



ACCOUNTABILITY OF DEFAULTING CONTRACTORS TOWARDS VALUE FOR MONEY IN PUBLIC PROCUREMENT: THE ROLE OF JUDICIAL ORGANS

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Abstract:

The purpose of this study was to examine the accountability of defaulting contractors towards value for money in public procurement with a particular focus on determining whether the parameters utilized by the judicial organs are like those utilized in public procurement as stipulated in Cap 410. The study was conducted at two legal institutions, namely the Public Procurement Appeals Authority and the High Court in Dodoma region. The study employed a descriptive design whereby data were presented in tables and charts. The population of the study involved 53 legal experts who specifically participated in landmark cases from 2020 to 2025. The study used questionnaires to collect data and analyze it by using descriptive statistics with aid of SPSS version 26 which facilitated establishment of mean, Standard Deviation and Percentages. The results indicate that all the three variables of interest, that is, (utilization of value for money parameters, compensation measures and accountability measures) are above the average mean value and utilization scoring the highest (38%) followed by accountable measures (36%) which amplifies that the judicial organs comply with the requirements of the Public Procurement Act No. 10 of 2023 which is anchored on realization of value for money. This study presents novelty by examining accountable measures imposed to defaulting contractors towards value for money in public procurement as an area overlooked by past studies. The study recommended that Public Entities should liaise with the judicial organs in revealing bad practices of contractors.

Keywords:

Accountability, Value for Money, Procurement

1. Introduction

Accountability has been stated as a key factor in public procurement undertakings by procuring entities to comply with established rules and hence achieve value for money in procurement. In Tanzania, public procurement accounts for approximately 80% of the government budget (URT, 2020). This indicates that the function plays a significant role in the country's economic growth, therefore requiring proper management and oversight to meet the expected goals. Despite its criticality in economic growth of the country through procurement of goods, services and works still problems of unrealized value for money caused by bad practices of contractors have been reported (CAG, 2022). Incidents of defaulting contractors in construction projects have been increasing hence posing a great risk of unrealized value for money in the public procurement process in Tanzania (Benjamin, 2022). Following existence of such unhealthy practices of contractors in public construction projects, this study raises a question that needs an answer: Do the judicial organs impose accountability measures against defaulting contractors towards value for money in public procurement?

Value for money is associated with the deployment of resources to realize some expected output values. This can be done by comparing the resources used in undertaking a certain activity and the actual output or performance of the activity; for the case of construction projects, it means the money paid to contractors has to match the quality of work performed. Value for money has three major parameters of assessment, which include efficiency, effectiveness, and economy. About efficiency, the focus is on better quality, time saving, and cost saving; on effectiveness, the focus is on achievement of organizational goals, while on economy, the focus is on ensuring minimal total cost in the

procurement process (Kessy et al, 2021). In this case, the buyers and contractors involved in the procurement process must be mutually responsive to make value for money in public procurement become a reality. Apart from the buyers and contractors who entered the procurement contract, there is also another important stakeholder involved in legal matters called the judicial organ which is responsible for undertaking accountability measures against defaulting contractors in the procurement process as per the terms and conditions expressed in the procurement contract document. A well-managed and accountable public procurement contributes to the socio-economic welfare of the people in the country and in contrast public procurement can become an area of resource wastage. Accountability constitutes a central pillar in the procurement process, and absence of it the vast resources channeled through public procurement will be put at a great risk of misappropriation of public funds (URT, 2021). The need to streamline the public procurement system in the country with a view to strengthening the country's economy and attainment of value for money has been overemphasized by many scholars including Olaniyi and Oke (2022), who argued that the lack of accountability in the procurement process could lead to poor implementation of construction projects and wastage of resources. The report added that value for money in the public procurement process could be achieved if there is patriotism among key players in the public procurement system, including imposing accountable measures against defaulting parties in the procurement process to safeguard public resources. Tanzania in particular, the government through the Ministry of Finance has taken various measures to strengthen the public procurement, including the establishment of CAP 410 R.E 2023, which sets out a dispute settlement and review mechanism among the parties in the procurement process for the aim of creating a well-functioning , accountable, and transparent procurement system that safeguards the interest of the country. Despite the government's effort, many challenges relating to failure of value for money in the public procurement have been reported by scholars who pointed out works performed below quality standards and others performed late as well as experiencing cost overrun (Ivanova, 2019). Poor performance in the public procurement projects, especially in construction projects, has been reported as an endless evil that has raised complaints due to inefficiency which finally led the parties in the contract to enter disputes and thus calling intervention of the judicial organs to seek justice (Ivanova, 2019). In addition, scholars argue that late delivery, sub-standard works, and cost overrun have been regularly reported in construction projects as major sources of disputes in the public procurement process (Bauhr et al, 2020).

