



**TRANSPARENCY
INTERNATIONAL
ZIMBABWE**

the coalition against corruption



**CORRUPTION RISKS IN PUBLIC
PROCUREMENT PROCESS DURING EMERGENCIES
IN ZIMBABWE**

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Transparency International Zimbabwe (TI Z) is a non-profit, non-partisan, systems-oriented local chapter of the international movement against corruption. Its broad mandate is to fight corruption and promote transparency, accountability, and integrity at all levels and across all sectors of society. TI Z believes corruption can only be sufficiently tackled by all citizens including people at grass root level.

CORRUPTION RISKS IN PUBLIC PROCUREMENT PROCESS DURING EMERGENCIES IN ZIMBABWE

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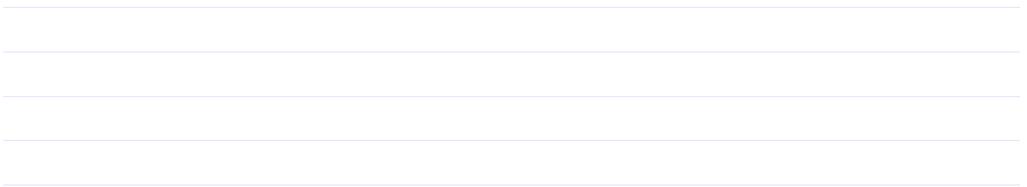
Acronyms

CIPE	Centre for International Private Enterprise
COVID-19	Corona Virus Disease 2019 caused by SARS-CoV-2
CSOs	Civil Society Organisations
EBRD	European Bank for Reconstruction and Development
EU	European Union
FMECA	Failure Mode Effects and Criticality Analysis
FTA	Fault Tree Analysis
GPA	The plurilateral Agreement on Government Procurement
GDP	Gross Domestic Product
HIV-AIDS	Human Immunodeficiency Virus Acquired Immune Deficiency Syndrome
KIs	key informant interviews
MDAs	Ministries, departments and agencies
M&E	monitoring and evaluation
OCDS	Open Contracting Data Standard
OECD	Organisation for Economic Co-operation and Development
UNODC	United Nations Office on Drugs and Crime
PMU	Procurement Management Units
PPDPA	Public Procurement and Disposal of Public Assets Act
PPE	Personal protective equipment
PRAZ	Procurement Regulatory Authority of Zimbabwe's
RINA	Rapid Impact and Needs Assessment
RBZ	Reserve Bank of Zimbabwe
SOEs	State owned enterprises
SPOC	Special Procurement Oversight Committee
TI Z	Transparency International Zimbabwe
UNDP	United Nations Development Programme
WTO	World Trade Organisation
ZACC	Zimbabwe Anti-Corruption Commission
ZINARA	Zimbabwe National Road Administration
ZRP	Zimbabwe Republic Police

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This Report is based on a study on corruption risks in Zimbabwe's public procurement process during public emergencies. The objective of the research is to comprehensively review the public procurement processes in Zimbabwe and to identify corruption risks within public procurement during emergencies, and to recommend measures to improve the public procurement system. From the study, several gaps and entry points for corruption were identified in the public procurement system. The gaps and entry points are more acute when procurement processes are activated during national emergencies. This study came at the height of the Covid-19 pandemic and slightly over a year after massive destruction caused by the Cyclone Idai disaster in 2019. The two disasters created clear public emergencies in the country and necessitated a huge outlay of public funds for the procurement of public goods and services, for restoration of destroyed livelihoods and infrastructure and for the adoption of several measures to strengthen public service delivery.

The research indicates that various patterns of abuse of authority, processes, mechanisms in the institutions charged to conduct procurement of goods and services during these two periods of public emergencies in Zimbabwe undermined the integrity and efficiency of this very critical function. This finding highlights the reality that the public procurement process is not and has not been insulated from the drivers and networks of corruption that have adversely impacted the mainstream financial and economic sectors. Ordinarily, the model of public procurement established in the law and institutional system determines the prevalence, nature and scope of corruption risks. For Zimbabwe, the preferred model is not insulated from the influence of politically exposed individuals and other senior administrators in government. Further, several provisions in the primary procurement legislation are flawed and need revisiting; this has been echoed by current efforts to amend the primary legislation to address gaps and weaknesses observed since the law came into force. Another important entry point for corruption is the over-reliance on direct procurement methods since there are no adequate safeguards against the opportunity created for collusion. Accordingly, several corruption risks haunt Zimbabwe's legal regulatory framework for public procurement in general, with such risks magnified during emergencies.

The efficacy of the Procurement Regulatory Authority of Zimbabwe's (PRAZ) administrative system in relation to supervision and monitoring of every procurement contract by government departments has been raised as one of the eminent challenges within the broader procurement spectrum. Numerous state institutions exist with procurement powers, in addition to PRAZ's expected mandate as the central agency charged by law with supervising and monitoring the public procurement system and related agencies. These include government Ministries, departments and agencies (MDAs), state owned enterprises (SOEs), local authorities, joint venture

partnerships between a state agency and private actors and statutory corporate bodies. Its oversight capacity as a monitoring and compliance body, is therefore significantly diluted. This study identified several corruption risks and vulnerabilities in the existing public procurement process during emergencies in Zimbabwe. Whilst most risks arise in the various stages of the actual procurement cycle, they are created by the external political and economic context. It highlights the major risks and vulnerabilities of a systemic, regulatory, or institutional nature which create opportunities for corrupt activities to take place or pass undetected without sanction by relevant institutions. By so doing, these risks and vulnerabilities undermine not only the lawful, compliant and ethical conduct of public procurement processes, but also damage the integrity of the process whilst eroding public confidence and trust in procurement institutions.

The major findings of the research are illustrated in the Text Box 1 below:

Text Box 1: Summary of Headline Findings

Headline Findings

Institutional system still new and inexperienced

The public procurement system is based on a relatively new legal framework, with the inexperienced institutional system manifestly ill-equipped to deal with high level corruption. This presents a huge corruption risk that is difficult to mitigate during emergencies such as Cyclone Idai and the COVID-19 pandemic. PRAZ was established in January 2018, following passage of its enabling Act and the re-lated regulations in the same year. A new government administration came into office in August 2018. Cyclone Idai disaster hit Zimbabwe a year later, in March 2019. The COVID-19 pandemic was declared a national disaster on 23 March 2020. This has been too much for the institutional framework to deal with.

Ineffectiveness of PRAZ centralised supervision model

The legislated institutional system is too centralised, with inadequate checks and oversight mechanisms to comprehensively scrutinise all emergency public procurement needs made by multiple public procuring entities. In an emergency situation where all these entities require procurement of certain requirements, the oversight systems are overstretched. Hence, its plausible to assert that the centralised model of procurement supervision presents a huge corruption risk.

Over reliance on manual systems and human interface vs automation

There are several points of human contact between the procuring entities, PRAZ operations departments, senior government officials including Ministers and private suppliers. In the same vein, there is no electronic compliance and approval system to mitigate this corruption risk. Where the two emergencies are concerned, the human factor posed a high corruption risk, since checks and oversight mechanisms were not given precedence, and where the results were superior to process and procedure.

Over-reliance on sole/single sourcing Method

There is over-reliance on the direct procurement method for goods and services during emergencies. This currently preferred route presents huge risks since it is not competitive, with limited advertisement and has wide room for subjectivity. The direct procurement method gives precedence to results over process, and this is an entry point for corruption.

Ineffective regime for formal evaluation of bids during emergencies

Oversight mechanisms are severely limited in emergency-related procurement where essential requirements are in critical demand. There are limited formal examination and evaluation of bids during emergency procurement. This entails that any oversight measure by PRAZ, the Special Procurement Oversight Committee (SPOC) or any other external mechanism is ineffective.

Compromised Procurement Cycle

Each stage of the procurement cycle presents corruption risks that creates different vulnerabilities in the public procurement process during emergencies. Needs assessments lack mechanisms to check need and ensure accountability. During emergencies, there are non-transparent procedures and decision-making which cannot be monitored by the public. There is no access to information by the public or other interested actors and institutions such as the Zimbabwe Anti-Corruption Commission (ZACC), CSOs and the police. Advertising or publication quotation requests is limited whilst insufficient notices are at times given.

No direct role for external accountability institutions

There is no clear and direct role for investigative agencies such as the police, the Auditor -General and the ZACC in the enabling Act except through the ordinary complicated criminal procedures. This means that oversight mechanisms remain internal; once the whole procurement system is compromised, these will also be compromised. This implies that any existing oversight remain internal to procuring bodies. The loss of integrity of the public procurement process also implicates internal mechanisms such as the SPOC.

Negative perceptions of the private sector

There is a general perception by the private sector that only companies linked to the government and senior politicians are awarded big contracts and tenders. Further, there is also a perception that doing business with government is a risky affair due to payment delays by the government. Consequently, there is little appetite by the private sector to participate in good faith in public procurement process.

Lack of technical expertise

There is limited expertise within the regulatory body, PRAZ, and within the scattered procuring entities to undertake the technical work that is required. This technical work includes actual supervision and monitoring; bid evaluation; development of technical guidelines to guide stakeholders in understanding the law; preparation of relevant standard documents and templates and developing electronic tools for procurement among others. Lack of expertise has serious consequences when non-competitive procurement methods are used, such as direct procurement, or single-source procurement, or the procurement of consultancy services.

Powers of the Special Procurement Oversight Committee (SPOC) a breeding ground for corruption

The SPOC is responsible for scrutinising sensitive or especially valuable procurement contracts and exempted contracts. The sensitivity is determined by the Minister; there is no written criteria. The definition of “sensitivity” is too broad and can mean anything that the Minister deems to have implications on

national economy, national security, defence or foreign relations. This presents a risk – SPOC is free to give a pass on all these contracts, especially during a public emergency where the national economy and national security are impacted.

No strict anti-corruption policy specific to the public procurement system

There is no specific anti-corruption policy in Zimbabwe’s public procurement system. What exists are general policies against corruption without specificity to a particular sector. This is, despite the link between a public procurement system and patterns of corruption in a country. If it existed, the policy would have considered possible conflicts of interest, provide mechanisms for reporting corruption and protecting whistle-blowers. A specific anti-corruption policy that targets PRAZ, all PEs, bidders and suppliers can bear fruit and plug the gaps and loopholes for corruption in the procurement system, especially in purchases made during emergencies.

In view of preceding findings, a number of key recommendations can be put forward with a view to improve the public procurement system, plugging gaps that are entry points for corruption and consequently mitigating against corruption risk in the public procurement process.

