problem.....	5
1.3 General objective	6
1.4 Specific objectives	6
1.5 Research Questions.....	7
1.6 Significance of the Study	7
CHAPTER TWO.....	9
2.0 LITERATURE REVIEW.....	9
2.1 Definition of Concepts	9
2.1.1 Compliance	10
2.1.2 Public Procurement Act 2011, Enforcement	11

2.1.3	Public Procurement as a Process	14
2.2	Critical theoretical review	16
2.2.1	The Kraljic Portfolio Purchasing Model	19
2.2.2	Competition Model.....	21
2.2.2.1	Source Management	21
2.2.2.2	Quantity	22
2.2.2.3	Quality	22
2.2.2.4	Time and Price.....	22
2.3	General Discussion.....	23
2.3.1	History of Tanzania Ports Authority	23
2.3.2	Administration of Tanzania Ports Authority	26
2.3.3	Role of Tanzania Ports Authority	27
2.4	Empirical Literature Review	28
2.5	Research gap.....	32
2.6	Conceptual Framework	33
2.6.1	Eligibility Firm in the Procurement Process	34
2.6.2	Equality of Participation in the Public Procurement Process	35
2.6.3	Transparency and Fairness in Procurement Process	36
2.6.4	Corruption.....	38
	CHAPTER THREE	41
	3.0 RESEARCH METHODOLOGY.....	41
3.1	Research Paradigm	41
3.2	Research Design	41
3.2.1	Areas of the study.....	42

3.2.2	Population of the study	42
3.2.3	Sample and Sampling Technique	43
3.2.3.1	Sample Size	44
3.3	Data Collection.....	45
3.3.1	Types of data	46
3.3.1.1	Primary Data	46
3.3.1.2	Secondary Data	46
3.3.2	Methods of Collecting Data.....	47
3.3.2.1	Questionnaires	47
3.3.2.2	Interview	47
3.4	Data Analysis.....	48
3.5	Data Validity	48
3.6	Data Reliability.....	49
3.7	Ethical issues	49
	CHAPTER FOUR	52
	4.0 RESEARCH FINDINGS, ANALYSIS AND DISCUSSIONS	52
4.1	Introduction	52
4.2	Years of Service of the Respondents in an Organization.....	52
4.3	Reasons of Non-Compliance.....	53
4.4	Challenges of Procedures and Guidelines	54
4.5	The extent to which the implementation.....	55
4.6	Respondents' Perception on Various Aspects.....	56
	CHAPTER FIVE.....	59
	5.0 SUMMARY, CONCLUSION AND RECOMMENDATIONS.....	59

5.1	Summary	59
5.2	Summary of Findings	59
5.3	Conclusion.....	61
5.4	Recommendations	62
	REFERENCES	65
	APPENDICES	73

LIST OF TABLES

Table 3.1: Population	43
Table 3.2: Sample Size	44
Table 4.1: Years of Service in the Organization	53
Table 4.2: Reasons of Non-Compliance to PPA 2011	54
Table 4.3: Challenges of Procedures and Guidelines of Puplic Procurement Act 2011 to the Procurement System	55
Table 4.4: The Extent to which the Implementation of the Puplic Procurement Act 2011 Affects the Performance of Public Entities in Tanzania	56
Table 4.5: Practitioners in Procurement Field Observe Transparency	56
Table 4.6: Organization Applies PPA 2011 for all Procurement Regardless of the Value	57
Table 4.7: Rating of Cost Saving after Implementation of Puplic Procurement Act 2011	58

LIST OF FIGURES

Figure 2.1: The Kraljic Matrix: Categories and Recommendations 20

Figure 2.2: Proposed Conceptual Model..... 33

LIST OF APPENDICES

Appendix 1: Questionnaires 73

Appendix 2: Interview 76

Appendix 3: Summary of Steps in the Selection of Suppliers 77

Appendix 4: Summary of Steps in the Selection of Consultant 78

Appendix 5: Evaluation Procedures for Quality Cost Based Selection 79

LIST OF ABBREVIATIONS

AO	Accounting Officer
CAG	Controller and Auditor General
CPAR	Country Procurement Assessment Report
CTB	Central Tender Board
GDP	Gross Domestic Product
GN	Government Notice
GPSA	Government Procurement Services Agency
IFC	International Finance Corporation
LGA	Local Government Authorities
OECD	Organization for Economic Co-operation and Development
PCCB	Prevention and Combating Corruption Bureau
PE	Procurement Entity
PMU	Procurement Management Unit
PPA 2011	Public Procurement Act, 2011
PPAA	Public Procurement Appeal Authority
PPRA	Public Procurement Regulatory Authority
PSPTB	Procurement and Supplies Professionals and Technicians Board
RDSU	Peninsula Research Development Support Unit
SEE	South East Europe
TANESCO	Tanzania Electric Supply Company Limited
TPA	Tanzania Ports Authority
TPJ	Tanzania Procurement Journal

CHAPTER ONE

1.0 INTRODUCTION

1.1 Background of the study

Public Procurement has a long history. Thai (2001) argues that written on a red clay tablet, found in Syria, the earliest procurement order dates from between 2400 and 2800 B.C. The order was for “50 jars of fragrant smooth oil for 600 small weights in grain” Other evidence of historical procurement includes the development of the silk trade between China and a Greek colony in 800 B.C. Public procurement is an important function of government for several reasons. The sheer magnitude of procurement outlays has a great impact on the economy and needs to be well managed. Indeed, in all countries in the world, estimates of the financial activities of government procurement managers are believed to be in the order of 10% – 30 % of GNP (Callender & Mathews, 2000). Efficiently handling this size of procurement outlays has been a policy and management concern as well as a challenge for public procurement practitioners.

Developing countries, in one way or another, have reformed their public procurement regulations. The reforms have not been limited to regulations only, included public procurement processes, methods, procurement organisational structures and appropriate job specification and description for the workforce. The reforms have been a result of joint effort with various development partners like the World Bank, International Trade Centre, WTO, and UNCTAD varying from country to country.

According to PPRA (2007) in the Final Report of Assessment of the Country's Procurement System, The Government of United Republic of Tanzania has long realized the importance of Public Procurement to the economic development of the country and its contribution to poverty reduction. As part of its effort to improve public procurement system the Government in 1996 commissioned Crown Agent as Consultant to study the country's procurement system and assess its adequacy. The study concluded that the procurement system was fragmented and there was no uniform system of procurement in place as each entity operated differently using un-regulated public procurement system. It was also found that there were no standard documents or records used in the procurement function and that there was no central organ responsible for coordination and regulation of the government procurement process.

Based on the Crown Agents report the Government undertook measures to reform public procurement by enacting the Public Procurement Act No. 3 of 2001 (PPA 2001). The act provided for the establishment of the Central Tender Board (CTB) as the central coordinating body for public procurement activities within the government. As a result, public procurements undertaken in the country from 2001 were governed by the Public Procurement Act 2001 (PPA 2001) and its Regulations.

The regulations used were Public Procurement (Selection and Employment of Consultants) Regulations Government Notice No. 137 and Procurement of Goods and Works Regulations, Government Notice No. 138 both published on 13th July, 2001. The Local Government Authorities (LGAs) used the regulations made under section 65 of the Local Government Finance Act 1982, the Local Government

(Selection and Employment of Consultants) Regulations 2003 Government Notice No. 48 and the Local Government (Procurement of Goods and Works) Regulations 2003 Government Notice No. 49 both Published on 21st March, 2003. The same Act established Public Procurement Appeal Authority (PPRA) to deal with resolution of complaints and disputes arising from the government procurement process.

Under this procurement regime, Central Tender Board (CTB) was mandated to regulate procurement activities of all public procuring entities (PEs). With CTB, PEs were allowed to do procurement up to a certain threshold and those that were above the threshold provided in the regulations CTB has to process the procurement on behalf of the PEs. It can be concluded that under CTB, the procurement undertaking has been centralized. The shortcoming of this arrangement was that CTB was doing the public procurement but there was no a regulatory body to monitor it. There were also no time limits to process procurement actions.

In the year 2002, the World Bank engaged a Consultant to carry out a country procurement assessment. The Consultant produced the Country Procurement Assessment Report (CPAR 2003) with a number of recommendations which related to the legislative framework, the procurement system and processes, capacity to conduct procurement and effects of corruption in procurement processes. The CPAR 2003 report recommended the following as a way of improving procurement system in the country; to disseminate Local Government Regulations 2003, establishment of procurement journal, amend Public Procurement Act (PPA 2001) to decentralize procurement undertakings, establish a Procurement Regulatory Board, introduce time limits to process procurement and provide protection to whistleblowers.

Since CPAR (2003), the procurement system has undergone tremendous reform accommodating the recommendations made out of the assessment. One of the most important outcomes of the assessment and implementation of the recommendations was the enactment of the Public Procurement Act, (PPA, 2004) which repealed the PPA 2001.

The PPA 2004 became operational on May 2005; however then, Public Procurement Act; (PPA 2011) repealed the PPA 2004. The PPA 2011 became operational on 15th December 2013. The PPA 2004 and then PPA 2011 fully decentralized the procurement functions to procuring entities and established the procurement oversight body, The Public Procurement Regulatory Authority (PPRA). Further to this important reform, the Government has fully operationalised the Public Procurement Appeals Authority (PPAA) with the function of resolving complaints and disputes arising from the procurement process.

The PPRA as an oversight body has the mandate to ensure that public entities are adhering to Public Procurement Act, 2011. The PPA 2011 is giving equal opportunity to all prospective suppliers, contractors, consultants and service providers. It ensures fairness of treatment to all parties in order to obtain the value for money in the procurement process. The Act applies to all Government institutions which use public funds. The Defence and National Security Organs are obliged to comply with the Act in managing their procurement and disposal of public assets. They are required to prepare dual list that is items for open tendering and list for restricted items. They are required to agree annually with the PPRA on the restricted list and the methods of procurement for the restricted items.

The PPA 2011 is being implemented with Public Procurement Regulations 2013 Government Notice No. 446 published on 15th December, 2013.

1.2 Statement of the Problem

Procurement decision in any public organization requires research, and selection of appropriate supplier. All these are primarily done on the basis of price, quality, punctuality and reliability. It is the responsible procurement departments to select proper vendor or sub-contractor who should be ready to perform the supply activity in accordance with the Public Procurement Act. 2011. According to the Assessment of the Country's Procurement System Final Report, PPRA (2007), Compliance levels continued being low in public entities in Tanzania despite efforts by the Public Procurement Regulatory Authority to put in place measures to improve compliance. According to audit report, Procurement audits carried out in 106 Procurement Entities, 93 Procurement Entities revealed non-compliance with procurement regulations, (PPRA 2011).

The PPRA report of 2011 further revealed that establishment, composition and staffing of Procurement Management Units (PMUs) is a major problem facing many procuring entities. Preparation of Annual Procurement Plan is very important in that it helps the procuring entity to avoid unnecessary emergency procurements that are not well performed, while Contracts Management is not properly handled. According to the report, the records keeping were not adequate and publication of contract awards is not done in proper way.

According to Daudi (2010) several studies have identified how compliance level with the Act and regulations in delaying tendering process, interference among the

parties participating procurement activities with government's top officials and complicated procurement procedures. Daudi (2010) reveals that it also originated from lack of proper procurement plan, management duties concealed with the procurement proceedings and lack of qualified procurement staff, (Kundela, 2008). Weak supervision during implementation, inefficient in procurement management and poor evaluation of tenders have been also lead to ineffective procurement practices, CAG (2010). The main purpose of the procurement procedures is to ensure openness to all the stakeholders involved in the procurement exercise, PPA (2011).

In the public sector especially where value for money has been emphasized, compliance is a precondition. Therefore this study attempted to analyze the challenges of compliance to Public Procurement Act 2011; Tanzania Ports Authority being the case study. Furthermore the study aims at investigating the reasons of challenges of compliance to PPA 2011 internal and external to the Tanzania Procurement Entities, to analyzing the challenges of procedures and guidelines of PPA 2011 to the whole procurement system and to establish the extent to which the implementation of the PPA 2011 affect the performance of public entities in Tanzania.

1.3 General objective

The main objective of this study was to determine the challenges of compliance to Public Procurement Act 2011.

1.4 Specific Objectives

- (i) To investigate the reasons of non-compliance to Public Procurement Act 2011 internal and external to the Tanzania Procurement Entities.

- (ii) To analyzing the challenges of procedures of Public Procurement Act 2011 to the whole procurement system.
- (iii) To establish the extent to which the implementation of the PPA 2011 affects the performance of public entities in Tanzania.

1.5 Research Questions

This research project sought to address the following specific objectives:

- (i) What are the reasons of non-compliance to Public Procurement Act 2011 internal and external to the Tanzania Procurement Entities?
- (ii) What are the challenges of procedures of Public Procurement Act 2011 to the whole procurement system?
- (iii) Are there any relationship between performance and compliance in PPA 2011?

