

**"POLICY, OVERSIGHT AND  
OPERATION OF PUBLIC  
PROCUREMENT: DRAWING THE  
LINES"**



# TORs for the Presentation

- *What entails procurement policy, Oversight and operations in public procurement*
- *Where policy begins and ends*
- *Why and who should oversight public procurement*
- *What entails procurement operations*
- *Who should operate the procurement system*
- *Impact of conflicting roles*
- *Distinction of Roles (East African Whither Now?)*
- *Best practice for roles on policy, oversight and operation of public procurement*

# Introduction

- This Presentation will not provide answers to the TOR but rather stimulate the discussion around the given TOR;
- The discussion to follow after the presentation should actually be the one to provide the answers.  
**We WILL NEED TO DRAW THE LINES TOGETHER.**

# Background

- In Kenya, Uganda, and Tanzania ( I am not sure of Rwanda and Burundi), public procurement policy functions are separated from those of Oversight as well as those related to operations and professionalisation
- However, this separation, has not been without challenges. Sometimes it has been difficult to draw lines between functions.

**KEY INSTITUTIONS INVOLVED WITH PUBLIC  
PROCUREMENT IN TANZANIA**

**PUBLIC PROCUREMENT  
POLICY DIVISION (PPPD)**

**RESPONSIBLE FOR  
PROCUREMENT POLICIES  
AND PROCUREMENT  
CADRE**

**PUBLIC PROCUREMENT  
REGULATORY AUTHORITY  
(PPRA)**

**RESPONSIBLE FOR  
REGULATING PROCUREMENT,  
ADVISORY AND ISSUE  
GUIDELINES**

**PUBLIC PROCUREMENT  
APPEALS AUTHORITY (PPAA)**

**RESPONSIBLE TO HANDLE  
PROCUREMENT  
COMPLAINTS**

**PROCUREMENT AND SUPPLIES  
PROFESSIONALS AND  
TECHNICIANS BOARD (PSPTB)**

**RESPONSIBLE FOR TRAINING,  
PROFESSIONAL  
DEVELOPMENT AND  
REGULATING PROFESSIONALS**

**GOVERNMENT PROCUREMENT  
SERVICES AGENCY**

**RESPONSIBLE FOR  
PROCUREMENT OF  
COMMON USE GOODS  
AND SERVICES**

**KEY INSTITUTIONS INVOLVED WITH PUBLIC  
PROCUREMENT IN KENYA**

**PUBLIC PROCUREMENT  
DIRECTORATE**

**PUBLIC PROCUREMENT  
OVERSIGHT AUTHORITY**

**PUBLIC PROCUREMENT  
ADMINISTRATIVE REVIEW  
BOARD**

**KENYA INSTITUTE OF SUPPLIES  
MANAGEMENT**



**KEY INSTITUTIONS INVOLVED WITH PUBLIC  
PROCUREMENT IN UGANDA**

**PUBLIC PROCUREMENT POLICY  
DEPARTMENT (PPPD)**

**PUBLIC PROCUREMENT AND  
DISPOSAL OF PUBLIC ASSETS  
AUTHORITY (PPDA)**

**PUBLIC PROCUREMENT AND  
DISPOSAL OF PUBLIC ASSETS  
APPEALS TRIBUNAL**

**INSTITUTE OF PROCUREMENT  
PRACTITIONERS OF UGANDA  
(IPPU)**



# KEY QUESTION

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- Do we need all those Organisations?

# Procurement Policy + Procurement Cadre

- Procurement Policy + Scheme of Service for Procurement Cadre is the Responsibility of the Minister of Finance
- Being so – the Minister needs Someone (a Unit) to assist him (within the Ministry) to carry out those functions

➤ **THIS IS WHERE THE POLICY  
UNIT/DEPTS BECOME  
RELEVANT**

# Procurement Policy + Procurement Cadre

- Cant the Oversight body carry out those functions
  - **WE TRIED IN TANZANIA BUT IT FAILED – THERE WAS A GAP WHEN ISSUES RAISED BY THE OVERSIGHT BODY WERE TO BE ACTED UPON AT THE MINISTRY LEVEL –**
  - **IT WAS OBVIOUS THAT SOME ONE UP THERE WAS REQUIRED TO TAKE ACTION APART FROM THE PERMANENT SECRETARY AND THE MINISTER.**

# Procurement Policy + Procurement Cadre

- The Procurement Cadre being in the Ministry needs someone to be
  - ▣ **Responsible for development and management of procurement cadre, development of capacity structure, human resources and succession plans for procurement and supplies staff**

# Procurement Oversight

- **All East African Countries have a Procurement Law which needs to be implemented by Public Entities.**
  - **IS IT TRUE THAT A LAW IS SUPPOSED TO IMPLEMENT A POLICY? HOW MANY OF US HAVE A PROCUREMENT POLICY IN PLACE?**
- **Every law must have a mechanism to enforce it – This is where Procurement Oversight becomes relevant**

# Procurement Oversight

- **Procurement Oversight entails**
  - **Ensuring Compliance with Procurement Law and Regulations**
  - **Provide feedback to the Procurement System operated by the Ministry on the Need to Review Procurement Policies and/or Laws.**

