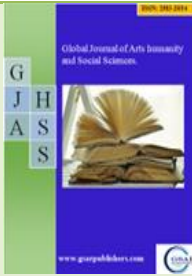


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EXAMINATION ON THE EFFECTIVENESS OF THE LEGAL ORGANS GOVERNING TENDER BOARD ESTABLISHMENT ON LOCAL GOVERNMENT AUTHORITIES IN TANZANIA

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Abstract

This study therefore seeks to examine the effectiveness of the legal organs governing and administering the establishment of the tender board in the local government in Tanzania especially in public department. In order to ensure effective supervision of the tender board establishment in local government the law under the Public Procurement Act, Act 10 of 2023 has established various organs and legal institution to administer the performance of the tender board to ensure procurement processes on public institution. The problem addressed by this study is ineffectiveness and practices of the law that govern tender body establishment in local government authorities in Tanzania. The methods provided the potential and vital information to the main objective of the study which was to examine the effectiveness of the laws and practice on established organs to administer on the powers and function of the tender board at local government tender board in Tanzania. Through the employed methods the study makes a critical analysis of laws and practices governing the establishment of tendering process in local government authorities and we will also examine the existence of other organs doing the same things like what is doing the tender board establishment in local government authorities.

This left a gap and challenges for having more than one institution doing the legal function and responsibilities and at the end of the day will create a legal gap in terms of accountability, value for money and transparency and flow down on the independence of the tender board of establishment in local government authorities in Tanzania.

Further, the study is of the views that the laws governing tender board establishment at local government authorities is ineffective and the current recourse of value for money, delay and accountability on tendering project is difficult to succeed due to the existence of more than organs doing core function at the same time to the same entities. That is to say there is ineffective legal instruments and regulation of governing tender board to victims of wrongful tendering user. The study provides the way forward to make effective laws and practices that governing the establishment of tender board to the local government authorities in Tanzania.

INTRODUCTION

The study examines the effectiveness of the laws and practices governing local government tender board establishment in public procurement in Tanzania for the aim of safeguarding the powers, duties and responsibilities of the tender board for effective functions as per legal requirement. So, the study will focus on the

legal assumption that the legal framework governing local government tender board is not effective and look for solutions provided through the field where data collected was analyzed and then provided the recommendations on local government tender board.



In Tanzania's public procurement is essential in administration and governance as it includes billions of Tanzanian shillings annually and takes up a significant amount of the national budget.¹ The effectiveness of laws and practices governing Local Government Tender Boards (LGTBs) in public procurement in Tanzania is important in implementation and functions of the LGTB. Tanzanian governance structures, including local government is based on the Constitution, which is the ultimate law of the land.² It ensures the rule of law, democracy, accountability and transparency that are essential in public procurement procedures.³ In order to maintain accountability, openness and good governance, Local Government Tender Boards was expected to function within the parameters established powers, functions and responsibilities in accordance with the Constitution, Procurement Act and Regulations.

This is not only attained in Tanzania but also in other jurisdictions including but not limited to United Nations Commission on International Trade Law, which provided a Guide to enactment of the UNCITRAL Model Law on Public Procurement.⁴ The enacted the Guide that contains the context that States may wish to take into account when enacting the provisions of the Model Law, the main features of the Model Law are primarily aimed at legislators and policymakers. Its implementation and use of the Model Law includes how to operate as legal framework in a procurement system, and is primarily aimed at regulators and those providing guidance to users of a procurement system such as a public procurement agency or other body. The model laws not provided for how tender boards operates to ensure effective adherence in public procurement. Also, The African Union Procurement Manual⁵ provided for AU Tender Board which appointed by the Accounting Officer to deal with all procurements of the AU with values exceeding the limits contained in each tender categories. The manual does not provide how tender board is independent when dealing with procurement and the manner tender board from respective member countries will be established to enhance effective operations.

In Tanzania, The Constitution of the United Republic of Tanzania⁶ under article 145 established the local government authorities in the country. The Local Government Authorities were re-established after ten years of decentralization of government administration under the Decentralization Act, 1972. In 1982, The Local Government (District Authorities) Act⁷ and the Local Government (Urban Authorities) Act⁸ gave the local authorities the objectives among others of promoting economic development within their areas of jurisdiction.

