

“Assessment of the Public Procurement Act,
2003 (Act 663) within the Public Entities in
the Eastern region of Ghana ”

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Abstract

This research work assessed the level of the compliance / passivity with the procurement structure of public procurement Act, 2003 (663) in selected institutions in the Eastern Region of Ghana. Ghana has undergone several review since independence with the idea of building a strong public Financial Management system, secure judicious economic and efficient uses of state resources and furthermore, ensure that public procurement is fair, transparent and non-discriminatory. The thesis outlined the events leading to reviews, and features of legal institutional and regulatory framework of the public procurement reform in Ghana and analyse its potential effect on selected entities in the Eastern region of Ghana. The research, was based on a sample size of two hundred (200) stakeholders or personnel in Health institution, educational institution and local government sectors in the eastern region of Ghana were used. The main tool used for the data collection were questionnaire and interview. The data obtained was then analysed using SPSS descriptive statistics tool which provided a way for knowing what pertain in terms of the compliance level in the public procurement Act, 2003 (663). However, the challenges of creating procurement structures and recruiting appropriate personnel to manage the procurement process to effectively improve efficiency and value for money. This research work assessed the level of the compliance / passivity with the procurement structure of public procurement Act, 2003 (663) in selected institutions in the Eastern Region of Ghana. Ghana has undergone several review since independence with the idea of building a strong public Financial Management system, secure judicious economic and efficient uses of state resources and furthermore, ensure that public procurement is fair, transparent and non-discriminatory. The thesis outlined the events leading to reviews, and features of legal institutional and regulatory framework of the public procurement reform in Ghana and analyse its potential effect on selected entities in the Eastern region of Ghana. The research, was based on a sample size of two hundred (200) stakeholders or personnel in Health institution, educational institution and local government sectors in the eastern region of Ghana were used. The main tool used for the data collection were questionnaire and interview. The data obtained was then analysed using SPSS descriptive statistics tool which provided a way for knowing what pertain in terms of the compliance level in the public procurement Act, 2003 (663). However, the challenges of creating procurement structures and recruiting appropriate personnel to manage the

procurement process to effectively improve efficiency and value for money.

ABSTRAKTN

Tato vzkumn prce hodnotila rove shody / pasivity se strukturou zakzek zkona o veejnch zakzkch, 2003 (663) ve vybranch institucch ve vchodnm regionu Ghany. Ghana prola od zskn nezvislosti nekolika pezkoummi s mylenkou vybudovn silneho systemu zen veejnch financ, zabezpeen uvlivho ekonomickho a efektivnho vyuit sttnch prostedk a dle zajitn spravedlivosti, transparentnosti a nediskriminaci veejnch zakzek. V prci jsou nastnny udlosti vedouc k pezkoummu a rysy prvneho institucionlnho a regulanho rmce reforem veejnch zakzek v Ghan, pot je analyzovn jejich potenciln dopad na vybran subjekty ve vchodn sti Ghany. Vzkum byl zaloen na vzorku o velikosti dv st (200) zainteresovanch stran i pracovnk zdravotnickch instituc, a byly tak vyuity vzdlvac instituce a mstn vldn sektory vchodnho regionu Ghany. Hlavnmi nstroji pro sbr dat byly dotaznk a rozhovor. Zskan daje pak byly analyzovny pomoc popisnho statistickho nstroje SPSS, kter poskytuje zpsob eten, pokud jde o rove shody v zkon o veejnch zakzkch, 2003 (663). Vzvy k vytvoen struktury pro zadvn veejnch zakzek a nboru vhodnch pracovnk k zen procesu zadvn veejnch zakzek zlepuj innost a efektivn vyuit penz

DEDICATION

This diploma thesis is dedicated to:

The Most High God for His protection and guidance.

My mother (Nana Konadu Kontie II) and Auntie (Margaret Debrah), who have supported me through prayers and countless advice.

My dearest wife, who has supported and stood by me when things looked bleak.

My beloved and cherished daughter, Judalyn Kyerewaa Debrah, whom I cant stop loving.

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Contents

1	Chapter 1	11
1.1	Introduction	11
1.2	STATEMENT OF THE PROBLEM	12
1.3	RESEARCH GOALS	13
1.4	RESEARCH QUESTIONS	13
1.5	SIGNIFICANCE OF THE STUDY	14
1.6	RESEARCH METHODOLOGY/ DESIGN	14
1.7	LIMITATIONS	15
1.8	ORGANIZATION OF CHAPTERS	15
2	LITERATURE REVIEW	16
2.1	Introduction	16
2.2	Public procurement Overview	16
2.3	Definition of Public Procurement	17
2.4	Public Procurement in Ghana	18
2.5	The Legal and Regulatory Framework of the Public Procurement	19
2.5.1	Implementation challenges of PPA	19
2.6	Importance of the Public Procurement and Policies	21
2.7	PROCUREMENT PRINCIPLES AFFECTING COMPLIANCE OR PASSIVITY	22
2.7.1	Professionalism	22
2.7.2	Transparency, Competitiveness and Fairness	23
2.7.3	Technology	24
2.7.4	Efficiency	25
2.7.5	Ethical Approach	26
2.8	Assessments of the public procurement reform in Ghana	27
2.9	Procurement Procedures, Methods and Thresholds	28
2.10	Procurement Methods and thresholds	28
2.11	Procurement Procedures	32
2.11.1	Planning Procurement	32
2.11.2	Tendering Process	32
2.11.3	Contracts Management	33
2.11.4	Monitoring and Evaluation	33
2.11.5	Appeals and Complaints	34
2.12	GHANA PROCUREMENT ASSESSMENT REPORT (GPAR)	34

2.12.1	State of Compliance with the Public Procurement Act, 2003	35
2.12.2	Relationship between Compliance and Performance in Procurement	35
2.12.3	Amendment of the Public Procurement Act, 2003 (Act 663)	37
2.12.4	Procurement Structures	39
3	METHODOLOGY	44
3.1	Concept and Approach	44
3.2	Source of Data	44
3.3	Population and Sample characteristics	45
3.4	Sample and Sampling Techniques	45
3.5	Data Collection Instrument-Approach and Instrument used . .	46
3.6	Primary Data	46
3.7	Secondary Data	47
3.8	Questionnaire Design and Questionnaire Administration . . .	47
3.9	The Research Design	48
3.10	Data Analysis	48
4	DATA ANALYSIS, RESULTS PRESENTATION AND DISCUSSIONS	49
4.1	Introduction	49
4.2	Background of Respondents	49
4.3	Specialization of Personnel Practising	51
4.4	Performance/Compliance/Passivity Assessment of Public Entities in the Eastern Region, Ghana	51
4.5	COMPLIANCE/PASSIVITY ASSESSMENT SCORE FOR PUBLIC ENTITIES	51
4.6	FACTORS AFFECTING PERFORMANCE/PASSIVITY/COMPLIANCE	60
4.7	EFFICIENCY AND VALUE FOR MONEY	62
4.8	COMPETITIVENESS AND FAIRNESS	64
4.9	CHALLENGES IN THE IMPLEMENTATION OF THE PUBLIC PROCUREMENT ACT:663 AND ITS EFFECTS ON ENTITIES IN PROCUREMENT	65
4.10	COMPLETION OF CONTRACT ON TIME AND WITHIN COST	66