In Tanzania, CAP 410 of the public procurement has stipulated procedures for dispute settlement whereby, for the first time, the matter must be resolved by the administrative review committee as appointed by the Accounting Officer of the procuring entity and when the aggrieved party is not satisfied, the matter is forwarded to the Public Procurement Appeals Authority. If the aggrieved party is still not satisfied the matter will be forwarded to the High Court for final decision. Therefore, it indicates that the High Court is the highest organ in the hierarchy of court decisions, that is, the organ has been empowered with high authority in ruling and imposing accountable measures against defaulting contractors in the public procurement process. This means that procuring entities and the public at large have high expectations on the judicial organs following their final power in enforcing disciplinary measures against defaulting contractors in public procurement. Nevertheless, the parameters of assessing value for money are specific and complex, and worse still, there is a lack of research information on whether the parameters adopted by judicial organs in making judgments comply with the parameters of value for money as stipulated in PPA No. 10 of 2023. In other words, it shows that there is a lack of clear and researched information on contextualizing what really happens in practice when making judicial judgments for defaulting contractors in the public procurement process. Value for money in public procurement, particularly in construction projects, is a critical area that attracts the attention of the public at large. This is because construction projects consume most of the government budget, whereby most of the funds are paid to contractors who won various public tenders (Minja, 2025). On the other hand, the incidences of defaulting contractors in public procurement are increasing, hence subjecting the construction sector to a high risk of poor performance. Therefore, this study aimed to fill this gap in knowledge by assessing the role of judicial organs in enforcing accountability measures for defaulting contractors in the public procurement process in Tanzania as a strategy of establishing legal guarantees on achieving value for money in public procurement.

To assess accountability of defaulting contractors and value for money, this study has focused on the following specific objectives:

- i) To assess the utilization of value for money parameters by the judicial organs in public procurement in Tanzania
- ii) To examine compensation measures imposed by judicial organs towards achieving value for money in public procurement in Tanzania
- iii) To investigate accountability measures adopted by judicial organs towards value for money in public procurement in Tanzania

2. Theoretical Literature Review

2.1 Social Justice Theory

This theory emphasizes the discharge of justice to society in a fair and equal manner so as to ensure that the parties entering a dispute are well protected by the legal system and to impose punishments such as fines and purges for those found guilty. This theory is relevant in this study because it addresses issues of fairness in discharging justice to the contracting parties, including the procuring entity and contractor, as in this study.

2.2 Empirical Literature Review

2.2.1 Accountability Measures Against Defaulting Contractors

Regarding accountability in procurement, different countries have established tight rules and Regulations to safeguard the interests of their country. For example, the Organic Law of the Public Administration of the State of Mexico, Article 38 Bis, XI, stipulates punishment for suppliers or service providers who delays in the delivery of goods or services, as a result of their own fault; those who had a contract rescinded; those who behaved in bad faith in any stage of the process and those who have violated the law. According to the law, the officials in charge of procurement of goods, services, leasing, public works, and related services, as well as the auxiliary bodies of the executive, the Office of the Attorney General of the State of Mexico, and administrative tribunals, are all responsible for ensuring integrity and accountability in the public procurement process (OECD, 2017). In developed countries, measures to hold defaulting contractors accountable have been taken seriously to protect public resources used in the procurement process. For example, in European Union countries, any contractor convicted by the high court for poor performance of the work is blacklisted and disqualified from future public tenders. In addition, there are other punishments given to defaulting contractors, such as economic fines equivalent to one or two times the benefits obtained; a temporary bar from participating in public procurement; and compensation for damages to the affected party or public entity (OECD, 2017). According to Stephen and Jonathan (2018), accountability includes measures of giving punishment to someone who has failed to fulfil his/her responsibilities as per established standards. In this case, penalties or fines can be imposed on the one who has violated the stipulated obligations.

