

Journal of Procurement & Supply Chain

ISSN Online 2617-3581



Stratford
Peer Reviewed Journals & books

Fighting Corruption and Promoting Integrity in Public Procurement: Comparative Study between Kenya and Tanzania

Mutangili Kyalo Solomon

ISSN: 2617- 3581

Fighting Corruption and Promoting Integrity in Public Procurement: Comparative Study between Kenya and Tanzania

Solomon Kyalo Mutangili

PhD Candidate, Management University of Africa

Email: solomonkyalomutangili@yahoo.com

How to cite this article: Mutangili K., S. (2019): Fighting Corruption and Promoting Integrity in Public Procurement: Comparative Study between Kenya and Tanzania. Journal of Procurement & Supply Chain, Vol 3(1) pp. 48-62.

Abstract

Public procurement has undergone various changes in Africa since independence where most parts had centralized powers, which excluded participation by other stakeholders, including the civil society. In this context, the Government operated almost as a sole player in the economy. The lack of checks-and-balances and specific capacities resulted in a culture of indifference and tolerance towards corrupt practices. There are still remnants of this culture, which still influence much of government procurement practices. The acquisition of infrastructural materials and services in African Countries threatens the viable implementation of projects due to massive corruption during procurement. Transparency International corruption in 2017 ranked Kenya 144 out of 180 countries surveyed with a score of 27 out of 100 while Tanzania was ranked 99 out of 180 countries with a score of 36 out of 100. This points that corruption is pervasive in Kenya and Tanzania society and is a serious problem across all sectors of the economy. The general objective of the study was to examine corruption in procurement and promotion of integrity in public procurement in Kenya and Tanzania. The study used a desk study review methodology where relevant empirical literature was reviewed to identify main themes. A critical review of empirical literature was conducted to examine corruption in public procurement and promotion of integrity in public procurement. The study was informed by institutional and system theories. The study concluded that Kenya and Tanzania all have a fairly comprehensive legal and institutional framework that supports integrity in public procurement. The biggest dilemma is however, the fact that stronger laws are not necessarily the best on public procurement integrity in practice. The study further concluded that while laws and institutions are important to the extent that they lay out rules and

procedures that must be followed and prescribe sanctions for non-compliance with these rules, they in themselves are not sufficient. The study recommended on the need to build public confidence to report corruption to the relevant institutions. The low corruption reporting may be indicator to the general public perception on the official anti-corruption responses. The indication therefore is that the government needs to do a lot to convince the public to render their support. Government institutions should prepare and publicly display their service / client charters outlining the services available, their cost and length of time required to get the service. It should enhance public awareness on corruption, its causes and consequences and to encourage the public to report corruption. Strengthen civil society and media to ensure sustained momentum in demanding for government commitment to fight corruption in public procurement.

Keywords: *Corruption, Integrity, Public Procurement, Kenya & Tanzania.*

1.0 Introduction

The phenomenon of corruption is one of the greatest obstacles to economic and social development. When a government utilizes public procurement in purchasing of goods and services, with the intent to select the most advantageous proposal and best value product or service to the customer and there is a fraud, abuse or collusion, public policies and citizens are affected immediately. Corruption increases poverty, misuse of public resources and affects international markets, since we live in a globalized world with global competitors (Eberhard, Gratwick, Morello & Antmann, 2017). In that sense, anti-corruption measures in public procurement play a very sensitive and important role within governments. Therefore, once corruption occurs, enforcement is extremely necessary. This study sought to conduct a critical review of empirical literature in fighting corruption and promotion of integrity in public procurement in Kenya and Tanzania.

1.1 Background of the Study

Public procurement is the purchasing, hiring or obtaining of goods, construction works and services by the public sector. The process of public procurement is initiated by a government entity (Rogerson, 2018). According to the WTO's Revised Agreement on Government Procurement, public procurement is essentially for governmental purposes with private sector as the main source or supplier of goods and services. The public procurement system comprises of three key phases: planning; process; and contract management. Concisely, the public procurement system consists of a set of rules that guides governments' purchase of goods, works and services however big or small. The overarching goal of the procurement system is to ensure value-for money (VfM), which will contribute in improved development outcomes (Munzhedzi, 2016).

Public procurement has undergone various changes in Africa since independence. In the 1960s, the newly decolonized countries, for the most part, had centralized powers, which excluded participation by other stakeholders, including the civil society. In this context, the Government operated almost as a sole player in the economy (Authority, 2017). The lack of checks-and-balances and specific capacities resulted in a culture of indifference and tolerance towards corrupt practices. There are still remnants of this culture, which still influence much of government procurement practices (Akech, 2015).