1.6 Significance of the Study

The aim of the study was to fill the existing knowledge gap in the Tanzania procurement literature as to whether enactment and operationalization of PPA, 2011 has had any impact in the procurement practices in the country. This study provided a bridge in terms of literature for future studies. Apart from that, the study findings were expected to assist policy makers in understanding the short comings of PPA 2011 for future improvements.

In addition, this paper aimed at contributing to the debate on the causes of non – compliance with public procurement regulations in Tanzania. This study has increased knowledge as well as built capacity on the part of the researcher. This is also important since the success of a company in the 21st century was determined by

the extent to which its leaders can develop intellectual capital through knowledge creation and sharing on a global basis, (Ichijo and Nonaka, 2006).

Compliance to Public Procurement Act number 7 of 2011, Section 8 emphasizes the application of fair, competitive, transparent, non-discriminatory and value for money procurement standards and practices, set standards for the public procurement systems in the United Republic of Tanzania, monitor compliance of procuring entities, and build, in collaboration with Public Procurement Policy Division and other relevant professional bodies, procurement capacity in the United Republic. This area, in Tanzania, is still questionable therefore it needs some improvement so as the stake holders have to work jointly in order to achieve Value for Money.

CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Definition of Concepts

A literature review is an account of what has been published on a topic by accredited scholars and researchers. It is a critical look at the existing research that is significant to the work that the researcher was carrying out. (Kombo and Tromp, 2006). During the last decade, public procurement has gained attention amongst developing countries than ever before. With procurement accounting for about 20% of all government expenditure worldwide, Mlinga (2009) shows that many governments have embarked on reforms in their procurement systems particularly streamlining and harmonizing the regulatory (legal) and institutional (structural) frameworks. In some countries, the reforms have gone further to address the effectiveness and competence of the contracting authorities that is “Procurement Operations and Market Practices” and “Integrity of Public Procurement Systems” though some analysts are associating the success of the latter with issues like the overall level of corruption in a country and effectiveness of the organs responsible for addressing corruption.

According to Evenett *et al*, (2005) as cited by Odoyo and Lipindi (2012) argues that there is the question of public procurement practices gaining prominence across developing countries as it is difficult to imagine how a government can deliver substantial improvements in the wellbeing of its citizens without public expenditures systems that includes effective public procurement policies. However, there is a growing feeling, supported by empirical cases, that many of the reforms have

embraced the regulatory aspects of public procurement giving little attention if at all, to realization of value for money. There is a tendency by enforcers of public procurement laws and some sections from the public to forget that procurement is a strategic activity which requires managerial skills and competence so that it contributes fully towards delivery of strategic corporate objectives. In this case/practitioner's paper the author discusses the reforms carried recently in Tanzania's public procurement system and how managers of public bodies end up frustrated in their pursuit for value for money and attainment strategic corporate goals due to the rigidity of the existing legal provisions on public procurement.

2.1.1 Compliance

As defined in the business dictionary, compliance is a certification or confirmation that the doer or on action such as the write of an audit report, or the manufacturer or supplier of a product, meets the requirements of accepted practices legislation, prescribed rules and regulations, specified standards or the terms of contract. (www.businessdictionary.com/define/compliance)

According Tukamuhabwa (2012), as quoted De Boer and Telgen, (1998); Gelderman, et al, (2006); Zhang, (2008), Obanda, (2010); Eyaa and Oluka, (2011) stated that the issue of public procurement non-compliance has triggered a lot of debate in recent years approaching 2012. Despite this, Karjalainen, et al, (2009) contend that very little research has so far been conducted on organizational misbehaviors and non-compliance in purchasing and supply management. This is surprising given that public procurement has been employed as a vital instrument for

achieving economic, social and other objectives Arrowsmith, (2011), and is regrettably an area vulnerable to mismanagement and corruption (OECD, 2007).

The Tanzanian Public Procurement Regulatory Authority (PPRA) has found that 63 out of 137 construction contracts performed well in terms of value for money over the year 2010/11. An audit of contracts at 37 procuring entities (PEs) worth TZS 239 billion (£92 million) also found 67 contracts performed fairly (between 50 and 75 per cent) and 7 contracts were rated as poor (below 50 per cent).

The PPRA also conducted a procurement audit for the 2011/12 financial year which revealed PEs are increasingly complying with the Public Procurement Act. This review, of 121 PEs, indicated an average level of compliance of 74 per cent, up from 68 per cent in 2010/11. But despite the progress, the results found some serious problems of non-compliance in local government authorities (LGAs) due to insufficient procurement management, poor record keeping, weak contract management and failure to publish contract awards (Reynolds (2013).

The audits revealed major weaknesses in contracts administration and quality of works, particularly in LGAs, caused largely by lack of knowledge in design, lack of qualified staff, lack of quality control tools and inadequate working tools such as vehicles. (Mlinga 2012).

2.1.2 Public Procurement Act 2011, Enforcement

The Public Procurement Act No. 7 of 2011 defines procurement as the process involving buying, purchasing, renting, leasing or otherwise acquiring any goods or

works or services by a procuring entity spending public funds and includes all functions that pertain to the obtaining of any goods works or services including description of requirements, selection and invitation of tenderers and preparation and award of Contracts. It is an activity that must support the delivery of a public body's strategic objectives at the same time live up to the expectations of the targeted public and taxpayers at large. In order for the Act to provide the desired results, compliance would be of utmost importance.

The public procurement system in Tanzania and its governing legislation, the PPA No. 7 of 2011 have managed to embrace enforcement of legal and regulatory compliance – sometimes at the price of sacrificing value for money. This has created tension between managers of public enterprises who would be interested in value for money - on one side as they attempt to run their firms along the pursuit for economy, efficiency and strategic sustainability and enforcers of the legal and regulatory compliance on the other. It would seem desirable to identify the factors that lead to non-compliance and resolve the ones that are associated with the law, regulations and their enforcement procedures, methods, approaches and criteria for assessment of performance.

The enforcement of the PPA 2011 has the framework which requires that Establishment of the Tender Board should be accordance to the requirements of Section 31 (1) and Second Schedule of PPA of 2011. Establishment and composition of PMU should be as per Section 37 of the PPA 2011. The Act provides that the functioning of Accounting Officer, Tender Board and PMU and User Department should be independent.

The Act provides that preparation of Procurement Plan should be according to the approved budget of the procurement entity pursuant to Section 49. Approvals of the procurement process and activities, approval of tendering documents should be pursuant to Regulation 185 and the list of suppliers to be contacted under National Shopping (NS) pursuant to Regulation 163 (3) as well as other approvals including the rule under Regulation 55 of GN No.446 of 2013 that requires the AO's approval to proceed with procurement of items.

The Act provides that advertisement of bid opportunities should be in accordance with PPA 2011 Section 69 and Made under regulations 8 (a), 19, 32, 120, 150, 181, 254, 255, 280, 332 which requires PEs to take necessary measures to ensure that publication of tender opportunities in the PPRA's website and Journal, local newspapers of wide circulation and any appropriate media likely to be seen by the greatest number of potential bidders.

Publication of awards should be disclosed to the public in accordance with Regulations 236. Furthermore, awards should be copied and submitted to PPRA for publication in PPRA's website and Journal, as per Regulation 8 (a), 19, 32, 120, 150, 181, 254, 255, 280, 332 which requires the results of tender awards to be published in the Authority's website and Journal, Government Gazette and in one newspaper of wide circulation or in any other appropriate information media on regular basis.

It is provided by the Regulations that time for preparation of bids or tenders advertised had be adequate tendering period in accordance with Second Schedule and Regulation 68(3), 120, 163, 187 and 286 960 (1) of GN 446 of 2013. The

procurement Entity should Use of Standard Bidding Documents is an indicator aimed at establishing whether standard tender/contract documents and Call off orders issued by PPRA are used as stipulated in order to comply with requirement under Regulation 127(3).

Record Keeping, there should be a proper procurement record keeping system in place with procedures for consolidating procurement records in single file from initiation of procurement up to completion of the contract as per Regulation 88(4). Quality Assurance and Control should be managed by The AO to appointing inspection committees and acceptance Committees for procurement. Contract Management and implementation the law ensure proper procurement contracts administration as per Regulations 244 and 245.

2.1.3 Public Procurement as a Process

Public procurement is concerned with how money, from tax payers, is spending by public entities to supply works, goods and services (Walker & Brammer, 2009). However not all public procurement is the same, it develops over time.

Transparency refers to the availability of information on decisions and performance of public procurement. This information should be available to everybody, reliable and on time (Armstrong, 2005). Public procurement processes can be regarded as transparent when the terms and conditions are clear and available to everybody and when after the decisions are made adherence to the before mentioned terms and conditions can be verified (Evenett & Hoekman, 2003). Making procedures more transparent will improve the options for (foreign) suppliers to participate in the

process but also has the benefit for the government that prices will go down (Evenett & Hoekman, 2005; Ohashi, 2009).

The first stage of the public procurement function is to make products and services that are demanded by the public available. The products and services should be delivered in the right quantity, on time and in the right place. In this stage the process behind the procurement and the price and quality are not of great importance, the focus is on the availability of the products or services (Harland, Knight, et al., 2012).

Accountability refers to the obligation on the part of public officials to report on the usage of public resources and answerability for failing to meet stated performance objectives (Armstrong, 2005). In the fourth stage public procurers should be able to explain that they did well (Harland, Knight, et al., 2012).

When public procurers follow the right procedures and protocols no problems should occur (Matthews, 2005). These procedures and protocols should explain why certain products were bought, how the procurement process went and why there was a decision to go for a certain supplier, and it should be clear that there was no corruption (Harland, Knight, et al., 2012). Transparency and fairness are important factors that contribute to accountability (Raymond, 2008).

While examining the factors, it is important to note that public procurement is performed through a logical flow of activities and predetermined time limits (work plan) all of which have got cost implications. The performance of each activity is largely influenced by time management and competence of the Procurement Entity

staff involved in Procurement Planning, Budget Confirmation and Allocation, Solicitation of Bids, Bids Evaluation and Contract Award and Management which are major components of the process (Mlinga, 2005). Particularly, the PPA 2011 in Tanzania describes how public procurement may be conducted through the procurement cycle.

2.2 Critical theoretical review

According to Kombo and Tromp (2006), a theory is a reasoned statement or groups of statements, which are supported by evidence, meant to explain phenomena. They are a systematic explanation of the relationship among phenomena. As cited by Defee, et al., (2010), good research should be grounded in theory (Mentzer, et al., 2008). This dissertation is based on the institutional theory, socio- economic theory, principal agent theory, cognitive theory and legitimacy theory with respect to public procurement and compliance to rules.

The institutional theory is the traditional approach that is used to examine elements of public procurement 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. Scott, (2004) identifies three pillars of institutions as regulatory, normative and cultural cognitive. The regulatory pillar emphasizes the use of rules, laws and sanctions as enforcement mechanisms, with expedience as basis for compliance. The normative pillar refers to norms and values with social obligation as

the basis of compliance. The cultural-cognitive pillar rests on shared understanding (common beliefs, symbols, shared understanding).

Borrowing from this theory, public institutions in Tanzania were guided by rules and regulations with the PPA 2011, regulations 2013 and guidelines directing procurement activities. From the three pillars of institutions propounded by Scott (2004) organizational culture, social influence, organizational incentives and enforcement are identified as qualifications of compliance to procurement rules. The institutional theory, therefore, suggests areas that may determine compliance levels.

The principal-agent theory is an agency model developed by economists that deals with situations in which the principal is in position to induce the agent, to perform some task in the principal's interest, but not necessarily the agent's (Health and Norman, 2004). Donahue, (1989) explains that procurement managers including all civil servants concerned with public procurement must play the agent role for elected representatives.

This theory helps us to investigate the role of political interference and records management in public procurement compliance as public procurement managers are considered stewards for politicians. As cited by Krawiec (2003), compliance may represent a principal-agent problem (Langevoort, 2002).

Festinger (1957) proposed the theory of cognitive dissonance. This theory led to a number of derivations about opinion change following forced compliance. From this theory, it is inferred that when someone is forced to comply, dissonance is created

between their cognition (I did not want to do this) and their behaviour (I did it). Forced public procurement compliance can therefore conclude into cognitive dissonance. This would check the effectiveness of enforcement by the law and other related instruments.

Sutinen and Kuperan (1999) propounded the socio-economic theory of compliance by integrating economic theory with theories from psychology and sociology to account for moral obligation and social influence as determinants of individuals' decisions on compliance.

When a public institution intends to procure a project, it faces the difficult task to find the procurement mechanism that is most likely to satisfy the institution's goals. The set of potential mechanisms is a priori unbounded, and not sufficiently restricted by legal requirements to make the choice of the optimal mechanism an easy one. For instance, in the European Union, public procurement is subject to Community rules, which require public bodies "to follow transparent open procedures ensuring fair conditions of competition for suppliers" (European Commission, 2007).