5	SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION	69
5.1	INTRODUCTION	69
5.2	SUMMARY	69
5.3	STRUCTURES AND PROCEDURES OF THE PUBLIC PROCUREMENT	69
5.4	USE OF INAPPROPRIATE PROCUREMENT PROCEDURE	70
5.5	HIGH COST OF PUBLIC PROCUREMENT	70
5.6	MONITORING AND EVALUATION OF PUBLIC PROCUREMENT	70
5.7	CONCLUSION	70
5.8	RECOMMENDATIONS	71
5.8.1	TRAINING PROGRAMME FOR PROCUREMENT OFFICIALS (STAFF)	72
5.8.2	INTRODUCTION OF E-PROCUREMENT TO ENSURE AND REDUCE COST OF PROCUREMENT .	72
5.8.3	REDUCING OF CORRUPTION IN PROCUREMENT	72

List of Figures

1	Educational Level or Background of Respondents	50
2	EFFICIENCY AND VALUE FOR MONEY IN THE PRACTICE OF PROCUREMENT PROCESS	63
3	COMPETITIVENESS AND FAIRNESS IN PROCUREMENT PRACTICE	64
4	ETHICS AND COMPLIANCE WITH THE REGULATORY FRAMEWORK	65
5	COMPLETION OF CONTRACT ON TIME AND WITHIN COST	66
6	PRIVATE SECTOR GROWTH BY THE PUBLIC PROCUREMENT ACT	67
7	HIGH COST OF PUBLIC PROCUREMENT	68

List of Tables

1	Legal Framework of Procurement Act	20
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2	Thresholds for Procurement Methods	31
3	Thresholds for Procurement Methods	37
4	Proposed Amendment by PPA	38
5	Sample Frame selected from the Population	45
6	Respondent and sample size	46
7	Demography and Age Group of Respondents both male and female	49
8	HEALTH INSTITUTIONS	52
9	LOCAL GOVERNMENT INSTITUTIONS	54
10	EDUCATIONAL INSTITUTIONS	56
11	EDUCATIONAL INSTITUTIONS	58
12	EDUCATIONAL INSTITUTIONS	61

1 Chapter 1

1.1 Introduction

BACKGROUND: In May 2006, the Swedish government commissioned Nutek and VINNOVA, in consultation with the Nmnnden fr offentlig upphandling (NOU, the Swedish National Board for Public Procurement): “to examine how public procurement can contribute to developing innovation and creative renewal. The study is to include investigation as to how procurements may be structured in such a way that, to a greater extent, they drive forward technological development and business opportunities.”

The negative character of the institutional entities provisions which apply to public procurement, to the extent that they provide a legal framework which prohibits any obstructions, distortions and hindrances to institutional entities and the relevant fundamental principles, could be seen as the main reason for the need by Ghanaian institutions to intervene and introduce a set of rules which have a positive character in the sense that they allow a margin of discretion in their implementation. Owing to the decentralised nature of any regulatory form of public procurement in the common market, the normative character of the primary rules was diluted in favour of a process of harmonisation of existing laws and practices in the procurement law.

In Ghana, public procurement represents about 24% of total imports and apart from personal emoluments, public procurement represents 50 -70% of the national budget and 14% of Gross Domestic Product (GDP) Adjei (2005). Studies indicate that the annual value of public procurement for goods, works, and consultancy services was about US\$600 million (World Bank, 2003) which represented about 14 per cent of Ghana’s (GDP). The bulk of the expenditure were programmes run by Ministries, Departments, Agencies (MDAs) and District Assemblies (DAs) as well as Public Hospitals, Universities, Schools and Colleges which involve procurement of works, goods technical and consultancy services. Improving the public procurement system will simply put, procurement methods used to ensure that goods are acquired at optimum value and with the utmost regard for values such as integrity and transparency. As such, proper public procurement practices are largely concerned with making sure that taxpayers’ money is well spent, that the products obtained are of good quality and value and that they

are obtained without corruption and hence have an impact substantially on the economy of Ghana which will result in budgetary savings and efficiency in government expenditures, thereby creating wealth and reducing poverty. Subsequently, since independence, Ghana has initiated a lot of attempts to address weaknesses in its public procurement process by the passage of several financial and legal instruments.

The above have come in the form of constitutional, legislative, administrative instructions and legislative instruments and financial circulars. These have come in the form of constitutional, legislative instruments, administrative instructions and financial circulars. The Government of Ghana in the year, 1960 enacted the Contracts Act, 1960 (Act 25) and Ghana Supply Commission Act which was reviewed later in 1990 by PNDC law 245. In 1976, the Ghana National Procurement Agency Decree, 1976 (SMCD 55) was passed by the Supreme Military Council. In 1979, another law, the Financial Administration Decree (SMCD 221) was also passed. All these laws, decrees and instruments were meant to provide a comprehensive framework of administrative powers to regulate the activities of procurement within the public sector.

However, consecutive review of the public procurement regimes in Ghana reveal substantial inefficiencies, corruption and lack of transparency in the procurement processes of governmental agencies as a result of undefined legal framework, lack of harmonized procedures and regulations and unclear institutional and organizational arrangement required in the management of the public procurement process. It lacked capacity development of procurement practitioners and career path for them in the Public and Civil Service. This led to non-achievement for value for money in government and donor financed procurements. It became clear therefore that, there was the need to critically examine the processes and procedures of public sector procurement to ensure operational efficiency and institutional capacity to address procurement issues.

1.2 STATEMENT OF THE PROBLEM

The object of the procurement reform in Ghana is to harmonize the processes of procurement in the public entities to secure an economic, judicious and

efficient use of state resources in public procurement and ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner while promoting competition among local industries.

However, several allegations associating to irregularities in procurement processes were levelled against Public Entities (PE) and other stakeholders involved directly or indirectly in procurement were among the findings of the reforms. These include inefficiency, delay in procurement due to long procurement processes, high cost of projects, lack of fairness, transparency, and non-discrimination in the selection and award of government contracts, as well as inflating contract figures. The study was conducted to determine whether the Public Procurement Act, 2003 (Act 663) has been complied with by Public Entities (PE) and whether the reform has helped in addressing the difficulties and challenges prior to the implementation of the Public Procurement Act, 2003 (Act 663).