Corruption is a problem facing every country around the globe since the beginning of life in societies. In addition, the literature about corruption's nature, effects and consequences is vast and extensive (Amemba, Nyaboke, Osoro & Mburu, 2013). However, literature about its solution is rare and complex to enforce. This is because there are different variables and actors such as governments, private sector, politicians, judiciary and taxpayers. Thus, one can say that due to its complexity there is no universal 'medicine' to 'cure' it. Consequently, each nation, sector or area requires a different approach and solution (Gray, 2015). Corruption is present in developed and developing countries, but occurs with varying degrees of severity. When corruption in public procurement happens: public interest is undermined by private interest, there is no real competition on the bidding process, there is a poor contractor performance and the taxpayers are the losers today (Muange & Chirchir, 2016).

The World Bank notes that procurement practices, which were characterized by most analysts as dysfunctional and bankrupt, has left a legacy of broken systems, which policy-makers are to this day struggling to fix (Compact, 2016). These dysfunctional practices include superficial political commitment to enforce the law; Weak managerial and technical capacity to implement the system strategically; false perception of the procurement function as an administrative task at all levels of the procurement function rather than a tool for attainment of developmental goals (Miller, 2018). Lack of integration of the function into other key systems in government, in particular budget and financial management. Lack of a culture of compliance and disregard for appropriate controls; Indifferent and disillusioned civil society in overseeing the integrity of operations or in demanding increased government accountability for results and resistance to change from stakeholders that benefit from the present status quo (Ngeno & Kinoti, 2017).

Countries have gone beyond legal reforms to making significant improvements in procurement processes, methods as well as the procurement organizational structures (Eberhard, Gratwick, Morello & Antmann, 2017). New institutions, such as the public procurement authority and the appeals and complaints panel, have been set up to formalize and improve procurement performance. Although national and sub-regional reforms have gone a long way in improving national procurement systems, certain challenges and shortfalls still exist (Rogerson, 2018). Inadequate education and training and endemic corruption are still the major challenges affecting Africa's procurement systems. This study conducted a comparative study between Kenya and Tanzania on means of fighting corruption and promoting integrity in public procurement both countries.

1.1.1 Procurement in Kenya and Tanzania

Procurement of public goods and services in Kenya is entrenched in the Constitution in article 227. The enactment of the Public Procurement and Disposal Act (PPDA) of 2005 and the Public Procurement and Disposal Regulations (PPDR) of 2006 ensured a sound and comprehensive legal framework for public procurement. The PPDA clearly establishes the procurement methods to be applied, advertising rules and time limits, the content of tender documents and technical specifications, tender evaluation and award criteria, procedures for submission, receipt and

opening of tenders, and the complaints system structure and sequence. The PPDA and Regulations cover goods, works and services for all procurement using national funds.

In Tanzania, the Public Procurement Regulatory Authority (PPRA) regulates procurement in all public procurement activities carried by all public bodies in the mainland Tanzania. the Public Procurement Act, 2011 (PPA); the Public Procurement (Amendment) Act 2016 (PPAA); the Public Procurement Regulations 2013 (PR); the Public Procurement (Amendments) Regulations 2016 (PRA); the Public Private Partnership Act 2010 (PPP); the Public Private Partnership Regulations 2011 (PPR); and the Public Procurement Appeals Rules 2014 (PPAA Rules).

1.2 Statement of the Problem

The critical elements required to achieve structural transformation in Africa include political stability, good economic governance, financing capacity, and operational infrastructure (Miller, 2018). A well-developed and properly managed infrastructure is essential for Africa to transform its economy from an agriculture-based to an industrial-based one (Hope, 2017). However, the acquisition of these infrastructural materials and services in African Countries threatens the viable implementation of projects due to massive corruption during procurement. According to Transparency International (2017) corruption ranking, Kenya ranked 144 out of 180 countries surveyed with a score of 27 out of 100 while Tanzania ranked 99 out of 180 countries with a score of 36 out of 100. Njagi (2017) asserts that large construction projects including dams are usually prioritized over health and education projects as decisions are influenced by the opportunity to obtain bribes. Appolloni and Nshombo (2016) highlight that bribery often results in the selection and execution of infrastructure projects that are uneconomic or unnecessary, thereby preventing investments that economically would be much more desirable. The laws and institutions to combat public procurement corruption are in place and yet the situation does not improve. This study therefore sought to examine corruption in public procurement in Kenya and Tanzania and suggest ways of promoting integrity in public procurement in both countries.

1.3 Objectives of the Study

The general objective of the study was to examine corruption in public procurement and promotion of integrity in public procurement in Kenya and Tanzania.

The specific objectives of the study were;

- i. To establish the ways of fighting corruption in public procurement in Kenya and Tanzania.
- ii. To give recommendations on promoting integrity in public procurement in Kenya and Tanzania.

1.4 Research Questions

- i. What are the ways of fighting corruption in public procurement in Kenya and Tanzania?
- ii. What are the recommendations on promoting integrity in public procurement in Kenya and Tanzania?