2.2.2 Compensation Events in Disputed Procurement

Compensation is the recovery or payment of money for work done or time taken up, whether by way of valuation, loss, and/or expense and damages. A “compensable event” is the expression used to describe the risk event in respect of which the client or contractor is entitled to compensation (Daniel et al, 2019). Compensation events can be related to the events referred to in traditional forms of contract as variations or claims (Asare and Prempeh, 2016). According to Bogdanowicz et al, (2017), compensation events can be caused by faults such as failure to work within the agreed timelines and conditions, failure to provide materials, facilities, and samples for tests and inspection, failure of the parties to perform his/her obligations. In this case, it indicates that compensation events play a significant role in protecting the aggrieved party, especially in the event of a dispute. Bakhary et al (2015) states that early warning procedures, strict time limits for notification of compensation events, facilitate a more collaborative working culture between the contracting parties in the procurement process.

2.2.3 Role of Judicial Organs in Protecting the Aggrieved Party in Public Procurement

The public procurement remedies system aims to ensure the enforcement of procurement rules and to provide effective remedies for economic operators if those rules are infringed. The judicial organs are trusted to discharge fair justice from the aggrieved parties seeking justice. Trust in judicial perspective is an important factor that can increase productivity and economic performance (Popelier et al, 2022). While judicial trust often has a positive

impact on the business, extreme levels of trust can also have a negative effect (Pirkko & Kirsi-Maria, 2025). That is, a negative decision undertaken by the court can lead to complaints and economic consequences to the aggrieved party in the contract. Therefore, trust in the judicial system plays a major role in the effectiveness of public procurement (Halila, 2021). Court decisions play an important role in business by establishing relationships between the client and the contractor in the public procurement process, reducing the degree of uncertainty regarding the outcomes of actions (Wallace & Goodman-Delahunty, 2021). Court decisions thus have an impact on the parties' tendency to seek legal action against the potential flaws or irregularities caused in the procurement process following breaches of contract by the other party. Fair legal actions are strongly interlinked to the effectiveness of the procurement process. That is, legal actions can help to resolve disputes and create a nonconfrontational national culture that prevents economic consequences to the contracting parties in procurement (Kaave et al, 2025).

Conceptual Framework

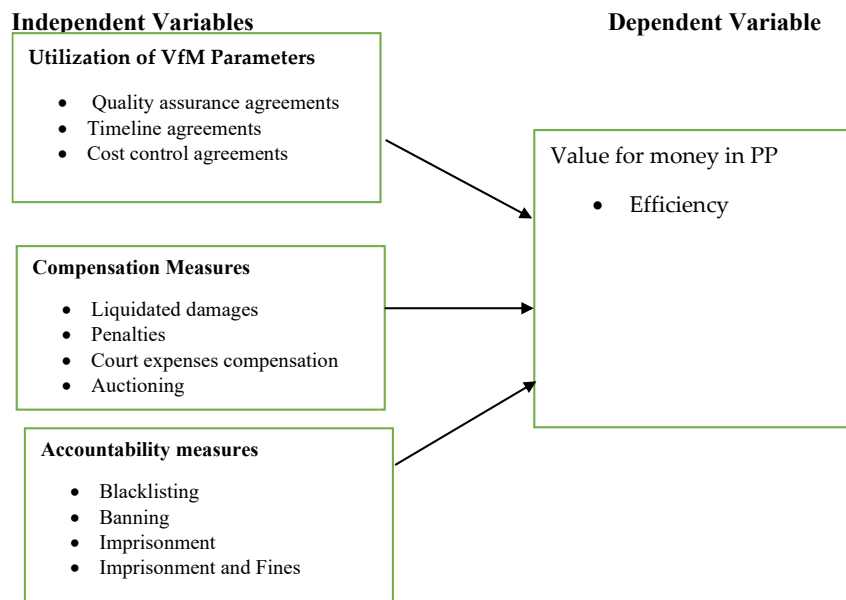


Figure 1: Accountability in public procurement projects
Source: Developed based on the study of Daniel et al (2019)