Lisa (2010) also adds that psychological perspectives provide a basis for the success or failure of organizational compliance. According to Wilmshurst and Frost (2000), the legitimacy theory postulates that the organization is responsible to disclose its practices to the stakeholders, especially to the public and justify its existence within the boundaries of society. This theory, which focuses on the relationship and interaction between an organization and the society, provides a sufficient and

superior lens for understanding government procurement system (Hui, et al., 2011). From this theory, the perceived legitimacy of public procurement rules has been identified as one of the experiences of public procurement compliance behavior.

2.2.1 The Kraljic Portfolio Purchasing Model

The Kraljic Portfolio Purchasing Model was created by Peter Kraljic and it first appeared in the Harvard Business Review in 1983 (Weele, 2005). Despite its age, it's a popular and useful model used in companies worldwide. Its purpose is to help purchasers maximize supply security and reduce costs, by making the most of their purchasing power.

Kraljic (1983) suggested that selecting the best supply strategy is a function of the level of supply exposure, technical risk and the strategic nature of the product or service that is its value or cost to the buying firm. In doing so, procurement moves from being a transactional activity to a strategic activity – because, as Kraljic (1983) said, "purchasing must become supply management". Virtually every Purchasing department and consultancy firm uses this matrix today and it is the main strategic positioning tool for thinking about supply management decisions. The matrix's simplicity belies its power and usefulness to supply professionals when formulating optimal procurement approaches.

According to Gelderman and Weele (2005), Kraljic's approach includes the construction of a portfolio matrix that classifies purchased products and services on the basis of two dimensions: profit impact and supply risk ("low" and "high"). The result is a 2 x 2 matrix and a classification into four categories: bottleneck,

noncritical, leverage and strategic items; see Figure 1. Each of the four categories requires a distinctive approach toward supplier management.

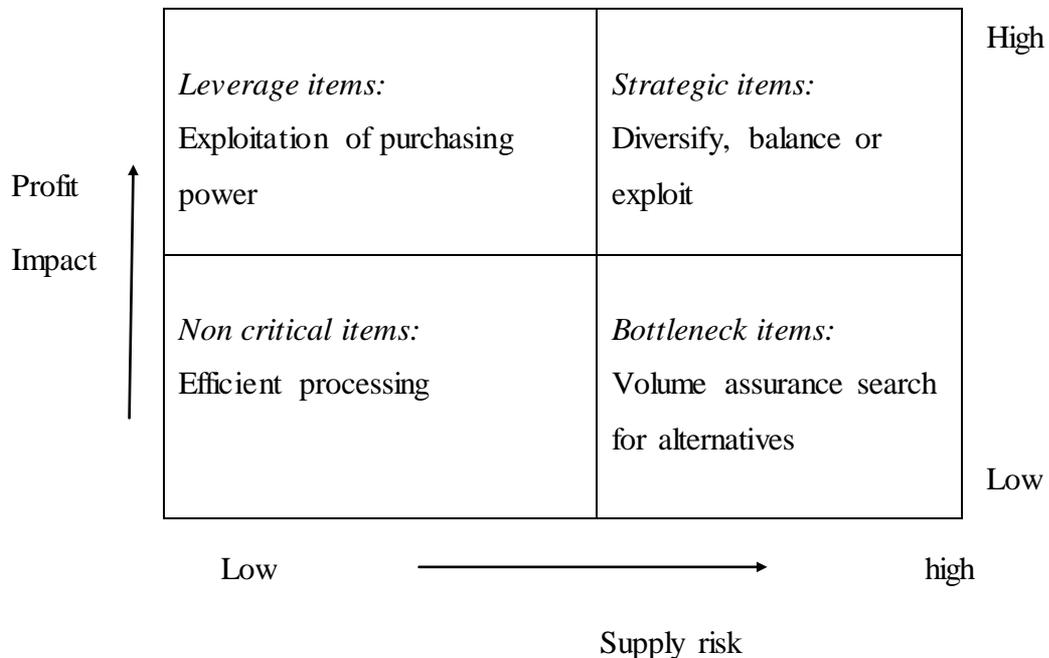


Figure 2.1: The Kraljic Matrix: Categories and Recommendations

Source: The Journal of Supply Chain Management/Summer 2005, Modified from Kraljic (1983)

Leverage items allow the buying company to exploit its full purchasing power, for instance through tendering, target pricing and product substitution. Routine items are of low value, are ordered frequently and therefore cause high transaction costs. Therefore, strategies are aimed at reducing transaction costs through category management in e-procurement solutions. Bottleneck items cause significant problems and risks that should be handled by volume insurance, vendor supplier control, safety stock and backup plans. In some cases, a search for alternative suppliers or products is needed. Strategic items require a more collaborative strategy between both the buyer and the seller.

2.2.2 Competition Model

The competition model in procurement determines the prices that vendors charge the government in a one period model (that is, prices and shares are set once and assumed to stay constant for the duration of the program). To determine costs from competition, the model starts vendors at prices equal to their marginal costs. (Khi V. Thai, 2009).

Taylor, (2012) explained that international government procurement is common with deviations from the perfectly competitive market model and arm's-length exchange. In the defense, aerospace, capital equipment, automotive, and telecommunications industries, for example, we encounter imperfectly competitive markets. The complexities of high transaction costs, incomplete and asymmetric information, and bounded rationality mark this exchange setting. In this environment, economic theory predicts that markets typically under produce relative to the socially optimal level, and sellers frequently earn supernormal profits, rents, and quasi-rents.

According to Thai (2009) the competition model determines the prices that vendors charge the government in a one period model (that is, prices and shares are set once and assumed to stay constant for the duration of the program). To determine costs from competition, the model starts vendors at prices equal to their marginal costs. For each set of prices, the model computes a vendor's profits. Needle, David (1992) identified key Procurement variables as source, quantity, quality, time and price.

2.2.2.1 Source Management

This is faced with a number of decisions concerning the source of the firm's raw materials and components. The obvious strategy is one, which maximizes the other

four variables, obtaining supplies in the quantity and quality required, when they are needed, and an acceptable price. In achieving these aims, managements must decide whether to produce their own materials and components or buy them from other manufacturer; and if the latter, whether to opt for a single supplier or buy from a number of different suppliers. (Baily et al., 2005).

2.2.2.2 Quantity

The major purchasing decision here is how much to order at any a time. Every organization holds stock. Stock can be a nuisance, a necessity or a convenience. Retailers and wholesalers see stock as the central feature of their business; what they sell is what they buy and they aim to sell from stock rather than from future deliveries which have yet to arrive. (Baily et al., 2005).

2.2.2.3 Quality

The quality of incoming raw materials as components is a vital ingredient in the quality control function. Quality is a word with several meanings and connotations. For example, it can mean excellence, as in “this is a quality products” or it can be thought of as the extent to which a product or service achieves customer satisfaction (Baily, et al., 2005). The purchasing department or the materials manager is usually responsible for the acceptance sampling and inspection of incoming materials.

2.2.2.4 Time and Price

The timing of a purchase is, like order quantity, a function of the needs of the production system, storage capacity and price. Christopher (1992) as quoted by Baily, et al., (2005) stated that in the past it was often the case that price was

paramount as an influencer on the purchase decision. He went on to suggest that, while price is still important, a major determination of choice of supplier or brand is the cost of time.

The information was based on determination of equality of information given by research where source, quantity, quality, time and price are factors mostly affecting compliance during delivering of goods and services, works and or consultancy as per specific organizational requirement.

2.3 General Discussion

The prosperity of any nation comes from trade and most trade is facilitated by ports. Ports must always strive to facilitate trade through better and cost effective services. Strategies to improve service delivery entail Modernization of port facilities and infrastructure. A few years before independence, TPA was formed as East African Railways and Harbours Corporation Between 1947 and 1967. Between 1967 and 1977, it was the East African Harbours Corporation. Between 1977 and 2005, it became the Tanzania Harbours Authority and starting 2006, it has been known as Tanzania Ports Authority.

2.3.1 History of Tanzania Ports Authority

Tanzania Ports Authority (TPA) a public corporation established under the provisions of Ports Act No.17 of 2004 having its principal place of business at One Bandari Road Kurasini and of P. O. Box 9184, Dar es Salaam, Tanzania acting under the aegis of the Ministry of Transport, that has the responsibility "to manage and operate" the seaports and lake ports of the country of Tanzania. The TPA is

located in Dar es Salaam. It is a member of the Port Management Association of Eastern and Southern Africa. The TPA's main Indian Ocean ports are Dar es Salaam, Mtwara, and Tanga; minor seaports serving coastal traffic include Lindi, Kilwa Masoko, Mafia Island, Bagamoyo, Pangani and Kwale. TPA also has small lake ports of Lake Victoria port (Mwanza, Bukoba, Musoma, Kemondo Bay and Nansio ports). Lake Tanganyika port (Kigoma and Kasanga ports) and Lake Nyasa (Itungi, Mbamba Bay, Liuli and Manda ports). The Port of Zanzibar is administered separately by the Zanzibar Port Corporation.

The principal port of Tanzania is Dar es Salaam, which handles 95% of the country's international sea trade. Most of the ports cargo handling and clearance depends on labor extensively. The port is divided into two parts (TICTS and TPA), due to lack of handling support TPA has authorized TICTS privately owned by Hong Kong investors to receive and clear on behalf of this port. Lately due to the increased number of import and export containers TPA has introduced several Internal Container Depots (ICD). Namely AMI ICD, AZAM ICD, MUKUBA ICD, KICD, DICD and others. Due to the lack of transport means, transportation of imports and exports highly depends on private road transporters. Some of these transporters are Swift motors, Trans-cargo, Madina transport and lately upcoming transporters such as R.J. Motichand Trans, Koru freight and others.

The port suffers from extensively inefficiency, corruptions, Technology and system break downs. System break downs go up to 24 hours to 72 hours sometimes leading to long trucks lining up for container clearance. Corruption is also very high affecting the custom duties paid by both importer and exporters. Due to the negative

balance of payment the government has reduce taxes on exports in order to encourage exporter and enable the country's exports to be more competitive in the international market. Agriculture products are the main export materials while technological products are highly depended on advanced an overseas country that is China.

The port has recently improved in terms of technology and IT support. It has also launched their online website offering tracking system for clearing agents and importers, announcement of tenders and consultancies, careers support by offering various certificates and diplomas regarding the port handling and clearance.

The law enjoined the Authority, however, to plan, build, develop, manage, maintain, operate and control Ports in Tanzania and in particular. To establish and coordinate system of Harbours, to provide facilities relating to Harbours and provide harbour services with the approval of the Minister, to construct and operate new Harbours.

To construct, operate and maintain beacons and other navigational aids. To carry on the business of stevedore, wharf age or lighter man. To act as a warehouseman to store goods, whether or not the goods have been or are to be, handled as cargo or carried by the Authority. To consign goods on behalf of the other persons to any place either within or outside the United Republic. With the approval of the Minister, to act as carriers of goods or passengers by land or sea, and to provide amenities or facilities that the Authority considers necessary or desirable for persons making use of the facilities or services.

The Tanzania Ports Authority has the Mission to Develop and manage ports that provide world class Maritime Services and promote excelling total logistics services in Eastern Central and Southern Africa. The Vision is to lead the regional maritime trade and logistics services to excellence, and the Value Statement is A Stable Systematic Caring Organization with Integrity/Trust, Good Governance, Recognition, Customer Care and Team Work.

2.3.2 Administration of Tanzania Ports Authority

The Authority is administered by a Board of Directors consists of nine members. The Board is reports to the Ministry of Transport for the formulation of policies relating to the Authority's operations. The top management includes the Director General and the two Deputy Directors for Infrastructure Development (ID) and Corporate Services (CS). The day-to-day administration of the Ports, however, devolves on the Port Manager for Dar es Salaam port, and Port Masters for other ports.

The Port is semi-autonomous from the government, and the Directors report to the Director General, who co-ordinates their activities and formulates policy guidelines for the Ports. The Authority maintains a staff complement of three thousand (3000) and is structured on eleven main directorates, each of which is headed by a Director.

These divisions are the Internal Audit, Procurement and Supply, Operations, Legal Services, Finance and Management Services. Others are Human Resources and Development, Marketing Planning and Investment, Engineering and Information Communication Technology.

2.3.3 Role of Tanzania Ports Authority

Organizations are set up in response to the public or government's desire for the provision of certain essential facilities or services. Thus, the reason or purpose for which an organization is set up is to perform vital functions desirable for society as a whole. TPA plays an important role in the economic development of Tanzania, which is enshrined in its corporate plan.

The Authority recognizes the need to support International Maritime Trade in Tanzania, and aims at providing facilities for the administration of all Ports whiles developing new ones to back up both maritime trade and fisheries, and to achieve quick turn round of vessels in the Ports.