2.0 Literature Review

2.1 Theoretical Framework

2.1.1 Institutional Theory

This is the old approach used in checking public procurement elements (Luhmann, 2010). Scott (2004) states 3 institution pillars as regulatory, normative and cultural cognitive. Each pillar addressed different issue such as use of rules, laws and sanctions that is regulatory pillar as enforcement mechanism to be complied with. Scott (2004) advances that institutes are consists of regulative elements and cultural cognitive comprised of regulative elements with associated activities and resources that give human significance.

Institutional theory is relevant as it asserts that if organizations complied with the public procurement regulations then they would be assured of competition in bids, transparent processes, and professional approach in procurement process.

2.1.2 Systems Theory

Systems Theory, according to Laszlo and Krippner (1998), can model complex intrapersonal, interpersonal, intergroup, and human or nature interactions without reducing perceptual phenomena to the level of individual stimuli. It capitalizes on the emergence of parallelisms indifferent disciplinary interpretations of reality and consequently provides a platform for the integrated study of complexity in the human experience. As a field inquiry concerned with the holistic and integrative exploration of phenomena and events, systems theory pertains to both epistemological and ontological situations (Laszlo & Krippner, 1998). The advantage of systems theory is its potential to provide a trans-disciplinary framework for a simultaneously critical and normative exploration of the relationship between our perceptions and conceptions and the worlds they purport to represent. Studies of cognitive development and human perception are beginning to rely more and more on the systems approach. In systemic perspective, institutional theory could be seen as merged within the systems theory, the latter is the super set whereas the former is a subset.

2.2 Empirical Review

2.2.1 Public Procurement and Corruption: Tanzania Perspective

Corruption is pervasive throughout Tanzanian society and is a serious problem across all sectors of the economy. The most affected sectors are government procurement, land administration, taxation, and customs. Petty corruption in dealings with traffic, customs, and immigration officers deters investment. Corruption is criminalized under the Prevention and Combating of Corruption Act (PCCA), which covers attempted corruption, extortion, passive and active bribery, money laundering and bribery of a foreign official. A range of legislation cover other corruption offenses, but anti-corruption laws are applied inconsistently and are poorly enforced. Gift giving and the use of facilitation payments for inducing corrupt behavior are illegal under the PCCA.

Tanzanian public procurement is rife with corruption presenting businesses with high risks. Businesses point to government officials often favoring well-connected companies and individuals when awarding contracts, and public funds being often diverted to companies, individuals or groups due to corruption (GCR 2015-2016). Furthermore, almost seven in every ten companies

expect to offer gifts to obtain a public contract (ES 2013). Bribes and other irregular payments are also widely exchanged in the tender process (GCR 2015-2016). Companies or investors bidding on government tenders are required to submit a written commitment to comply with anti-bribery policies (ICS 2016). To combat corrupt and counterproductive practices, the Tanzanian government joined the Construction Sector Transparency Initiative (CoST) to enhance integrity and transparency within the sector.

In a 2015 crackdown, the director of Tanzania's port authority was suspended for violating procurement procedures (Africa Report, 2015). Additionally, in late-2014, Tanzania's Public Procurement Regulatory Authority (PPRA) barred 19 firms from competing for government contracts after the firms were found to have engaged in corrupt practices (All Africa, 2014). Another 2014 corruption case rocked the Tanzanian government following revelations that over USD 180 million in public funds were siphoned off and directed to off-shore accounts held by businesspeople and public officials (The Guardian, 2015). The case led to the resignation of a quarter of senior politicians from the government, including the energy minister, Sospeter Muhongo, the attorney general, the energy secretary and housing minister who lost her post for transferring USD 1 million to her private bank account (The Guardian, 2015). The chairs of three parliamentary committees; energy and minerals committee, the budget committee and the legal affairs and governance committee also resigned in connection with the case (The Guardian, 2015). The Prevention and Combating of Corruption Bureau's (PCCB) investigation has dragged on, reportedly, due to the involvement of high-ranking officials in the case (GI, 2016). The case led international donors to withhold funding to Tanzania (BTI, 2016). Firms are recommended to use a specialized public procurement due diligence tool to mitigate corruption risks associated with public procurement in Tanzania.

Tanzania's comprehensive legal framework to counter corruption is poorly enforced. The Prevention and Combating of Corruption Act (PCCA) criminalizes attempted corruption, extortion, passive and active bribery, money laundering and bribery of a foreign official. Corruption is designated as an economic offense, and provisions exist for imprisonment, but there are no financial penalties for economic crimes except for the recovery of assets.

In Tanzania, Procurement process in public sector (central and local government, government institutions, government agencies and parastatal organizations) have been found to be encompassed by complains from various stakeholders such delay in procurements process, wrong items delivery, low quality services and general stakeholders' dissatisfaction over the public process (Kessy & Salema, 2017). These complains were symptoms of a deficient process despite of public procurement process being governed by procurement laws and regulations, regulated by Regulatory Authority (PPRA) and standardized by National Board for Material Management (NBMM) thus the gap was found to exist between what expected and what actually is achieved by the procurement series of activities (Dello & Yoshida, 2017).

