

A REVIEW OF LEGAL AND PROFESSIONAL FRAMEWORK GOVERNING PUBLIC SECTOR ACCOUNTING AND REPORTING IN TANZANIA

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Abstract: *The paper attempts to review the legal and Professional framework Governing public sector that forms the basis of public sector accounting and reporting in the united republic of Tanzania. The International Public Sector Accounting Standards (IPSAS) issued standards that guide the preparation and presentation of public accounts; The URT (1977) constitution, the public Finance act of 2001 RE 2004 and the national Audit Act of 2008 forms the basic legal and professional document that guide preparation, accounting and reporting in the public sector. In addition, the paper articulates some of the major problems hindering their implementation and challenges including insincerity among the government officers, lack of professionals in the field and inadequate training of public accountants. The paper pointed out problems and challenges hindering the implantation of regulatory and professional framework as well as the way forward including provision of public awareness being major challenge on the implantation at the public sector level.*

Keywords: *Public Sector, public sector accounting & Reporting, Legal and professional framework and Financial Reporting*

1. Introduction

1.1 Meaning and coverage of Public Sector

“Public sector”, is characterized by their focus in service provision rather than profit orientation.¹ 'Public Sector' is "all organisations which are not privately owned and operated, but which are established, run and financed by Government on behalf of the public." This definition conveys the idea that the public sector consists of organisations where control lies in the hand of the public, as opposed to private owners, and whose objectives involve the provision of services, where profit making is not a primary objective. Performance measurement in the public sector is hindered by the lack of profit motive, multiple objectives and presence of intangible services whose benefits are difficult to quantify. Public sector is seen as that part of the asset of the economy and society that is owned by the public at large (citizen) or it could be those services that are provided collectively and funded in whole or part from taxation², it includes both state and local government authorities, executive agencies, public corporations and other public enterprises. Examples of are; Central government, Local government (e.g. City Council, Municipal Council, Town Council & village council), Independent departments (e.g. Police, Intelligence & Prevention & Combating of corruption Bureau (PCCB), Executive agencies (e.g. Tanzania institute of accountancy (TIA), Tanzania building agency (TBA), and Tanzania Meteorological Agency (TMA)) Tanzania Embassies and Diplomatic Missions, Government Parastatals and Donor-Funded projects.³

The special and differentiating features relating to public sector is from the legal framework or regulations derived from Parliament, and result presentation in Parliament. The accountability structure of public sector to Parliament takes a variety of forms, for example, under central government, the accounting officer (heads of department) are

directly accountable to Parliament for the activities of their organization, such as the Permanent secretaries (PS) of any given ministry is accountable to Parliament through what is known as Parliamentary Accounts Committee (PAC) for the proper management of his ministry. The Parastatals are accountable through their ministries, while local authorities are accountable to Parliament through local authority's accounts committee (LAAC), and to some extent, to the local electorate, as well as their differences in set-up, operations, and derivation of authority and accountability. Over the years, these entities have adopted different accounting practices from those applicable in the private sector. Systematization of the practices have become ostensible, in the light of the need to ensure proper stewardship role, efficient and effective deployment of all resources entrusted to these entities in addition to the merely cash resource.

Government refers to the collection of public institutions established and given the authority to run the affairs of a country. It is a system of governance and includes the body of individuals who are authorized to administer the laws of a Nation.

On the other hand public sector can be defined as that part of the economy in which the state acts as entrepreneur with a view to enhancing the general wellbeing of the citizenry⁴. The state assumes the responsibility for organizing factors of production (land, labour, capital and entrepreneur); it determines what to produce, where and when to produce, how to produce and for whom to produce. The extent of involvement of the state in economic activities generally depends on the ideology or political philosophy of the government. Frequently, the public sector is the biggest in the economy because the government has control over most national resources.

Basically, the expression „public sector“, denotes government and all its institutions and agencies that form the collective ownership of the public. Such institutions, set up by the state, engage in the maintenance of law and order and undertake a number of activities and transactions that have economic and financial implications like:

- (i) Provision of infrastructures and services, which require substantial investment outlays beyond the ability of the people using them;
- (ii) Regulation of the economy through fiscal and monetary measures;
- (iii) Fair allocation of resources, to remove apparent inequalities among sections and citizens of the country to ensure even development;
- (iv) Making available services to all citizens regardless of their ability to pay (without price-based discrimination);
- (v) Collection of revenues in the form of taxes, duties and fees or payments for services from individuals and organizations;
- (vi) Creation of jobs for the productive section of the populace and transferring benefits to the aged, the young and the unemployed and the unemployable;
- (vii) Provision of a variety of assistance, subsidies and payments to individuals and organizations.