Text Box 2: Recommendations

Item	Recommendation
1	<p>Institutional Re-designing</p> <p>The regulatory model of public procurement must be redesigned so that the procurement system is shielded as far as possible from the Executive. This guards against its ‘capture’ by powerful offices such as the Executive. Key offices such as the CEO, the SPOC and the Board must be apolitical. Furthermore, procuring entities must be insulated from senior government Minis-tries for integrity.</p>

Item	Recommendation
2	<p data-bbox="194 209 889 243">Decentralise some monitoring and supervision functions</p> <p data-bbox="194 278 1123 516">There is need to decentralise some functions of PRAZ so that it can better perform its mandate. Decentralisation to regional levels can fast track processes, particularly during emergencies and enable adequate supervision and monitoring at those levels. The key functions requiring decentralisation relates to evaluation of bids, enforcement and other core regulatory functions of PRAZ. Decentralisation can cover some of the gaps that computerisation of processes seeks to plug.</p>
3	<p data-bbox="194 587 388 620">E-Procurement</p> <p data-bbox="194 656 1123 825">Electronic procurement must be embraced, developed and operationalised particularly for compliance checks and adherence to procedural requirements. E-procurement removes the risks created by human contact and its subjectivity. To some extent, e-procurement can negate the need for decentralisation and other manual based procedures.</p>
4	<p data-bbox="194 897 1097 931">Confidence building for competitive, bona fide private sector participation</p> <p data-bbox="194 966 1123 1065">There is a serious need for PRAZ to engage with the private sector as a confidence building strategy. This would remove negative private sector perceptions of the public procurement system and process.</p>
5	<p data-bbox="194 1137 1018 1171">Introduce necessary safeguards in the Direct Procurement Method</p> <p data-bbox="194 1206 1123 1375">Existing mechanisms to safeguard against corruption in the Public Procurement and Disposal of Public Assets Act (PPDPA) Act are inadequate and ineffective. There must be specific safeguards to plug corruption entry points during direct procurement, single source selection and restricted bidding.</p>
6	<p data-bbox="194 1448 698 1481">Regular review of the Procurement Cycle</p> <p data-bbox="194 1517 1123 1580">All stages of the procurement cycle must be assessed and reviewed every five years so that corruption risks and vulnerabilities can be identified,</p>

Item	Recommendation
	<p>addressed and the procurement system enhanced. In relation to emergency procurement, this review must be conducted at the end of the period of each public emergency. Thus, the review can be conducted after Cyclone Idai and the Covid -19 pandemic in Zimbabwe.</p> <p>The review must assess the ‘performance’ of all methods of procurement within the period, the cases that emerged from the methods and weaknesses experienced during the given period. The review must inform legislative amendments and the development of technical guidelines and instructions regarding the interpretation and implementation of the law.</p>
7	<p>A direct role for external accountability institutions</p> <p>There is need to foster enhanced oversight mechanisms by involving external accountability institutions in scrutinising public procurement during emergencies. To achieve this, external accountability and law enforcement agencies must be given a direct role in the public procurement system, especially during emergencies where corruption is likely to occur. These agencies include the police, the ZACC and the office of the Auditor-General. If the public procurement process is decentralised, these accountability mechanisms must also operate at the devolved level.</p>
8	<p>Institute regular capacity building and training</p> <p>The functions of PRAZ and procuring entities expressed in the Act suggest the need for expertise by administrative and technical staff at PRAZ and procuring entities. There is therefore need for regular training on technical operations; ethical and professional standards; integrity and anti-corruption and financial intelligence, among other fields. This can create a professional human capital with integrity that can deliver on the mandate in the Public Procurement and Dis-posal of Public Assets Act (PPDPA).</p>

Item	Recommendation
9	<p data-bbox="194 213 1122 278">Develop and institute a strict anti-corruption strategy specific to the public procurement institutional system</p> <p data-bbox="194 319 1122 553">It is not enough to require the public procurement system to align their objectives with mainstream national policies. PRAZ, procuring entities and suppliers and service providers need specific organisational policies to guide their actions shape their behaviour. They must be bound by specific anti-corruption policy that focuses on the corruption risks inherent in public procurement. This approach can guard against corruption risks whilst also clearly illustrating the punitive regime upon breach or misconduct.</p>

1. Introduction & Context

1.0 Introduction

As with several economic governance systems in Zimbabwe, the public procurement framework has been characterised by rampant corruption and misuse of public. The most critical issue in public procurement processes is that it reflects government inefficiencies in contracting processes for the purchasing of the goods and services it requires to function and to pursue public welfare. Indeed, public procurement processes provide governments with an opportunity to ensure that it obtains goods or services at the best price (or quality) and that the process of obtaining them is transparent and competitive. In this regard, the public procurement system can be characterised by serious corruption risks with massive financial implications for government. Therefore, this makes controlling corruption a key goal of public procurement legal and institutional frameworks, as complemented by criminal justice mechanisms in a country. There is no doubt that eliminating corruption from the procurement process facilitates the awarding of contracts to the most competitive firms rather than those preferred for ulterior reasons.

There are inherent challenges in the public procurement processes in Zimbabwe that create, condition and sustain the leakages of funds and increase of rampant levels of corruption. Over the years, inefficient and compromised public procurement frameworks have generated and sustained serious levels of corruption, misuse of and wastage of public funds in a manner

contrary to the principle of value for money, integral to public procurement. Certainly, therefore, an effective system of public procurement is a critical tool in public administration and in government's efforts to maximize public welfare.

Corruption risk can be described as conditions favouring development, realization, and spreading of corrupt practices. Precisely, corruption risk denotes the likelihood of corruption emerging from the vulnerabilities prevalent in the system along with the reflection of its potential impact.

1.1 Socio-Economic and Political Context

Weak institutional systems have aided and abetted corruption activities in public procurement during emergencies or national disasters in Zimbabwe. Emergency responses to disasters of public emergencies at a national, regional or local level requires the purchase and delivery of a vast range of goods and services such as medical supplies and equipment, drinking water, food, sanitation equipment, transportation, power, shelter and housing, non-food items and communication equipment, among others. Private companies are typically contracted to supply these goods and services, meaning that the private sector is integrated

1. Gergiev V. (2013, 'Methods and techniques for assessment of corruption risk in Defence and Security'; Journal of Defense Management, S3, 1-2

in the webs of corruption that develop during emergency procurement. The biggest problem related to this is that emergencies regularly create a significant rise in the demand for important products, such as food, water, shelters and medicines. As prices soar, bribes and other improper costs will be harder to detect.

Further, in emergency situations, normal financial control procedures are often 'fast tracked' to enable staff to respond flexibly and quickly to needs as they arise. Key processes of monitoring and evaluation (M&E) procedures are frequently ignored, or half hearted. Ad hoc acquisitions are more readily acceptable even where standard or framework agreements exist. For Zimbabwe, another disturbing position has been wide degrees of discretionary power given to procurement officials by the law. This essentially means giving broad authority to determine and communicate the public's needs and preferences without comparing alternative prices and qualities available on the market. The easier it is for the procurement official to defend the choice of contractor, the easier it is to engage in corruption.

In order to understand corruption gaps that were exploited during both the Cyclone Idai disaster (March 4, 2019 – March 21, 2019) and the COVID 19 pandemic, it is important to Zimbabwe's contemporary economic context. Zimbabwe has experienced considerable structural transformation that has resulted in a significant shift towards the services sector. For instance, in 2017, the services sector contributed 65.8 percent while agriculture contributed 12 percent to

Gross Domestic Product. In this regard, the effects of Covid-19 on the services sector needed to be considered to protect the sector's contribution to employment and Gross Domestic Product (GDP).

Around the 1990s, Zimbabwe directed substantial amounts of government expenditure towards capital investment in infrastructure, establishment of primary schools and health care systems (Robinson, 2005). As a result, recurrent expenditure became the greatest component of government expenditure. This exacerbated exposure to increased economic and health risks due to the economic crises that became perennial. A direct consequence for this was that currently, the country is burdened by a massive public and external debt as well as a high government wage bill. Since 2011, Zimbabwe's public debt to GDP level has been in excess of 50 percent and was estimated at 82.3 percent in 2017. The country has a long history of negative fiscal balances thereby precariously limiting the country's ability to prepare for eventualities and emergencies such as the COVID-19 pandemic and natural disasters such as Cyclone Idai.

As regards the political context, Cyclone Idai occurred in the same year that ushered in a new government which succeeded Mugabe's administration which had lasted more than three and half decades. This means that a relatively new government had just taken office, although several key Cabinet Ministers had been part of the previous administration. In contrast, Covid-19 coincided with a period of relative peace with little political confrontation and contestations following national elections in 2018. Although Zimbabwe follows the

2. See Jessica Schultz and Tina Soreide 'Corruption in emergency procurement' *Disasters*, 2008, 32(4): 516–536. © 2008, 521.

3. *Ibid*; 523.

4. (African Development Bank, 2018).

5. (The World Factbook, 2020).

6. (The World Factbook, 2020)

liberal democracy model on paper, it has always had a dominant party in the political arena since 1980. The multi-party system enshrined in the Constitution has not been able to subordinate dominant party politics to principles of good governance, constitutionalism and accountability. What this means is that multi-party democratic structures and activities have been unable to provide other state institutions with mechanisms to undertake necessary checks and balances on the Executive, with the aim of curbing corrupt practises in the economic and financial systems.

1.0 Procurement Costs For Cyclone Idai Recovery Pro-cess

In order to illustrate the huge sums of funds needed to be used by the government for public procurement during emergencies, a brief description of the need assessment for communities destroyed by Cyclone Idai is important. The Cyclone left massive damage, caused huge destruction and death that the President proceeded to declare it a national disaster on 15 March 2019. According to a Report by the International Federation of Red Cross and Red Crescent Associations, the cyclone was as destructive as it was unprecedented. The Report describes the damage as follows:

The storm affected more than 270 000 people leaving 341 dead and many others missing. 17 608 households were left homeless, 12 health facilities damaged, water, sanitation and hygiene infrastructure were damaged, 139 schools were affected,

33 primary schools and 10 secondary schools were temporarily closed, and 9 084 learners were affected. In agriculture, more than 50% land under maize crop, banana plantation and tubers like yams was wiped away, 18 irrigation schemes affected, at least 362 cattle and 514 goats and sheep, 17000 chicken were lost whilst 86 dipping facilities were damaged. Road infrastructure was grossly damaged with above 90% of road networks in Chi-manimani and Chipinge damaged and 584 km of roads being damaged by landslides. Bridges were also swept away.

There is no doubt that Cyclone Idai disaster left the government in need of a huge outlay of funds to undertake massive procurement of basic and essential needs and commodities. According to the Rapid Impact and Needs Assessment (RINA) carried out by the Zimbabwe government, the identified needs for most of the affected population through these assessments included the following commodities:

- Safe water;
- sanitation and health and hygiene promotion;
- Access to latrines;
- Safe shelter
- Basics household items such as, blankets, clothes, utensils;
- Food;
- Stress and psychosocial support;
- Need for family reunification;
- Search and Rescue including evacuation of marooned people;
- First aid and access to health services

7. See Final Report, Zimbabwe: Tropical Cyclone Idai International Federation of Red Cross and Red Crescent Societies (2019) available at <https://reliefweb.int/sites/reliefweb.int/files/resources/MDRZW014dfr.pdf> accessed on 15 February 2021.

8. See the Rapid Impact and Needs Assessment Report (2019).

The RINA Report followed investigations which were completed in May 2019. Apart from the above, the Report illustrated that,

...there had been between US\$542–616 million in damages or losses due to the cyclone across nine districts. Nearly half of the damages are in the two most impacted districts of Chimanimani and Chipinge. Nearly 90 percent of the overall damages are on transport (US\$163.8 million), agriculture (US\$155.3 million), and housing (US\$131.5 million).