In other words, it aims at maintaining up to date Port operations. The Port also has the responsibility to generate enough income to support continued growth of the organization and to develop manpower and material resources. TPA seeks to improve ways of ensuring efficiency, and offer the best services in the sub-region, at the most competitive tariff rates. TPA is in a competitive business as it is not the sole operator of sea Ports in the sub-region. As a result, like any other business, it tries to capture a greater portion of the total market.

The point here is, whether the Authority will achieve this or not will depend, to a large extent on how efficient and effective their services are and how customer cargo is handled. To realize the above mission, it is imperative for TPA to train and constantly update the skills of its employees, as well as the technical know-how of workers to keep abreast with the rapidly changing trends in management, engineering and technology.

The aim of the study was therefore to determine the effects of compliance to Public Procurement Act 2011 in TPA. The presentation and discussion of the findings are done in a chronological order to enhance the reader's understanding of the results at a glance. This research is presented by the data, which have been collected and analyzed using figure and tables for its interpretation in relation to the research questions and interviews conducted.

2.4 Empirical Literature Review

According to Thai (2009), Public procurement systems in Africa were generally weak and characterized by corruption and nontransparent mechanisms. Hunja (2003) describes public procurement systems that existed before reforms were instituted in many developing countries as public procurement was not previously viewed as having a strategic impact on the management of public resource. It was treated largely as a process-oriented 'back office' support function, often implemented by non-professional staff of the buying agencies. Consequently, little effort was expended to ensure that policies and rules and the institutional framework governing the procurement systems were maintained in a manner that ensured public funds were used in the most efficient and economical way and that the system delivered the best value for money.

Moe (2006) indicated that procurement can be viewed as involving at least two parts with different goals, a buyer and one or more vendors competing for the contract. However in addition to the agency relationship between buyer and competing vendors, there may be a number of internal stakeholders possibly with conflicting goals, adding complexity to the procurement process. These groups of internal

stakeholders may include IT staff, procurement personnel, users, user representatives, line managers, financial officers and cost controllers.

According to Kirungu (2010) though procurement planning in Kenya is legal requirement, lack of it is still a major cause of inefficiencies which has led to end-of year artificial emergency procurements, failure to absorb allocated funds and application of inappropriate procurement methods circumvention of legal & regulatory procedures. Public Procurement Oversight Authority was forestalling the challenge by issuance of mandatory procurement planning circular and enhanced surveillance through procurement assessments and reviews.

Kenya is committed to improving efficiency in the public procurement system at every opportunity for the purpose of enhancing by accountability in decision-making structures, responsiveness to citizens of the country, professionalism to improve performance. Others are transparency in the procedures and policies as well as appeal rights to redress meritorious grievances of suppliers. (Kirungu, 2010).

The CPAR, which is the Bank's second assessment of the procurement system in Tanzania, looks at all areas of public procurement operations in Tanzania, including the legislative framework, the performance of regulatory functions, the enforcement regime, the capacity of public sector institutions to conduct procurement, and the effects of corruption on procurement. It forms an integral part of the World Bank's activities in Tanzania as presented in the Country Assistance Strategy (CAS) of 2000 and serves a number of its key themes, particularly higher economic growth, poverty reduction and institutional reforms to improve governance.

The CPAR has observed that since the introduction of then PPA 2004, the prescribed Regulations for Local Government was not issued. This has led to legal confusion and contributed to malpractices throughout the local government. It shows that the new Regulations should be disseminated as soon as possible. These Regulations were later gazetted on March 12, 2003.

In addition, at present, aggrieved bidders have very limited access to a complaints mechanism. A credible complaints mechanism should be introduced by strengthening the capacity of CTB to take complaints while establishing the Public Procurement Appeals Authority, already entrenched in the legislation, to provide a functioning avenue of complaints for bidders. On the basis of the audit results as reported in a summary of procurement audit carried out by PPRA (2011), it was concluded that, generally the performance of the audited 106 Procurement Entities was fair.

According to assessment report by CPAR, there were a number of weaknesses which were observed by the auditors and measures for improvement recommended. The audit confirms that the repealed PPA 2004 was observed to give solutions but not without challenges. It outlines out weaknesses and threats of the various sectors. In the pursuit to improve compliance with the new enacted PPA 2011 the study recommends that public entities have to recruit procurement personnel and organize intensive and regular procurement training for the personnel handling public procurement especially in the area of procurement processes.

According to Akech, (2005) 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.

Phillips et al. (2007) as cited by Murray J. G. (2007) recognized that in their review of governance, those politicians were likely to be held accountable for public procurement although “the missing link” of good governance reflecting democracy in procurement strategy was not explored. Equally, in their evaluation of the procurement processes within the international research study on public procurement, Caldwell et al. (2007, p. 156) recognised that: “. . . public bodies and their procurement are subject to the particular need of elected representatives who have to be concerned with image and votes”, yet then failed, through their evaluation, to report on any engagement of elected representatives in the actual procurement process.

The ‘right to know’ and the role of the judiciary in promoting transparency in public procurement is ‘right to reasons’ and the ‘right of access to information’ are sometimes referred to collectively as the ‘right to know’. Both rights enable a person adversely affected by a tender decision to ascertain whether the decision was taken lawfully or not. Reasons provide an explanation or justification for a decision, enabling one to determine whether it was rational and consistent. The right of access to information on the other hand, entitles a person to be granted access to any record

in possession of an organ of state or a private party, such as the scoring methodology and score sheets used by a tender evaluation committee.

According to Volmink (2010) South African courts have generally interpreted the 'right to know' in a generous way, consistent with the principles of openness and transparency. A number of judicial pronouncements have had a significant effect on the promotion of transparency in the arena of public procurement. The courts have held that a decision to invite, evaluate and award tenders was subject to judicial review. Courts established the right of all tenderers - even unsuccessful ones - to be treated equally and fairly in the tender process. (Volmink, 2010)

Public procurement is a system where public needs meet private offers, a gate between the public and the private sphere, a sphere with huge corruption risks. Good regulation and transparent procedures are necessary to minimize these risks, and also to create a market of tenders that makes government procurements effective and fosters competition at the same time. (Lederer, 2012).

2.5 Research gap

Public procurement as a process comprises various methods which needed to be followed according to the laid down PPA 2011, guidelines and procedures. However there are challenges in Tanzania's procurement entities which are being noticed by the researcher of which also need to be researched. One of the challenging problems is the nature of public procurement and politics in Tanzania is significantly related to shortfall in procurement. The researcher was on the suggestion that the more accountable in Procurement Entity, the lesser the tendency of malpractice in the

procurement process. Further, non-compliance in procurement is directly related to the lack of transparency in procurement process.

2.6 Conceptual Framework

According to Kombo and Tromp (2004), a concept is an abstract or general idea inferred or delivered from specific instance that symbolizes several interrelated ideas. A concept does not need be discussed and understood (Smyth, 2004). As cited by Warren et al (2006) conceptual framework can be defined as a set of broad idea and principles taken from relevant field of enquiry and used to structure a subsequent presentation (Reichel and Ramey, 1987).

Public Procurement Compliance was measured by Political interference in the procurement process, Malpractice in the procurement process and Lack of transparency in procurement process which also the suggestion regarding corruption in procurement process.

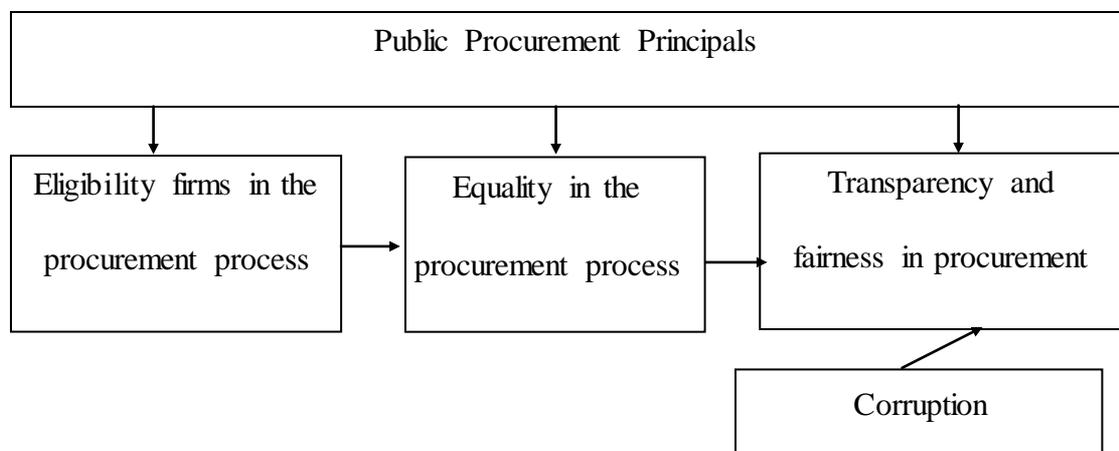


Figure 2.2: Proposed Conceptual Model

Source: The figure was designed by the researcher (2013)

2.6.1 Eligibility Firm in the Procurement Process

Eligibility as stated in Regulation 9 (1) unless otherwise specified in accordance with Regulations 33 National preference and 34 Exclusive preference to local person or firms, participation in the invitations to tender and in award of contracts shall be open on equal terms to natural persons, companies or firms or public or semi -public agencies of Tanzania and foreign countries; cooperative societies and other legal persons governed by public or private law, joint ventures, consortium or association of firms.

Regulation 9 (2) states that Natural persons, companies or firms shall not be eligible for the award of contracts where: (a) they are bankrupt; (b) payments to them have been suspended in accordance with the judgement of a court of law other than a judgement declaring bankruptcy and resulting, in accordance with their national laws in the total or partial loss of the right to administer and dispose of their property; (c) legal proceedings have been instituted against them involving an order suspending payments and which may result, in accordance with their national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of their property; (d) they have been convicted, by a final judgement, of any crime or offence concerning their professional conduct; (e) they are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender; (f) they are in breach of contract on another contract with the procuring entity; (g) has been blacklisted in accordance with Section 57 of the Act or ineligible in accordance with Section 73(7) of the Act. (3) To be eligible for participation in invitation to tender and award of contracts

tenderers shall provide evidence satisfactory to the procuring entity of their eligibility under this Regulation, proof of compliance with the necessary legal, technical and financial requirements and of their capability and adequacy of resources to carry out the contract effectively. The researcher noted that the political interference has a negative effect on public procurement compliance.

2.6.2 Equality of Participation in the Public Procurement Process

Equality of participation as stated in PPA 2011 Regulation 8. In order to ensure widest possible participation by tenderers on equal terms in inviting tenders for goods, works, services, provision of consultancy services or disposal of assets, procuring entities shall take the necessary measures to- (a) ensure publication of invitations to tender or to submit expression of interest or proposal in the Journal, Tenders Portal, newspapers of wide circulation and other appropriate means as prescribed in the First Schedule to these Regulations; (b) eliminate discriminatory practices, technical specifications or description of services which may limit participation on equal terms; (c) ensure that all the selection criteria are specified in the tender documents or prequalification and request for proposal; and (d) ensure that the tender or proposal selected conforms to the requirements of the tender documents or request for proposal and meets the prescribed selection criteria.

According to ThisDay (2011) in Tanzania, many political figures especially government officers and ministers have been implicated in high value procurement related scandals such as the US\$25 billion on military Radar System from BAE system of UK as reported in Tanzania Corruption System Tracker System (ThisDay 15.1.2011).

As read in ThisDay Newspaper of 14.12.2009, it was reported that 17 billion Tanzanian shillings was lost in dubious deals at Kiwira Coal mines, and the influence selling of UDA transport Corporation by M/s Simon Group was the political interference and conflict of interest in peddling of a Public Organization which the contract. (ThisDay 2009)

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.

According to the World Bank and IFC 2006 Enterprise Survey, 42% of the surveyed companies in Tanzania expect to give gifts to secure a government contract. The average payment is estimated at 3% of the contract's value. According to the Business Anti-Corruption Portal, procurement at the local level is reported to be more prone to corruption than at the central level. Accounting for donor funded projects was also reported being weak. We therefore propose thus; Equality of participation of the firms has affected by political interference.

2.6.3 Transparency and Fairness in Procurement Process

PPA 2011 Regulation 10.-(1) states that a procuring entity shall maintain adequate written records of all procurement, selection or disposal proceedings in which it is involved, and such records shall prescribe tenderers who have responded to advertisements or were approached to tender or to submit expression of interest or proposal, the successful tenderers, the unsuccessful tenderers and the reasons.

Regulation 10 (2) states that subject to sub regulation (1), the records shall be made accessible to any authorised person or body, and part of it, as specified in these Regulations, shall be published in the Journal and Tenders Portal.