1.2 Statement of the problem

The legal and professional framework of public sector accounting and reporting is set out to ensure proper management and control of government financials and other resources. These regulation are put in place in order to prevent fraud and detect it when they occur, but Poor governance characterized by corruption, embezzlement, wastage of government resources, lack of transparency, accountability and frauds still occurs and some are never detected for many decades, so they are just partly productive and not fully.

The financial reports produced during the period never achieved the government objectives of management and control of government funds at all levels. In some cases, some of these regulations and professional framework become difficult to understand and implement in the public sector and in this case they cause delay in compliance⁵. There is a problem technically of failing to concur with the stated regulations making it compulsory for the government to comply even when it is not convenient for it to do so. This has lead to improper application of the regulations.

1.3 Objectives of the study

The objective of this study includes:

1.3.1 To identify the legal and professional framework of public sector financial accounting and reporting.

1.3.2 To explain the uses of the legal and professional framework of public sector accounting and reporting in Tanzania.

1.4 Significance of the study

This study will remind the legislature, students, ministries and the various regulators that formulate and pass into circulation several professional and regulatory frameworks of the public sector accounting and reporting that the public sector is actually complying with the regulations issued from time to time.

2. Literature Review

2.1 Theoretical framework

Historically, public sector accounting is said to be the oldest form of accounting. Its origin is traceable to ancient civilizations during which it was supposed to have been established simultaneously with the formation of orderly governance by man. Public sector accounting and reporting is a system or a process which gathers, records, classifies and summarizes as reports the financial events existing in the public or government sector as financial statements and interprets as required by accountability and financial transparency to provide information to users associated to public institution.

Public sector accounting is all about the receipt, custody; disbursement and rendering of stewardship of public fund entrusted (Institute of Chartered Accountants Ghana, 2010). R. A Adams (2004), in his book "Public Sector Accounting and Finance Made Simple" states Public Sector Accounting as "a process of recording, communicating, summarizing, analyzing and interpreting Government financial statements and statistics in aggregate and details; it is concerned with the receipts, custody and disbursement and rendering of stewardship on public funds entrusted".

Over the years, countries of the world have defined and set standards of financial reporting in their individual territories. However, globalization has brought about ever increasing collaboration, international trade and commerce among the countries of the world, hence, there is great need for increased uniformity in standards guiding financial statements so that such statements would remain comprehensible and convene the same information to users across the world⁶. It has been observed that the Tanzania Public Sector have often time intensified effort to ensure that the available financial reporting system comply with standards and proper attention has been towards minimizing variances from plans, to this calls for the need of financial reports to be available on time as well as to meet the reliability test when produced. But unfortunately not much has been achieved in these aspects.

Many countries of the world have adopted IPSAS and have standards and regulations in preparing their financial statements in line with. The main purposes are to demonstrate the propriety of transactions and their conformity with established rules, to give evidence of accountability for the stewardship of government resources; to provide useful information for the control and efficient management of government operations. The term public sector accounting and reporting⁷ is sometimes called government accounting, governmental accounting or public accounting. The term public sector may also be used to refer to central or state and local governments including their institutions and agencies. It includes both central governments at the national level and governments at the regional and district level. At the local level one could find urban and district council, urban council includes city, municipal and town council while on other hand district council includes village councils and district council⁷. Central government includes government agencies⁸, parastatal entities, commissions, enterprises, and governmental departments. The scope of the public sector is therefore wide, even though it is shrinking due to governments⁹ pursuit of privatization policies, especially in developing countries. In Tanzania, the public sector is still far and wide. It covers government

ministries, independent departments, government agencies, local government authorities, regional secretariat, parastatal entities, financial institutions, research institutes, commercial and industrial organizations, regulatory or service bodies, and such other institutions that depend on the government for funding or otherwise controlled by government.

The composition of the public sector is complex, Containing diverse institutions and organizations with heterogeneous structures and activities. It deals with more than one product or service and has numerous sources of finance. This nature of the public sector, coupled with its non-profit orientation, makes comparison between its financial performance and that of the private sector difficult. Hence, performance evaluation is hindered in the absence of a profit measure and the problem of quantifying the benefits of intangible services provided by the government. For this reason, it is not conventional to measure the achievements of government ministries and agencies in terms of the profit or revenue they generate but through value addition and the efficient service delivery to the community.