3. Methodology

This study has employed a descriptive design whereby results were presented in tables, frequency, and charts to depict the role of judicial organs in executing accountability measures against defaulting contractors towards value for money in public procurement. The study was conducted at Dodoma involving two judicial institutions, namely the High Court of Tanzania and the Public Procurement Appeals Authority, which in total included 60 legal experts who had been involved in the most recent decided landmark cases for a period of five years from 2020 to 2025. This was done strategically to focus on current cases that have a significant contribution in assessing accountability of defaulting contractors towards value for money in public procurement. The questionnaire tools were designed to capture data on cases that reached a decision and judgment on public procurement archived at the Tanzlii databases. All 60 legal experts were circulated with questionnaire forms to respond to the questions asked, but only 53 questionnaires were successfully filled and received, which made a response rate of 88.3%. To increase rigor and achieve the objective of the study, a total of 9 constructs adopted by Galankashi and Rafiei (2021) were prepared, which specifically focused on capturing data on accountability of defaulting contractors towards achieving value for money in public procurement. The survey was conducted between April to May 2025, whereby respondents were

contacted physically, and those who were not present, their e-mail contacts were obtained from Human Resource Officers, whereby they were given a link to access the Google questionnaire forms.

Moreover, the analysis was made to determine the dominant research strategies used in the reviewed information. The cases that scored at least 50% were considered significant in determining the adequacy of disciplinary measures undertaken by judicial organs in discharging their duties in relation to defaulting contractors in public procurement (Halonen and Tukiainen, 2020). Data was analyzed by using descriptive statistics with the aid of SPSS, which facilitated obtaining mean, standard deviation, and percentages in relation to assessing the role of judicial organs in executing accountability of defaulting contractors in public procurement. To ensure validity, the constructs were pre-tested by consulting three different legal experts working at the Public Procurement Regulatory Authority, who helped to refine the tools to meet the desired goals. In addition, by using legal experts involved in landmark cases on public procurement, it also increased validity of the study. As part of reliability, the internal consistency of the constructs was tested by using Cronbach's Alpha, whereby the items scored a value of 0.8, which is acceptable in research (Saunders, 2022).

4. Results

This section presents the results of the variables used. It starts by presenting the normal distribution of data in the form of a P-P plot for each variable and is followed by descriptive statistics in the form of tables and pie charts.

4.1 Checking the Normal Distribution of Data

Results in figures 1,2, and 3 portray the normal distribution of data for each variable, whereby it shows that data were normally distributed, implying that data used in the study are credible and fit in addressing the role of judicial organs in relation to accountability of defaulting contractors in public procurement cases.