1.3 RESEARCH GOALS

The main goals of this study is to assess the level of passivity with public procurement reform by public entities in the Eastern Region. The following are specific goals which need to be accomplished:

1. To evaluate the Public Procurement structures and procedures of the public procurement reforms after the introduction in 2003,
2. To determine the extent of passivity with the Public Procurement Reform by the public entities in Eastern Region,
3. To identify factors affecting passivity with the Public Procurement Act, 2003 (Act 663), and
4. To establish the point to which the implementation of the Public Procurement Reform affect the performance of public entities in Eastern Region.

1.4 RESEARCH QUESTIONS

The key questions the research answered are:

1. Are there principles affecting compliance with the Public procurement reforms?,
2. What are the procedures involved in Public Procurement?,
3. What is the level of compliance of procurement entities in the Eastern Region?, and
4. Are there any implementation challenges of the Act?

1.5 SIGNIFICANCE OF THE STUDY

Serious management of unrestricted procurement systems has been identified as very imperative to expedited soul processing. For such idea and reason, previous governments have realized that reformation in the procurement laws and Acts are justification for judicious use of the taxpayer's taxes. However, procurement regimes are firmly regulated and implemented to ensure attainment of value for money through cost-effectiveness, transparency, fairness and efficiency and the promotion of competitive local industry. The allegations of inefficiency, decelerate in procurement of goods and services due to long standing procurable processes, lack of transparency, fairness and non-discrimination in the option and honour of government contracts, and fronting in the acquisition processes has become a source of problem. Assessment reports by PPA revealed that national entities are also confronted with procurable issues such as professionalism, minor development opportunities for procural staff in the public service, and weak procurement management. This shows that the reform is currently visaged with numerous effort challenges threatening its compliancy. Nonetheless, the crucial portrayal of the reform in promoting clarity, justice, efficiency, reaction in immorality, edifice exoteric and helper trustfulness as shaft as authority in public procurement systems, it is important for a ruminant of this kind of study to be undertaken to assess the impact of the procurement reform strategy on public entities and challenges confronting the reclaim.

1.6 RESEARCH METHODOLOGY/ DESIGN

In the assessment of the level of compliance to the structure and procedures of the Act 663 by selected local government and educational entities in the Eastern Region, a case study approach and the administration of a structured

questionnaire were carried out. Information for the study was obtained from questionnaire, personal interviews and discussions with professionals responsible for procurement, entity tender committee members and some of the officials of the Public Procurement Authority. Criteria were developed to assess/measure the compliance and the performance level of Procurement Entities. The criteria developed were used to analyse the data collected. The research focused on procurement of works with emphasis on procurement at the regional, municipal and district levels.

1.7 LIMITATIONS

Like any other research, the research is not without constraints and these are:

1. The search covers the Local government, Educational, as well as some private providers in the Eastern Region. However, the analysis and findings relates to other entities in the private and public sectors. Selecting exclusive entities in the Eastern part may not be a fair representation of the public entities across Ghana, and
2. Compliance assessment tools that were used were adoptive from public Procurement Authority and therefore any limitations that are embedded in them equally affects the study.

1.8 ORGANIZATION OF CHAPTERS

This study is organized into five chapters. Chapter one of the thesis discusses the background of the study, statement of problem, research goals, research questions, significance of the study, research methodology, limitations and organization of chapters. Chapter two presents the relevant literature review on public procurement reforms in Ghana and the theoretical framework. Chapter three addresses the identification of the most suitable research methodology for this research. Chapter four presents data analysis, findings and discussions. Finally, chapter five presents summary of findings, conclusion, and recommendations.

2 LITERATURE REVIEW

2.1 Introduction

The review focuses on the overview of Public reforms in Ghana. The public Entities, who are major stakeholders of the reform, have expressed varied perceptions about the implementation of the reform. The Public Procurement Authority (PPA) has also given some responses to some of the key issues emphasised by the public and the entities. In this chapter, a number of relevant literatures on the impact of public procurement reform in Ghana are presented in order to establish and provide answers to the research question.

2.2 Public procurement Overview

The 1996 European Commission Green Paper on Public Procurement and the follow-up policy developments adopted by the European institutions highlighted the need for a modern and effective regime to regulate public procurement in the European Union. The previous legal framework of public procurement assigned the supplies, works and services, as well as utilities procurement, to different legal instruments. The regime was the product of four decades of legal development to open up the public sector markets to competition and introduce similar allocative and production efficiencies to those found in private markets that are genuinely competitive.

The World Bank (2003) estimated the annual value of public procurement for goods, works, and consultancy services at 600 million US dollars representing about 10 countrys GDP. Therefore, public procurement is an integral function of governments in both developed and developing countries as the gigantic financial outflows has a great impact on their economies that needs prudent management (Thai, 2001). Thus the prudent handling of public procurement functions is fundamental to achieving economic, socio-political and other objectives of government.

Due to the important role of public procurement in economic and social development, the World Bank specifies four areas of public procurement for its funded projects. And that includes, ensuring that there is fair competi-

tion among bidders, promoting transparency in awarding and execution of its contracts and finally, encouraging the development of indigenous contractors and suppliers (Thai, 2001; Tucker, 1998).

However, according to Schapper, VeigaMalta & Gilbert (2006), indicated that electronic commerce (e-commerce) can be used to enhance transparency in the procurement process through effective audit and monitoring of low value transactions and also some assertion such as information dissemination on bidding programmes, progressive evaluation of tender documents and declaration of tender results, high value and very complex procurement procedures.

2.3 Definition of Public Procurement

According to the Gilbert (2006) , Procurement may be defined is the act of acquiring, buying goods, services or works from an external source. It is favourable that the goods, services or works are appropriate and that they are procured at the best possible cost to meet the needs of the acquirer in terms of quality and quantity, time, and location. Corporations and public bodies often define processes intended to promote fair and open competition for their business while minimizing exposure to fraud and collusion.

Public Procurement Act, 2003 (Act 663), is also defined as ‘the acquisition of goods, works and services at the best possible total cost of ownership, in the right quantity and quality, at the right time, in the right place for the direct benefit or use of governments, corporations, or individuals, generally via a contract (PPA Module, 2007). Alternatively, Public procurement thus means procurement by a procuring entity using public funds (World Bank, 1995a). The items involved in public procurement range from simple goods or services such as clips or cleaning services to large commercial projects, such as the development of infrastructure, including road, power stations and airports. Public procurement is different from private procurement, because in public procurement the economic results must be measured against more complex and long term criteria. Furthermore, public procurement must be transacted with other considerations in mind, besides the economy. These considerations include accountability, non-discrimination among potential suppliers and respect for international obligations. For these reasons, public procurement is subjected in all countries to enacted regulations,

in order to protect the public interests. It is worth noting that unlike private procurement, public procurement is a business process within a political system and has therefore significant consideration of integrity, accountability, national interest and effectiveness (Wittig, 1998).