The World Bank estimated the costs of health infrastructure needs for two of the most affected districts, Chipinge and Chimanimani as a sum amounting to US\$12,956,241.56, whilst the cost estimate for education infrastructure was pegged at US\$6,570,934. Apart from this, the assessed total cost of road reconstruction was fixed at US\$164M, which was composed of US\$139M for road and US\$24M for bridges. This total cost could escalate to US\$197M if other approaches at reconstruction were to be adopted. The cost for restoration of power and fuel supply was fixed at US\$3,694,200.

1.3 Procurement Costs in Response to the COVID-19 Pandemic

As with Cyclone Idai, massive costs are required to combat and respond to COVID 19 pandemic by the government. The government needs the funds not only for physical goods and commodities, but to

enhance or set up entirely new administrative and institutional systems, support and introduce new social security and social protection measures, shore up food security, spruce up and reconstruct a fragile and collapsed health care system, among other priorities. In essence, the government needed to divert funds to vulnerabilities that emerged due to COVID 19 and these interventions include measures with massive economic, fiscal and financial implications.

Several medical and health companies were contracted by the government for purposes of supplying medical supplies to deal with the Covid-19 pandemic in Zimbabwe. These companies include the following major service providers;

i. Drax International LLC - a company registered in the UAE in 2020; it supplies medical products and health materials.

ii. All Seas Pharmaceuticals - a company with more than five years registration status in Zimbabwe. It is headquartered in Harare and describes itself as a 'trusted supplier of medical supplies and equipment,' whose 'product range from First Aid Kits, Medical Supplies and Equipment'.

iii. Aravas Pharmaceuticals Pvt Ltd - from its own description, this company was established in 2010, and incorporated in Zimbabwe under registration number 5734/2010, and is involved in the distribution of pharmaceutical products and medical consumables to retail pharmacies, hospitals, clinics, alternative care facilities and other retailers in and around Zimbabwe.

9. RINA Report, 40 -41.
10. RINA Report, 1.
11. RINA REPORT, 42- 47.
12. RINA Report, 52.
13. RINA Report, 57.

14. See their details on <https://internationaldrax.com/products/> accessed on 19 February 2021.
15. See website <https://www.allseaspharmaceuticals.co.zw/> accessed on 20 February 2021.
16. See website at <https://www.aravas.co.zw/> accessed on 20 February 2021.
17. See also more information at <https://www.aravas.co.zw/what-we-do/> accessed on 20/02/2021.

iv. Brand Masters Pvt Ltd - this is a wholly owned Zimbabwean Company involved in advertising, marketing, brand building, integrated marketing communications, business development and related services.

v. DMD Healthcare Pvt Ltd - which supplies hand sanitisers and registered in Zimbabwe.

vi. Medicliff Pharma Distributors Pvt Ltd - this is a pharmaceutical wholesale operating in Zimbabwe and distributes surgical and medical products and equipment.

vii. New Avakash International - a pharmaceutical wholesale in Zimbabwe, which specialises in PP and PI drugs, and describes itself as having 'a wide range of drugs, injections as well as equipment.'

viii. To illustrate the enormity of the recovery task, the United Nations Development Programme (UNDP) made a preliminary assessment on the socio-economic impact of the Covid-19 pandemic on Zimbabwe. In its Policy Brief: A Preliminary Assessment of the Socio-Economic Impact of Coronavirus (COVID-19) in Zimbabwe, the UNDP made the following key observations:

a. Despite the COVID 19 being a primarily a health crisis, it has far-reaching public governance, socio-political and economic ramifications.

b. Economic growth will depress and contract. Wide currency fluctuations and possible rising debt in the wake of the increased demand for goods and services for effective response to the pandemic, could dampen growth further and discourage the much-needed investments thus leading to an increase in the incidence of poverty.

c. Tourism will decline, leading to more job losses and dampen growth. On its own, tourism accounts for 3.3% of GDP. Most of the source countries have issued travel restrictions or are in total lockdown resulting in an increased number of booking cancellations. Tour operators and hotels were massively affected and reported as high as 80 percent cancellations by early March 2020.

d. Household food insecurity is likely to worsen as a result of adverse climatic factors and breakdown in supply chains. Coming where food crises have been common, the COVID-19 pandemic will entail breakdown and/or slowdown of global supply chains and lack of foreign currency as well as physical barriers to movement of goods across borders. This will negatively affect food imports to meet the domestic shortfall.

e. The fragile healthcare system will be stretched further in the short run, having faced several challenges including a lack of resources, mostly financial, as well as a host of institutional and governance issues all of which render service delivery problematic. The health system is beset by periodic strikes by health workers over remuneration, low morale among the workers and poor working conditions characterized by lack of essential

18. See <http://brandmasters.co.zw/about-us/> accessed on 20/02/21.

19. See <https://www.facebook.com/dmdhealthcare/> accessed on 20/02/21.

20. See <https://www.medicliff.co.zw/#> accessed on 20/02/2021.

21. Information on <https://www.medicines1.com/medicine-suppliers/newavakash> 20/02/21.

22. No. 001/2020.

23. UNDP Policy Brief: A Preliminary Assessment of the Socio-Economic Impact of Coronavirus (COVID-19) in Zimbabwe: No 001/2020, p.7.

24. UNDP Policy Brief, as above, p7

equipment, inadequate medicines and medical supplies including personal protective equipment (PPE).

picture the issue of public procurement and with the huge amounts involved, corruption risks have to be identified and addressed.

Having outlined these and other critical impacts that require a huge outlay of funds and massive procurement, the Policy Brief gave a recommendation related to economic re-designing that speaks to huge public procurement. It stated as follows:

Turning adversity into opportunity: The pandemic presents an opportunity for instituting a development model characterised by investments in domestic productive capacity especially for basic goods and medical essentials such as face masks, sanitizers and PPEs and promoting regional trade and deepening collaboration between Zimbabwe and her neighbours. It also presents an opportunity for the consideration of greater investments in basic services water and sanitation and critical sectors of the economy such as agriculture, manufacturing and services sectors, as well as better management of the extractives sector for forex earning, revenue generation, sustainable job creation and poverty reduction.

In essence, a new development model that targets more production of basic commodities requires financial injections at a massive scale. What is not in doubt is that the responses to COVID 19 brought in the

25. UNDP Policy Brief: as above p8.

26. See UNDP Policy Brief, as above, p.14.

2. Research Methodology



This study adopts several methodologies used by reputable international organisations in identifying 'red flags' in the public procurement process in general. This was done for the purpose of seeking to cover all the major components of any public procurement system, from the nature of the legislation to the complaint review process, with focus on the corruption risks, or 'red flags' of the public procurement system.

The selection of corruption risks constituting 'red flags' was largely based on standards in the sphere of public procurement, such as the European Bank for Reconstruction and Development (EBRD) Methodology and Standard; the World Trade Organisation (WTO) GPA Standard (the plurilateral Agreement on Government Procurement); the Organisation for Economic Co-operation and Development (OECD) Methodology and Principles; the European Union, EU Standard (Directive 2014/24/EU); the Open Contracting Data Standard (OCDS). An important analytical tool considered is the Failure Mode Effects and Criticality Analysis (FMECA)³¹. In essence, the FMECA is a technique to resolve potential problems in a system at the design stage. It can be used to evaluate the flaws and weaknesses of particular institutions and systems. To that extent, it uses a method of process analysis that identifies and prioritizes potential failures in the processes of a

system. When the FMECA is applied, all the possible functional failure modes and their effects on the system are defined. By description, the failure mode is the way in which a failure is observed in meeting the requirements. It must be noted that FMECA also highlights single point failures. Accordingly, analysis can be performed at the levels of individual component, process step, task, or function.

Further, in order to avoid pitfalls associated with the FMECA approach, the research also analysed the application of the Fault Tree Analysis (FTA) approach. The FTA is a well-established risk management approach used in various fields. It is based on deductive logic by following an event of system failure and consequently inferring potential contributors to the failure are inferred. According to Savage, a technique such as this one is important for breaking down the corruption risks into risk factors. Its application is relevant since procurement corruption occurs due to failure of control and weakness in the procurement structure of the organization. Sunil Kumar Sharma et al asserts that the FTA offers an easy and reliable way of conceptualizing how inter-relationships in structures and processes assists in identifying the vulnerabilities in a system.

This research adopted both the FMECA and the FTA research techniques in identifying potential failure modes, system failures and potential contributors to the failures in the public procurement process.

27. Sematech, 1992

28. Carlson, 2012.

29. Cetin et al., 2015; Conforti et al., 2013.

30. Cetin et al., 2015.

40. Sharma, Sengupta & Panja 'Mapping corruption risks in public procurement: Uncovering improvement opportunities and strengthening controls' Public Performance & Management Review 2019, VOL. 42, NO. 4, 947-975 available at <https://doi.org/10.1080/15309576.2018.1535984>

31. Sharma, Sengupta & Panja 'Mapping corruption risks in public procurement: Uncovering improvement opportunities and strengthening controls' Public Performance & Management Review 2019, VOL. 42, NO. 4, 947-975 available at <https://doi.org/10.1080/15309576.2018.1535984>

2.1 Design of the Research

The research evaluation adopted a cross-sectional approach, ensuring that all important stakeholders across the continuum of all levels of inquiry were part of the research. The methodology employed the mixed methods to ensure an appropriate combination of both qualitative and quantitative approaches but the large part of the research followed the qualitative approach. In terms of the sample, the research used the non-probability sampling (qualitative) and the multi-cluster sampling (quantitative) and this was ensuring that there was a comprehensive understanding of the public procurement process and the several entry points for corruption in the procurement cycle.

The general framework of research questions and themes identified in the Tool above will inform the re-search inquiries.

2.2 Desktop Research

The risk assessment commenced with a desk review to map out and analyse the institutional environment within which public procurement system operates in Zimbabwe. This looked at the legislative, regulatory and policy framework, the broader context and operating environment including key players and stake-holders in public procurement. The desk research further included a review and analysis of published research related to public procurement, including reports on public procurement in Zimbabwe and in other jurisdictions. Specific review was conducted on existing legal instruments and other key documents reflecting law and policy, research papers, institutional reports, CSO papers etc. In specific terms, the re-view of literature was guided by the

objectives and research questions reflected in the 'Red Flag' method of investigating corruption risk in public procurement processes discussed above.

2.3 Stakeholder Mapping And Consultations

Mapping of relevant stakeholders consulted is summarised in Text Box 3 below. The Consultant interviewed these key stakeholders as they are critical in the public procurement framework in general. These actors play a critical role as well in public procurement processes during emergencies and natural disasters. Interview guides and questionnaires were developed based on the 'red flags' or indicators to the identification of corruption risks in the public procurement process.

The key informant interviews (KIIs) and questionnaires for certain stages of the procurement cycle were administered through a checklist of questions targeting key individuals in institutions and agencies indicated in Table 1 on the next page.

2.4 Adherence to Research Ethics

The Consultant was responsible for ensuring adherence to ethics at all stages of the research. This included, but was not limited to, ensuring informed consent, protecting privacy, confidentiality and anonymity of participants, ensuring cultural sensitivity, respecting the autonomy of participants, ensuring fair recruitment of participants (including women and socially excluded groups) and ensuring that the evaluation results in no harm to participants or their communities.