The Public Procurement Act⁹ was one of the main law controlling Tanzanian procurement procedures, including those involving Local Government Tender Boards (LGTBs) to control public sector procurement practices and guarantee accountability, transparency and equity. The local government tender boards in Tanzania is rooted in the Local Government (Finances) Act¹⁰, with the Public Procurement Act¹¹ further allowing their establishment and the Public Procurement Act of 2011 making better provisions for public procurement. This Act made better provisions for the regulation of public procurement, including the role of local government tender boards. The function of procurement and contracts management was fully transferred to Local Governments as entrenched in the Public Procurement laws.

Local Government Authorities' Tender Boards (Establishment and Proceedings) Regulations, 2018, The regulation clarified the establishment and proceedings of local government tender boards. The Public Procurement Act, 2023 is the current legislation governing public procurement in Tanzania, including the operation of local government tender boards. Then government of Tanzania has developed TANePS, which was piloted in 2018 and is being rolled out to all public bodies including local governments to facilitate e-tendering.

The Public Procurement Act of 2023¹² under section 32 (1) established a tender board in each procuring entity for approving of procurement of goods, services and works other than approved by the accounting officer. It provides the composition of local government authority tender board, method of appointment of the members and the procedures to be followed by such a tender board.¹³ Functions of tender boards under section 34 includes to deliberate on the recommendations from the Procurement Management Unit and approve award of contracts, review all applications for variations, addenda or amendments of contracts, approve tender documents, approve procurement, supply and disposal of assets of the procuring entity. Also, the tender board has power to request for any professional or technical advice from any appropriate body or person, to examine records or other documents and to do all such acts and things considered reasonable and justifiable.¹⁴

Despite of these legal provisions which govern powers and functions of the local government tender board establishment, the Accounting Officer has given power to approve procurements other than tender board. The board seemed to be not given full power of approving procurement, not legal protection and immunities, which allow effective performance of the tender board due to the ineffectiveness of the laws that, govern local government tender board. Hence, this led the ineffectiveness performance of the board in term of its functionalities, powers and

¹ www.nest.go.tz accessed on March 2025.

² Article 145 of Cap. 2 of 1977.

³ Article 8 of Cap. 2 of 1977.

⁴ UNCITRAL Model Law on Public Procurement, 2011.

⁵ Article 3.3 of AU Procurement Manual, Version 2.0, 2016.

⁶ Cap. 2 of 1977.

⁷ No 7 of 1982

⁸ No. 8 of 1982

⁹ Act No 10 of 2023.

¹⁰ No. 9 of 1982

¹¹ No. 3 of 2001

¹² Act No 10 of 2023.

¹³ Section 32 (3) of Act No 10 of 2023.

¹⁴ Section 36 of Act No 10 of 2023.



responsibilities. The presence of two institutions established by laws doing the same functions may affect the gist of law to establish independent tender board to administer and supervising procurement of goods, services, contracts and disposal of public assets in local government procurement. Hence, led to this study which examined the effectiveness of the laws governing local government tender board in Tanzania.

1.1 THE LEGAL ORGANS ESTABLISHED TO ADMINISTER THE EFFECTIVENESS OF THE ESTABLISHMENT OF THE TENDER BOARD IN LOCAL GOVERNMENT AUTHORITIES IN TANZANIA.

1.2 THE PUBLIC PROCUREMENT REGULATORY AUTHORITIES

In Tanzania various effort has been taken to ensure close supervisions and administration of the tender board at local government level by establishing the public procurement regulatory authority. This is established under Section 8(2) of the Public Procurement Act¹⁵ purposely to regulate the tender board on its functionality and performances on its dally duties bases. It further to strength the establishment functions of the tender board the law under section 8(2) of the Public Procurement Act¹⁶ the authority has given the status of being a corporate body with common seal, capable to sue and be sued for its own names, holding, purchasing and otherwise acquiring and disposing of immovable property and be capable to enter into contractor other transaction .