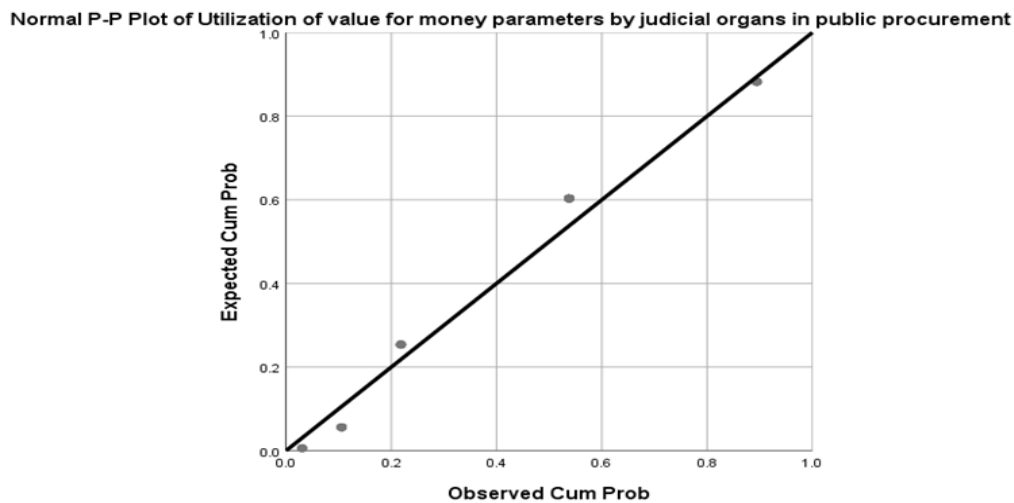


Figure 1: Normal Distribution of the Utilization of Value for Money Parameters

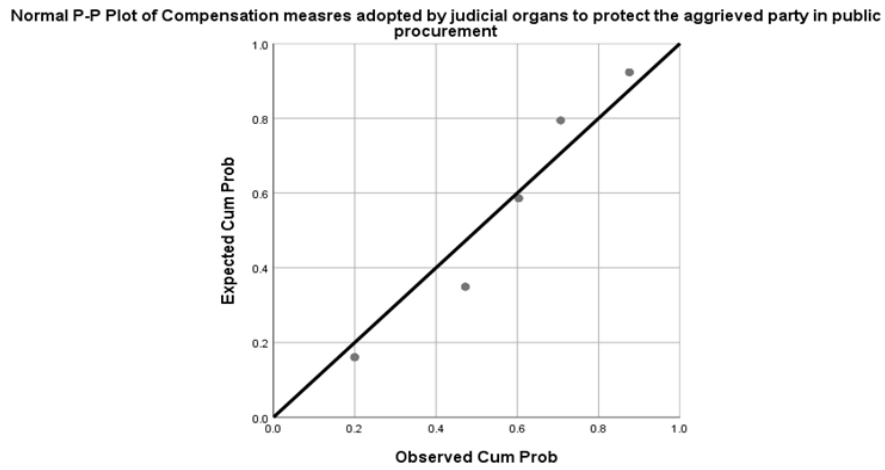


Figure 2: Normal Distribution of Compensation Measures

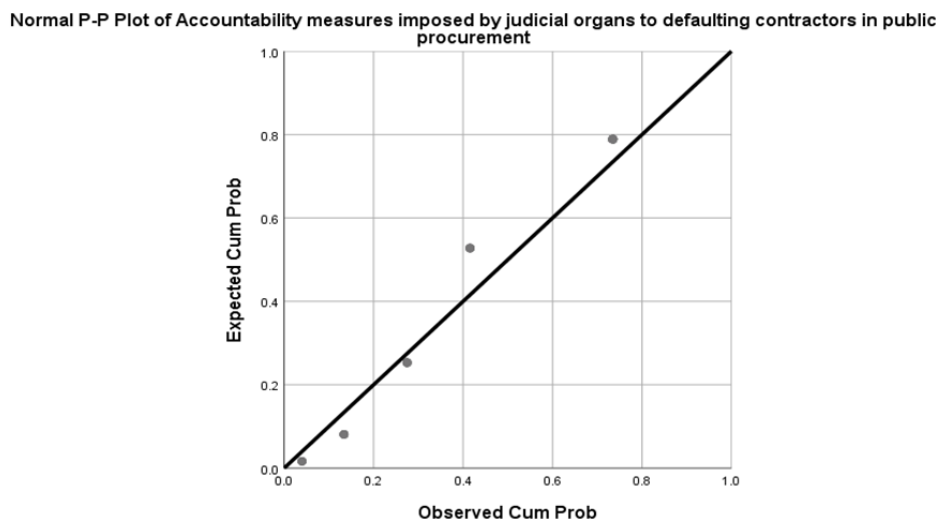


Figure 3: Normal Distribution of Accountability Measures

4.2. Descriptive Results

This section presents information on descriptive statistics as shown in the Tables below:

Table 1: Descriptive Statistics

	N	Minimum	Maximum	Mean	Std. Deviation
Utilization of value for money parameters by judicial organs in public procurement	53	1.00	5.00	3.7170	1.08091

Accountability measures imposed by judicial organs to defaulting contractors in public procurement	53	1.00	5.00	3.9057	1.36247
Compensation measures adopted by judicial organs to protect the aggrieved party in public procurement	53	1.00	5.00	2.6415	1.65360
Valid N (listwise)	53				

Table 2: Model Description

Model Name	MOD_4	
Series or Sequence	1	Utilization of value for money parameters by judicial organs in public procurement
	2	Compensation measures adopted by judicial organs to protect the aggrieved party in public procurement
	3	Accountability measures imposed by judicial organs to defaulting contractors in public procurement
Transformation	None	
Non-Seasonal Differencing	0	
Seasonal Differencing	0	
Length of Seasonal Period	No periodicity	
Standardization	Not applied	
Distribution	Type	Normal
	Location	estimated
	Scale	estimated
Fractional Rank Estimation Method	Blom's	
Rank Assigned to Ties	Mean rank of tied values	

Applying the model specifications from MOD_4

4.3 Pie Chart



Figure 4: Accountability of Defaulting Contractors in Public Procurement

5. Discussion

Results in Table 1 on descriptive statistics indicate that all three variables have scored above the mean average value of 2.5, meaning that the respondents showed a high level of satisfaction regarding accountability measures undertaken by the judicial organs for defaulting contractors in the public procurement process. For example, on utilization of value for money parameters in the judicial system the variable has a mean score value of 3.7 in the Likert scale which ranges from 1 (strongly disagree) to 5 (strongly agree), meaning that answers obtained from the question posed supported that judicial organs utilize the parameters of value for money as stipulated in the Public Procurement Act No 10 of 2023 (PPA, 2023). A standard error of 1.08 indicates a minimal variation of the responses regarding the question posed on the utilization of value for money indicators in judicial systems. About accountability measures, this variable has a mean score value of 3.9 and a standard error of 1.36, meaning that the responses on the questions asked supported that judicial organs impose accountability measures against defaulting contractors in the public procurement process.