Headline Findings	Headline Findings
<p>Procurement Regulatory Authority of Zimbabwe (PRAZ)</p>	<ul style="list-style-type: none"> - regulatory and administrative institution in public procurement process in Zimbabwe - important in setting national standards in public procurement - monitoring and supervising subsidiary procuring entities in government departments
<p>Treasury, Reserve Bank (RBZ) and the Zimbabwe Revenue Authority (ZIMRA)</p>	<ul style="list-style-type: none"> - appropriation of State revenues and authorisation expenditure - provision and mobilisation of financial and fiscal resources to government departments - supervision and monitoring of public finance management system
<p>Government Ministries and Departments</p>	<ul style="list-style-type: none"> - Government accounting officers now play a key role in public procurement process - Ministries, government departments or other division of the Government are also procuring entities;
<p>Parliamentary Portfolio Committees: Health, Finance and Budget; Public Accounts</p>	<ul style="list-style-type: none"> - Through its power of oversight, these PPCs are responsible for monitoring and overseeing expenditure by the State and all its agencies and institutions at every level including statutory bodies, government-controlled entities.
<p>The private sector</p>	<ul style="list-style-type: none"> - Corporate participants in the public procurement process - Compete for bids, tenders and contracts from government.
<p>Office of the Auditor-General</p>	<ul style="list-style-type: none"> - Audits accounts, financial systems and financial management of all departments, institutions and agencies of government.

32. Section 299 of the Constitution.
32. Section 309 of the Constitution.

Headline Findings	Headline Findings
Civil Society (NGOs, Churches and NPOs)	<ul style="list-style-type: none"> - Promote good governance, transparency and accountability in public affairs - monitors government's economic, political and democratic behavior
The Police (ZRP) and Zimbabwe Anti-Corruption Commission (ZACC)	<ul style="list-style-type: none"> - Integral in the arrest, investigation, prosecution and punishment of offenders involved in corrupt activities, theft, misappropriation, abuse of power and other improper conduct.
National Prosecuting Authority and Special Anti-Corruption Unit	<ul style="list-style-type: none"> - central prosecutorial body in the criminal justice system - complementary responsibilities between the police and anti-corruption agencies necessary in the fight against corruption.
Academia	<ul style="list-style-type: none"> - conducts authoritative research on social, economic, political and cultural affairs.

2.5 Limitations: Covid-19 Pandemic and Access to Information

The research was conducted during the COVID 19 pandemic. To that extent, personal health considerations severely limit the researchers' capacity to interact with various stakeholders and hold in-person meetings with them. The government has imposed several restrictions, including imposing lockdowns in order to limit travel, movement, gatherings and face to face meetings. Apart from these restrictions, most people adopted a self-regulation approach, choosing to isolate and minimise interactive

activities for their own good. This meant that difficulties were encountered in accessing participants affected by COVID-19 in this way.

Secondly, the public procurement sector has been characterised by several scandals in the past five years. Accessing certain information in this context poses great difficulty; some information is deemed to be confidential and not available for sharing. Though this was never explicitly expressed, some of the respondents may have felt that the interviews were aimed at exposing their technical shortcomings and other inadequacies.

Finally, problems in the public procurement process were identified through secondary data, not primary data. Primary data was not easy to access. To this extent, not all problems in the public procurement process may have been identified.

Text Box 4: Stages of the Procurement Cycle and Related Risks Influencing Research Questions

Item	Stage of the Procurement Cycle	Research Inquiries
1	Decision to Contract (Demand Determination)	<p>Key Risk: the red flags at this stage arise where the decision to contract does not follow a policy rationale or an existing need but rather the desire to channel benefits to an individual or/and organization</p> <ul style="list-style-type: none"> - Is there strong inertia in the composition of the evaluation team of the tender supplier? - Is there any evidence for conflict of interest for members of the evaluation committee?
2	Process design and bid documents preparation	<p>Key Risk: The risk here is that the tender is designed in such way that it favours a special bidder instead of addressing a specific need.</p> <ul style="list-style-type: none"> - Are there multiple contact offices/persons? - Is the contact office not directly subordinated to the tender provider? - Is the contact person not employed by the tender provider? <p>Are there any elements in the terms of reference that point at a preferred supplier?</p>
3	Contract Selection and Award Stage.	<p>Key Risk: The risk is that the tender process does not follow the legal design in order to restrict the entrance of competitive bidders.</p> <ul style="list-style-type: none"> - Was there a shortened time span for the bidding process? - Has the procedure for an accelerated tender been exercised? - Is the time-to-bid allowed to the bidders conforming to the legal provisions?

Item	Stage of the Procurement Cycle	Research Inquiries
		<ul style="list-style-type: none"> - Are bids submitted after the admission deadline still accepted? - How many offers have been received? - Are there any (formal or informal) complaints from non-winning bidders?
4	Contract Implementation and Monitoring Phase	<p>Key Risk: The main risks are that contract changes and renegotiations after the award are of a nature that changes the substance of the contract itself. Further, monitoring agencies can be unduly influenced to alter the contents of their reports to hide changes in quality, performance, equipment and characteristics.</p> <ul style="list-style-type: none"> - Are there inconsistencies in reported turnover or number of staff? - Are there items in the awarded contract that are not previously contained in the bid specifications? - Are there substantial changes in the scope of the project or the project costs after award?
5	Final Accounting and Audit	<p>Key Risk: The major risk is that accountants doing final accounts and Auditors are biased or “bought” and willing to support false certificates.</p> <ul style="list-style-type: none"> - Limited or restricted access to information; - Abuse of exceptions to open public bidding; - Limited or ineffective control and monitoring within the contracting process and particularly during the contract implementation phase;

Source: J Ferwerda et al 'Corruption in public procurement: Finding the right indicators' *European Journal of Criminal Policy Research* (2017).

In Zimbabwe, this reality has compromised the integrity of the public procurement process, particularly during emergencies.

It is stated that Zimbabwe's public procurement process is not fundamentally different from that of other systems; it basically follows the same cycle, with few insignificant departures between each

Figure 3.1. Stages in the Public Procurement and Disposal of Public Assets Act



order to adequately illustrate the Zimbabwe procurement process, and red flags therein, the legal framework shall be discussed.

3.0 General Considerations

For Zimbabwe, public procurement is regulated by a set of rules, policies and procedures that guide a government's activities of purchasing goods, services, and works. Generally, the public procurement laws and regulations explain how the government organises and structures procurement processes and the activities that directly impact on the execution of the procurement process. The regulatory framework further illustrates how the government sets up systems to harness the quality of procurement outcomes such as service delivery.





3.0 General Considerations

Public procurement plays a critical function in service delivery and performance of government departments in a state. It involves all the processes related to the procurement of goods and services by government departments, parastatals (procuring entities) and local public authorities. In general, whilst countries have designed different approaches at regulating public procurement, the process is governed by specific public procurement laws and regulations. In most African states, governments are the biggest spenders in the acquisition of goods and commodities. The implication for this is well expressed by the TI Report on Curbing Corruption. The Report states that

This translates into a vast amount of money, which provides seemingly endless opportunity and temptation for corruption. The situation regarding public procurement differs widely throughout the world, and in all countries involves a complicated set of regulations and practices. This makes the area more opaque and the challenge for anti-corruption advocates even greater.”

One of the most common emergencies that activate massive procurement is a public health crisis. For Zimbabwe, this have included the cholera endemic, the HIV-AIDS pandemic and the Coronavirus pandemic which started in 2019. Public

health crises affect millions of people and sets off an unprecedented actions and measures by governments. Another crisis that unfolds for the governments is the great number of people who are scrambling to get life-saving health supplies and other medical commodities. In most instances, the choices governments make have a very real impact on the severity of the outbreak. This means that open and accountable procurement becomes an even more important safeguard. Disturbingly, however, procurement, especially for urgently needed medical equipment, can be slow. To exacerbate the situation, governments may be dealing with outdated systems and lack clear information and data, which hinders their ability to be agile and save lives.

One of the main objectives of public procurement is to reduce cost through competition, promoting transparency, safeguarding public funds, as well as reducing and eliminating corruption in order to boost public service delivery. However, suppliers can inflate their goods since it is more of a suppliers' market, not a buyer's market. There is widespread price gouging, an influx of counterfeit items, cases of intermediaries winning contracts and leaving governments in the lurch when they cannot fulfil the orders. Governments also face serious difficulties when competing for supplies against private companies who are not bound by the same bureaucratic procedures as the public sector.

35. Roodhooft & Abbeele 2006:490.

36. Transparency International (2009) Handbook on Curbing Corruption, 20.

37. TI (2009) Handbook above, 7.

38. ADB/OECD 2008:11.

39. K Frauscher et al "5 Procurement Strategies for Navigating the COVID-19 Crisis from Around the World" (2020) available at <https://www.open-contracting.org/2020/04/08/5-procurement-strategies-for-navigating-the-covid-19-crisis-from-around-the-world/>. Accessed 19/02/21.

The Zimbabwean public procurement system is composed of the 2013 Constitution, the Public Procurement and Disposal of Public Assets Act and its Regulations.

Text Box 5: The 2013 Constitution of Zimbabwe and the Public Procurement Process

Item	ItemSection of 2013 Constitution	Research Inquiries
1	Procurement and government contracting (s.315)	Requires the legal regulation for public procurement process to ensure the objectives of transparency, fairness, honesty, competitiveness and cost effectiveness are met. The law must provide for negotiation and performance of certain contracts to meet these objectives.
2	Good Governance	Good governance is both a founding value of, and a national objective in the Constitution. It includes principles of transparency, justice, accountability and responsiveness.
3	Fundamental rights and freedoms (Chapter 4)	Several rights and freedoms in the Declaration of Rights are linked to service delivery and these include the right to education, property rights, health care, water, food and social security and protection.
4	Public Emergency limitation of rights and freedoms (s.87)	The provisions permit the limitation of fundamental rights and freedoms during a period of public emergencies. Limitations must not be greater than is strictly required by the emergency.

40. Chapter 22:23

41. See s.3(1)(h); s3(2)(g) as read with s. 9 of the Constitution.

Item	ItemSection of 2013 Constitution	Research Inquiries
5	Ethical conduct and accountability for Cabinet Ministers and Vice Presidents (s106).	The code of conduct excludes the President. It must prohibit Cabinet Ministers from situations of conflict of interest with private interests; self-enrichment through abuse of power or taking paid work or other public office.
6	Oversight role of Parliament (s.119)	All government institutions and agencies are accountable to Parliament. Parliament can do this through relevant portfolio committees.
7	Principles of Public Administration (Chapter 9)	The principles relate to, among other issues, good, professional behavior, ethical conduct, fairness, impartiality; accountability and transparency; professional recruitment based on merit; cooperative governance between government institutions; efficient use of resources, etc.
8	Principles of public financial management (Chapter 17)	The principles relate to transparency, accountability and national development orientation; responsible financial management and fiscal reporting; equitable sharing of burdens and benefits of the use of resources; transparent, prudent and economical expenditure, etc
9	Auditing of government expenditure (Part 5)	The Constitution requires an effective system of auditing the financial systems and financial management of all government departments, institutions and agencies, through the office of the Auditor-General.

40. Chapter 22:23

41. See s.3(1)(h); s3(2)(g) as read with s. 9 of the Constitution.

Item	ItemSection of 2013 Constitution	Research Inquiries
10	Parliamentary oversight over State revenue and expenditure (s.299)	Parliament is required to monitor and oversee state expenditure, and that of all commissions; agencies and institutions of government, government – controlled entities and lower tiers of government.