1.2.1 The power and function of the public procurement regulatory authorities

The function of the establishment of the power of the public procurement authority are provided under section 10 of Public procurement act¹⁷ here to be sometimes referred as PPA and its function to mention a few shall be: -

- Advise the government, local government authorities and statutory bodies on procurement and supply principles and practices
- Monitor and report to the performance of the procurement and supply management system in the united republic
- Regulates of procurement of consultancies, transaction advisors and private parties in respect of public private's partnership project in accordance with the regulation made under the public private partnership act and guidelines issued by the

authority in collaboration with private partnership unit

- In collaboration with the office of the office of the attorney general and professional bodies, prepare and issue authorized version of the standardized tendering documents, procedural forms and any other authorized document to procuring entities.
- Approve the use of tendering document, procedure forms any other attendant document other than standardize document issued by the authority
- Issue guidelines under this act
- Organize and maintain a system for publication of data on public procurement opportunities, award any other information of the public interest as may be determined by the authorities
- Conduct periodic inspection of the records and proceeding of the procuring entities to ensure full and correct application of this act.

1.2.2 The objectives of the of the public procurement regulatory authorities

1.2.3 The public procurement regulatory authority has been established under section 9 of the public procurement Act ¹⁸ with the following objectives herein are underlined as follows

- ensure value for money in procurement and supply
- ensure observance of fairness of fairness, competition, transparency sustainability, economy, efficiency, effectiveness and integrity in public procurement and supply systems in the united republic.
- sets standard for the public procurement and supply system in the united republic
- ensure that procuring entities give preference to local tenderers in tenders for good, works and services
- monitor compliance of the by procuring entities and
- build, in corroboration with the minister responsible for procurement and supply and other relevant professional bodies procurement and supply capacity in the united republic

1.3.0 THE ACCOUNTING OFFICER

The public procurement Act under section 38(1) ¹⁹ has recognized the presences of the accounting officer whom is vested the overall responsibilities for execution of the procurement and supply activities at local government authorities level.

1.3.1 The power of the accounting officer in relation to tender board

The powers and functions of the accounting officer is enshrined in the public procurement act under section 38(1) (a-t) of Public

¹⁵ Act no 10 of 2023

¹⁶ Act no 10 of 2023

¹⁷ Act no 10 of 2023

¹⁸ Act no 10 of 2023

¹⁹ Act no 10 of 2023



procurement Act ²⁰ with the following functions here has been established :-

- (a) establishing a tender board and appointing its members in accordance with this act
- (b) approving all procurement, supply and disposal of assets opportunities \
- (c) appointing the evaluation committee, negotiation team and inspection and acceptance committee
- (d) certifying the availability of funds to support procurement and supply activities
- (e) approving and award recommendation subject to the threshold to be prescribed in the regulation
- (f) communicating the award decision to successful tender board
- (g) approving all application for variations, addenda or amendments to ongoing contracts subject to the threshold to be prescribed in the regulations
- (h) approving tendering and contract documents subjects to the threshold to be prescribed in regulations
- (i) approving procurement and disposal by tender procedures subject to the threshold to be prescribed in regulations
- (j) ensuring the best practice in relation to the procurement and disposal are strictly adhered
- (k) approving negotiation plan and report subject to the threshold to be prescribed to the regulations
- (l) publishing annual procurement plan and report upon the approval of the plan by the budget approving authority.
- (m) signing procurement contracts on behalf of the procuring entity
- (n) handling complaints by tenderer and submitting a copy of complaints and report of the finding authority.
- (o) ensuring that the implementation of the awarded contract is in accordance with the terms and conditions of the awarded contract is in accordance with the terms and condition of the award contract.
- (p) implementing decisions made by the authority and appeals authority or within fourteen days of receipt of the decision
- (q) providing feedback on the implementation of the decision of the authority or appeal authority within fourteen days of receipt of the decision
- (r) ensure that any deviation from the use of the standardized tendering documents, procedural form and any other documents is affected only after prior written approval of the authority
- (s) cause to be investigated any discrepancies in assets, inventory and stores and report to the authority of its findings
- (t) to act action on any misuses of assets and store as reported the head if procurement unit

1.4 The procurement unit as amongst the organ established in every procuring entity under section 39 of the public procurement Act ²¹ has given roles to ensure a proper management of the tender board establishment in local government authorities in Tanzania.