2.4 Public Procurement in Ghana

The Public Financial Management Reform Program (PUFMARP) was launched in 1996 by the Government of then Regime of Ghana with the aim of improving the overall financial management in Ghana. In 1999, the Government of Ghana initiated and established the Public Procurement Oversight Group to control and manage the development of the public procurement Reform Programme (World Bank, 2003). The Public Procurement act, 2003, (Act 663) has also established the Public Procurement Authority (PPA) as organized cooperate body with an oversight responsibility for the effective implementation of the Act. The object for PPA is to secured a wise, economic, and efficient use of public funds in a fair, transparent and non-discriminatory behaviour while promoting a competitive Local industry. However, the PUFMARP identified the under mentioned weaknesses in the procurement system:

1. No comprehensive public procurement policy;
2. There was no central body with technical expertise to oversee/regulate sound procurement practice;
3. Absence of clearly defined roles, responsibilities and authority for procurement entities;
4. There was no comprehensive legal regime to safeguard public procurement;
5. No rules and regulation to guide, direct, train and monitor public procurement;
6. No independent appeals system to address complaints from a tender;
7. No authority to dispose of public assets; and
8. No independent procurement auditing function

2.5 The Legal and Regulatory Framework of the Public Procurement

The Public Procurement Act, 2003 (Act 663) set out the institutional, legal and regulatory framework to support transparency and public accountability in Ghana's procurement system.

The Act establishes five elementary principles upon which the Public procurement is based according to the World Bank, (2003). These pillars are: the legal and institutional framework; standardized procurement procedures and tender documents; independent control system; proficient procurement staff officers; and anti-corruption measures.

The objectives of Act 663 is to harmonize the processes of the public procurement sector to ensure judicious, economic and efficient use of resources and to assure that public procurement functions undertaken within the public sector are reasonable, transparent and non-discriminating. The Public Procurement Act 663 establishes the Public Procurement Board (PPB) now PPA, Entity Tender Committees (ETCs) and Tender Review Boards (TRBs). It specifies in clear terms in the laws for procurement methods and thresholds, procedures, appeals and complaints resolution procedures and disposal stores.

2.5.1 Implementation challenges of PPA

It is an undeniable fact that sound public procurement policies and practices are essential for good governance. Examples from the world affirm that public procurement involves huge resources and when directed well could be used to improve development. Ghana's Public Procurement Authority (PPA) claims that corrupt practices in procuring goods especially have significantly reduced, following implementation of the Public Procurement Act 663. This has been attributed to the potentials for punitive measures put in place, a view which is shared by the OECD/ DAC Committee and the Auditor General reports (Business Anti-corruption portal, 2010). However, a recent report of the World Bank suggests that only 37% of government purchases were subjected to competitive bidding which refers to widespread in public contracting. Also, the deafening outcry over mounting and allegedly scandalous judgement debt payments by government of Ghana raises critical issues about the procurement system. The risk of corruption and lack of

Table 1: Legal Framework of Procurement Act

Legal Framework	Details
Public Procurement Act:	Provide a comprehensive legal regime to harmonize and safeguard public procurement
Public Procurement Manual:	Provides practical guidance and step-by step procedures for undertaking procurement in accordance with the Act
Standard Tender Document:	They comprise standard invitation and contract documents for procurement of all values. There are separate standard documents for goods, works and services
Public Procurement Regulations:	They contain detailed rules and procedures for all aspects of the procurement system, the operations of PPA and procurement entities and the conduct of procurement activities
Guidelines:	Issued by the Public Procurement Authority (PPA) which provides supplementary guidance on disposal, single source procurement, margins of preference, framework contract agreements, sustainable public procurement (SPP) etc

transparency in public procurement are major impediments to sustain economic growth investment and trade. Hoekmans et al. (2004) demonstrates that little is known of actual procurement system in developing countries. The Country Procurement Assessment Report of Ghana produced in 2003, revealed that most staff members of Ministries, Departments and Agencies (MDAs) and District Assemblies (DAs) responsible for procurement were not procurement proficient, though they have been trained in one way or another. The report contended that application of the Public Procurement Act and the Standard Tender and Contract Documents will not be successful without broad training and “refresher” programmes for officials in charge of procurement. Forgor (2007) confirms that one of the challenges that confronts procurement reforms is the lack of proper training of managers on the procurement process. This supports the assertion that poor dissemination

of procurement law is one of the challenges facing the smooth implementation of public procurement laws (Azeem, 2007). Political interference with the procurement process poses a challenge to the implementation process and public procurement reforms. A number of politicians are of the view that they have the right to intervene in the procurement procedures thereby leading to capricious procurement decisions (World Bank, 2004). The lack of career development path and low salaries of procurement personnel also militate against procurement reforms implementation (World Bank, 2003b). Poor record keeping (World Bank, 2003b), delays in payment of contractors and suppliers are also cited as some of the crucial factors that challenge procurement reforms implementation (Azeem, 2007).

2.6 Importance of the Public Procurement and Policies

Public procurement has a direct impact on the following:

1. The successful delivery of projects and public services;
2. Sound public financial management by achieving value for money in government expenditure;
3. Reducing corruption; and
4. Encouraging private sector growth and investment; Statistics show that public procurement accounts for:
 5. 50-70% of the national budget (after personal emolument);
 6. 14% of GDP; and
 7. 24% of total imports (Adjei, 2006)

Procurement policies are important from a development perspective. Reducing poverty and attaining health, education, and other objectives requires getting the most out of the limited funds available for state purchases of goods, services, and infrastructure. Efficient public procurement practices also contribute towards the sound management of public expenditures more generally (Hunja, 2003). Procurement planning enables the identification of

major investment expenditures, which in turn facilitates budgetary decision-making. In addition, the effective provision of public services often requires the coordinated delivery of materials and the like, which the state purchasing apparatus must accomplish. It is difficult to imagine how a state can deliver substantial improvements in the well-being for its citizens without a public expenditure system that includes effective public procurement policies. This recognition accounts in part for the growing interest in public procurement laws and practices and in the feasibility and likely consequences of their reform. There is also a growing appreciation of the linkages between specific national objectives and public procurement practices. For example, state contracting is often a central focus of campaigns to tackle corruption and to ensure that appropriate distance is kept between government officials and the private sector. Procurement policies may be part of an industrial policy or an instrument to attain social objectives (e.g., support for small and medium sized enterprises, minority-owned businesses, disadvantaged ethnic groups, or certain geographic regions) through set-asides and preference policies. The manner in which a state implements its public procurement policies has implications for the achievement of such objectives, and for the cost of doing so. Indeed, these policies may speak volumes about numerous other national priorities, practices, and concerns (McCrudden 2004). Knowing what the various objectives are and how effective and efficient procurement policies are in attaining them should be an important dimension of assessing the performance of governments.