Regulation 10 (3) states that without prejudice to sub-regulation (2), information relating to project particulars shall be made available to the general public in a manner and format as shall be prescribed in the guidelines issued by the Authority

Regulation 10 (4) states that a procuring entity shall ensure that payments due to tenderer are made properly and promptly in accordance with the terms of each procurement contract entered into, with a view to maintain the credibility and creditworthiness of a procuring entity, and the procuring entity shall ensure that the commitments are recorded against the allocated funds before any contract is signed.

TPJ (2013) quoted the Regional Commission of Morogoro during the official opening of a workshop on procurement governance sated that transparency, accountability and fairness constitute a central pillar for any public procurement system and are keys to integrity. Regional Commission Bendera said that without embracing transparency, accountability and fairness wholeheartedly, public procurement could easily be used by public servants to accumulate wealth unethically (TPJ 2013).

Existence of fairness throughout the public procurement cycle was critical in minimizing the risk of corruption and mismanagement of public funds (TPJ Vol VI No. 20) When assessing a procurement regime, the first step is often to look at

transparency, since it has the potential to serve numerous goals of reform. These include: undermining corruption; promoting the integrity and effectiveness of the public service; competition and value for money; the collection of reliable data on procurement; good governance; sound administration; and non-discrimination.

These differing goals may be served by different regimes on transparency, operating at various levels. The transparency required to avoid corruption might be different from that needed to promote international trade; a transparency discipline to ensure that all potential suppliers have access to information will not necessarily promote the collection of data. Sometimes a stringent transparency regime is warranted in order to achieve a particular goal, but in other instances the goal may not be so important as to justify the most costly, burdensome regime. (Fenster, 2003).

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. A transparent and effective public procurement system is important to combat bribery and corruption.

2.6.4 Corruption

As cited in www.investopedia.com/terms/c/corruption, Corruption is the dishonest behavior by those in positions of power, such as managers or government officials. Corruption can include giving or accepting bribes or inappropriate gifts, double dealing, under-the-table transactions, manipulating elections, diverting funds, laundering money and defrauding investors.

The World Bank uses a straight forward definition on corruption as 'the abuse of public office for private gain'. Transparency International defines corruption as 'the abuse of entrusted power for private gain.' Danish International Development Agency (DANIDA) defines corruption as the 'misuse of entrusted power for private gain'. Danida's definition corresponds with the conception of corruption in the Danish Penal Code, and other international conventions. (www.corruption-agenda.org/Default).

According to OECD publications Corruption thrives on secrecy. Transparency and accountability have been recognised as key conditions for promoting integrity and preventing corruption in public procurement. However, they must be balanced with other good governance imperatives, such as ensuring an efficient management of public resources – “administrative efficiency” – or providing guarantees for fair competition. In order to ensure overall value for money, the challenge for decision makers is to define an appropriate degree of transparency and accountability to reduce risks to integrity in public procurement while pursuing other aims of public procurement (OECD, 2007).

Hoseah (2009) during presentation of Tanzania Effort on curbing Corruption in the General Budget Support Review indicated that most people understand corruption as Demand for Unofficial Payment (92.5%); as compared to demand for sex (29.4%) or abuse of power (25.9%) Moreover he indicated that most people feel that the main causes of corruption are greed/selfishness, (96%) followed by moral indecency (92%) to Lack of control and accountability of public officials (88%). Also he indicated that most people agree that corruption is beneficial provided you do not get

caught (57%); some feel that following laid down procedures is too costly and time wasting (51%) and a few feel that bribery is practically necessary for getting things done (31%). (There is still need to improve service delivery and improve awareness).

CHAPTER THREE

3.0 RESEARCH METHODOLOGY

3.1 Research Paradigm

Webster Dictionary defines paradigm as "an example or pattern: small, self-contained, simplified examples that we use to illustrate procedures, processes, and theoretical points." The most quoted definition of paradigm is Kuhn (1962) concept in *The Structure of Scientific Revolutions*, that is paradigm as the underlying assumptions and intellectual structure upon which research and development in a field of inquiry is based. Concise Oxford Dictionary tenth edition defines Research paradigm as a technical typical example pattern, or model of something, a world view underlying the theories and methodology of scientific subject.

Therefore, to clarify the researcher's structure of inquiry and methodological choices, an exploration of the paradigm adopted for this study were discussed prior to any discussion about the specific methodologies utilized in this study.

3.2 Research Design

Research Design is the plan for conducting research, Kothari (2004). It is the arrangement of condition for collecting and analyzing data in the manner that combines the relevance to the research purposes. In fact, the research design is the conceptual structure within which research is conducted; it constitutes the blueprint for the collection, measurement and analysis of data. As such the design includes an outline of what the researcher will do from writing the hypothesis and its operational implications to the final analysis of data. (Kothari, 2004).

This research used a case study which that was carried out at Tanzania Ports Authority (TPA). The case of Tanzania Ports Authority (TPA) has been used in this study because researcher is an employee of TPA, involved in procurement activities in which “compliance” seems to be an issue of concern. Non-compliance to Public Procurement Act 2011 may have a significant effect on TPA performance or the economy because of the magnitudes of procurement made especially with respect to capital projects. During the financial year 2012/13, for instance, the budget for capital projects was about 482 Billion Shilling. This case study focused on the challenges to Compliances to Public Procurement Act 2011.

3.2.1 Areas of the study

The study was done in Dar es Salaam and targeted Directors, Managers, Principle, Senior Officers and others Officers who are employees of the TPA and who are main responsible for procurement processes. It also, involved employee from PPRA, PSBTB who regulate the procurement profession and practice as well as GPSA who their activities include procurement, storage and distribution of quality supplies through its central office in Dar es Salaam to twenty one [21] regional offices throughout the country, provision of clearing and forwarding services, arranging procurement of common use items and services by procurement entities through framework agreements and provision of warehousing and storage facilities.

3.2.2 Population of the study

A population is a group of individuals, objects or items from which samples are taken for measurement, for example a population of students, Kombo and Tromp, (2006). Population refers to the larger group from which the sample is taken. The

researcher studied the total population of 53 employees from TPA, PPRA, PSPTB and GPSA.

Table 3.1: Population

S/N	Population type	Corresponding Procurement Entity				Total
		TPA	PPRA	PSPTB	GPSA	
1	Directors	2	-	-	1	3
2	Managers	3	-	-	-	3
3	Principle Officers	7	-	1	-	8
4	Senior Officers	10	1	2	1	14
5	Officers	9	2	2	-	13
6	Assistant Officers	8	1	1	1	11
7	Total	39	4	6	3	53

Source: Table was designed by the researcher (2013)

3.2.3 Sample and Sampling Technique

According to Kombo and Tromp (2006) Sampling is the procedure a researcher uses to gather people, places or things to study. Sampling technique plays an important part in determining the size of the sample. A simple random sample is suitable to be much superior to a larger but badly selected sample (Kothari 2009). The researcher has noted also that a simple random sampling is one form of the general set of a sampling procedures referred to as probability sampling.

The researcher has used well-selected simple random sample technique in order to get good response. A sample technique selected by the researcher was because of its chances of obtaining good responses from respondents which included staffs that are of enough knowledge on public procurement in Tanzania and all over the world as

well. The staffs who involved as a unit of analysis were procurement specialist, procurement staff and managers from TPA, PPRA, PSPTB and GPSA.

3.2.3.1 Sample Size

According to Kothari (2004) size of sample refers to the number of items to be selected from the universe to constitute a sample. It is a major problem before a researcher. The size of sample should neither be excessively large, nor too small. It should be optimum. An optimum sample is one which fulfills the requirements of efficiency, representativeness, reliability and flexibility. While deciding the size of sample, researcher determined the desired precision as also an acceptable confidence level for the estimate.

Table 3.2: Sample Size

S/N	Responding type	Procurement Entity					% age
		TPA	PPRA	PSPTB	GPSA	Total	
1	Directors	1	-	-	1	2	5%
2	Managers	1	-	-	-	2	5%
3	Principle Officers	5	-	1	-	6	16%
4	Senior Officers	8	1	1	1	11	29%
5	Officers	7	1	1	-	9	24%
6	Assistant Officers	6	-	1	1	8	21%
7	Total	28	2	4	4	38	100%

Source: Table was designed by the researcher (2013)

The sample size of the study used was 38 respondents chosen randomly from the researched procurement entities. Respondents were chosen from the Director, Managers, Principal Officers, Senior Officers, Officers and Assistant Officers from various departments of TPA Head Office and the Dar es Salaam Port at Kurasini,

Dar es Salaam. The sample size of the respondents has showed how TPA complied with the Public Procurement Act 2011.

3.3 Data Collection

According to Kombo and Tromp (2006), data are discrete form of information given in numerical form or focus on words; there are primary data and secondary data. Primary data is information gathered directly from the respondents. This is normally collected through questionnaires, interviews, focused group discussion observation and experimental studies. Secondary data is the information which is neither collected directly by user nor specifically for the user.

Primary data was collected through administering of questionnaires to the selected sample. The selected respondents were given the questionnaires through drop and collect method. Secondary data was extracted from TPA, PPRA, PPAA and PSPTB brochures, manuals and annual financial reviews. The use of a multiple approach allowed the methods be backed up, increasing the validity and reliability of the collected data through triangulation. Powell (1991) observed that, exclusive reliance on one method may bias or distorts the researcher's picture of the particular reality she or he is investigating.

In research, the data collection refers to gathering specific information aimed at proving or refuting some facts. (Kombo and Tromp, 2006). Kothari, (1999) states that for the research to having meaningful and actual findings current information of what are researched should be found. Data was thus collected through use of questionnaire and interviews. Structured questionnaires were distributed to top

management who are the decision makers of TPA and procurement departments. Questionnaires were also distributed to procurement officers and their assistants in TPA. The respondents to the questionnaires were assured that their responses would be treated confidentially. In this section, we discussed the methods used to collect primary and secondary data.

3.3.1 Types of data

3.3.1.1 Primary Data

Primary data is a type of information that is obtained directly from first-hand sources by means of surveys, observation or experimentation. It is data that has not been previously published and is derived from a new or original research study and collected at the source such as in marketing (Kothari, 2004). There are several methods of collecting primary data, especially in surveys and descriptive researches. Important ones are: observation method, interview method, through questionnaires, through schedules, and other methods which includes warranty cards; distributor audits; pantry audits; consumer panels; using mechanical devices; through projective techniques; depth interviews, and content analysis (Kothari 2004). We discuss here below the methods and instruments used in this study.

3.3.1.2 Secondary Data

The secondary data are those which have already been collected by someone else and have passed through some statistical processes. The researcher would have to decide which sort of data he would be using (thus collecting) for his study and accordingly he would have to select one or the other method of data collection, (Kothari, 2004). The researcher collected data from TPA gazette, Annual Reports and Accounts for

various years from 2008/2009 through 2011/2012 and TPA's various documents which are open for perusal.

The researcher also collected data from various weekly Procurement Journal issued by PPRA, Audit report as issued also by PPRA, various newspapers, journals books and newsletters as issued by various institutions.

3.3.2 Methods of Collecting Data

3.3.2.1 Questionnaires

Questionnaire is a research instrument that gathers data over large sample, (Kombo and Tromp, 2006). In this research we used both open ended and closed ended as a major research instrument. This instrument was used because it has advantages that information was collected from large sample and diverse region, confidentiality was upheld and it saved on time. Moreover since a questionnaire they are presented in paper format, there is low risk for interview bias, (Kombo and Tromp, 2006). Questionnaires were distributed to the respondents who having a knowledge of procurement process. The responses were collected and recorded by the researcher accordingly.

3.3.2.2 Interview

Interviews are questions asked orally. There are various forms of interviews that include unstructured interviews which are flexible, semi structured interviews which, also, are flexible and structured interviews which have high reliability of the information gathered (Kombo and Tromp, 2006). This method was employed to find information while allowing individual self-expression. This method was applied to

different categories of employees, casual workers, permanent employees and the head of departments. The interviews were conducted and responses were recorded by the researcher accordingly.

3.4 Data Analysis

Data analysis refers to examining what has been collected in a survey or experimental and making deductions and inferences, (Kombo and Tromp, 2006). According to Saunders, et al., (2004), data analysis is defined as the act of transforming raw data, with the aim of extracting useful information and facilitating conclusion. The analysis was facilitated by the computer Microsoft Excel.

Both qualitative and quantitative methods were used. Data was processed, interpreted and analyzed by means of categorizing and then summarizing them so as to bring the clear picture of responses obtained from the questionnaires. Prior to use the returned questionnaires were edited to ensure legibility. To ensure that the data entered were free of errors, the database was cleaned before the data were transferred to Package for descriptive analysis into frequencies and percentages.

3.5 Data Validity

According to Kothari (2004) validity refers to the extent to which a test measures what we actually wish to measure. The researcher used the transferability method to reach the conclusion where the degree to which the result of qualitative research was generalized. The researcher was primarily has the responsibility of did a thorough job and made the judgment.