1.4.2 The functions of the procurement unity

The function of the procurement unity is provided under section 40 (a) of the public procurement Act ²² and its core function shall manage all procurement and disposal activities of the procuring entities to the following effects .

- (i) Implement the decision and directive of the accounting officer and tender board
- (ii) Plan the procurement and disposal activities
- (iii) Recommend procurement and disposal procedures
- (iv) Review requirement from user department to ensure conformity with public procurement principles and standards
- (v) Prepare contract documents
- (vi) Issue approved contract documents
- (vii) Liaise with user the user department to review all application for variation addenda or documents to ongoing contracts and advise the accounting officer
- (viii) Review evaluation and negotiation reports and recommend award of contract to the accounting officer and or tender board
- (ix) Prepare contract documents
- (x) Issue approved contract document
- (xi) Liaise with user department to review all application for variation addenda or amendments to ongoing contract and advise the accounting officer
- (xii) Manage and ensure quality sourcing of goods, service and works
- (xiii) Advise the accounting officer on all issues relating to procurement and disposal\
- (xiv) Maintain and archive records of all the procurement disposal of assets
- (xv) To maintain a list of register of all contract awarded.
- (xvi) Prepare monthly report of the tender board
- (xvii) Prepare and submit to the management meeting quarterly reports on the implementation of annual procurement plan.
- (xviii) Co-ordinate procurement and disposal of assets activities of the procuring entity and
- (xix) Prepare other reports as may be required.

1.4 THE USER DEPARTMENT

Use department is among the legal institution established and recognized by the public procurement act under section 41²³ and its core function is to participate on tender evaluation .

1.3 THE PROCUREMENT UNIT

²⁰ Act no 10 of 2023

²¹ Act no 10 of 2023

²² Act no 10 of 2023

²³ Act no 10 of 2023



1.4.1 The function of the user department in relation to the tender board establishment.

The function of user department has been established under section 41(a) of the public procurement act²⁴ of which among others shall have the following function as here underlined: -

- (a) Liaise with procurement management unit throughout the procurement or disposal by tender process to the point of contracting signing
- (b) Initiate procurement and disposal requirement technical specification or terms of reference and submits to the procurement management unit
- (c) Propose and prepare statements of requirements and forward to the procurement unit
- (d) Participate in tender evaluation
- (e) Verify claim for payments to suppliers, contractors or services providers
- (f) Report and departure from the term and condition of an awarded contract to the procurement management unit.
- (g) Forward detail of any required contract amendment to the procurement management unit for necessary actions.
- (h) Maintain and achieve records of contract management and submit to procurement management unit after contract closure.
- (i) Prepare any reports required for submission to the procurement management unit, tender board or the accounting officer.
- (j) Oversee contract implementation including reviewing and approving technical reports, design or any outputs as per contract
- (k) Liaise with the procurement management unit during budgets preparation.

1.5. EVALUATION COMMITTEE

The evaluation committee being among the administrative bodies is established under section 42(1) and 6 of the Public procurement act²⁵ for the purposes to conduct the evaluation and report to the procurement management unit. And all member of the evaluation committee shall subscribes to the code of ethics prescribed in the regulation declaring they do not have conflict of interest in the procurement requirement.

2.1 LEGAL CHALLENGES FANCING ESTABLISHMENT OF THE TENDER BOARD IN LOCAL GOVERNMENT AUTHORITIES.

2.1.1 The power of the accounting officer visas the powers of the tender board

The power of the accounting officer and the power of the tender board has been established by the law under the public procurement act on matter relating to procurement processes on public departments. The powers of the tender board are established

under section 34 of the procurement Act²⁶ whereby among many others has been given power to approve tender documents and Approve procurement, supply and disposal of assets subject to the prescribed threshold and the same powers has been vested to the accounting officer of the procuring entity in local government authority under Section 38(1)(b) of the Procurement Act²⁷ doing the same thing of which can affect the gist of the law to establishes the independent tender board to oversee all matters relating to procurement Act.

2.2.2. Political interference

The tender board is an independent organ established by law under section 32 of the public procurement act specifically established in order to approve tender document, approve procurement and supply of goods services work and disposal of public assets as in section 34 of the Public procurement act²⁸ despite of having the tender board establishment in local government authorities in Tanzania of which under section 43 of the PPA put requirement to the tender board to become an independent organ to deal with procurement businesses there is a political interference and accounting officer emanating from the member of the finance committee established by local government act who sometimes do cheap in by interfering the tender board activities.