2.2 Professional and Regulatory Framework governing the financial accounting and reporting in public sector.

2.2.1 Nature of the Framework

Certain regulatory enactments and statements guide public sector accountants in discharging their functions. These regulations form the basic framework that serves as reference point in the conduct of public sector accounting and reporting. There are two categories of this framework: legal and professional, the legal framework is binding on the issuing governments. However, the professional framework is voluntary and subject to the government of a country being signatory to the charter of the issuing institution or body.

The legal framework consists mainly of enactments and laws by a national government, while the professional framework is made up of statements promulgated by international organizations and professional bodies. Though these statements do not have the force of law, they are nevertheless highly recommended. Failure to observe them by a country may warrant international sanctions especially from donors and creditors.

2.2.2 Legal Framework

Public sector accounting and reporting is governed by a legal framework, through the relevant legislation varies considerably from one part of the public sector to another.⁹ The legal framework of public sector accounting and reporting is to provide a basis for financial management and control and to ensure uniformity in the preparation and presentation of financial reports. It consists of a number of sources regulatory bases- constitutional, statutory and administrative- for public sector accounting that includes;

2.2.3.1 The URT (1977) Constitution:

The (1977) constitution of the United Republic of Tanzania provides the general framework as regards to the power over and controls of public funds. It deals with the establishment of government funds, receipts into and expenditures out of them article 137. It also specifies the manner of distribution of revenues between and among the tiers of government article 133. The Constitution also gives guidelines regarding the financial reporting process in government budgeting, accounting and auditing. There are some sections of the constitution that are relevant to Public Sector Accounting for example. The constitution authorizes the payments of government revenue into the Consolidated Revenue Fund; it also states the allocation of revenue, the audit of Public Account, the Budget procedure and other financial matters. Article 136 & 137 of the 1977

Constitution vested the power to authorize withdrawals of fund from Consolidated Revenue Fund & article 139 (1-2) in case of appropriation act is not in operation of budget approval for a maximum period of four months from the beginning of the financial year.

2.2.3.2 The Public Finance Act 2001 Revised edition 2004 and 2015 amendments:

The management and general control of all public funds is governed by this Act. It regulates the accounting system, the books of account to be kept and the procedure for preparing final accounts and financial statements. The Public Finance Act of 2001 RE 2004 governs the Control and management of public money, the spending and collection of public money and the examination and audit of public accounts. Section 25 of the Public Finance act 2001 RE 2004 as amended 2015 stipulates that the Accountant General shall render to controller and Auditor General accounts showing government financial position and performance at the end of the financial year, likewise the international public sector accounting standard (IPSAS) states the presentation of financial statements that include: a statement of financial position for recurrent expenditure and development expenditure (balance sheet); a statement of financial performance; a cash flow statement; a statement of change in net asset or equity; a statement of budget comparability showing the sums estimated to be issued out of Development Fund and the sums actually issued in the period of account and notes to financial statement are also included.

2.2.3.3 The public audit Act 2008:

The relationship between the controller and Auditor General (CAG) and the Accountant General (ACGEN) of the united republic of Tanzania is set by this Act. This relates to the accounts and reports to be forwarded by to the CAG within 3 months and 6 months to the accounting officers and accountant general respectively after the end of each financial year.¹⁰ The Act mandates the Accountant General of the united republic of Tanzania to submit within six months after the end of each financial year the consolidated final accounts to the controller and Auditor General for Audit. The Act also sets out the duties of the controller and Auditor General for the united republic of Tanzania¹¹. This Act covers the area of Audit and Accountability in Government.

2.2.3.4 Appropriation Act:

Upon receipt of the Appropriation Bill by the legislature, there follows due deliberation after which the Bill is passed. Subsequently the president (executive) endorses it to become an Act, article 137 (1-3) of the URT 1977 constitution. The appropriation Act monitors public expenditure; any sum spent above it or without prior approval is illegal and for any expenditure outside the appropriation act, other than a statutory expenditure, to be legitimate, it has to be supported by the supplementary act. These are bills either money bills or others passed into law by the National Assembly. Appropriation Act states the amount to be spent on each programme on the approved estimate.