As per World Bank (2016), though Tanzania Procurement report demonstrated that the Government of Tanzania is aware that its public procurement is still weak and needs to be strengthened substantially to enable it ensure procurement laws and institutions become effective

tools in efficient and transparent management of the public funds. Regardless of this awareness the government has since a long time ago recognized that there is widespread corruption in Tanzania and has been discovering hard to lessen it, subsequently it has been presenting different changes. It is evaluated that at national dimension around 20 percent of the government consumption on procurement related use is lost through corruption, essentially through kick-backs and terrible procurement choices including procurement forms executions.

In Tanzania, observations on the independence of the judiciary are mixed. While the Bertelsmann Foundation (2014) notes that, the judiciary generally functions relatively independently, Freedom House (2013) views it as under political influence. Many experts do perceive the judiciary to be largely inefficient, underfunded and susceptible to corruption (Bertelsmann Foundation 2014, Freedom House 2013, Business Anti-Corruption Portal 2013). In line with this assessment, executives surveyed in the Global Competitiveness Report gave judicial independence in Tanzania a 3.2 in a score of 1 (judiciary is heavily influenced) to 7 (judiciary is entirely independent), and an average of 3.9 of all measured countries (World Economic Forum 2013).

While the media can play an important role in uncovering and fighting corruption, experts note that the Tanzanian media faces restrictions. The constitution provides for freedom of speech, but it does not guarantee freedom of the press (Article 19, 2011). Although print and electronic media are active, they are hindered by a difficult registration process and are largely limited to major urban areas (Freedom House, 2016). The growth of broadcast media has been slowed by a lack of capital investment; however, the number of independent television and private FM radio stations has risen in recent years (Freedom House, 2016).

Civil society involvement in anti-corruption efforts is an important avenue for combating corruption. However, although freedom of speech, association and religion are guaranteed by the constitution, these fundamental rights are reportedly frequently violated (Freedom House, 2016). The multiplicity of laws governing the operations of NGOs is a source of confusion. Fifty-seven per cent of civil society organizations consulted believe registration is too slow, and 42% said that they were subject to unfair restrictions by government (CIVICUS, 2011).

Mazigo (2014) assessed the causes of corruption in public procurement in Tanzania. The findings revealed that in all stages of procurement, corruption takes place including specification of the tender, the bidding process, the selection stage, the delivery stage and even at the evaluation stage, and the main causes of corruption are lack of transparency, bureaucracy, lack of legal framework, behavior aspects of some unfaithful procurements officials, discretion, lack of integrity and even budgeting problems in the said area. The study recommended that there should be compliance with legislative obligations and public policies, avoiding conflicts of interest, use of an appropriately competitive process, security and confidentiality, consistency and transparency of procurement process and even fairness and impartiality. These issues would result in a decrease or elimination of corruption practices among officials in constructions industry.

2.2.2 Public Procurement and Corruption: Kenyan Perspective

Kenya's competitiveness is held back by high corruption levels that penetrate every sector of the economy. A weak judicial system and frequent demands for bribes by public officials lead to

increased business costs for foreign investors. Widespread tax evasion hinders Kenya's long-term economic growth, and fraud in public procurement is rampant (Karuri, 2014). Corruption, active and passive bribery, abuse of office and bribing a foreign public official are criminalized under the Anti-Corruption and Economic Crimes Act 2003, in addition to the Bribery Act of 2016 which strengthens the fight against the supply-side of corruption. Facilitation payments are criminalized and there are rules for what types of gifts public officials are allowed to accept. Adequate enforcement of Kenya's anti-corruption framework is an issue as a result of weak and corrupt public institutions (Oromo & Mwangangi, 2017).

Kenyan public procurement is subject to rampant corruption and bribery. Companies report that bribes and irregular payments are highly common in the process of awarding public contracts (GCR 2015-2016). Tendering fraud is the fastest growing economic crime in Kenya: One in every three companies reports experiencing fraud in procurement during the past two years (PwC, 2016). Businesses report that the vendor selection stage is most likely to be subject to fraud (PwC, 2016). Allegations exist that high-level corruption takes place in energy, airport construction, and infrastructure procurement processes; a number of contracts were awarded to foreign firms that allegedly did not comply with public procurement laws in Kenya (ICS, 2016). Furthermore, the process of devolution has led to an increase of patronage in county-level procurement processes (BTI 2016). A survey among government officials concluded that procurement fraud is prevalent, particularly on the county level (EACC, 2016). Companies report diversion of public funds and favoritism in the decisions of public officials to be common (GCR 2016-2017).