3.0 Overview on Constitutional Regulation of the Public Procurement Process

There are key observations that can be made in relation to whether the constitutional framework has gaps and weaknesses that can compromise the integrity of public procurement processes and expose them to corruption risks. In this regard, the following assertions can be made:

(i) The 2013 Constitution lays a good platform to fight corruption risks in the economic and financial governance systems it establishes. To this extent, the Constitution can positively shape and inform the provisions of primary and subsidiary procurement legislation.

(ii) Several principles for good financial management and good public administration in the Constitution can adequately promote fiscal discipline, accountability, transparency and the integrity of the national public finance management framework, within which public procurement is a component.

(iii) Since the Zimbabwean public procurement system is heavily exposed to political actors, the code of good ethics

required to regulate the conduct of members of the Executive is a progressive tool from a public procurement perspective. The fact that it does not exist due to delays in the legislative alignment process is regrettable.

(iv) Even in cases of public emergencies, the Constitution sets good standards for the limitation of rights and freedoms where government considers it necessary in response to such situations.

(v) Whilst constitutional provisions do not always translate to constitutional practice in Zimbabwe, it seems there is nothing fundamentally flawed about the constitutional framework to compromise the integrity of the public procurement process. There are no clearly defined red flags that can be identified in the 2013 Constitution to be characterised as clear corruption risks in the context of the public procurement process.

2.4 Adherence to Research Ethics

The PPDA Act follows the general procurement cycle and is underpinned by the key principles of public procurement. The Act repealed and replaced the Procurement Act and abolished the State Procurement Board which was heavily

42. http://www.praz.org.zw/?page_id=90 accessed on 17 February 2021.

mired in corruption. In its place, the new law established the Procurement Regulatory Authority to regulate public procurement process in Zimbabwe.

The PRAZ is thus a regulatory institution rather than a procuring and disposing body, as was its predecessor, the State Procurement Board. Regulations, guidelines, forms, codes of conduct and standard bidding documentation complement this Act.

The Act thus establishes a regulatory and oversight body 'responsible for setting standards, issuing guidelines and monitoring compliance', and that seeks to ensure that 'public procurement and the disposal of public assets in Zimbabwe is done in a manner that is transparent, fair, honest, cost-effective and competitive'. Unlike the previous State Procurement Board, PRAZ is no longer involved in the adjudication and awarding of tenders. Without doubt, this is a clear move towards addressing an identifiable corruption risk where all public procurement was centralised in the SPB.

The Act has certain key features that define public procurement process in Zimbabwe. The key features are outlined in Text Box 6 below.

Text Box 6: Major Legal Principles of the Public Procurement Process in Zimbabwe Act

Principle	Description
Scope and Application	<ul style="list-style-type: none"> - All State Institutions at every level - All stages of the procurement cycle - All types of procurement
Exemptions	<ul style="list-style-type: none"> - Obligations arising from international treaties. The requirements of the treaty or agreement shall prevail. - the procurement or acquisition of: <ul style="list-style-type: none"> (i) fiscal agency or depositary services; (ii) liquidation and management services for regulated financial institutions; (iii) sale, redemption and distribution of public debt, including loans and Government bonds, notes and other securities; or arbitration or conciliation services; (iv) public employment contract (v) statutory tariffs in relation to a profession or service, (vi) Procurement by Zimbabwean diplomatic or consular missions outside Zimbabwe (vii) Declaration by the President by way of a notice in the Gazette where information about procurement or disposal

42. http://www.praz.org.zw/?page_id=90 accessed on 17 February 2021

43. Ibid

Principle	Description
Scope and Application	<p>of assets is not disclosed to the prejudice of the defence, security or national interests of Zimbabwe.</p> <p>(viii) where Authority is granted by PRAZ to do so.</p> <p>(ix) where PRAZ grants approval to Minister to exempt any public asset from the application of Act.</p>
Decentralisation of procurement	<ul style="list-style-type: none"> - Award of tenders now done by accounting officers in various State departments and companies; PRAZ only playing a supervisory and monitoring role to ensure Government entities comply with the new Act and other set standards. - Subject to thresholds, every procuring entity (PE) shall be responsible for its own procurement. - Every PE shall be authorized to conduct procurement at or above prescribed thresholds. - Accounting Officers are responsible for procurement assisted by Procurement Management Unit. Accounting Officers shall not conduct procurement before authorization
Procurement Management Institution	<ul style="list-style-type: none"> - Procurement in Procuring Entities is managed by Procurement Management Units (PMU) who report directly to the Accounting Officers.
Professionalization & modernization of procurement	<ul style="list-style-type: none"> - Procurement practitioners are regulated and made to abide by code of conduct, failure which will result in cancellation of practicing license. - Electronic Government Procurement (E-GP) and use of framework agreements are being implemented, though not yet wholly finalised.
Appeals Procedure	<ul style="list-style-type: none"> - The Accounting Officer can now review own decision - A procuring entity can concede that it breached as alleged by bidder the in the challenge. - The Procuring entity has 5 days to notify the bidder and the authority of its concession and take whatever

Principle	Description
	<p>necessary action to rectify the breach.</p> <ul style="list-style-type: none"> - The Authority shall be the 1st level of appeal. - The Authority may direct the Accounting Officer to rectify the breach
Review of Procurement Proceedings	<ul style="list-style-type: none"> - Application for review by a review panel can be adopted where the Procuring Entity has not conceded that it breached a duty as alleged in a challenge. - Enforcement of orders is through the Administrative Court
Penalties for violations	<ul style="list-style-type: none"> - There are sanctions for staff of the procuring entities under section 12 of the Regulations. - There are sanctions for suppliers under section 73 &74 of the Regulations
Responsibility of Procurement	<ul style="list-style-type: none"> - Subject to thresholds, every PE is responsible for its procurement - Every PE is authorised to conduct procurement - The Accounting Officer is responsible for procurement and the PMU shall assist the Accounting Officer - The Accounting Officer shall not conduct procurement at or above a given threshold before authorization.

Source: Procurement Regulatory Authority of Zimbabwe website; (http://www.praz.org.zw/?page_id=90) accessed on 17 February 2021.

3.4 Emergency Procurement under the Law

As alluded above, the Constitution makes provision for emergency situations. Upon the outbreak of Cyclone Idai and the Covid-19 disease in Zimbabwe, the President declared both as public emergencies. In relation to the Covid-19

disease outbreak, the President published the Civil Protection (Declaration of State of Disaster: Rural and Urban Areas of Zimbabwe) (COVID-19) Notice, 2020 which was made in accordance with the Civil Protection Act. In essence, this legal instrument allowed the President to declare the pandemic a disaster. The instrument stated as follows:

44. Section 87.
45. Statutory Instrument 76 of 2020.
46. [Chapter 10:06].

'In the wake of the declaration by the World Health Organisation of COVID-19 as a global pandemic, a state of disaster exists in all rural and urban areas in Zimbabwe with effect from promulgation of this notice.'

In terms of this law, the President was given more and wider powers to act than in ordinary circumstances. It is the power that the President used to pass several statutory instruments meant to combat and respond to the COVID-19 pandemic.

In addition, the Minister of Health and Child Care used the Public Health Act to activate emergency health measures and interventions in response to COVID-19 disease outbreak. In specific terms, section 68 of the Public Health Act grants the Minister of Health power to adopt regulations 'in the case of the occurrence or threatened outbreak of any formidable epidemic disease, condition or event of public health concern'. The provision further grants the Minister power to make regulations on 'such other matters as the Minister may deem necessary for preventing the occurrence of such disease or limiting or preventing the spread thereof or for its eradication, and, generally, for the better carrying out and attaining the object and purposes' of section 68 in general.

A closer look at section 68 implies that in order to undertake the measures and strategies envisaged, the government may need huge amounts to purchase certain goods, services, materials and equipment. In specific terms therefore, section 68 can be used to justify emergency procurement. Indeed, since 2020 when WHO declared the disease a global pandemic, the Minister

of Health and Child Care has used the provision to impose several measures in a bid to control and combat the COVID-19 pandemic.

3.5 Public Procurement Legislation

The Public Procurement and Disposal of Public Assets Act is the primary legislation for public procurement. Apart from establishing the framework for procurement in ordinary circumstances, it recognises the need for emergency procurement, which is termed 'direct procurement' in the Act. Direct procurement is described as a method of procurement 'where a procuring entity procures its requirement from one bidder or supplier without having received bids from other bidders.'

In summary, section 33 makes provision for emergency procurement for certain instances, including:

- (i) where no responsive bids have been submitted in response to a competitive bidding procedure. In essence, this means that PRAZ has legal discretion to grant a contract to one service provider or supplier where only that service provider had bid for the contract. This has clear potential for abuse and is thus a 'red flag'.
- (ii) where, for technical or artistic reasons, or for reasons connected with protection of exclusive rights, the contract can be performed only by a particular supplier and no reasonable alternative or substitute exists. This is also a potential red flag. There is wide discretion to PRAZ and the criterion may not be objectively measurable.

47. See all Statutory Instruments passed under Public Health (COVID-19 Prevention and Containment) Regulations, 2020.

48. Chapter 15:17.
49. Section 33 of the Act.

(iii) where, for reasons of extreme urgency not attributable to and unforeseen by the procuring entity, the procurement requirement cannot be obtained in time by means of competitive bidding procedures. This is most applicable in situations as caused by Cyclone Idai and the COVID-19 pandemic, which saw several corrupt practises happening. It's a clear red flag.

(iv) for additional supplies of goods or services by a supplier, where a change of supplier would cause problems of interchangeability or incompatibility with existing equipment or discontinuity of services, which would cause significant inconvenience or substantial duplication of costs to the procuring entity. Again, this presents real problems where the initial price was too high.

(v) for new services that repeat similar services provided under a procurement contract awarded following the competitive bidding method of procurement, where the procuring entity indicated in the original procurement notice that a direct procurement method might be used in awarding contracts for such new services. This is also a potential 'red flag' that opens up the process to corruption risks.

(vi) for the procurement of immovable property and spare parts of a proprietary nature. This is a corruption risk as well. There are no specific measures in the Act to regulate how this can be done without exposing the process to corruption risks.

3.6 The 'Single-Source' Selection Method

Apart from providing for goods and commodities during emergencies as

discussed above, the Act also provides for procurement of consultancy services. In terms of section 59(f) of the Act, the 'single source' selection method applies in the procuring of consultancy services in exceptional' cases, such as-

(i) for services that continue a previous completed assignment; or

(ii) for very small assignments; or

(iii) when only one consultant is qualified or has experience of exceptional worth for the assignment; or

(iv) where, owing to a catastrophic event, there is an urgent need for the

(v) service sought.

The 'single source' selection method is defined as 'a process whereby the procuring entity, without inviting competitive bids, selects a firm to provide a service even though other firms are available to provide the service.' For this method to remain transparent and promote all the other principles of public procurement, it must be safeguarded from several corruption risks. In practical terms, some of opportunities for corruption are as follows:

(a) Terms of reference may point to preferred suppliers and exclusionary of others.

(b) The terms of reference may be designed in such way that it favours a special bidder instead of addressing a specific need.

(c) There is no appeal system for those not considered under this method.

(d) The procurement contract to be negotiated might eventually be designed to fit the strengths of the selected contractor, not to meet the specific need.

(e) The subsequent contract may be designed to disadvantage the government and favour the selected contractor massively in financial terms.