2.7 PROCUREMENT PRINCIPLES AFFECTING COMPLIANCE OR PASSIVITY

2.7.1 Professionalism

The term professionalism describes the standards of education and training that prepare responsible procurement officers with the particular knowledge and skills necessary to perform the role of the Public Procurement Authority Sector. It is in the recognition of this fact that the Public Procurement Authority focuses its resources on the training, professional development, promotion and support for individuals that are engaged in public procurement to ensure adherence to professional and ethical standards (Adjei AB, 2006) Hence, to achieve professionalism the Authority developed a Capacity

Development Policy Paper which aimed at ensuring that the following;

1. Personnel in the Procurement Units in the public service will have career paths in procurement and given opportunities to gain professional procurement qualifications.
2. Each Procurement Entity has a functional Procurement Unit that is managed by personnel who have the requisite procurement training, competencies, and adhere to agreed code of ethics.

The above ethics are considered the best practices for a complete expenditure and dimension of a set of requirements to meet the customer's demands. It is reflected in the price of the products and services procured. It has to be noted that value for Money (VFM) is an indispensable measure of the effectiveness of the procurement transformation or process, its outputs and outcomes. Achieving Value for Money requires a strategic and integrated approach to procurement (PPA manual, 2006). This, has important organizational and institutional implications. Value for Money may be compromised if the Public Procurement Act and Regulations are not followed. This procurement function is a serious test against which comfortably functioned procurement management must be addressed to maintain and justify procurement outcome as needed conditions for best appreciate, transparency and accountability in Public Procurement (Mankind Array, 2003). It is associated with distribution of resources for realization of some anticipated value in economic, in effective and effective manner.

The concept of value for money concerns not only on price/cost but also takes into consideration efficiency and strength of the procurement process. The procurement professionals require a continuously improvement on their performance and innovation to change greater value to the procuring entity. However, Public Procurement professionals need knowledge and skills to efficiently and effectively run the procurement process whiles Public entities strive to motivate procurement staff in terms of remuneration and good conditions of service.

2.7.2 Transparency, Competitiveness and Fairness

In a democratic society, citizens rightfully demand judicious and prudent use of their tax dollars. Businesses are accountable to owners and citizens should

not expect any less from their government. Thomas Jefferson is credited by saying, “We might hope to see the finances as clear and intelligible as a merchant’s books, so that every member of Congress, and every man of every mind in the Union should be able to comprehend them, to investigate abuses, and consequently, to control them”. However, Transparency is operating in such a way that it is easy for others to see what actions are performed. It has been defined simply as “the perceived quality of intentionally shared information from a sender”.

Transparent procurement procedures can contribute to a more efficient allocation of resources through increased competition, higher quality procurement and budgetary savings for governments and thus for taxpayers (PPB Training Module 3, 2007). To avoid corruption in the public procurement systems there is the need to publish calls for tenders, notifying contract awards in the media, including the successful bidder’s name and final price, and making award criteria more transparent and accountable. These are some of the basic principles of transparency in government procurement which directly affect corrupt practices (Evenett et al, 2005).

In this regard, the Act 663 and Regulations endorse the use of competitive tendering which encourages maximum competition in the procurement system. It involves the use of STDs, advertising procurement opportunities, public opening, publication of contract awards, creating windows of addressing appeal and complains, etc. Public Procurements using other uncompetitive methods are vigorously monitored and evaluated by PPA and Audit Agency to ensure transparency, fairness, and value for money (Act 663, 2003).

2.7.3 Technology

Information maintained by the government is a public asset and must be disclosed rapidly in forms the public can readily find and use. Implementing transparency measures and providing information about government operations to the public in a timely manner relies heavily on technology-based solutions. Of course, technology-centric information systems require substantial initial investment and ongoing financial and human resource allocation. As governments are perpetually challenged to adequately fund all public services, public officials must necessarily balance transparency mandates with limited available resources. Absent adequate technology support,

transparency initiatives depend on labour-intensive, ineffective, and time-consuming processes to make documents available. For transparency initiatives to achieve their great potential for success, investment in technology is essential. As technology solutions are founded upon and must integrate with the operating practices of the entity, procurement officials must continue to find ways to creatively streamline processes, become more efficient, promote accountability, and preserve process integrity and provide information regarding contracting activities and decisions that build and strengthen public trust. Efficient, well-defined systems processes and rules contribute to reducing the cost of the technology investment. However, implementing these innovations in Ghana entails costs of infrastructure development, and training personnel in the public entities, etc.) With the growing use of computers in procurement systems, Ghana is able to assemble such data and made available procurement information such as procurement plan templates, standard tender documents, contract awards, dispute and complain resolutions, quarterly procurement bulletin, etc. on-line. Realizing the immense benefits of e-procurement, PPA is working hard to implement the e- Government Procurement (e-GP) system in Ghana. The e-Government Procurement (e-GP) is being implemented as one of the systems under the e-Ghana project being supported with funding from the World Bank. Implementation of e-GP began with a series of meetings with a team from the World Bank, the Public Procurement Authority and e-Ghana. The purpose of these meetings was to draw up an implementation plan for e-GP establishment in Ghana. In June 2011, the team completed work on the final Terms of Reference (TOR) to be used for the engagement of a Consultant for the Systematic Development of Electronic Government Procurement (e-GP) in Ghana. It is expected that evaluation will be completed after October 28, and a relevant contract signed for work to begin in November 2011.

2.7.4 Efficiency

With these levels of expenditure, it is not surprising that the use of public funds features strongly in any efficiency drive. Understanding exactly what is spent by whom, and on what, remains one of the great challenges for the procurement community. When you know what you buy, you can challenge whether it is really necessary. Avoidance or recycling should always be the first choice before procuring anything. If we have to buy, then we ought to know whether the price is competitive, and we ought to procure in a way that

uses the minimum of time and resources; so the use of electronic methods and standardized procedures should be more prevalent. The much-publicized ‘Gershon Efficiency Review (which will never be published, but whose findings were embraced in the Spending Review 2004 settlements) set targets of 20 billion per annum savings across the public sector, of which the majority (over 60 per cent) are cash releasing (Gershon 2004). Over 7 billion of the targeted savings per annum are down to procurement to achieve mostly pure cash from avoidance or price reduction and there is a further 1 billion or so on top of that from ‘back-office’ process improvement and productivity gains. In Ghana to be efficient and effective in Public Procurement is to carry out procurement activities in a professional and transparent environment with a clear set of predefined rules to foster enhanced competition thus stimulating efficiency and innovation amongst bidders. There is a better utilisation of funding, increased attractiveness to private sector and improved customer satisfaction (PPA, 2008). According to Cloete (1998), efficiency in the public sector means satisfying the most essential needs of the community to the greatest possible extent using the limited resources that are available for this purpose. Thus, public entities should be represented by competent personnel capable of putting the Public Procurement Act (Act 663) into practice to attain efficiency and value for money.