# Procurement Oversight

- **Procurement Oversight entails**
  - **Providing Guidance to USERS of the LAW to make them comply**
    - **This calls for providing guidelines, capacity building (TRAINING AND ADVISORY SERVICES)**
  - **Ensuring fairness in the procurement process – HENCE THE PROCUREMENT COMPLAINTS REVIEW BODIES – also serves as an oversight in this respect**

# Professional Bodies

- They cater for Development of Procurement and Supplies Professionals – both in public and private sector
  - ▣ To ensure that they have the right qualifications to practice;
  - ▣ They are kept up to date with regard to new developments in the Profession

# Procurement Operations

- **Procurement Operations refers to actions by Public Bodies to operationalise the set up procurement system to enable them get goods, works and services required to enable them meet their business needs.**

**SCOPE OF PROCUREMENT OPERATIONS  
(Procurement Cycle)**



# Procurement Operations

- **Procurement Operations are carried out within a framework prescribed by the Procurement Law, Regulations and Guidelines**

# Procurement Operations

- **Government Procurement Services Agency is part of Operations Side of Public Procurement System with respect to common used items and services**

# Potential Areas of Conflict – Policy and Oversight

## □ FORMULATION OF PROCUREMENT POLICY

- Review Procurement Policies and Law- Initiation can be by Anybody affected by the Procurement System – Actually Oversight Bodies are better placed because through their oversight activities they have a grasp of issues that needs some action from the Government through either Policy Change or Law Changes
  - BUT THE ACTUAL REVIEW WILL BE DIRECTED THE POLICY DIVISION

# Potential Areas of Conflict – Policy and Oversight

## □ ISSUE OF GUIDELINES

- ▣ ISSUED BY OVERSIGHT BODY WITH RESPECT TO PROCUREMENT AND DISPOSAL PROCESS.
- ▣ POLICY DIVISIONS (UNITS) ALSO ISSUES GUIDELINES UNDER MATTERS UNDER THEIR JURISDICTION

# Potential Areas of Conflict – Policy and Oversight

## □ **CAPACITY BUILDING**

- Policy Division being responsible for the procurement Cadre has role in the carrier development of Procurement Staff – Short Term and Long Term Training to enable them acquire necessary Qualifications needed for them to do their job as per scheme of service
- Oversight body – Capacity Building of Everybody involved in Public Procurement to enable them use and comply with the set Procurement Laws.

# Potential Areas of Conflict – Policy and Oversight + Professional Bodies

## □ **CAPACITY BUILDING**

- Policy Division being responsible for the procurement Cadre has role in the carrier development of Procurement Staff – Short Term and Long Term Training to enable them acquire necessary Qualifications needed for them to do their job as per scheme of service – **FOCUS SHOULD BE ON IDENTIFYING TRAINING NEEDS**
- Oversight body – Capacity Building of Everybody involved in Public Procurement to enable them use and comply with the set Procurement Laws.

# Potential Areas of Conflict – Policy and Oversight + Professional Bodies

## □ **CAPACITY BUILDING**

- Professional Bodies – to ensure that professionals are kept abreast of new developments in the profession.
- ACTUALLY A PE may also in its initiative build capacity of its staff to manage procurement operations – **DEMAND DRIVEN RATHER THAN SUPPLY DRIVEN.**

- **NOTE THAT CAPACITY BUILDING IS MORE THAN TRAINING – THIS IS WHERE POLICY DIVISIONS COULD PLAY A BIG ROLE TO ENSURE THAT PROCUREMENT UNITS ARE WELL EQUIPPED.**

# Potential Areas of Conflict – Policy and Oversight + Professional Bodies

## □ RESEARCH

- Research is a cross cutting theme – any body can carry out Research to try to understand certain issues under their jurisdiction – HOWEVER coordination is important to avoid duplication of efforts.

# Potential Areas of Conflict – Policy and Operations

## □ DEPLOYMENT OF PROCUREMENT STAFF

▣ It is the responsibility of a Public Body to comply with Procurement Law.

■ THIS DEMANDS ESTABLISHING STAFFING NEEDS AND SELECTING APPROPRIATE STAFF TO FILL IN THE POSITION

■ **The above is compromised when you have an organ that allocates staff to your organisation.**

# Potential Areas of Conflict

## Oversight + Operations

- **HANDLING OF PROCUREMENT COMPLAINTS**
  - Oversight bodies have a role of providing guidance (TRAINING and ADVISORY) to Public Bodies to enable them carry out procurement as per the laws
    - GUIDANCE PROVIDED COULD BE THE BASIS OF A COMPLAINT RAISED BY A BIDDER –  
**Hence a decision in Tanzania not to involve PPRA in handling complaints.**

# Potential Areas of Conflict

## Oversight + Operations

- **APPROVAL OF PROCUREMENT METHODS**
  - ▣ Oversight bodies have a role of ensuring compliance with the law including the use of appropriate procurement methods –
    - If involved in the approval, if later discovered that there was no justification of using such a method – particularly single source method or restricted method – difficult to take a PE to task.
      - SET CLEAR GUIDELINES FOR SELECTION OF METHODS AND LET THE PE MAKE DECISION – IN CASE OF ABUSE APPROPRIATE PEANALTIES BE INSTITUTED

# Conclusions and Way Forward

- East African Countries have come a long way towards modernization of their procurement systems.
- As discussed, the various structures- FOR POLICY, OVERSIGHT, OPERATIONS AND PROFESSIONALISM – are all important.
- Their operations however need to be streamlined to enable them work as a Team for the benefit of procurement fraternity instead of working in Silos.