3.7 Public Procurement Regulations

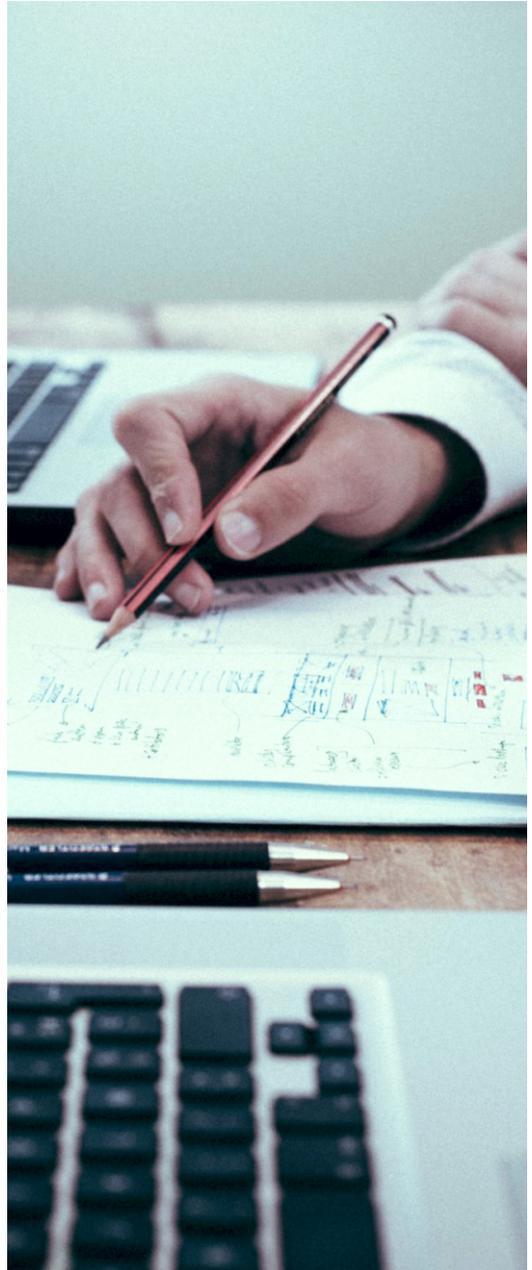
In general terms, regulations of a primary law are intended to flesh out technical issues that the Act can-not spell out. These issues include procedure and other administrative requirements and expectations.

In relation to direct procurement, there is no comprehensive procedure aimed at ensuring that corruption risks are mitigated. Most importantly, there is no direct or indirect involvement of PRAZ since the direct method is initiated by the procuring entity. Since it is the procuring entity that searches for a single bidder, there is a high likelihood that the procuring entity can tailor the requirements to suit the strengths of the bidder. An oversight mechanism, the Special Procurement Oversight Committee established in section 54 of the Act is not essentially aimed at scrutinising emergency contracts. By composition, it consists of officeholders not insulated from the Executive, with the entire members appointed by the President.

3.8 Corruption Risks in Specific Emergency Procurement Cases

There were several cases that were recorded relating to corruption in emergency procurement during Cyclone

Idai and in the fight against the Covid -19 pandemic in Zimbabwe. These cases demonstrate the reality of corruption risks in the public procurement process during emergencies and must be illustrated in this paper in the context of the gaps in the law discussed above.



51. See for instance the case of Intratek Zimbabwe LTD vs Zimbabwe Power Co PVT LTD 818-18, p.

DRAX International LLC, a company registered in the United Arab Emirates in 2020 entered into an agreement with Government of Zimbabwe through the Ministry of Health and Child Care for the supply and delivery of medicines and consumables worth US\$20 million to fight COVID-19 disease.

The drugs started coming into Zimbabwe in early 2020 after the contract but in batches. Thereafter, before mid-2020, DRAX International LLC was further awarded another tender to provide Covid-19 medicines. Its emergency medical supplies for Covid-19 was subsequently given preferential treatment to be released when they were stuck at Robert Gabriel Mugabe International Airport.² The Drax Sagl contract was subsequently cancelled by government after evidence that the supplies were heavily over-priced.

The government had seemingly procured the supplies through a state pharmaceutical company, Nat-Pharm Pvt Ltd. Three officials from the company were then arrested facing allegations of approving DRAX International LLC to supply and deliver medicines and surgical sundries to the Government without following procurement procedures. Eventually, the Health Minister was fired as Cabinet Minister by the President and arrested over his involvement in the unprocedural' award of the tender to Drax Sagl. The local representative of Drax International LLC in Zimbabwe, Delish Nguwaya, was also arrested. All the persons arrested in connection with the Drax International LLC scandal were subsequently released and await trial, a year after their arrests. The last controversy was the firing of PRAZ CEO by the Board, when PRAZ admitted 'it did not oversee all procurement of goods and services by Government departments to combat Covid-19 and that not all State entities had submitted monthly procurement reports since the beginning of the lockdown.'

Source: Procurement Regulatory Authority of Zimbabwe website; (http://www.praz.org.zw/?page_id=90) accessed on 17 February 2021.

4. Analysis Of Research Findings



4.0 Overview

Several important observations and findings were made through the data collection process, which was limited to interviews with Key Informants and administration of questionnaires. Firstly, in general, the Respondents were asked to comment on the level of risk and vulnerability in selected procurement methods. The box below illustrates the responses and main reasons given.

Text Box 9: Level of Corruption Risks Measured Against Particular Procurement Methods in the PPDPA Act

Procurement Method	Level of Risk & Vulnerability	Research Inquiries
Restricted Bidding (section 32)	Moderate	<p>Bidders are limited to those selected or invited by the procuring entity.</p> <ul style="list-style-type: none"> - limited competition which undermines fairness - possibility of collusion where selected or invited bidders are very few - too much discretion on PE's makes process too subjective
Direct Procurement (section 33)	Highest	<p>Procuring entity procures its need from one bidder or supplier without having received bids from other bidders.</p> <ul style="list-style-type: none"> - no publication nor advertisement – thus no transparency - no competition and no fairness - highest chance for collusion with supplier
Request for Quotations (section 34)	High	<p>Procuring entity solicits at least three competitive quotations from reputable suppliers, and the procurement requirement is below the prescribed threshold.</p> <ul style="list-style-type: none"> - Limited competition, thus lacks fairness - high possibility of collusion with certain suppliers - no advertisement, thus no transparency - too much discretion on PE, leads to subjectivity

Text Box 9: Level of Corruption Risks Measured Against Particular Procurement Methods in the PPDPA Act
(Continued)

Procurement Method	Level of Risk & Vulnerability	Research Inquiries
Consultancy Services (section 58)	High	<p>Not fewer than three, & not more than six firms are requested to submit proposals</p> <ul style="list-style-type: none"> - limited competition and participation – thus limited fairness - single-source and individual consultant selection methods give too much discretion to Pes. - Limited transparency where no advertisement is made (single



4.1 Specific Institutional Viewpoints

Several representatives of institutions engaged in the research gave their views on the subject matter under research. Their observations are illustrated in text boxes below.

3.1.1 Viewpoints relating to the National Prosecuting Authority

Viewpoint 1

'Prosecution of high profile corruption cases is inhibited by corruption itself, command culture as well as political patronage which are all brought to bear heavily upon the prosecutors who have neither means nor sufficient professional independence and or protection of office to withstand pressure. In short prosecutors are unable to resist bribes as they are poorly paid, refuse superior orders as they have no independence and reject political patronage because of the entrenched culture of politics screwing rule of law'.

4.1.2 Member of Parliament

The major problem with the issue of procurement is that in general, that is the area where the processes and procedures towards procurement are too complicated and to some extent organized to facilitate for particular groups of people. For example the whole issue of what is always required is the vendor number is what is used to facilitate a certain group or cartel within the Ministries so the procurement structure at ministry level and those that are suppose to have vendor numbers have particular arrangement and for me as MP and former Minister I found that that was the biggest weakness. The second other weakness was the one that had to do with the fact that we are doing manual procurement. So you have faces to the tenders and government continues to refuse to do e-tendering which will be faster and will be more transparent but would take away the human factor. In relation to issues relating to public emergencies which we have found around Covid-19 around Cyclone Idai for example it is to do with the fact that the current Act, the Procurement Act itself does not take into account issues of public emergencies so we have situations in which Ministries or government are not following certain procedures because they are saying its an emergency whilst that is not provided for in the Act or in terms of procedure.

4.1.3 Viewpoints related to the Judiciary

Viewpoint 1

'If I were to do such cases, it would have been a challenge as there is no training done on the complex financial cases of corruption in public procurement during emergencies.'

Viewpoint 2

'If I were to do such cases, it would have been a challenge as there is no training done oCurrently, there is no training for judges on complex financial crimes. The only one that was do support or judges of the anti-corruption court but it was not as detailed.'n the complex financial cases of corruption in public procurement during emergencies.'

Viewpoint 2

There is no adequate technical experience within the NPA to deal with such corruption cases involving complex financial issues. There are no prosecutors who were trained to deal with complex financial issues. The few that attended workshops organised by the United Nations Office on Drugs and Crime (UNODC) did so for about a week which period was not long enough for one to become an expert in the area. There is need for financial experts and financial tools to be attached to the NPA for them to work together with prosecutors in such high profile matters. In SA, there are specialised units with highly trained investigators and prosecutors to deal with such cases.

The NPA currently has no prosecutors that can be said actually understand the procurement procedures. All the prosecutors are aware of is the Procurement Act without any practical experience of how the process is conducted.

Viewpoint 3

[the idea that] 'There is no adequate technical experience is premised on the basis that there are no specialised prosecutors who were trained to handle such cases. The workshops that a few of these prosecutors attended did not cover all the areas that can enable a prosecutor to appreciate or comprehend complex corruption cases involving financial issues. Prosecutors are lawyers and not accountants so there are many financial issues that prosecutors fail to appreciate. Most of these cases take long to be heard in court as prosecutors will be struggling to make head or tails of the case worse where the person investigating the case is also an ordinary investigator with no financial or accounting background. The situation becomes complicated when the magistrate of judge has no such experience too. It is therefore a big challenge within the NPA. There is need for a specialised unit within the NPA to be trained to handle such cases. Workshops and short courses would do the trick. Even having prosecutors attached to other countries that have such specialised units and experts will be of great assistance. The situation obtaining currently is that the same prosecutors who handles murder cases is the same prosecutor who is also supposed to handle such corruption cases that involve complex financial issues. Generally lawyers do not like figures and so at times prosecutors may not fully appreciate these cases. One may end up making a wrong decision not because there is no evidence, but because the prosecutor does not understand the financial aspects involved.'

4.1.4 Viewpoints related to Government Ministries and Institutions

Viewpoint 1

The Permanent Secretary is the Accounting Officer in the Ministry. There is nothing financial that goes through without his/her knowledge; approvals goes through this office. In doing his/her job, he/she works with the Director of Finance. Public procurement is therefore centred on the accounting officer, and you cannot separate politics from this office.'

Viewpoint 2

'The persons in the procurement management units of government units can play corruption through drafting terms of reference or requirements in a way that suits a particular bidder or preferred person. This reduces competition which is key in procurement. Further government departments are almost always guided by the principle of value for money over other principles in section 4 of the Act. To them, value for money means cheapest bid'. Again, this destroys competition and makes collusion with suppliers or bidders very possible.'