2.7.5 Ethical Approach

Rushworth Kidder (1944-2012), states that ”standard definitions of ethics have typically included such phrases as ‘the science of the ideal human character’ or ‘the science of moral duty’. Ethical approach implies exemplary approach to all procurement processes that cannot be questioned or criticized. The following are examples of conducts prohibited by Ghana’s Public Procurement Code of Ethics:

1. Showing up confidential or ”inside information” either directly or indirectly to any tenderer or prospective tenderer or discussing procurement with any tenderer outside the official rules and procedures for conducting procurement,
2. Discriminating and favouring against any tenderer or potential tenderer in the drafting of technical specifications or standards or the evaluation of tenders in the procurement process,

3. Accepting or requesting money, kickbacks, meals, gifts, favours, discounts or anything of material value from tenderer's or potential tenderer's or discussing or accepting later business with a tenderer, and
4. Requesting any other Public Servant or Government officials representing the Procurement Entity in a Procurement process to break the Public Procurement rules or procedures.

2.8 Assessments of the public procurement reform in Ghana

The public procurement reform programme in Ghana is a wider reform agenda aimed at improving public financial management. According to the Ministry of Finance (2001), the purpose of the public procurement reform is to promote national development through enhancement of harmonious relationship with other local and international laws and regulations. It is also to foster competition in public procurement processes; transparency and accountability in procurement functions; facilitating the ease of procurement administration; and ensuring that value for money is achieved, so said (Anvuur and Kumarswamy, 2006). There are improvements in transparency in the public procurement system in Ghana which contributes to a more efficient allocation of resources through increased competition, higher quality procurement. Transparency in the public procurement systems in Ghana also helps in attracting more investment. Transparent procurement procedures also help limit bribery and corruption, which are particularly rampant in the procurement field in both developed and developing countries (OECD, 2003). With improved public financial management due to transparency and accountability in the public procurement as a result of the procurement reforms, it is envisaged that there will be an annual savings of about 150 million US dollars in government financed procurement alone in Ghana (World Bank, 2003; Anvuur et al, 2006) The introductions of technological developments into the public procurement systems in Ghana have added a new dimension to its procurement reforms. The combination of greater computing power and internet-based communication has given rise to the e-procurement or electronic procurement regimes. However, it is a question of how, and to what extent, public procuring entities in Ghana can take advantage of the technological developments and reap the benefits from recent innovations (Segal and Taylor, 2001) Procurement Procedures, Methods and Thresholds

There are various methods of procurement provided under the law for use by public procurement entities. The choice of particular method is based on the amount involved (threshold) and the circumstances surrounding the procurement.

2.9 Procurement Procedures, Methods and Thresholds

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2.10 Procurement Methods and thresholds

1. Competitive Tendering (Section 35 & Part V of Act 663)
The Act and Regulations endorse the use of competitive tendering method for standard high value procurement for goods, works and consultancy services. The two types of competitive tendering methods include (1) International Competitive Tendering (ICT) which is used when effective competition cannot be achieved without the inclusion of foreign firms (s.45). (2) National Competitive Tendering (NCT) is used when the procurement entity so decides (s.44) and subject to contract value thresholds specified in Schedule 3. It is the most preferable methods under the law, as it encourages maximum competition in the procurement system. The invitation to tender is always advertised and opened publicly.
2. Request for quotations (Sections 42-43 of Act 663)
The process of organizing a fully-fledged tendering or other competitive tendering procedure is normally a time consuming and costly exercise which can be dispensed with when the contract value is small. The main idea is to allow procuring entities to use a simplified procedure in those instances where the contract value is so small that the administrative effort related to a full-fledged tendering procedure appears out of proportion (Acts 663, 2003). The method is based on comparing

price quotations obtained from at least three foreign or local suppliers for goods/works that are small in value.

3. Two-Stage Tendering (Sections 36-37 of Act 663)

Two-stage tendering is only allowed where detailed specifications cannot be made available before going to tender (s.36) or the optimal solution is unknown. In the case of services, it is used to obtain proposal or offers on various means to meet its procurement requirements.

4. Restricted Tendering (Sections 38-39 of Act 663)

This is a procurement method with limited competition. A maximum of six and a minimum of three short-listed suppliers are invited to tender. To apply this method, a procurement entity requires specific approval from the Public Procurement Authority (PPA). The Restricted Tendering method is applied mainly where procurement requirement is of specialised nature and there is enough evidence to show that there is limited number of potential suppliers. In 2009 a total of 167 out of 179 entities received approval to use this method of procurement as compared to 2008 approval of 166 out of 173 applications received (PPA Annual report, 2009).

5. Single Source Procurement (Sections 40-41 of Act 663)

This system involves procurement from a supplier without any competition. It is normally used for procurement of sole or single sourced requirements. The law allows this method where: procurement is for justifiably urgent items, requirements can only be supplied by one source, additional requirements for purposes of standardisation, purposes for research, experiment, study or development, procurement that concerns national security. In 2009, 323 out of 360 single source applications received were either approved or conditionally approved as against 318 out of 342 in 2008 by PPA (PPA Annual report, 2008/2009). This method has often been abused by entities and political leaders over the years. According to the Finance Minister, public procurement appears to be one of government's activities most vulnerable to waste, fraud and corruption due to its complexity, the size of the financial flows it generates and the close interaction it brings between the public and private sectors. On that note, the PPA Board was urged to examine very carefully the conditions for approving sole-source procurement applications with the view of making it more of an exception rather than the

norm. All contracts must be tendered on an open competitive basis, except otherwise provided for in the Act (s.35). All procurement must use the appropriate standard tender documents provided in Schedule 4 and modifications can only be introduced through contract data sheets or special conditions of contract (s.50). The successful tender for works contracts shall be the lowest evaluated tender price ascertained on the basis of criteria specified in the invitation documents, which shall include (s.59): (1) the tender price subject to any margin of preference for domestic contractors (s.60); (2) the potential for economic development, local involvement or technology transfer; and (3) national security considerations. The selection of consultants shall be on quality and cost-based criteria (s.75) with the price component assessed in a similar manner as for works (s.69). Quality-based selection is allowed for complex or highly specialized assignments (s.72), and least-cost selection is reserved for small value assignments.