On the Public Procurement Oversight Authority (PPOA) website, companies can find information on Kenya's public procurement regulations, debarment from participation and procurement manuals, and can submit bids. Companies found guilty of violating procurement regulations may be debarred at the discretion of the director general. All major transactions require competitive bidding by law (ICS, 2016). Companies are recommended to use a specialized public procurement due diligence tool to mitigate the corruption risks related to public procurement in Kenya.

Kenya Power, the national electricity company, stands accused of procurement fraud over handing a contract to a Chinese firm that had been in existence for only 11 months and thus not meeting the requirement of having audited reports for the last 18 months, raising suspicion about the transaction (Standard Digital, Dec. 2016). Furthermore, the price of the contract was KES 1.2 billion higher than the bid of the lowest bidder (Standard Digital, Dec. 2016). In another instance, a major pipeline construction project in Kenya has reportedly cost taxpayers over USD 350 million following allegations that officials colluded to construct a pipeline with a much higher capacity than necessary for the purpose of operating a kickback scheme (Daily Nation, Mar. 2017).

The country's top politicians are facing corruption charges from Kenya's Ethics and Anti-Corruption Commission and from Swiss authorities. Former finance ministers, permanent secretaries, and senior government officials have been linked to extensive bribery schemes involving a number of inflated state contracts worth USD 700 million that were awarded to phantom vendors. As a result, a number of necessary infrastructure projects were not delivered (Guardian, Mar. 2015). No one has been sent to jail over the case so far. The fallout of the scandal

is continuing; Swiss prosecutors are trying to recover funds stashed away in Swiss bank accounts (The Star, Apr. 2017).

The discourse on the fight against corruption in public procurement in Kenya has been on going for close to five decades since independence. It became more pronounced after the opening of the political and media space in the early 1990s (Akech, 2015). Various public procurement corruption scandals have been unearthed in those five decades. One of the largest barriers to successful affront against corruption is low reporting levels among victims of bribery demands. This aspect is a function of a myriad of factors. The first one is how the law defines an act of bribery, who is legally liable in a bribery environment and what safeguards are in place for those who blow the whistle against corruption (Njagi, 2017).

Kenyan public procurement is subject to rampant corruption and bribery. Organizations report that fixes and unpredictable installments are very normal during the time spent granting public contracts (GCR, 2016-2017). Rampant corruption in procurement is the most rampant economic wrongdoing in Kenya: One in each three organizations reports encountering misrepresentation in procurement amid the previous two years (PwC, 2017). Organizations report that the merchant choice stage is well on the way to be liable to extortion (PwC, 2017). Charges exist that abnormal state debasement happens in vitality, air terminal development, and foundation procurement forms; various contracts were granted to outside firms that purportedly did not agree to public procurement laws in Kenya (ICS, 2017). Besides, the procedure of devolution has prompted an expansion of support in region level procurement forms (BTI, 2017). An overview among government authorities presumed that procurement extortion is predominant, especially on the province level (EACC, 2017). Organizations report preoccupation of public assets and preference in the choices of public authorities to be normal (GCR 2017-2018).

Shale (2014) examined the role of e-procurement strategy on the performance of state Corporations in Kenya. A cross-sectional survey was used in this study. The study findings revealed there was a significant positive relationship between the components of e- procurement strategy namely customer service level strategy, stock improvements procedure, purchaser/provider cooperation methodology and reviews and consistence system and execution of state organizations. The examination prescribed that state partnership ought to have a decent e-procurement programming framework as it would help them incredibly decrease the time and exertion required to finish acquiring exchanges by wiping out customary paper chain of orders, endorsements, accepting and installment compromise.

Zakari, Sharifai, Mubaraka and Agaba (2017) aimed at establishing the relationship between E-procurement on the performance of selected service organizations in Kenya. The study used survey design on 202 employees and found that there is a significant relationship between E-procurement and performance of the organizations. Accuracy, convenience and smooth workflow and accepting vast amounts of data which facilitated growth and expansion were ranked as the major benefits.

While the legal framework in place may be good for regulating public procurement practices in the Kenya and Tanzania, Muange and Chirchir (2016) see that the law does not work in a vacuum. They makes a fundamental case that the law is a social establishment whose design is to manage

the undertakings of individuals and along these lines add to the making of a network in which all individuals can prosper, a network in which everybody can understand the diverse different basic values. In this way, the law is an ethical undertaking, gives a reasonable association between good theory and legal logic, and ought to be maintained by all performing artists.

Corruption remains endemic to Kenya's public sector. The media and civil society have, for at least a decade, freely exposed corruption scandals; however, this exposure has not ended corruption and its attendant impunity (Oromo & Mwangangi, 2017). The laws and institutions to combat public procurement corruption are in place and yet the situation does not improve (Amemba, Nyaboke, Osoro & Mburu, 2013).

2.3 Conceptual Framework

A conceptual framework is a road map that the study intends to follow with the aim of looking for answers to the problems raised by the research questions (Orodho, 2012). The conceptual framework is shown in Figure 1.