On compensation measures, the variable has a mean score value of 2.6, which exceeds the average mean value of 2.5, meaning that the responses supported compensation measures imposed by the judicial organs in compensating the client in case of any arising dispute after the contractor has defaulted in the procurement contract implementation process.

In addition, results in Figure 4 augment results obtained on descriptive statistics in Tables 1 and 2, whereby the pie chart depicts the percentage distribution of the roles of the judicial organs in exercising accountability against defaulting contractors in public procurement. The chart indicates that the variable of compensation scored the highest value (38%), followed by utilization (36%), meaning that the respondents agreed that the judicial organs impose accountability measures against defaulting contractors, and also, they utilize the parameters of value for money as prescribed in the Public Procurement Act No. 10 of 2023. Based on the results, it indicates that the public procurement remedy system through the judicial organs protects the procuring entities against several complaints and consequences relating to procurement contracts, including substandard performed works by the contractor. This signifies a great level of trust in the judicial system. In other words, it indicates the ability of the judicial organs to exercise justice in compliance with the established Public Procurement Act, which has set provisions for a dispute settlement mechanism aiming at preventing unfair practices between the contracting parties in the public procurement process (PPA, 2023). This appealing observation is also supported by Pirkko and Kirsi-Maria (2025), who assert that an effective public procurement remedy system protects the contracting parties from suffering from

losses and unwarranted complaints that threaten value for money achievement. Trust and legal actions are strongly interlinked to the legal culture within a particular jurisdiction. In a nonconfrontational legal culture, it may be preferable to resolve disputes in other ways, and litigation is seen as a last resort (Bu, 2015). Value for money is the major principle in public procurement, that is, when the procuring entity (client) enters contract with the contractor, the terms and conditions in the contract require the contractor to implement the work at an acceptable level of standard performance. This can be perceived in terms of meeting the quality standards, timeline, and economy, which in totality determines customer satisfaction in the procurement contract management, so when the contractor fails to meet his or her obligations, it means there is a breach of contract, which can subject the other party to losses and other consequences. It is in this view that this paper tries to assess the role of the judicial organs in undertaking accountability measures against defaulting contractors towards value for money in public procurement. In addition, public procurement is a specific function guided by specific rules and regulations as stipulated in the Public Procurement Act No 10 of 2023 and Regulations 2024, which have set provisions and parameters relating to value for money achievement (PPA, 2023). Therefore, a focus on the practices adopted by the judicial organs in relation to the practices of public procurement contract management was vital to determine fairness and the level of compliance to the established parameters used in measuring value for money in public procurement. In other words, the obtained results indicate citizens' evaluation of their country's legal system (Magalhaes and Garoupa, 2020). This demonstrates application and assimilation of the common legal framework shared by legal organs and procurement practitioners, which establishes a large role for effective monitoring of the public procurement jurisdiction system.

6. Conclusion

About the results obtained from this study, a conclusion is made based on the specific objectives as follows:

First, the study concludes that the judicial organs in Tanzania play a significant role in utilizing the parameters of value for money as stipulated in the Public Procurement Act No. 10 of 2023 and Regulations 2024.

Second, the judicial organs in Tanzania play a significant role in imposing compensation measures to protect the client suffering from bad defaulting practices of contractors in the public procurement process. The most compensation measure adopted is liquidated damage as provided in the contract agreement.

Third, the judicial organs in Tanzania play a significant role in imposing accountability measures against defaulting contractors, whereby suing for damage is the most severe punishment given to the defaulting contractors in the public procurement process.

7. Implication of the Study

The result of this study provides implications as follows:

To the government, the study implies that the establishment of a common legal framework to be shared by practitioners will enhance value for money in public procurement

To the judicial organs, the study implies that by utilizing the parameters of value for money in judgment and imposing accountability measures against defaulting contractors will enhance value for money in public procurement

To the procuring entities, the study implies that creating a high level of trust in the judicial organs will enhance value for money in public procurement.

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