2.2.3 Lack of transparency and efficiency

This is the requirement of the law under section 5(2) (b) 3(b) of the public procurement act,²⁹ where by the it is the requirement of the law to the member of tender board to act efficiently and transparent. The tender board member while performing their duties there required by the law to observes the principle of natural justices and the requirement on the needs to obtain best value for money in terms of the of price quality and delivery.

KIRUNGU K (2010)³⁰ the author went on narrating that to improve efficiency in the Public procurement act system at every opportunity for the purses of enhancing by accountability in decision, strictures responsiveness to citizens of the country, professionalism to improve performance. Others are transparency in the procedure and policies as well as appeal to address meritorious grievances of supplier.

2.2.4 Corruption

The word corruption is defined under section 3 of the public procurement act by referring the definition provided under the prevention and combating of corruption act. The general concept under and perception if you go the corruption act prohibit corruption practicing tendering processes. If go to section 5 of the procurement act³¹ provides for basic principles set out in the public procurement act. One among of it is to maintain accountability,

²⁶ Act no 10 of 2023

²⁷ Act no 10 of 2023

²⁸ Act no 10 of 2023

²⁹ Act NO 10 of 2023

³⁰ Looking beyond compliance, PPOA, Kenya, third east African procurement forum, held in Tanzania of purchasing of centralization empirical evidence from Public procurement.

³¹ Act no 10 of 2023.

²⁴ Act no 10 of 2023

²⁵ Act no 10 Of 2023



integrity, competition, economy and fairness of treatment to all parties.

3.0 . MECHANISM OF DISPUTES SETTLEMENT ARISING IN PROCUREMENT PROCESSES IN TANZANIA.

The public procurement Act has established the dispute mechanism on matter arising or be connected to the procurement process in local government authorities in Tanzania here in are underlined as follows.

3.1 The public procurement regulatory.

This is the governing authority organ established under section 11(1) of the public procurement Act³² for the purposes to hear the all disputes of the victims of the procurement process. The authority has given full power to hear evidence, summon witness so as to give any assistances on matter relating to the investigation in matter to persuade to procurement issues. The authority has also been given powers under section 17(1) of the public procurement Act³³ if it finds the evidence of breaches of duty, misconduct or criminal offence on the part of an officer or member of public body, may refer the matter to the relevant authority and the same powers has also been vested to the accounting officer under section 38(1) (b) of the procurement Act³⁴

3.2 Audit of accounts

The aspect of conducting audit of books is established by the public procurement act³⁵ under section 28 where by the law has commended the auditor and control general to audit the books of accounts of the public procurement regulatory authority. The auditor shall, for the purposes of performing of his duties under subsection (1) have access to all books of accounts, records, revenue and expenditure, report and other document relating to the authority's accounts of all reasonable times.

3.3 Public procurement appeals authority

The procurement act³⁶ under section 112 (1) (6) and (7) has established the independent procurement appeal body to the person who has not been dissatisfied with the decision made against him by the accounting officer. The appeal authority has given powers to review the authority decision arising from debarment of tenderers and hearing decision made by procuring entities where procurement or disposal contract is already in force and appeal originating from administrative decision in procurement process made by accounting officer.

3.4 Right to review

The right to seek for review is provided to any tenderer who claims to have suffered to any loses or injury as the result of breach of

duty imposed on procuring entity may seek for review. This right is provided under section 119 of the Procurement Act.³⁷ where the law vest power to the review tribunal to review a decision made by accounting officer on matter dealt for originating under section 20 of the procurement Act³⁸ be related with the disputes or compliant originating from the tenderer on respect to procurement proceedings.

3.5 Judicial review

The tender or procuring entity aggrieved by the decision of the appeal board has given a room within 45 days from the date of decision apply to the High court for judicial review. This provided under section 125 of the Public Procurement Act³⁹ This right is provided for challenging the decision of the appeal authority on matter relating to procurement processes in public procurement and supply finally concluded by appeal authority.