Viewpoint 3

The greatest danger is the inflating of prices leading to procurement of inadequate goods. Further in an effort to curb the long procurement processes, substandard goods and services are procured as there are fewer checks and balances.'

Viewpoint 4

'Emergencies create opportunities for people to cut corners because the law allows this to happen. The other risk is that there is no adequate time for market research so prices are exorbitant. Procedures are not followed since the end is more important than the means.'

4.1.5 Civil Society Viewpoints

Viewpoint 1

'One of the greatest corruption risks in local government procurement are direct calls to accounting officer from central government on which companies to use for buying. Nothing is documented on this. Tendering processes are not open for public scrutiny. The whole system is thus open to manipulation by whoever wields power and authority. A majority of companies that bid to provide goods and services are owned and controlled by the same people who adjudicate the process, thereby compromising it.'

Viewpoint 2

Aspects of our procurement system exposed to corruption include tendering process as well as selection of suppliers. Procuring entities to speed up on procurement due to pressures imposed by emergencies, and at times seek services of suppliers who are outside their suppliers list-some of these emergencies are unpredictable COVID19 for instance – the disruption goes beyond disruption to the economy to disruptions in procurement systems. What is key is having an e-procurement system empowered with technology to vet year the suppliers were registered, track their history in delivering and financial capacity as well. Such a system will be key in the initial selection of suppliers. What also key is to have task force supporting procurement entities during emergencies- part of their task is to ensure a corruption free procurement process is done. More so, there is need to invest in analyses that identify corruption red flags in procurement during emergencies. Once these are identified it becomes key to have mitigation strategies during emergency related procurement.



4.2 General Findings and Observations

The Box below illustrates the general observations and findings from the interviews.

Text Box 10: Main Findings and Observations

Item	Main Findings
1	<p>Institutional framework for PRAZ not sufficiently insulated from corruption</p> <p>The PPDP Act creates an institutional system that does not insulate PRAZ from senior politicians and government administrators. The CEO is appointed by the Board with approval of the Minister responsible for Finance. Some of the Board members were two military generals and a former diplomat. The Board has unfettered power over the CEO. Procuring Entities are virtually government departments, or internal units in other government bodies. They are massively exposed to the Minister as the Drax case illustrated. The Act does not insulate procuring State-owned companies from Ministerial influence, control and manipulation as well. Apart from this, the institutional system has no adequate checks and oversight mechanisms to comprehensively scrutinise emergency public procurement process. The Special Procurement Oversight Committee is composed of senior government bureaucrats, and not independent experts.</p>
2	<p>Instability of New Institutional System</p> <p>The institutional system for PRAZ is still in the experimental stage. PRAZ was established in January 2018, following passage of the Act and the Regulations. A new government administration came into office in August 2018. Cyclone Idai disaster hit Zimbabwe a year later, in March 2019. The COVID-19 pandemic was declared a national disaster on 23 March 2020. The several scandals involving Draxler International and huge sums of money occurred after March 2020. This was simply too much for a new institution star people, grow teeth, and taking its baby steps. The developments rocked the boat, with the final nail being sacking of the CEO by the Board.</p> <p>The PPDP Act is still very new, and has been heavily tested since its coming into effect. The Regulations are also new and are being applied experimentally'. Two more sets of Regulations have been prepared in draft form. There are provisions that are controversial and that need to be reconsidered especially on direct procurement and in relation to procurement of consultancy services. The new legal framework, and PRAZ's institutional inexperience in dealing with executive politics presented a huge corruption risk that was difficult to mitigate during Cyclone Idai and the COVID-19 pandemic emergencies.</p>

52. See <https://www.herald.co.zw/503521-2/> accessed on 23 February 2021

Item	Main Findings
3	<p>The human factor versus Electronic/Computerised Approaches</p> <p>The institutional system has been affected by corruption risks that condemned the previous State Procurement Board due to the human factor. There are several points of contact between the procuring entities, PRAZ operations departments, senior government officials including Ministers and private suppliers. An electronic compliance and approval system could have removed this corruption risk. The electronic system is being pursued in other areas where corruption risks have always been high such as the deeds registration system. The failure to minimise the human factor and rely on electronic systems posed a high corruption risks especially in emergencies where checks and oversight mechanisms are not given precedence, and where the results were superior to process and procedure.</p>
5	<p>PRAZ Lack of Regulatory Autonomy as a Corruption Risk</p> <p>PRAZ is not an autonomous regulatory entity in theory and in practise. It is not positioned independently from the Treasury or other Ministries. It is not a free-standing entity accountable to Parliament on its own – instead, it is accountable to Parliament via the Minister responsible for finance (section 11 of Act). To this extent, PRAZ faces the real risk of being enmeshed in the socio-cultural, political and economic conflicts that characterises government and government agencies. This presents a real corruption risk because these forces can potentially ‘capture’ PRAZ.</p>

4.3 Impact of Identified Corruption Risks

The ultimate goal of public procurement is to satisfy the public interest. Indeed, good public procurement is a good tool to implement public policy in all areas and should be an instrument for good governance and therefore good government. The PPDP Act outlines the objectives of public procurement as follows:

(a) to ensure that procurement is effected in a manner that is transparent, fair, honest, cost-effective and competitive; and

(b) to promote competition among bidders; and

(c) to provide for the fair and equitable treatment of all bidders, leading to procurement contracts that represent good value for money; and

(d) to promote the integrity of, and fairness and public confidence in procurement processes; and

(e) to secure the implementation of any

environmental, social, economic and other policy that is authorised or required by any law to be considered by a procuring entity in procurement proceedings.

In view of these important objectives entrenched in the Act, a public procurement process that accommodates several entry points for corruption can be seen as undermining the achievement of these objectives. There are several fundamental impacts that are likely to be associated with a compromised public procurement system. These effects range from financial, economic, environmental; erosion of public confidence and organisational/institutional impacts.

The Box below illustrates the impacts of corruption in the public procurement process during public emergencies | Zimbabwe.

Text Box 11: Impacts of corruption risks

Impact	Description
<p>Financial Impact</p>	<p>i. Unnecessarily high cost of purchases, investments, services. Poor quality commodities can be bought for high prices with no real value.</p> <p>ii. Burdening a government with financial obligations for purchases or investments that are not needed or are not economically justified at all or are oversized; Evidence: Drax International LLC invoiced government US\$28 for a mask that costs less than US\$4.00 locally (https://www.theafricareport.com/30676/zimbabwe-covid-19-drugs-scandal-lays-bare-the-rot-in-the-system/); see also Statement by Transparency International Zimbabwe on this https://www.transparency.org/en/press/open-procurement-and-transparency-of-company-ownership-needed-as-zimbabwe-responds-to-covid-19)</p>
<p>Impact on Human Health and Safety</p>	<p>Human health and safety risks arise due to quality defects, environmentally unacceptable investments or non-compliance with environmental or health standards.</p>
<p>Erosion of Trust in Government</p>	<p>People lose trust in government when reckless corrupt behaviour among government representatives is not being sanctioned. See https://www.newsday.co.zw/2020/11/ex-minister-case-deferred-to-next-year/</p>

5. Recommendations and Conclusion

5.0 Introduction

It is clear from the extensive study reflected herein, and the findings presented, that the public procurement process is riven with corruption risks and exposed to certain vulnerabilities. Accordingly, certain recommendations have to be made and these must be aimed at strengthening the public procurement process in Zimbabwe and plug all the entry points for corruption and unethical behaviour.

5.1 Initial Recommendations by Transparency International Zimbabwe

In March 2020, Transparency International Zimbabwe called on the government to undertake certain actions considering the Covid 19 pandemic to ensure transparency, accountability and effective use of public funds. The recommendations by TI Z addressed the major key points that must be considered to improve public procurement processes during emergencies as the one caused by the COVID-19 pandemic. The major points made in the recommendations that relate to this research are as follows;

i. Government should improve access to information relating to funds and aid meant for COVID-19: In light of section 62 of the Constitution, government must ensure that information pertaining to funds and aid received for COVID-19 be availed for public scrutiny. The Government is urged to take advantage of information and communications technology to disseminate such information. TI Z also

recommends that the Inter-ministerial task force on COVID-19 sets up an interactive web based portal or interface to facilitate donations by various stakeholders. This will improve transparency and accountability.

ii. Beneficial ownership disclosure and transparency on companies supplying COVID-19 goods and services: On the strength of section 72 of the Companies and Business Entities Act [CHAPTER 24:31], TI Z recommended that companies need to disclose the beneficial owners of their businesses in order to avoid fraud, misuse of political power to get tenders as well as conflict of interest. The Government, through the Procurement Regulatory Authority of Zimbabwe (PRAZ) must thus publish names of all companies supplying goods and services during this period to disclose their beneficial owners and the availed information must be verifiable.

iii. Procurement procedures still need to be adhered to: During emergency situations like the one caused by COVID-19 pandemic, the government must not rush to be seen to be doing something and secure supplies, whilst in the process disregarding public procurement regulations. Government must remain publicly accountable for every contract concluded and spent, even where emergency procedures are used. Government must consider adopting open contracting to enhance transparency and accountability in public procurement.

53. See <http://kubatana.net/2020/03/27/transparency-and-accountability-in-the-covid-19-crisis-management-and-aid-distribution/> accessed on 05 March 2021.

Text Box 11: Impacts of corruption risks (Continued)

Impact	Description
<p>Damage to Economic Development</p>	<p>By allowing corruption in the context of purchases and investments during emergencies, and by often selecting investment projects not on the basis of their contribution to economic development of the country but on their ability to generate bribe payments, the country is squandering investment opportunities and external development assistance. This retards economic development.</p> <p>Evidence: The state road reconstruction agency, ZINARA, purchased ‘snow-graders’ for road construction in Zimbabwe, and were overcharged for the purchases. Zimbabwe does not experience snow, and does not need snow graders. (https://allafrica.com/stories/201911130301.html & https://www.herald.co.zw/zinara-graders-improve-state-of-roads-countrywide/).</p> <p>Also ZIMCodd ‘People’s economic aspirations post-COVID-19: towards an inclusive people centred economic recovery plan’; available at http://zimcodd.org/wp-content/uploads/2021/03/Policy-Brief-Peoples-Economic-Aspiration-Post-COVID-19-A5.pdf</p>
<p>Poor Service Delivery</p>	<p>Public entities face problems in the dispensing of public service owing to the problems in the Zimbabwean public procurement process. The funds required for the purchase of goods, services and shoring up of infrastructure are diverted to private individuals at the expense of service delivery.</p>
<p>Badly drafted laws and policies</p>	<p>Law originates from government ministries, not the Legislature. The Legislature simply debates and passes the law. If the Executive is involved in corruption through public procurement system, they will not be keen to amend existing laws to plug the corruption gaps and vulnerabilities. Instead, the laws will remain with gaps that permit corruption to thrive without detection, investigation or prosecution.</p>

iv. Whistle blower policy and protection mechanism: In order to facilitate reporting of corruption and abuse of public office, the GoZ is encouraged to come up with a whistle blower policy framework that protects victims and witnesses of corruption. This policy will enable the public to timely report corruption without fear of victimization.

v. Need for periodic monitoring, evaluation and reporting of COVID 19 response mechanisms: The Government should constantly seek feedback from the citizens through various channels of communication for the purposes of monitoring and evaluating effectiveness and efficiency of the COVID-19 response mechanisms being used by the government. This will enable the government to account for the results emanating from resources being channelled towards COVID 19, thus fostering accountability and transparency in the use of public funds.