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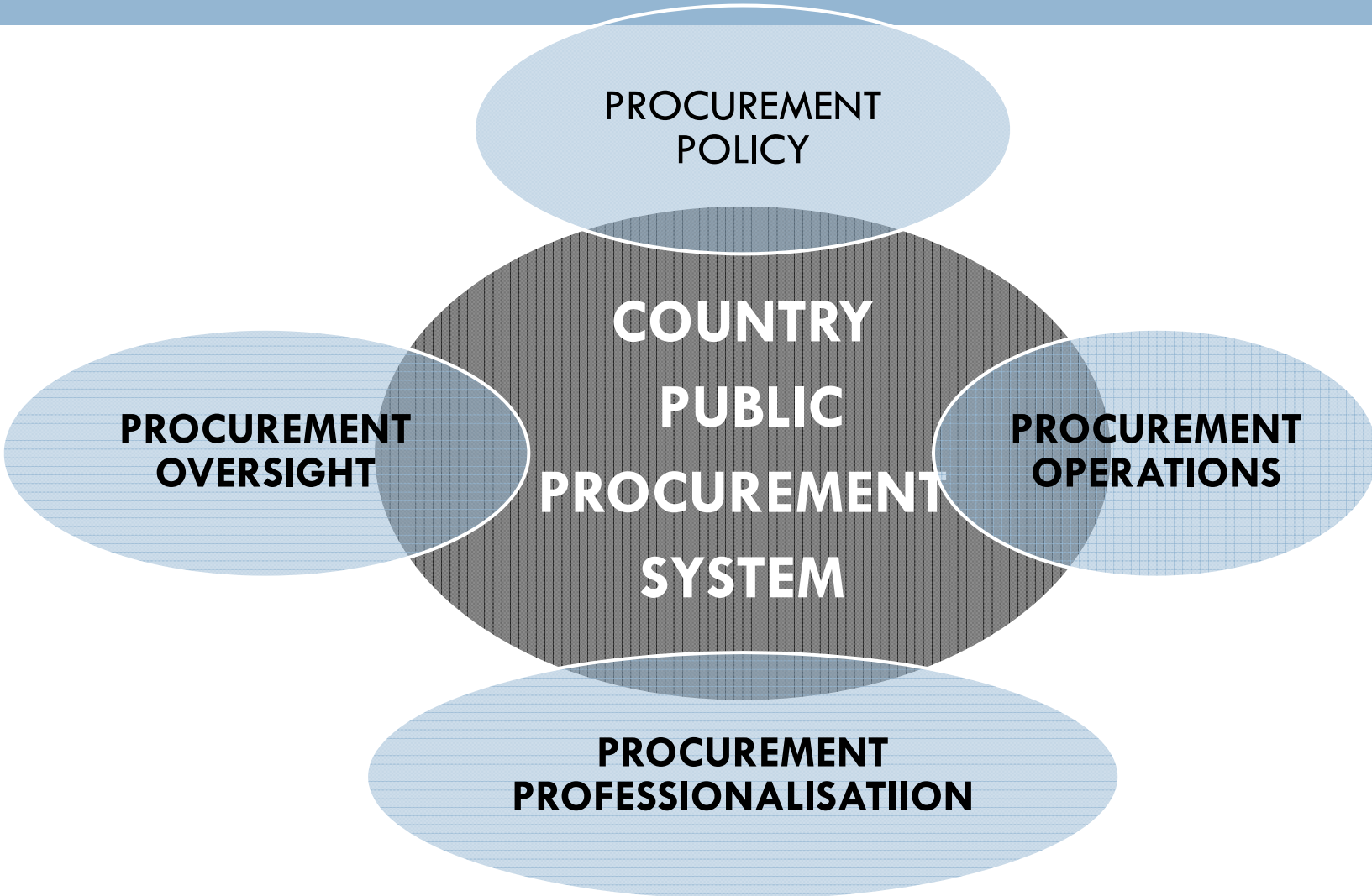
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**We need to see more of these kind of Collaborations**

# Conclusions and Way Forward

- We have Annual East African Procurement Forum
- What about AT COUNTRY LEVEL – DON'T WE NEED TO HAVE A FORUM/ MECHANISM OF BRINGING ALL KEY BODIES INVOLVED WITH PROCUREMENT ACTIVITIES TOGETHER – **MAY BE CHAMPIONED BY THE POLICY DIVISION WHICH WE LOOK AT TO MAKE THINGS HAPPEN AT THE MINISTRY LEVEL.**

# NOW - WHERE DO WE DRAW THE LINES?





**THANK YOU FOR YOUR  
ATTENTION**