4.0. RECOMMENDATIONS.

1 To the Legislature

- a. To amend the PPA of 2023 by adding provision that limits the accounting officer not to dealt with functions and duties vested to the local government tender board so as to ensure effectiveness performance of the local government tender board
- b. The Legislature is recommended to amend the Public Procurement Act, 2023 by adding provisions which providing the binding responsibilities, consequences for non-compliance and liabilities of the Procuring entities entity, PPRA and the Accounting Officer for non-adherence with the requirement of laws on the exclusive preference scheme granted by the PE.
- c. Legislature to amend PPA, 2023 by providing enabling provisions which will link and creates smooth environment to the performance of the local government tender board.

5.2.2 To the Government

- a. The Government of Tanzania is recommended to make sure that National Public Procurement Policy to be re formulated and come into force as it is the only policy which will provide the guiding principles, policy and objectives of the public procurement and on formulating the policy, it is recommended to include in establishment of the local government tender boards dealings with matters for participation in public procurement process.
- b. Government recommended to amend Public Procurement Regulation by providing only single institution which will be dealing with tendering process on matter connected or close related with local government projects in procurement process.
- c. Government of Tanzania is recommended to harmonize all institutions which have the common goal on public

³² Act no 10 of 2023

³³ Act no 10 of 2023

³⁴ Act no 10 of 2023

³⁵ Act no 10 of 2023.

³⁶ Act no 10 of 2023

³⁷ Act no 10 of 2023

³⁸ Act no 10 of 2023.

³⁹ Act no 10 of 2023



procurement, and tendering process and be centered to the establishment of the tendered board.

5.2.5 To the Procuring Entities

The Procuring Entity is recommended to adhere the requirement of the Procurement Act by splitting works, goods or services to the extent that works to be performed by local government tender board rather than the accounting officer to avoid interference and fear. This will help them to reevaluate themselves before engaging in public procurement process in awarding tender to the public.

5.3.2 The Judiciary

The judiciary with the sole role of administration and dispensation of justice in the United Republic of Tanzania.⁴⁰ In this study the judiciary has the role to play as analyzed in order to provide a conducive environment for protection of citizens right in a criminal justice in mater originating from tendering process related with the establishment of the tender board at local government level . However, the constitution⁴¹ has been vested with the authority with final decision in all matters of dispensing justice to the judiciary. Herein, are some of the recommendations to the judiciary for proper protections of the right of the parties in one way or another has been affected by lacuna of the laws by giving two organ having the same power to administer matter originating from the tendering process in our jurisdiction at a local level of authorities

5.3.2.1 To Establish tender board special Fund

The public procurement act to be amended in order to incorporate the provision that establishes a special independent fund with its management entrusted with authority to run their administrative activities rather than the situation today the tender board has no budget they are depending from the accounting officer whom hence they are not free on their decision sometime might be jeopardized by the Director of respective council for being dependent in term of budgeting.

The process for tendering in local government the power is vested to the tender board under **section 32, 34, 36, 38, 89 (1) and 90 of Public Procurement Act** ⁴², but the same power is vested to accounting officer for approval of which seem that the tender board lack independence for making decision freely out from fear or inducement from which over source of authority. This system serve as a model law for how Tanzania could address and cure the independence of the tenderbord at local government level out from interference.

5.4.1.1 Disbursement of Funds from the National Treasury to tender board special fund The executive branch of the government has duty to ensure that after approval of the budget by the national assembly the money is disbursed in a more accurate and timelier for efficiency in the better running of the tender board special fund without any sorts of inconveniences. Its crystal clear that a mare recognition of compensation fund of victims of

criminal justice without disbursement of money from the national treasury the operationalization will be mare dream of achievement and therefore the national treasury under the government plays a vital role for a better functioning of the victim's fund.

5.4.1.2 Appointment of the Executive Head of tender board special Fund

The accounting officer as mandated with the appointment authority under the public procurement act has the authority to appoint the chairman of the establishment of the local government tender board. But also, other key stakeholders and the secretary of the fund for a better operational we recommend to appointed by the District administrative secretary.