3.6 Data Reliability

Reliability has to do with the accuracy and precision of a measurement procedure ... Practicality is concerned with a wide range of factors of economy, convenience, and interpretability, (Thorndike, 1997). The reliability of data can be tested by finding out such things about the said data which indicating who collected the data, what were the sources of data, were they collected by using proper methods, at what time were they collected, if was there any bias of the compiler, what level of accuracy was desired, and was it achieved? (Kothari 2004).

The data that were suitable for one enquiry and were not necessarily be found suitable in another enquiry were not used by the researcher. The already available data were used by the researcher only when finding them reliable, suitable and adequate.

3.7 Ethical issues

When most people think of ethics or morals, they think of rules for distinguishing between right and wrong, such as the Golden Rule "Do unto others as you would have them do unto you", a code of professional conduct like the Hippocratic Oath "First of all, do no harm", a religious creed like the Ten Commandments "Thou Shalt not kill...", or a wise aphorisms like the sayings of Confucius. This is the most common way of defining "ethics": norms for conduct that distinguish between acceptable and unacceptable behavior (Resnik, 2011).

Researchers whose subjects are people or animals must consider the conduct of their research, and give attention to the ethical issues associated with carrying out their

research (Kombo and Tromp, 2006). The research was performed based on fair and honest principles. Moreover the researcher provided justification for costs, the need of data collection and appropriateness of the methodology and approach.

The researcher maintained confidentiality at all time during the research work and obtained informed consent in the study and ensured that the subjects participated voluntarily. The researcher did not by any way disclose what have responded through questionnaires or/and interviews, what obtained from the study was remained to be used for academic purpose only.

All participants were informed about the purpose of data collection and then were asked for a given consent before any data processing was taken place. The participants were also informed that they have the possibility to revoke the consent during the research period. Furthermore, they were explained that the data collected would not be processed with the intent to take measures or decisions but only for scientific and statistical research.

Specific added provisions of confidentiality were taken in the case of the research related to the technical performances of the public procurement system. The commitment of confidentiality was applied not only during the research project but also after the project work is concluded. The data that were collected from documents and reports were of public organisations so no special provision was required but in any case their use will be related only to the research purposes.

During the fieldwork a clear openness attitude was be the basis of the interaction with the participants. The liability of the research project was also to create the

instauration of trust in the relations with the participants in order to gain a successful and efficient collaboration. Furthermore, since the research project might collect relevant data, risk assessments were performed before the fieldwork. The research project during all the activities was exclusively based on trusted data and was produced objective outputs also because the case study was of social responsibility.

CHAPTER FOUR

4.0 RESEARCH FINDINGS, ANALYSIS AND DISCUSSIONS

4.1 Introduction

The focus of this chapter is on the analysis of data gathered from the field with the aid of questionnaires and interviews. Collection of data for this study is centered on four main sectors within the public organizations that are directly affected by the Public Procurement Act, 2011. This includes TPA, PPRA, GPSA and PSPTB as well as the contractors, suppliers and Consultants. This was mainly done to gather information to assess the level of compliance of public procurement by public organizations in the TPA. It was however necessary to consider issues that concerns performance and challenges facing Public Entities in the Tanzania.

4.2 Years of Service of the Respondents in an Organization

The study sought to find out the years of service for the respondents in the procurement activities and buying activities. Table 3 below represents the categories of years of service as indicated by the respondents.

The respondents have shown that they served in TPA from less than 1 to more than 8 years. This means that the organization has a blend of experienced and young professionals in procurement and buying activities. With required such experience the employees should have been handling the procurement activities in good practice. By expressing more the study shows that 3 of the responded staff were employed within less than a year, 7 responded staff are working in the organization within 1 to 3 years. The finding indicates that one quarter of the employees are

working with the organization at the shorter period of time. Moreover the study shows that the organization has employed 8 of responded staff within the period of 4 to 8 years and on top of that 10 of responded staff are over 8 years in the employment.

Table 4.1: Years of Service in the Organization

Years of Service	Frequency	Percentage (%)
Less than 1 year	3	11%
1-3years	7	25%
4-8years	8	28%
Over 8 years	10	36%
Total	28	100%

Source: Field data (2014)

4.3 Reasons of Non-Compliance

The reasons of non-compliance to PPA 2011 as suggested by respondents were 30% of the respondents indicate lack of professionalism, 25% indicates politics and bureaucracy where as 45% of the respondents indicates Corruption. The study shows that corruption in public organizations was the most rated reason since corruption lead to unfair/ unqualified selection of bidders.

According to Hoseah (2009) during presentation of Tanzania Effort on curbing Corruption in the General Budget Support Review indicated that most people understand corruption as Demand for Unofficial Payment (92.5%); as compared to demand for sex (29.4%) or abuse of power (25.9%). Moreover he indicated that most people feel that the main causes of corruption are greed/selfishness, (96%) followed by moral indecency (92%) to Lack of control and accountability of public

officials (88%). Politicians and government employees are driven by self-interest resulting in under provision of good government policies. Research findings justify the case of corruption also by Thai (2009), where stated that public procurement systems in Africa were generally weak and characterized by corruption and nontransparent mechanisms.

Table 4.2: Reasons of Non-Compliance to PPA 2011

Reason	Frequency	Percentage (%)
Corruption	18	45%
Lack of professionalism	12	30%
Politics and Bureaucracy	10	25%
Total	40	100%

Source: Field data (2014)

4.4 Challenges of Procedures and Guidelines

The finding shows that majority of the respondents 32% indicates that tendering process is too bureaucratic. 15% of the respondents accounted for Mismatch of organization objectives and PPA Policy. 23% of the respondents said awareness of suppliers to the PPA 2011 as the challenge of procedures and guidelines.

Many suppliers are not aware of the policy and procedures of tendering process and laws. Lack of knowledge of key staff was the other factor whereby 20% of the respondents mentioned as the challenge to the procurement process. The finding is similar to study made by Lederer (2012) which states that public procurement is a system where public needs meet private offers, a gate between the public and the private sphere, a sphere with huge corruption risks.

Good regulation and transparent procedures are necessary to minimize these risks, and also to create a market of tenders that makes government procurements effective and fosters competition at the same time. 10% of respondent shows that political influence in procurement system.

Table 4.3: Challenges of Procedures and Guidelines of PPA 2011 to the Procurement System

Challenges	Frequency	Percentage (%)
Bureaucracy of tendering process	13	32%
Mismatch of organization objectives and PPA Policy	6	15%
Awareness of suppliers to the PPA 2011	9	23%
Lack of knowledge of key staff	8	20%
Political influence in procurement process	4	10%
Total	40	100%

Source: Field data (2014)

4.5 The extent to which the implementation

The study indicates respondents argued that the extent to which the implementation of the PPA 2011 affect performance of public entities in Tanzania. Majority of the respondents 42% suggested that tendering process should be improved. 30% suggested PPA policy should match with organization objectives. 13% Government should stop intervene procurement process because the newly introduced Big Results Now interfered the organization procurement plan of the organization. 8% of respondent shows that impart knowledge to key staffs and finally 7% suggested educating suppliers on tender process and law. A study by Gelderman, et al. (2006) indicates that educating and training public purchasers should be an effective tool for

increasing the compliance with the directives. Eyaa and Oluka, (2011) stated that lack of familiarity with procurement rules results into poor compliance levels.

Table 4.4: The Extent to which the Implementation of the PPA 2011 Affects the Performance of Public Entities in Tanzania

Solutions	Frequency	Percentage (%)
Educate suppliers on tender process and law	3	8%
Tendering process should be improved	17	42%
PPA policy should match with organization objectives	12	30%
Government should stop intervene procurement process	5	13%
Impart knowledge to key staffs	3	8%
Total	40	100%

Source: Field data (2014)

4.6 Respondents' Perception on Various Aspects

When asked to give judgment on whether practitioners in the field are observing transparency? The majority of the respondent strongly agreed. The study is opposing to Thai (2009) on transparency, where stated that Public procurement systems in Africa were generally weak and characterized by nontransparent mechanisms. Transparency and fairness are important factors that contribute to accountability, (Raymond, 2008).

Table 4.5: Practitioners in Procurement Field Observe Transparency

Category	Respondents	
	Frequency	Percentage
Strongly agree	16	49%
Agree	9	27%
Disagree	5	15%
Strongly disagree	3	9%

Source: Field data (2014)

When asked to give their judgment concerning organization applies PPA 2011 for all procurement regardless of the value. The study tells us that 10% of the respondents disagree that their organization applies PPA, 2011 for all procurement regardless of the value. 3% of respondents strongly disagree, 29% agree and 58% strongly agree.

Kraljic (1983) in his portfolio purchasing model indicated that purchasers maximize supply security and reduce costs, by making the most of their purchasing power. He suggested that selecting the best supply strategy is a function of the level of supply exposure, technical risk and the strategic nature of the product or service that is its value or cost to the buying firm. From this result therefore there is evidence that to support that all procurement should be made applying PPA 2011 regardless of the value.

Table 4.6: Organization Applies PPA 2011 for all Procurement Regardless of the Value

Category	Respondents	
	Frequency	Percentage
Strongly agree	18	58%
Agree	9	29%
Disagree	3	10%
Strongly disagree	1	3%

Source: Field data (2014)

When asked to give their judgment concerning cost saving after implementation of PPA, 2011. The majority responded that the saving is very significant. According to the World Bank and IFC 2006 Enterprise Survey, 42% of the surveyed companies in Tanzania expect to give gifts to secure a government contract. The average payment is estimated at 3% of the contract's value.

From this result therefore is evidenced that there is cost saving after implementation of PPA 2011 because the gift of such amount cannot come out hence the value of the goods will remain as per initial tender.

Table 4.7: Rating of Cost Saving after Implementation of PPA 2011

Category	Respondents	
	Frequency	Percentage
Very significant	19	54%
Significant	9	26%
Almost the same	5	14%
Insignificant	1	3%
Do not know	1	3%

Source: Field data (2014)

CHAPTER FIVE

5.0 SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Summary

This chapter presents conclusions and recommendations on the challenges of compliance to Public Procurement Act 2011. The main objective of the study was to determine the challenges of compliances to PPA 2011.

5.2 Summary of Findings

It has been established in this research that TPA is having staff serving for a reasonable time therefore are experienced in handling procurement issues as they shows that they are in service over 8 years. The reasons of non-compliance to PPA 2011 as suggested by respondents were mostly recorded corruption, then lack of professionalism and politics and bureaucracy. Corruption in public organizations was the most rated reason since corruption lead to unfair/ unqualified selection of bidders.

Procurement professionals need to acknowledge and devise strategies for managing all these complex challenges. The professionals must be seen as champions of efficiency and effectiveness and must acknowledge the challenges and their various forms, and their sources. We have noted that politicians and government employees are driven by self-interest resulting in under provision of good government policies. While they are supposed to work in public interest, putting into practice policies of government as efficiently and effectively as possible, public choice theorists see bureaucrats as self-interested utility maximizers, motivated by such factors as salary,

prerequisites of the office, public reputation, patronage and ease of managing an institution. The findings tell us that respondents mentioned several challenges of procedures and guidelines of PPA 2011 to the whole system of procurement. Majority of the respondents shows that tendering process is too bureaucratic.

Due to bureaucracy of the tendering process in the procedures and guidelines of PPA 2011 to the procurement system, the country may lose income. Second group of the respondents show that awareness of suppliers to the PPA 2011. The finding indicates that many suppliers are not aware of the policy and procedures of tendering process and laws. This pose the challenge to the procurement process since many suppliers are competent in supplying but they lack know-how of procurement laws and procedures.

Lack of knowledge of key staff was the other factor whereby 20% of the respondents mentioned as the challenge to the procurement process, 15% of the respondent shows that mismatch of organization objectives and PPA Policy while few respondents shows political influence in procurement process as the challenge of procedures and guidelines of PPA 2011 to the procurement system.

The study tells us that the respondents concluded the possible solutions for the extent to which the implementation of PPA 2011 affect the performance of public procurement in Tanzania. Majority of the respondents suggested that tendering process should be improved, then the second group suggested PPA policy should match with organization objectives, 13% suggested Government should stop intervene procurement process. 8% shows impart knowledge to key staffs and finally few respondents suggested for educating suppliers on tender process and law.

During the interview the researcher has provided with information that staffs in the Head office and PMUs were having adequate qualifications for their posts. The head of procurement departments are reporting directly to the Accounting officer. Moreover the researcher was informed that TPA does advertise all annual tender opportunity publicly.

5.3 Conclusion

On the whole, the study sought to investigate the effects of compliance to Public Procurement Act 2011 on Tanzania Ports Authority and findings and recommendations provided. TPA should need to take action to correct its procurement activities, and make sure the processes involved are duly followed.