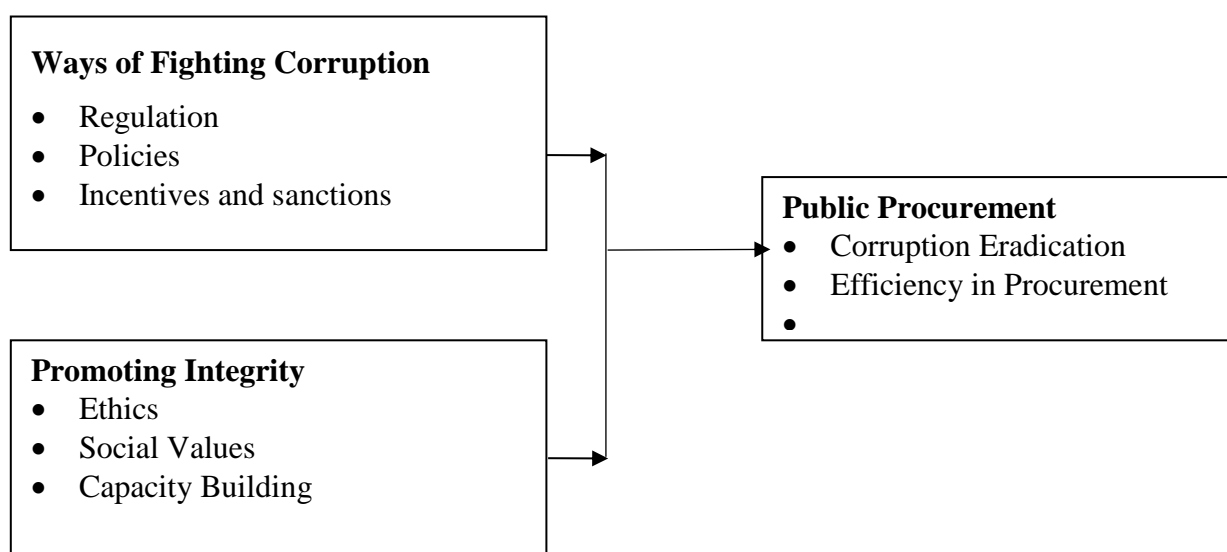


Figure 1: Conceptual Framework

3.0 Research Methodology

The study examined corruption and promotion of integrity in public procurement in Kenya and Tanzania. The study used a desk study review methodology where relevant empirical literature was reviewed to identify main themes. A critical review of empirical literature was conducted to establish ways of fighting corruption in public procurement and ways of promoting integrity.

4.0 Results and Discussion

Based on empirical review, the study finds that Kenya and Tanzania have extensive legal frameworks that could, if effectively implemented, significantly reduce corruption in public procurement. These include laws that establish the anti-corruption agencies, their functioning, independence and oversight. They provide for the regulation, management, expenditure and integrity of election-campaign funds during elections. They also enforce standards of ethics and

integrity among public officers. Further, they provide for the criminalization of money laundering and the establishment of an independent institution responsible for combating money laundering. Lastly, they provide for the protection, rights and welfare of victims of offences and provide for the right to access public information.

Kenya and Tanzania have comprehensive rules, standards and procedures for public procurement integrity in place. In both countries, public revenues must be deposited into the consolidated fund from where they can only be withdrawn and spent with the authority of Parliament. It is also a Constitutional requirement in all the two countries for governments to bring before Parliament projected revenues and expenditures before commencement of a new financial year. Similarly, at the end of every financial year, audited financial reports of all government departments are presented before Parliament for scrutiny. In addition to Parliamentary procedures, the two Constitutions also establish institutions critical for public procurement integrity. One important institution that exists in the two countries is that of the Auditor General. In Tanzania, the Auditor General also doubles as the Controller of the budget. The Auditor General's main responsibility across the countries role is to audit all government accounts and report to Parliament with recommendations for action where there is non-compliance with well-established accounting and reporting procedures.

Some of the methods in facilitating corruption in public procurement include kicking back a portion of a contract payment to government or party officials or to employees of the other contracting party, their close relatives, friends or business partners. Use of intermediaries such as agents, subcontractors, consultants or other third parties, to channel payments to government or party officials, or to employees of the contracting parties, their relatives, friends or business partners. Extortion or solicitation is the demanding of a bribe, whether or not coupled with a threat, if the demand is refused. Trading in influence is the offering or solicitation of an undue advantage in order to exert an improper, real, or supposed influence. Laundering the proceeds of the corrupt practices mentioned above is the concealing or disguising the illegitimate origin, source, location, disposition, movement or ownership of property and/or money, knowing that such is the proceeds of crime. Lastly, there is Nepotism, which is the use of authority or influence to show favoritism to relatives or friends without merit.