Table 2: Thresholds for Procurement Methods

	Procurement Method/Advertisement	Contract Value Threshold
Pre-qualification:	Goods	Above GHC 35Bn
	Works	Above GHC 75Bn
	Technical Services	(less than 10% of cost of works)
International Competitive Tender:	Goods	Above GHC 15 billion
	Works	Above GHC 20Bn
	Technical Services	Above GHC 2Bn
National Competitive Tender:	Goods	Above GHC 200MM to GHC 2.0 Bn
	Works	Above GHC 500MM up to GHC 15Bn
	Technical Services	Above GHC 200MM up to GHC 2.0Bn
Restricted Tendering		Subject to Approval by PB
Price Quotation :	Goods	Up to GHC 200 million
	Works	Up to GHC 500MM
	Technical Services	Up to GHC 200MM
Single Source Procurement and Selection		Subject to Approval by PB
Advertisements for Expressions of Interest for Consulting Services	Above GHC 700MM	
Least-Cost Selection	Up to GHC 700MM	
Selection based on Consultant's Qualifications	Up to GHC 350MM	
Single Source-Selection	Subject to Approval by PB	

Source: Public Procurement Act, 2003.

MM GHC- Million Ghana Cedis

Bn GHC- Billion Ghana Cedis

2.11 Procurement Procedures

2.11.1 Planning Procurement

Generally, planning enables organizations to, among other things, determine performance standards, establish overall direction, anticipate and avoid future problems and reduce the risks of uncertainty, identify and commit resources towards the achievement of goals, determine and develop performance standards, and effectively coordinate various activities in the organization (PPB Manual, 2005). The Public Procurement Act 663 provides for the activity of planning under Part 3 section 21. What the foregoing means is that it is imperative that procurement entities would need to plan their procurement for the coming year by the 30th of November of the preceding year. The plan would be reviewed and approved by their Entity Tender Committees (ETCs), after which the plans are updated every quarter. The list of entities who submitted their procurement plans are published in the Public Procurement Bulletin. In 2010, only 164 entities out of over 1000 entities across the country submitted their annual procurement plan. As at October, 2011 only 199 entities submitted their plan to Public Procurement Authority (PPA Procurement Bulletin 2010/2011).

2.11.2 Tendering Process

The requirement to advertise the intention to buy goods and works is spelt out by Section 47 of Act 663 for procurement using International and National Competitive Tendering. Advertisement is used to invite tenders. The purpose of advertisement is to disseminate information to the public for the purpose of transparency and to invite tenders. Procurement entities are to provide tender documents to suppliers and contractors in accordance with procedures and requirements that were stated in the advertisement. The price at which the tender document is sold should be enough to recover the cost of printing and the document being made available to suppliers and contractors. Sufficient quantities of tender documents should be made available as many as there are tenderer's. It is an offence to deny any supplier or contractor the opportunity to participate in any tender simply because stocks of documents are exhausted. Tenders should be opened immediately after the close of tenders. The Procurement Unit will need to ensure smooth operation of the proceedings, prepare minutes of the opening and advise the chairman of the opening session on procedural issues if requested. A Tender Opening

Committee is usually constituted and is made up of at least three persons one of whom should be a member of the Tender committee. The Chairman of the Tender Opening Committee controls and directs the /Tender Opening proceedings and tenderer's representatives should not be allowed to interfere with the work of the Committee. Any objections by a Tenderer to the procedures or decisions of the tender opening should be made in writing to the Head of the Procurement Entity.

2.11.3 Contracts Management

A formal contract document will be drawn up, using the agreed terms and conditions, and signed by winning tenderer and the Entity. Simpler requirements may use a purchase order or where existing framework contracts exist, contracting may consist of placing a call-off order under the existing contract. The awarded contract must then be managed, to ensure that both the buyer and supplier perform their contractual obligations. Activities may include expediting delivery, arranging inspection or freight forwarding, checking bank guarantees, establishing letters of credit, making arrangements for receipt and installation of goods, verifying documentation and making payments. Works contracts will often require technical supervision by an engineer/project management team to ensure quality, time schedule and cost. Contracts for consultancy services often require the desire participation of the buyer or client organization, as the recipient of training or technical advice or in responding to studies or reports. According to PPA Annual report (2009), Contract completion rate for the year is about 68%. This signified that contract management is a major challenge for most entities.

2.11.4 Monitoring and Evaluation

Controlling the performance of the procurement function and ensuring its efficiency and effectiveness is essential to the management of the procurement process. It is vital to evaluate how well the procurement process has gone, identify any weaknesses or problems and agree actions to prevent similar problems in the future. Evaluation may include a formal procurement audit. Procurement monitoring is an essential part of procurement management and control linked to compliance with Act 663 and performance outcomes such as value for money, professionalism and code of conduct in procurement. This will involve the management of entity, staff of PPA, private sector, oversight

bodies (internal and external audit), civil society (including NGOs), project beneficiaries, and media (PPA Annual Report, 2008).

2.11.5 Appeals and Complaints

Part VII Review -Section 78 of Act 663 deals with the procedures to be used in handling complaints received from aggrieved parties involved in the procurement process. Any supplier, contractor or consultant that claims to have suffered, or that may suffer loss or injury due to a breach of a duty imposed on the procurement entity, may seek review in accordance with this Part. Procurement decision-making process needs to be properly followed and documented so that complaints can be investigated within the strict time frame. Those involved in audit and in the prosecution of procurement related offences may be able to provide examples of where sanctions could not be applied as a result of poor or inadequate procurement records. In Ghana, the Authority established seven (7) member Appeals and Complaints Panel comprising legal procurement experts, and representatives from the private and public sectors which was inaugurated in 2007. In the same year the Panel successfully concluded fourteen (14) cases out of twenty (20) cases received (PPA Annual report, 2007). The appeal and complaints procedures allowed bidding firms with the chance to show their disapproval before the procurement process is completed, as well as thereafter.

2.12 GHANA PROCUREMENT ASSESSMENT REPORT (GPAR)

The World Bank in its 2003 CPAR made specific recommendation to the Government of Ghana, among other things, establishment of procurement units by procurement entities, improving on stores management, reducing the bureaucracy involve in the processing of payment certificates for contractors and suppliers and ensuring that value for money is achieved in sole source contracts (CPAR, 2003). Subsequently, the Public Authority has been conducting annual procurement assessment via its Benchmarking, Monitoring and Evaluation Directorate. The main objective of the assessment is to find out how the procurement ‘good practices’ enshrined in the Act 663 and its accompanying documents are being employed in the public entities and to inculcate into the public sector Entities the need to monitor and evaluate procurement performance. It is therefore hoped that ultimately, public entities

will adopt this assessment approach and use it on their own for procurement assessment.