This Research adopts these recommendations made by TI Z in the context of the COVID 19 pandemic. It is submitted that these points also apply in the context of public emergencies in general where there is a massive outlay of funds by government to address an emergency situation. To that extent, despite the recommendations being targeted at measures during the Covid 19 pandemic, they are also applicable in the context of natural disasters such as the Cyclone Idai disaster and similar disasters in the future.

5.2 Legislative Review and Amendment

A lot has happened since the PPDPA Act came into effect; several lessons have

been made on the flaws and weaknesses that create corruption risks and other vulnerabilities in the system. With two serious disasters that qualified as public emergencies, it is high time that the Act be reviewed with a view to amend-ments.

To highlight this point, the 1st March 2021, PRAZ invited stakeholders to a meeting to discuss amendments to the PPDPA Act. The letter is attached as Annexure C. In specific terms, the letter stated as follows:

‘Some gaps have been identified over the past 3 years of implementation of the Act. Cabinet has approved the Principles for amending the Act and Regulations.’

This is an important acknowledgement by Cabinet indicating progress towards regulatory reforms. Several weaknesses identified in the legal framework in this study can be addressed by an amendment. Among other issues, discussions on legislative review must centre on the following issues:

- transparency and accountability safeguards on direct procurement methods
- composition of the Special Procurement Oversight Committee
- relationship between the accounting officers, the PMUs and PRAZ
- the contract and financial reporting system for awards during emergencies
- suspension of due process during emergency procurement.

5.3 Specific Recommendations

Several other recommendations are summarised in the box below.

Text Box 12: Table of Headline Recommendations

Item	Recommendation
1	<p>Institutional Re-designing</p> <p>The regulatory model of public procurement must be redesigned so that the procurement system is shielded as far as possible from the Executive. This guards against its ‘capture’ by the politically exposed individuals and the omnipresent Executive. Key offices such as the CEO, the ‘Special Procurement Oversight Committee and the Board must be apolitical. Further, procuring entities must be insulated from senior government Ministries for integrity.</p>
2	<p>Decentralise some monitoring and supervision functions</p> <p>There is need to decentralise some functions of PRAZ to other levels so that it can better perform its mandate. Decentralisation to regional levels can fast track processes, particularly during emergencies and enable adequate supervision and monitoring at those levels. The key functions requiring decentralisation relates to evaluation of bids, enforcement and other core regulatory functions of PRAZ.</p>
3	<p>E-Procurement</p> <p>Electronic procurement must be embraced, developed and operationalised particularly for compliance checks and adherence to procedural requirements. E-procurement removes the risks created by human contact and its subjectivity. PRAZ is gradually moving towards E-government procurement, and this must be finalised expeditiously.</p>
4	<p>Introduce necessary safeguards in the Direct Procurement Method</p> <p>Existing mechanisms to safeguard against corruption in the PPDPA Act are inadequate and ineffective. There must be specific safeguards to plug corruption entry points during direct procurement, single source selection and restricted bidding.</p>
5	<p>Regular review of the Procurement Cycle</p> <p>The responsible Ministry should assess and review all stages of the procurement cycle every five years so that corruption risks and vulnerabilities can be identified, addressed and the procurement system enhanced. In relation to emergency procurement, this review must be conducted at the end of the period of public emergency. Thus, the review can be conducted</p>

5.3 Specific Recommendations

Several other recommendations are summarised in the box below.

Text Box 12: Table of Headline Recommendations (Continued)

Item	Recommendation
	<p>at the end of the period of public emergency. Thus, the review can be conducted after Cyclone Idai and the Covid -19 pandemic in Zimbabwe. The review must assess the ‘performance’ of all methods of procurement within the period, the cases that emerged from the methods and weaknesses experienced during the given period. The review must inform legislative amendments and the development of technical guidelines and instructions regarding the interpretation and implementation of the law.</p>
6	<p>A direct role for external accountability institutions There is need for enhanced oversight mechanisms through involving external accountability institutions in scrutinising public procurement during emergencies. To this extent, external accountability and law enforcement agencies must be given a direct role in the public procurement system, especially during emergencies where malfeasances are likely to occur. These agencies include the police, the anti-corruption agency and the office of the Auditor -General. If the public procurement process is decentralised, these accountability mechanisms must also operate at the devolved level.</p>
7	<p>Institute regular capacity building and training The functions of PRAZ and procuring entities expressed in the Act suggest the need for expertise by administrative and technical staff at PRAZ and procuring entities. There is therefore need for regular training on technical operations; ethical and professional standards; integrity and anti-corruption and financial intelligence, among other fields. This can create a professional human capital with integrity that can deliver on the mandate in the PPDPA.</p>
8	<p>Develop and institute a strict anti-corruption strategy specific to the public procurement institutional system It is not enough to require the public procurement system to align their objectives with mainstream national policies. They need specific organisational policies to guide their actions shape their behaviour. PRAZ, procuring entities and suppliers and service providers must be bound by specific anti-corruption policy that focuses on the corruption risks inherent in public procurement. This approach can guard against corruption risks whilst also clearly illustrating the punitive regime upon breach or misconduct.</p>

5.3 Conclusion

This study has demonstrated that the public procurement regime is riven with critical risks and vulnerabilities. It contains flawed regulatory mechanisms, and thus cannot safeguard itself from the trends and patterns of rampant corruption that has characterised Zimbabwe's economic and financial system for the past four decades. It is a system that is exposed to serious corruption and has not been able to survive the 'capture' of state financial institutions by elite political and economic classes and networks.

Importantly, the research has illustrated key entry points for corruption in the public procurement process. The procurement cycle is highly compromised and during emergencies where several safeguards are relaxed, corruption rears its head through such methods as direct procurement, single source procurement, restricted bidding and the subjective selection of bidders for consultancy services. The various gaps described in this study are the red flags – they indicate the risks and vulnerabilities inherent in the public procurement process. It is hoped, based on given recommendations, that a comprehensive review of the public procurement process in law and practise can enhance the system and plug the various corruption entry that bleed the national financial and economic system.

List Of References

- ADB/OECD, 2008, 'Fighting Bribery in public procurement in Asia and the Pacific', in Proceedings of the 7th Regional Seminar on Making International Anti-Corruption Standards Operational, Asian Development Bank/Organisation for Economic Cooperation and Development Anti-Corruption Initiative for Asia and the Pacific, Indonesia, November 05–07, 2007, pp. 1–247.
- Ambe, I.M. & Badenhorst-Weiss, J.A., 2012, 'Procurement challenges in the South African Public Sector', *Journal of Transport and Supply Chain Management* 1, 242–261. <https://doi.org/10.4102/jtscm.v6i1.63>
- Ameyaw, C., Mensah, S. & Osei-Tutu, E., 2012, 'Public procurement in Ghana: The implementation challenges to the Public Procurement Law 2003 (Act 663)', *International Journal of Construction Supply Chain Management* 2(2), 55–65. <https://doi.org/10.14424/ijcscm201012-55-65>
- Dzuke, A. & Naude, M.J.A., 2015, 'Procurement challenges in the Zimbabwean public sector: A preliminary study', *Journal of Transport and Supply Chain Management* 9(1), 1–9. <https://doi.org/10.4102/jtscm.v9i1.166>
- Gayed, Y.E.L., 2013, 'The influencing factors of public procurement policy development-the case of Libya', Doctoral thesis, Salford Business School, University of Salford, Manchester, United Kingdom.
- Hunja, R., 2003, 'Obstacles to public procurement reform in developing countries', in S. Arrowsmith & M. Trybus (eds.), *Public procurement: The continuing revolution*, pp. 13–22, Kluwer Law International, The Hague.
- Johnson, P.F. & Flynn, A.E., 2015, *Purchasing and supply management*, 5th edn., McGraw-Hill Education, New York.
- Karombo, T., 2014, Zimbabwe's Netone under fire for poor performance, *The Herald*, 11 February, viewed 15 September 2016, from <http://www.herald.co.zw>
- La Harpe, D. & Le Roux, S.P., 2009, *Public Procurement Law: A comparative analysis*, Doctoral Study: University of South Africa, Pretoria, viewed 12 October 2016, from <http://hdl.handle.net/10500/3848>
- Le Grand, J., 2009, *The other invisible hand: Delivering public services through choice and competition*, Princeton University Press, Princeton, NJ.
- Licenji, A., 2015, 'Standards and challenges of public procurement', *European Scientific Journal* 11(25), 229–240.
- Livhuwani, T.V., 2012, *Impact of the supply chain management on service delivery: The case study of Provincial Department of Economic, Development, Environment and Tourism in the Limpopo Province*, Unpublished dissertation, Faculty of Management and Law (School of Leadership), University of Limpopo.
- Monczka, R., Handfield, R., Giunipero, L. & Patterson, J.L., 2008, *Purchasing and supply chain management*, Cengage Learning, New York.
- Musanzikwa, M., 2013, 'Public procurement system challenges in developing countries: The case of Zimbabwe', *International Journal of Economics, Finance and Management Sciences* 1(2), 119–127. <https://doi.org/10.11648/j.ijefm.20130102.18>
- Mutava, C., 2012, 'Impact of public procurement procedures on delivery of maintenance', Master of arts dissertation, University of Nairobi, Kenya.
- Naude, M.J., Ambe, I.M. & Kling, R., 2013, 'Supplier relationship management – Anathema for the South African public procurement sector', *Journal of Transport and Supply Chain Management* 1, 1–8. <https://doi.org/10.4102/jtscm.v7i1.93>

Nkinga, N.S.D., 2003, 'Public procurement reforms –The Tanzanian experience', paper presented at the WTO – World Bank Region Workshop on Procurement Reforms and Public Procurement for the English – Speaking African Countries held at the Royal Palm Hotel, Dar Es Salaam, Tanzania, 14–17th January.

Ringwald, K. & Ndercaj, V., 2014, 'Driving economic development through public sector procurement: An introductory study to identify the common challenges facing public sector procurement in Sub-Saharan Africa', Working Paper: 23rd Annual Ipsera Conference, April 13–16, 1–19.

Roodhooft, F. & Abbeele, A.V.D., 2006, 'Public procurement: Consulting services evidence and comparison with private companies', *International Journal of Public Sector Management* 19(5), 490–512.
<https://doi.org/10.1108/09513550610677799>

Sharma, S. K., Sengupta, A., & Panja, S. C. (2019). Mapping corruption risks in public procurement: Uncovering improvement opportunities and strengthening controls. *Public Performance & Management Review*, 42(4), 947-975.

Thuo, C.W. & Njeru, A., 2014, 'Effects of public procurement reforms on service delivery at National Spinal Injury Hospital in Nairobi', *International Journal of Business and Commerce* 3(8), 70–81.

Tsabora, J., 2014, 'Public procurement in Zimbabwe-law policy and practice', *African Public Procurement Law Journal* 1(APPL/1), 1–21.

United Nations Development Program/Inter-Agency Procurement Services Office, 2006, *Sustainable procurement guidelines: Economic, social and environmental considerations in public procurement*, viewed 10 April 2015, from <http://www.unep.org>



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