Tanzania government initiatives to fight public procurement corruption within judiciary system have not been sufficient. Some of these included the revision of the client charter, introduction of complaints handling mechanisms and strengthening of the ethical committee in the Judiciary. There however seems to be renewed energy injected in the reform process with the introduction of the Citizen-centric judicial modernization and justice service delivery project. It is aimed at among other objectives, enhancing the capacity of Judiciary to deliver efficient, transparent, and accessible citizen centered services.

Integrity is very critical in public procurement for a number of reasons. First, it promotes fiscal discipline by, among others, ensuring that resources are deployed to accomplish planned projects. This greatly improves service delivery and guards against theft and loss of public funds through corruption. Public procurement integrity also promotes citizens' compliance with government

policies such as taxation since citizens feel involved in planning and expenditure of public resources. More so, integrity is important in the context of regional integration. Trust among partner states is consolidated where there is integrity for funds allocated to common projects and initiatives. The East African countries will therefore only be able to succeed where other blocs have failed if states put integrity at the center of integration.

However, the nature of public procurement in Kenya and Tanzania is changing driven by the need for domestic savings as well as efficient and effective public service delivery. In this context, there are relatively new procurement reforms such as Value for Money (VfM), merit points, principle-based approach, e-procurement, and green procurement. E-procurement has become another important feature of making procurement more transparent and less expensive. The benefits of e-procurement are much more than improved efficiency through computerization of processes. This approach has helped both countries to lower their transaction costs, increase competition as well as promote integrity.

5.0 Conclusions

This study concluded that Kenya and Tanzania all have a fairly comprehensive legal and institutional framework that supports integrity in public procurement. The biggest dilemma is however, the fact that stronger laws are not necessarily the best on public procurement integrity in practice. Kenya and Tanzania on the other hand are equally highly ranked in as far as the elimination of corruption in public procurement is concerned.

It is therefore concluded that while laws and institutions are important to the extent that they lay out rules and procedures that must be followed and prescribe sanctions for non-compliance with these rules, they in themselves are not sufficient. To succeed, laws must be complemented by high level commitment at the political level. Short of this, integrity in public procurement will remain an elusive concept undermining service delivery and potentially causing unrest among citizens. The anticipated harmonization of fiscal laws and policies under the East African monetary protocol presents a good opportunity for consolidation of public procurement integrity at regional level. As has been observed in this study, integrity is central for the success of regional integration processes especially the monetary union.

6.0 Recommendations

The study recommends that Kenya and Tanzania build on existing fairly strong legal and institutional frameworks as well practices in the region to ensure that integrity is incorporated in all aspects of public procurement. In this respect, a regional legal and institutional framework that incorporates all these good practices is proposed if this initiative is to massively succeed. This would insulate against interferences with the law and institutions. Such an initiative would also encourage peer review, a factor that may improve on the political will to enforce laws on promoting integrity in these countries.

The study recommends that authorities in Kenya should consider giving a critical review on the procurement practice. Given that a good proportion of the major scandals review relate to public procurement, it is important to appreciate there are gaps that need to be responded to. The role played by the Public Procurement Oversight Authority should be reviewed with a view to advice

on the efficacy of this body in ensuring probity in public procurement. There is need to build public confidence to report corruption to the relevant institutions. The low corruption reporting may be indicator to the general public perception on the official anti-corruption responses. The indication therefore is that the government needs to do a lot to convince the public to render their support. Successful prosecution of suspects and continuous administrative action will help change the negative public perception and boost reporting levels.

There is need to strengthen the Leadership and Integrity Act to ensure the spirit of the constitution is fully captured. Additionally, oversight institutions like the Office of the Auditor General need to be strengthened to properly execute their mandate. Further, the study recommends on focus at the county level both on enforcement and on capacity development. This would also call for enhanced efforts to have such institutions like the Ethics and Anti-Corruption Commission and the Commission on Administrative Justice open more centers at the county level. The government should ensure that EACC has enough operational and institutional independence to deliver on the anti-corruption mandate. The issue of granting the body powers to prosecute need to be positively considered. Though, there has been some movement in terms of follow up on recommendations made by EACC to the Director of Public Prosecutions, the affront against corruption stand to benefit greatly from an anti-corruption commission that enjoys greater independence.

In Tanzania, the study recommends on Amending the Prevention and Combating of Corruption Act (2007) so to make the Prevention and Corruption Bureau (PCCB) an independent institution. Develop educational and corruption prevention programs, including incorporation of anti-corruption programs in primary and secondary curriculum. Government institutions should prepare and publicly display their service / client charters outlining the services available, their cost and length of time required to get the service. Enhance public awareness on corruption, its causes and consequences and to encourage the public to report corruption. Strengthen civil society and media to ensure sustained momentum in demanding for government commitment to fight corruption in public procurement.