5.2.1 To the Legislature

I , recommend to the parliament to harmonize procurement laws with local government laws so as to effects the amendment on the powers vested to accounting officer doing the same function as can be done by tender board. The amend the PPA of 2023 by adding provision that limits the accounting officer not to dealt with functions and duties vested to the local government tender board so as to ensure effectiveness performance of the local government tender board in the local government That , The Legislature is recommended to amend the Public Procurement Act, 2023 by adding provisions which providing the binding responsibilities, consequences for non-compliance and liabilities of the Procuring entities entity, PPRA and the Accounting Officer for non-adherence with the requirement of laws on the exclusive preference scheme granted by the PE. Legislature to amend PPA, 2023 by providing enabling provisions which will link and creates smooth environment to the performance of the local government tender board.

5.2.2 To the Government

Strengthen enforcement by PPRA and PPAA. Improve legal awareness among bidders and citizens.

- a. The Government of Tanzania is recommended to make sure that National Public Procurement Policy to be re formulated and come into force as it is the only policy which will provide the guiding principles, policy and objectives of the public procurement and on formulating the policy, it is recommended to include in establishment of the local government tender boards dealings with matters for participation in public procurement process.
- b. Government recommended to amend Public Procurement Regulation by providing only single institution which will be dealing with tendering process on matter connected or close related with local government projects in procurement process.
- c. Government of Tanzania is recommended to harmonize all institutions which have the common goal on public procurement, and tendering process and be centered to the establishment of the tendered board.

5.2.3 To Public Procurement Regulatory Authority (PPRA)

Ensure effective implementation of TANEPS and digital laws.

⁴⁰ Article 107A Cap. 2

⁴¹ Cap. 2

⁴² Act no 10 of 2023



Enhance enforcement mechanisms by empowering PPRA and increasing accountability. And makes close supervision and the local government tender board so as to ensure proper management of public property and value for money to the public projects for betterment of future generation.

5.2.4 To the Tender Board Supporting Entities (TENDER BOARDS)

That, I propose the provision which gave the accounting officer power to nominate and appoint the member of the tender board to be amended. The power for appointment be vested to District administrative secretary not the accounting officer of the respective local government authorities. So as to allow the independence of the tender board of the local government and accountability among the members who will be able to make free and fair decision without be induced by the one who appoints them

5.2.5 To the Procuring Entities

Resolve legal conflicts between the PPA and Local Government Acts through harmonization.

The Procuring Entity is recommended to adhere the requirement of the Procurement Act by splitting works, goods or services to the extent that works to be performed by local government tender board rather than the accounting officer to avoid interference and fear. This will help them to reevaluate themselves before engaging in public procurement process in awarding tender to the public.

5.3.2 The Judiciary

The judiciary with the sole role of administration and dispensation of justice in the United Republic of Tanzania.⁴³ is an important organ in a state as it restores and the chief guardian of the bills of rights. In this study the judiciary has the role to play as analyzed in order to provide a conducive environment for protection of citizens right in a criminal justice system. However, the constitution⁴⁴ has been vested with the authority with final decision in all matters of dispensing justice. Herein, are some of the recommendations to the judiciary for proper protections of the member of the tender board in local government authorities for thing done without negligence.

5.2.6 To the Tender Boards

Enhance legal training for LGTB and PMU members by Strengthen legal training for LGTB and PMU staff to improve compliance so that we can impart knowledge to the member of the tender so as faster the proper management of the tender board.

5.0 CONCLUSION

Therefore, the establishment of the tender board in local government authorities is not effective and stable as to its purposes established to make sure that administer the procurement processes in public sectors so as to ensure the value for money in procurement and supply. This is simply because there is a provisions in the public procurement Act ⁴⁵ likes section 32, 34,36, 38 , 89(1) and section 90 that gives powers to the accounting

officer and the tender board concerning with the approving procurement service of which can results to double standard and poor implementation of the gist of the core establishment of the tender board in Local government authorities. The presence of two institutions established by laws doing the same functions may affect the gist of law to establish independent tender board to administer and supervising procurement of goods, services, contracts and disposal of public assets in local government procurement. Hence, led to this study which examined the effectiveness of the laws governing local government tender board in Tanzania.

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⁴³ Article 107A Cap. 2

⁴⁴ Cap. 2 of the constitution

⁴⁵ Act no 10 of 2023



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