The findings of this research indicated that TPA's nature of work depends mainly on high technological and sophisticated equipment. This makes procurement of those goods and services crucial and vital, taking into consideration the rapid technological advancement. From the results of the study, it can be concluded that TPA certainly had a very good budget for accommodating procurement department; however the procurement processes involved are not being duly followed.

It also organizes training programs from time to time for its procurement employees to update their knowledge and skills and to ensure that maximum efficiency exist in their department. The training of public procurement officials and other stakeholders is fundamental. Training should not only include the correct application of rules and procedures, but also obligations, awareness raising on how to identify procurement risks, and means to enhance integrity and effectiveness. In addition, a code of

standards for TPA staff and suppliers/contractors, and reporting obligations of alleged misdeed by TPA staff, should be made standard.

5.4 Recommendations

The study recommends that the policy maker should ensure that public procurement processes are carried out with much integrity by stakeholders of procurement system. The practitioners should be empowered to actively participate in advocacy of good governance in public procurement and monitoring of process and outcome in delivery of services. Corruption was identified as the major reason of non-compliance to PPA 2011. The fight against corruption in public procurement should be intensified by more collaborative initiatives among key stakeholders.

The government should through PCCB make sure that they punish those individuals caught taking bribe in procurement of goods and services. Effective control and review systems and measures increase transparency and play an important role in preventing corruption in public procurement. Warning systems and effective sanctioning systems should be included in a good public procurement system that effectively fights corruption. However, until the potential cost of participating in corrupt or fraudulent practices for example loss of job, fines, imprisonment, confiscation of illicit property, and so forth is greater than the benefit gained from participation, the mitigation of risk will remain an uphill battle. This research addresses some effort to eradicate corruption which includes the needs to review the law.

Lack of professionalism was the reason of non-compliance. Professional board like PSPTB should stress to ensure that those who are employed and engaged in the

position public procurement should abide to the legal procedure in procurement process. Politics and bureaucracy accounted by 25% of the respondents as the reason of non-compliance to PPA 2011. Even though Politics and bureaucracy is more less that corruption and lack of professionalism, the government should enforce a law which may prevent the politician to participate or have position of decision making in the procurement entities.

Bureaucrats were immerged the most problem of procedures of PPA 2011 to the whole procurement system. Majority of the respondents 32% said that tendering process is too bureaucratic. The speed of progress of implementation of the procurement reform and the legislative changes have however left a number of gaps, which unless filled will negate the benefits of the achievement of the recent past. These gaps are illustrated in the weaknesses set out above. It is recognized that a number of issues are already on going, but are included for the sake of presenting a complete situation.

To improve the compliance in public procurement research there is a need to be more critical of potential responses from procurement managers and practitioners and look for triangulation from other actors, particularly those of the respective politicians. Indeed, there is a need for more research on politicians' perspectives on public procurement.

Given the above, research would be of benefit which answers the following research questions: do democratically elected public representatives believe that procurement is not a political tool, is procurement politically maximising its contribution, is public

procurement an underused political tool, what are the actual views of procurement managers and practitioners with regard to the leadership of politicians in public procurement strategy, is there a difference between the public procurement strategies of the political negative or positive?

REFERENCES

- Akech JMM (2005). *Development partners and governance of public procurement in Kenya: enhancing democracy in the administration of aid*. Int. law Politics. 37(4):829-868.
- Amaral, M., Saussier, S., Yvrande-Billon, (2009) A. Auction procedures and competition in public services: The case of urban public transport in France and London // *Utilities Policy*, vol 17, 2009, pp. 166–175.
- Arrowsmith S. (2011). *Public Procurement Regulation; An Introduction*. University of Nottingham EU.
- Bac, M. (2001) Corruption, Connections and Transparency: Does a Better Screen Imply a Better Scene? // *Public Choice*, Vol. 107, No. 1/2, pp. 87-96.
- Baily P. Farmer David, Jessop David and Jones David (2003); *Purchasing Principles and Management 9th Edition*. pp 108, Prentice Hall CIPS.
- Baiservich A., Pivovarova S. and Podkolzina E. (2011) *Information Transparency in Public Procurement: How it Works in Russian Regions Basic Research Program Working Papers*. A Series in Economics. Program of Fundamental Studies of the Higher School of Economics in 2011.
- Bergot, J.C., Jaeger, P.T., Grimes, J.M. (2010). Using ICTs to create a culture of transparency: E-government and social media as openness and anti-corruption tools for societies //
- Boehm, F. and Olaya, J. (2006) Corruption in public contracting auctions: the role of transparency in bidding processes // *Annals of Public and Cooperative Economics*, vol. 77, № 4, pp., 431–452.

- Callendar, G. & Mathews, D. (2000). "Government Purchasing: An Evolving Profession?" *Journal of Public Budgeting, Accounting & Financial Management*, 12 (2): 272-290.
- Engelbert A. and Reit N, (2012) *Effective corruption control: Implementing review mechanisms in public procurement in Kenya, Tanzania and Uganda*. The Ruhr-University of Bochum (Germany).
- Evenett, S. J. and Hoekman, B. M. (2005) *International Cooperation and the Reform of Public Procurement Policies* World Bank Policy Research Working Paper 3720,
- European Union (2007) *Integrity in Public Procurement: Good Practice from a to z* – isbn-978-92-64-02750-3 © OECD 2007.
- Fenster, G., (2003). Multilateral Talks on Transparency in Government Procurement: Concerns for Developing Countries. *IDS Bulletin*, 34(2), pp.65-81.
- Foster, V. (2005) Ten years of water service reform in Latin America: Toward an Anglo- French Model. Water supply and sanitation sector board discussion paper series. Paper no. 3, January, Water Supply & Sanitation Sector Board. The World Bank Group.
- <http://siteresources.worldbank.org/INTWSS/Resources/WSSServiceReform.pdf>.
- Gelderman C. J. and Weele A. J. (2005), *Purchasing Portfolio Models; A Critique and update*, The Journal of Supply Chain Management, Summer.
- Government of Bangladesh, (2012). *Improving Transparency in Public Procurement*, Brac University.
- Government of Jamaica, (2008) "Hand book of Public Sector Procurement Procedures".

- Hui, et al., (2011) *Women's economic empowerment and retirement savings decisions*; Social research Demonstration Corporation.
- Hunja, Robert R. (2003) "Obstacles to Public Procurement Reform in Developing Countries," in Sue Arrowsmith and Martin Trybus (editors) *Public Procurement: The Continuing Revolution*, Kluwer Law International.
- Ichijo and Kohlbacher IAMOT (2006) *1/8 Global Knowledge Creation – The Toyota Way*, Hitotsubashi University, Tokyo, Japan.
- Karjalainen K. (2009) *Challenges of Purchasing Centralization – Empirical Evidence from Public Procurement*. Helsinki School of Economic ISBN: 978-952-488-322-1.
- Katundu, Adam J (2005); *A manual on Research Methodology*.
- Kirungu K. (2010), *Looking beyond Compliance, PPOA*, Kenya. Third East African Procurement Forum, held in Tanzania.
- Kombo D. K. and Tromp D .L. A. (2006). *Proposal and Thesis Writing, an Introduction*. Pauline's Publications Africa.
- Kothari C. R. (2004); *Research Methodology, Methods & Techniques*. 2nd Ed.
- Kundela, C. I. (2008) *Extent of Compliance to Public Procurement Act and Regulations. A survey of selected Water Supply and Sewage Authorities of Arusha, Babati and Moshi*. Unpublished MBA Dissertation, University of Dar es Salaam.
- Kuhn, T. S. (1962) *The Structure of Scientific Revolution*, University of Chicago Press.

- Laarhuis E. (2013) *Public Procurement's Results an Analysis of the Dutch situation*, University of Twente, The Netherlands.
- Lapointe Luc (2008); *Thematic Clinic for Country Teams: Note on Procurement Issues* 3rd Africa Region Education Capacity Development Workshop Country Leadership and Implementation for Results in the EFA-FTI Partnership Mauritius.
- Lederer S. (2012) *Public Procurement; Why Transparency is Essential*. Article was published in *Visegrad Insight* 1/2012. cited from <http://visegradvue.eu/?P=67> on 4.9.2013.
- Matechak Jason P. (2005), *Fighting Corruption in Public Procurement*; Center for International Private Enterprise 1155 15th St., NW, Suite 700--Washington, DC.
- Mlinga, R. S, (2004) "Efficient Procurement Plan is Important" Unpublished Report, National Board for Materials Management Professionals' Conference, Arusha.
- Mlinga, R. S, (2005). "*Combating Corruptions in public Procurement*" Tanzania Procurement Journal Vol. 1 No.7 May 2008; also available at www.ppra.go.tz.
- Moe C. E. (C.2000), *Theoretical Foundations for analyzing Procurement of IT in Public Sector*, University of Agder, Gimlemoen, Kristiansand, Carl.E.Moe@Uia.No.
- Mrope N (2008); "*The Role of Procurement in Cost saving analysis*" Tanzania Procurement Journal Vol. 1 No.7; also available at www.ppra.go.tz.

- Murray J. G. (2007) Improving the validity of public procurement research extracted from www.emeraldinsight.com/0951-3558.htm.
- Nielsen J. U. and Hansen L. G. (2001) *The EU Public Procurement Regime - Does It Work?* Procurement Journal, Inter-economics.
- Odoyo, F and Lipindi B, (2012) Compliance of public procuring entities in Dar es Salaam. Kampala International University.
- OECD, (2007) Publications, Detecting bid rigging in public procurement², rue, 75775 Paris Cedex 16 Printed in France (42 2007 13 1 P) ISBN 978-92-64-02750-3 – No. 55607 2007.
- Powell, W. W. (1991) Expanding the scope of institutional analysis, in: W. W. Powell and P. J. DiMaggio (Eds) *The New Institutionalism in Organizational Analysis*, pp. 183-203 (Chicago: The University of Chicago Press).
- Queensland Government (2006); Ethics, Probity and Accountability in Procurement.
- Raymond J. (2008) *Benchmarking in public Procurement*, Department of Management, Monash University, Caulfield East, Australia.
- Resnik, D.B. (2011) *What is Ethics in Research & why is it Important?* Bioethics and NIEHS IRB Chair.
- RMC Publications (2009); Inc. 952 846 4484
- Rossi, J, (2010). *Is Equal Moral Consideration Really Compatible with Unequal Moral Status?* Kennedy Institute of Ethics Journal 20 (3):251-276.
- Schapper, P. (2008) The impact of e-procurement on corruption: The potential of e-procurement for curbing corruption risks. In: ADB/OECD (2008) Fighting Bribery in Public Procurement in Asia and the Pacific. Proceedings of the 7th

Regional Seminar on making international anti-corruption standards operational, Indonesia 2007.

Scott. (2004), *Contributing to a theoretical research Programm.* Stanford University.

Ssennoga Francis; (2006) *Kyambogo University, Tanzania; Examining Discriminatory Procurement Practices In Developing Countries* Journal Of Public Procurement, Volume 6, Issue 3, 218-249.

Stuijts S. et al (C.2011); *Professionalising Communal Procurement: The Experience In The Dutch Public Sector.*

Smyth. G. K. (2004 and 2009); *Linear Models and Empirical Bayes Methods for Assessing Differential Expression in Microarray Experiments.* Hall Institute of Medical Research Melbourne, Vic 3050, Australia.

Taylor, Travis K. (2012) *Countertrade offsets in international Procurement; Theory and Practice.*

Tanzania Procurement Journal (2008); *Why Regulate Public Procurement.* Vol. I No.15.

Tanzania Procurement Journal (2008); *PPAA orders re-evaluation of NIT tender.* Vol. IV No.31.

Tanzania Procurement Journal (2011); *PPAA Upholds appeal against PSPF.* Vol. IV No.32.

Tanzania Procurement Journal (2011); *PPAA nullifies TPA tender over flawed evaluation.* Vol. IV No.29.

Tanzania Procurement Journal; (2011) *PPAA orders RITA to restart prequalification process.* Vol. IV No.30.

- Tanzania Procurement Journal; (2013) *Transparency and accountability key to Integrity*. Vol. VI No.20.
- Thai, K. V. (2001); *Public procurement re-examined*, Journal of public procurement.
- Thai, K. V. (2008) *Challenges in public procurement*.
- Thai, K. V. (2009) *International Handbook of Public Procurement* Florida Atlantic University Boca Raton, Florida, U.S.A.
- Thorndike R. L. and Hagen E. (C.2011): *Measurement and Evaluation in Psychology and Education*, 3rd Ed., p. 162.
- Trepte, Peter (2004); *Understanding the ends and means of Public Procurement regulations*; Oxford University Press.
- Tukamuhabwa B. (2012), *Antecedents and Consequences of Public Procurement Non-compliance Behavior*; Journal of Economics and Behavioral Studies, Vol. 4, No. 1, pp. 34-46, Jan 2012 (ISSN: 2220-6140).
- United Republic Of Tanzania. *National Trade policy for a Competitive Economy and Export-Led Growth* (2003).
- United Republic of Tanzania. *Office of the Controller and Auditor General PA&OBs 2010/11*.
- United Republic of Tanzania. *The Public Procurement Act, No. 3 of 2001* (PPA 2001)
- United Republic of Tanzania. *The Public Procurement Act, No. 21 of 2004; (Goods, Works, Non Consultancy Services and Disposal of Public Assets by Tender) Regulations*. GN. No. 97, 2005.
- United Republic of Tanzania. *The Public Procurement Act, No. 21 of 2004; (Selection and Employment of Consultants) Regulations*. GN. No. 98, 2005.