7.0 References

- Akech, M. (2015). Evaluating the Impact of Corruption Indicators on Governance Discourses in Kenya. *The Quiet Power of Indicators: Measuring Governance, Corruption, and Rule of Law*, 248-283.
- Amemba, C. S., Nyaboke, P. G., Osoro, A., & Mburu, N. (2013). Challenges affecting public procurement performance process in Kenya. *International Journal of Research in Management*, 3(4), 41-55.
- Authority, P. P. O. (2016). Assessment of the procurement system in Kenya. *Nairobi: PPOA*.
- Authority, P. P. O. (2017). Assessment of the procurement system in Kenya. *Nairobi: PPOA*.

- Compact, U. G. (2016). Fighting corruption in the supply chain: A guide for customers and suppliers. *UNITED NATIONS, New York*.
- Dello, A., & Yoshida, C. (2017). Online tendering and evaluation for public procurement in Tanzania. In *Software Engineering, Artificial Intelligence, Networking and Parallel/Distributed Computing (SNPD), 2017 18th IEEE/ACIS International Conference on* (pp. 137-141). IEEE.
- Deloitte Consulting, L. L. C. (2016). Energizing the Supply Chain: Trends and Issues in Supply Chain Management.
- East Africa Community, EAC, (2017). <https://www.eac.int/investment/why-east-africa/trade-information>.
- Eberhard, A., Gratwick, K., Morello, E., & Antmann, P. (2017). Accelerating investments in power in sub-Saharan Africa. *Nature Energy*, 2(2), 17005.
- Global Integrity: Africa Integrity Indicators – Tanzania 2016.
- Gray, H. S. (2015). The political economy of grand corruption in Tanzania. *African Affairs*, 114(456), 382-403.
- Hope Sr, K. R. (2017). *Corruption and Governance in Africa: Swaziland, Kenya, Nigeria*. Springer.
- Ivambi, S. S. (2016). *Challenges Affecting Procurement Processes in Public Organizations in Tanzania: The Case Study of Parastatal Pensions Fund-Head Quarters-Dar es Salaam* (Doctoral dissertation, The Open University of Tanzania).
- Karuri, J. (2014). Prevalence of corruption in public procurement (case of Kenya agricultural research institute). *Strategic Journal of Business & Change Management*, 1(2).
- Kenya Ethics & Anti-Corruption Commission (EACC): *Country Public Officers' Experiences* 2017.
- Mazigo, D. (2014). *Causes of corruption in construction public procurement in Tanzania: a case of Manyara region* (Doctoral dissertation, Mzumbe University).
- Merry, S. E., Davis, K. E., & Kingsbury, B. (Eds.). (2015). *The quiet power of indicators: measuring governance, corruption, and rule of law*. Cambridge University Press.
- Miller, N. (2018). *Kenya: The quest for prosperity*. Routledge.
- Muange, E., & Chirchir, M. (2016). Procurement Legislation and Performance of Constituency Development Fund Committees in Kenya. *International Journal of Supply Chain Management*, 1(1), 19-33.

- Munzhedzi, P. H. (2016). South African public sector procurement and corruption: Inseparable twins?. *Journal of Transport and Supply Chain Management*, 10(1), 1-8.
- Ngeno, K., & Kinoti, J. (2017). Effect of E-Procurement on Effective Supply Chain Management Process in Energy Sector in Kenya. *International Journal of Supply Chain Management*, 2(3), 18-37.
- Njagi, J. (2017). Legal Gaps Facing Implementation of EACC Mandate on Weeding Out Corruption Cases. *International Journal of Law and Policy*, 1(1), 52-63.
- Nyeck, S. N. (Ed.). (2016). *Public Procurement Reform and Governance in Africa*. Palgrave Macmillan US.
- Oromo, F. A., & Mwangangi, P. (2017). Effect of Supplier Development on Procurement Performance in Public Sector in Kenya: A Case of Kenya Electricity Generating Company Limited (Kengen). *International Journal of Supply Chain Management*, 2(2), 42-59.
- PricewaterhouseCoopers, S. (2017). Ecofys (2009): Collection of statistical information on Green Public Procurement in Africa. Report on data collection results.
- PricewaterhouseCoopers: *Global Economic Crime Survey: Kenya Report 2016*.
- Rogerson, C. M. (2018). Pro-poor local economic development in South Africa: The application of public procurement. In *Local Economic Development in the Changing World* (pp. 101-130). Routledge.
- Shale, N. I. (2015). *Role of e-procurement strategy on the performance of state corporations in Kenya* (Doctoral dissertation).
- Transparency International Kenya (2017) 'Bribes demanded by regulatory authorities contribute to increased cost of doing business.
- Transparency International: *East African Bribery Index- Kenya 2016*.
- Transparency International: *Global Corruption Barometer – People and Corruption Africa Survey 2016*.
- Zakari, U., Sharifai, M. G., Mubaraka, C. M., & Agaba, L. (2017). E-Procurement and performance of service organizations in Kenya.