2.2.3.5 Treasury and Finance Circular:

Circulars are issued from time to time by the ACGEN as circumstances demand to revise procedures and deal with new policies and guidelines, which affect finance officers in particular and government accounting in general. They are meant to guide the operation and conduct of public sector financial transactions as they relate to government ministries and departments. Circulars come into force from time-to-time and they can be used to introduce new policy guidelines or modify existing financial procedures such as contained in the Financial Instructions. However, in the event of any conflict between Circulars and the finance act, the latter supersede. These are directives issued in form of circular, letters or memo to guide the day to day activities of government ministries or departments. They are used to amend existing financial regulation or to introduce new policy.

2.2.3.6 Public Procurement Act, (PPA) 2011 amended 2016

This is the Act that regulates procurement with national government funds with a view to ensuring transparency, probity, accountability, competitiveness, efficiency and effectiveness in procurement of works, goods and services. The Act applies to all government procurements except special goods, works and services involving national defense or security except with the express approval of the President.

2.2.3.7 The Financial Regulations (2009)

This is the operational rules and guidelines for day-to-day management of financial activities (delineate functions and responsibilities of government officers; organize treasury functions; explain authorities to incur expenditure; and provide guidance on budget preparation; provide guidance on expenditure control, payments, collection and receipt of monies, remittances, advances/loans and custody of public funds, among others).

2.3 Professional Framework and GAAP's

This consists of pronouncements that serve as standards and guidelines for public sector accounting practice. International bodies issue these pronouncements for them to be implemented by national governments and organizations that are members of the bodies. Until recently government accounting does not enjoy due attention in developing countries like Tanzania. This is attributed to number of reasons such as:

- (i) Government's control and ownership over a large resource—base makes public sector activities to continue to influence developments in private sector accounting processes.
- (ii) Being the biggest sector, governmental activities usually have a multiplier effect on other sectors of the economy including commercial accounting.
- (iii) Government is responsible for creating a conducive atmosphere where commercial activities prosper through enacting enabling legislation and the maintenance of law and order
- (iv) As the weakest link determines the strength of a chain, so also the slow pace of progress in the public sector hinders the advancement of private sector accounting; hence the need for correction and reform.
- (v) Requirements of good governance and fiscal responsibility by international finance institutions, donors and multilateral agencies. This demands that government accounting provides financial reports in line with the informational needs of users beyond the traditional requirement of national governments.

2.3.3 Objectives of the Pronouncements

Another reason why public sector accounting and reporting is getting attention is linked to the work of international and national professional bodies through standard setting. To improve the quality of government accounting information and enhance reporting standards, certain statements are issued periodically by those bodies and associations. Such statements or pronouncements are regarded as standards for government accounting. The motivation behind the pronouncements comes, in part, from the observations of deficiencies and inadequacies made against governmental activities by certain international bodies and associations. The United Nations, for example has made the following observations:

- (i) Relatively little attention is paid to social government accounting and budgetary control system.
- (ii) Greater emphasis on routine bookkeeping procedures for legal/administrative compliance.
- (iii) Delay in rendering financial reports.
- (iv) Inaccurate accounting data.

2.3.4 The basic objectives of these pronouncements include:

- (i) To develop and harmonize financial reporting, accounting and auditing practices in government.
- (ii) To provide the same accounting standards for comparability.
- (iii) To serve as guidelines to practitioners for high performance standards.
- (iv) To provide professionals with basic principles for achieving common objectives.
- (v) To enhance transparency and strengthen financial reporting by governments.

2.3.5 Sources of Pronouncements

The international public sector accounting standard (IPSAS's) pronouncements emanate from the international public sector accounting standard board (IPSAB), working together and international federation of accountants

(IFAC), to ensure a convergence of accounting standards globally. It is anticipated that the influence of IFAC, national accounting bodies, multilateral lending agencies and user communities will assist in the adoption of the standards by governments. Among the institutions involved in standard setting include; national standard setters, regulatory authorities, authoritative bodies, professional accounting bodies, and organisations interested in financial reporting in the public sector. Also in developing its standards the IPSASB seeks inputs from its consultative groups such as;

- (i) Association of Commonwealth Auditors General (ACAG).
- (ii) International Organization of Supreme Audit Institutions (INTOSAI).
- (iii) African Organization of Supreme Audit Institutions (AFROSAI).
- (iv) Professional accounting bodies eg National board of accountant and auditors (NBAA)
- (v) International Accounting Standards Board (IASB) to the extent they are applicable to the public sector 12