United Republic of Tanzania. *The Public Procurement Act, No. 7 of 2011; Regulations.* GN. No. 446 of 2013.

United Republic of Tanzania. *The Public Procurement Regulatory Authority, A summary Report of Procurement Audit carried out in One Hundred and Six (106) Procurement Entities.* October 2011.

United Republic of Tanzania; *National Audit Office Report Of The Controller And Auditor General On The Financial Statements Of Public Authorities And Other Bodies For The Financial Year Ended 30th June, 2007.*

United Republic of Tanzania; *Annual General Report of the Controller and Auditor General on the Audit of the Public Authorities and Other Bodies* for the financial year 2007/2008.

Van Weele, A, (2005), *Purchasing and Supply Chain Management, 4th edition, p. 16,* Thomson learning 2005.

Venkata, R S P; (C.2011) *Supply Side Issues In Procurement Corruption;* Journal of Development and Social Transformation.

Volmink, P., (2010). *Enhancing Transparency within Public Sector Procurement: The South African Experience. 4th International Public Procurement Conference.* Seoul, Republic of Korea, 26-28 August 2010.

Warren M. J. C. and Hutchinson W. (2006); *The Derivation Of A Conceptual Model For Outsourcing It Security* School Of Information Systems, University.

APPENDICES

Appendix 1: Questionnaires

The research questionnaires for the public organizations in the effects of Compliance to Public Procurement Act 2011;

Dear respondent, we are trying to assess the effect of Compliance to Public Procurement Act 2011. There is no right or wrong answers to those questions. We are interested in knowing how you think. All responses will be entirely anonymous and used in the study.

1. Please provide the name of your organization. (Optional)

.....

2. Are you involved in key issues regarding procurement decisions in your organization? *Please (√) one*

Yes

No

3. If your response for the above question is Yes or No. How?

.....

4. For how long have you been in the procurement activities and particularly buying activities? *Please (√) one*

a) Less than a year

b) 1 to 3 years

c) 4 to 8 years

d) Over 8 years

5. Is your organization having a separate department that deal with procurement?

Please (✓) one

Yes

No

6. If your answer for the above question (4) is No, in which department are procurement activities placed in your organization? Please mention.

.....

7. If your answer for the above question (4) is YES, are the key procurement activities well planned? *Please (✓) one*

(i) Yes (ii) No (iii) (iii) Not applicable

8. Practitioners in the field are observing transparency? *Please (✓) one*

i. Strong agree ii. Agree iii. Disagree

iv. Strong Disagree

9. Does your organization follow the PPA, 2011? *Please rank 1 to 5 (1. lowest – 5. highest)*

1. 2. 3. 4. 5.

10. How does your authority vet suppliers for tender purpose?

a) Tender Board Committee

b) Procurement department

c) Purchasing Officer

11. How do you weigh the implementation of the PPA, 2011?

a) Very easy

b) Neutral

c) Difficult

d) Very difficult

12. Your organization applies PPA, 2011 for all procurement regardless of the value. Please (✓) one

i. Strong agree ii. Agree iii. Disagree

iv. Strong Disagree

13. How do you rate cost saving after implementation of PPA, 2011?

a) Very significant

b) Significant

c) Almost the same

d) Insignificant

e) Do not know

14. What can be termed as challenges since implementation of PPA, 2011?

Mention as many as possible

a)

b)

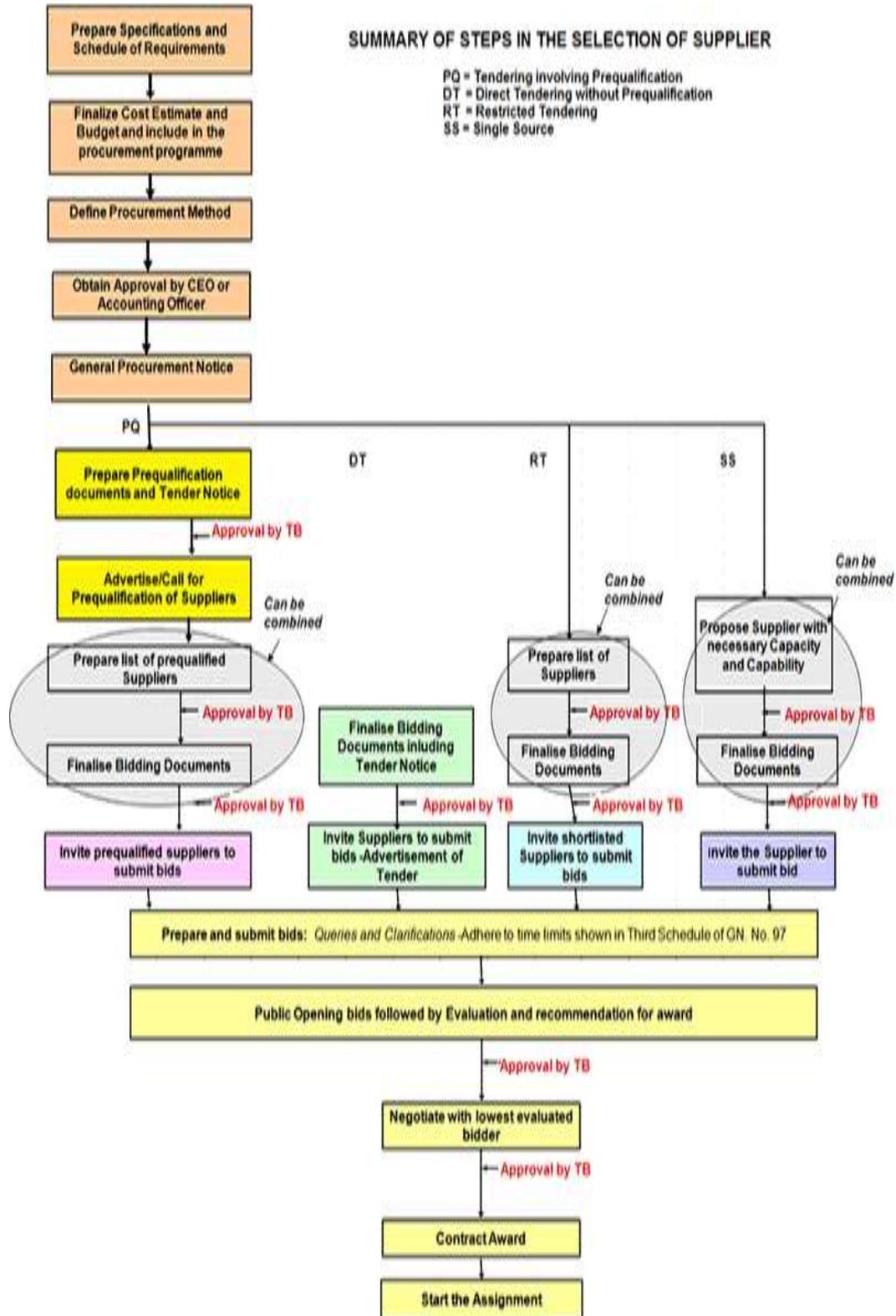
c)

Appendix 2: Interview**Checklist of questions used for interviewing the organization Executive on the effects of Compliance to Public Procurement Act 2011;**

Dear respondent, we are trying to assess the effect of Compliance to Public Procurement Act 2011. There is no right or wrong answers to those questions. We are interested in knowing how you think. All responses will be entirely anonymous and used in the study

1. For how long have you been serving in the Organizational post?
2. Are you familiar with procedure and guidelines of PPA 2011?
3. Does your organization annual budget follow the procurement process?
4. Have you ever attended any training/seminar conducted by PPRA?
5. Is the head of procurement department reporting directly to the accounting officer?
6. Are there any cost saving in organization annual budget after implementation of PPA 2011?
7. How do you rate the use of PPA, 2011 in relation to your responsibilities in terms of effectiveness and efficiency?
8. Does your organization advertise all your annual tenders publicly?
9. Is there any recorded complaint from your suppliers and/or bidders regarding tender award and tender disqualification?
10. What can be termed as challenges since implementation of PPA, 2011?
11. Summary of steps in the selection of Suppliers, a Consultant and Evaluation procedures for Quality and Cost Based Selection

Appendix 3: Summary of Steps in the Selection of Suppliers



Appendix 4: Summary of Steps in the Selection of Consultant

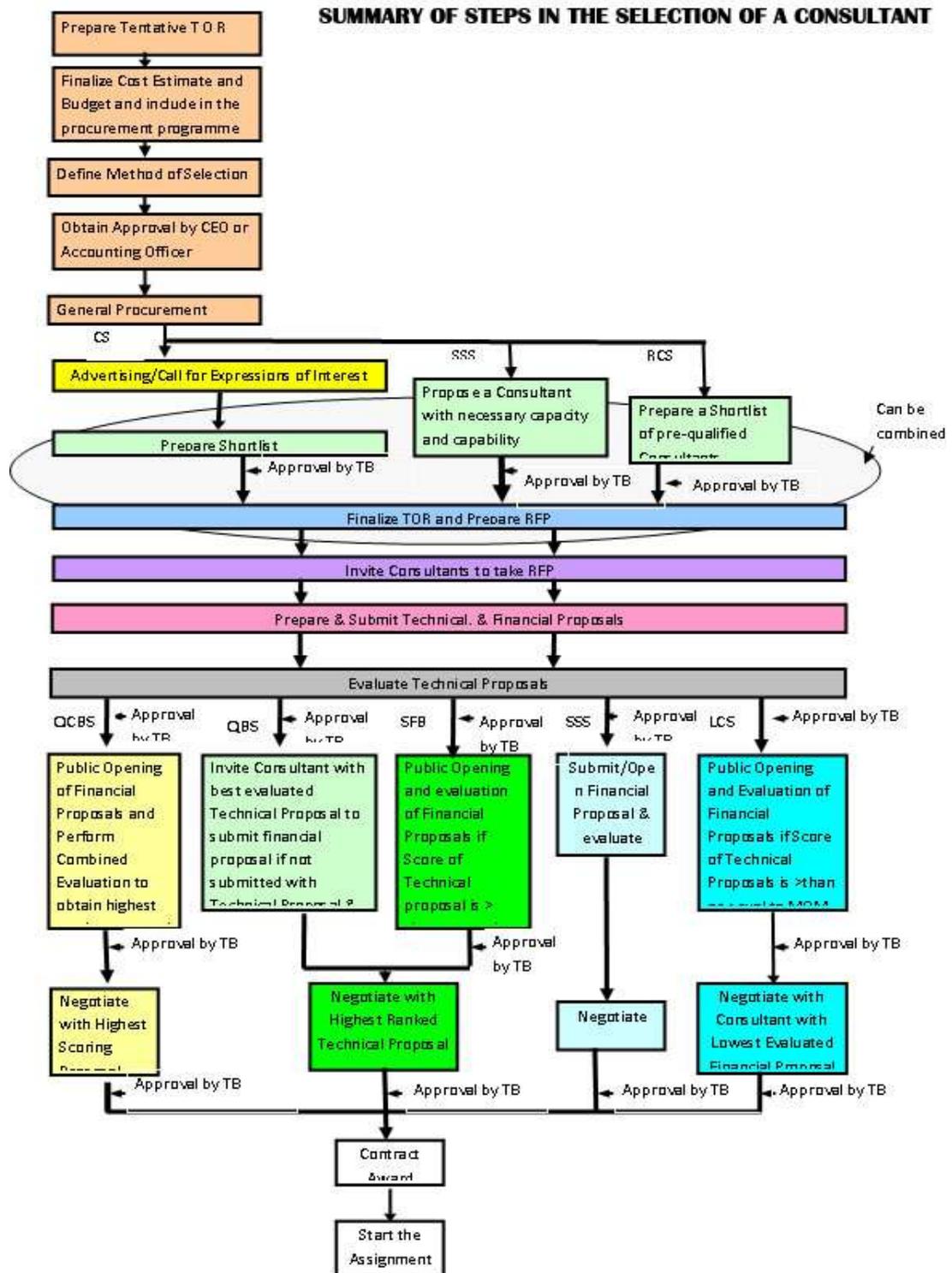


Figure: Flow Chart for Procurement of Consultancy Services

Appendix 5: Evaluation Procedures for Quality Cost Based Selection