IFAC is an international association, made of members comprising national professional accountancy bodies founded on October 7, 1977, in Munich, Germany, at the 11th World Congress of Accountants, established to strengthen the worldwide accountancy profession in the public interest. Its members work in different sector-private, public and specialized institutions. Through its Public Sector accounting standard board, IFAC addresses the needs of those involved in public sector financial accounting and reporting. The IPASB issues International Public Sector Accounting Standards (IPSAS) which serve as “bench mark guidance (for) financial reporting and accounting in the public sector”. Guidelines, studies and occasional papers reinforce the standards. (Sulaimon 2014)

2.4 Problems and Challenges

The researchers realized that there are so many challenges that may hinder the implementation of regulatory and professional framework including of the insincerity among the government officers, lack of professionals in the field, inadequate training of public accountants. Other challenges pointed out are heavy cost of implementation which will constitute of inconsistency of the national norms and the professional guides that leads to inaccuracy in recording financial transactions¹³; laxity on the part of the public servants in generating accounting information and delay in capturing the new system; lack of independence by government managers (Adriana & Alexandra, 2014).

Generally problems hindering professional and financial regulations at the public sector level, and which is revealing in continuous financial in efficiency, can be discussed under the following sub-headings:

1. Human Elements:

This, in any system, is the most essential but the most difficult to control. Getting qualified people who can accurately interpret and apply professional and legal framework is a source of worry in government quarters. The attitude to work of the officers who interpret and apply the regulations, and the speed with which the regulations are being applied and interpreted, count very much in the realization of efficiency in the operations of government.

The government is finding it very difficult to obtain and retain an adequate number of qualified accounting and finance personnel that can manage its accounting and financial duties as expected by various stakeholders. Government accounting and financial reporting systems are not being managed by people who have got their training from the professional bodies like CPA (T) and etc. it is managed mostly, by people who joined the civil services after basic education, with the intention of making a career in the civil service. To achieve the full benefits of financial regulations, government should be able to employ qualified accountants and accounting graduates who can interpret and apply the financial regulations. Alternatively, all those civil servants managing the finances of the government should be adequately retrained in line with the challenges of their different offices¹⁴.

2. Implementation Problems

Regulatory formulation and implementation is a basic problem in Tanzania. Plans might look very good, but when it comes to implementation, performance is poor due to poor coordination or implementation came too late and essentially ineffective. This attitude can be said to be the irritation of the country’s development. The attitude is

attributable to the indiscipline; selfishness and arrogance in consideration for the rights of others are the characteristics of most government.

3. Public Awareness:

There is general lack of awareness of the existing regulations and professional framework and the right of the citizenry that the regulations professional framework seek to protect. The citizenry has no concern over the way government resources are being utilized and how the resources are being accounted for. This may be due to unawareness of the purpose of public sector accounting. "Often there are very small and weak public and social reactions to excesses, even when such excesses include deliberate misallocation, mismanagement, fraud, embezzlement conversion and other wastages".

The masses including politicians are not aware of the professional and financial regulations to be respected and as they are not being informed of what public officers are doing, they tend not to worry themselves thinking of how to deal with the corrupt leaders. Sometimes, those who are expected to be well informed, like politicians, legislators, businessmen and administrators, also demonstrate ignorance of the existing financial regulations and the purposes they were set to serve. The government should embark on public enlightenment programmes that would help educate the stakeholders about public sector accounting regulation and professional framework that are designed to guard against abuses, inefficiencies and mismanagement.

Conclusion

The paper has reviewed, in broad outline, the overview and sources of professional legal framework of the Government, at the same time assessment to the regulations and professional framework. It has also pointed some specific problems hindering the professional and financial regulations in Tanzania and the challenges posed by the need to have a sound application of professional and legal framework for the betterment of control and management of the countries resources.

According to this paper, all the legal and professional documents regulating financial activities at the national level need to be harmonized to minimize inconsistency and made workable under the current and future dispensations, if the country is to move forward. The paper recommends that legal documents and professional guidelines should bring good accountability, control and enhance decision making at the Government level, and other levels of government such as Local Governments.

The specific problems facing professional and financial regulations at the Government level has been identified to include inadequate and unqualified personnel for the interpretation and application of the regulations; unpatriotic tendency on the part of the leaders, (as regards the implementation of the regulations, inconsistency) and the general lack of public awareness of their right to know how the government is spending the public funds.

To solve the identified problems and have a true sense of financial control and management at the public sector, all the challenges posed by the paper are to be addressed accordingly.

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