2.12.1 State of Compliance with the Public Procurement Act, 2003

The regular and continuous assessment of procurement entities in countries of their national procurement systems with regard to their compliance with the procedures, rules and regulations set-up and the public Procurement Laws has been embraced worldwide. In view of this, the World Bank, Organization of Economic Co-operative and Development (OECD), a methodology for assessment of procurement systems to their compliance with the various procurement rules were also developed, namely baseline indicators, performance indicators and performance assessment system (OECD/World Bank, 2004). The Public Procurement Authority (PPA) is mandated by Sections 3(d), 3(e) and 3(h) of the Public Procurement Act, 2003 (ACT 663) to assess the performance of each entity to ensure compliance with the provisions of Act 663. Subsequently, the Public Authority has been conducting annual procurement assessment through its Benchmarking, Monitoring and Evaluation Directorate. The main objective of the assessment is to find out how the procurement ‘good practices’ enshrined in the Act 663 and its accompanying documents are being employed in the public entities and to inculcate into the public sector entities the need to monitor and evaluate procurement performance. It is expected that public entities will adopt this assessment approach and use it on their own for procurement assessment.

2.12.2 Relationship between Compliance and Performance in Procurement

For decades procurement performance has been attracting great attention from practitioners, academicians and researchers due to poor performance resulting from non-adherence to proper processes and procedures. Performance provides the basis for an organization to assess how well it is progressing towards its predetermined objectives, identifies areas of strengths and weaknesses and decides on future initiatives with the goal of how to initiate performance improvements. Compliance as a concept compares the conduct of the regulators to the equivalent legal obligation that the regulators should comply with (Gelderman et al., 2006; Lange 1999). Therefore, com-

pliance is considered by political and social regulators as a prescribed process of elimination or avoidance of risk that is normally associated with public procurement systems. Assessment of public procurement management performance is defined in terms of compliance with the set procurement rules (Schapper, Veiga Malta, & Gilbert (2006). The public procurement Act, 2003 (Act 663) specifies a number of rules, process, procedures and ethics for the whole procurement process. These rules aim to secure efficiency in the use of public funds to ensure non-discrimination, fairness, transparency and accountability in the procurement process. Literature suggests that Public Procurement Act is the basis of measuring procurement performance. This means that there is a positive relationship between compliance to the Public Procurement Act and Procurement Performance. That is the higher the compliance the higher the performance of entities in the region. Knudsen, (1999) agree that procurement performance starts from the regulatory framework of procurement which specifies purchasing efficiency and effectiveness in the procurement function in order to change from being reactive to being proactive to attain set performance levels in an entity. For any organization to become more competitive Amaratunga & Baldry (2002) suggest that performance is a key driver to improving quality of services while its absence or use of inappropriate procedures can lead to non-compliance with purchasing function. PPA agrees with this assertion and so conducts annual performance assessment to establish compliance level of entities in Ghana. Literature suggests that Public Procurement Act is the basis of measuring procurement performance. This means that there is a positive relationship between compliance to the Public Procurement Act and Procurement Performance. That is, the higher the compliance, the higher the performance of entities. Knudsen (1999), agree that procurement performance starts from the regulatory framework of procurement which specifies purchasing efficiency and effectiveness in the procurement function in order to change from being reactive to being proactive to attain set performance levels in an entity. For any organization to become more competitive, Amaratunga & Baldry (2002) suggest that performance is a key driver to improving quality of services while its absence or use of inappropriate procedures can lead to non-compliance with purchasing function. PPA agrees with this assertion and so conducts annual performance assessment to establish compliance level of entities in Ghana.

The achievements for 2007 and 2008 under the Performance Assessment System were lower in all the categories than those for 2007 because more low spending entities were included in the assessment (PPA Annual Report,

Table 3: Thresholds for Procurement Methods

Description	2007 (%)	2008 (%)	2009 (%)
Management System	34.84	34.62	54.93
Information and communication	43.15	39.82	56.03
Procurement Process	44.34	42.65	67.73
Contract Management	33.52	30.66	53.98
Total	38.96	36.94	59.00

Source: PPA Annual Report, 2008 & 2009.

2009). However, there is a massive improvement in the 2009 nationwide assessment in all the four indicators above. Whereas the 2007, 2008 and 2009 national performance is 38.96% and 36.94% respectively, the 2009 performance of 59% is an over improvement in the previous achievements.

2.12.3 Amendment of the Public Procurement Act, 2003 (Act 663)

Implementation of the Act over time revealed certain operational challenges, particularly arising from the interplay of the hierarchical procurement structures specifically designed to ensure efficiency, transparency and value for money in the public procurement system. Extensive amendments have therefore been proposed to revise the hierarchy of approving structures under the Act, to strengthen the composition and functions of both Entity Tender Committees (ETCs) and Tender Review Boards (TRBs), and increase thresholds across board.

Table 4: Proposed Amendment by PPA

		HIGH SPENDING ENTITIES					
HE	Gds Crrmt	(GHC)		Wrks (GHC)		Srves (GHC)	
		Prop	Crrmt	Prop	Crrmt	Prop	Crrmt
ETC	5 100,000	10 1,000	10 200,	25 2,000	5, 50	10,000 1,000	

Source: PPA Annual report, (2007).

HE-Head of Entity
 ETC-Entity Tender Committee
 Crrmt-Current
 Prop-Proposed
 Srves-Services
 Gds-Goods

The Public Procurement Authority has since 2007 taken extensive steps to amend the Act following broad consultations held through various stakeholder workshops with key MDAs, MMDAs, SOEs, other public institutions and some civil society representatives PPA (2008).

2.12.4 Procurement Structures

1. Scope of Act 663:

Act 663 is applicable to the following (Section 14 (1)):

- a) Procurement financed from public funds-wholly or partly,
- b) Procurement of goods, works, services and contract administration,
- c) Disposal of public stores and equipment, and
- d) Procurement financed by funds and loans taken by the Government of Ghana, including foreign aid funds.

The EXCEPTIONS are:

- i) Where the Minister decides that alternatives procedures are in the national interest; ii) Where a loan or funding of agreement specifies alternatives procedures e.g. some aid agreements; and The Act does not apply to stores management and distribution.

Who does the Act 663 apply to? The following institutions come under the ambit of Act 663 (Section 14(2)):

- a) Central Management Agencies,
- b) Ministries, Departments and Agencies'
- c) Sub - vented Agencies,
- d) Governance Institutions,
- e) State-owned enterprises (when using public funds),
- f) Public universities, schools, colleges and hospitals,
- g) The Bank of Ghana and financial institution owned or majority - owned by Government, and
- h) Institutions established by Government for the general welfare of the public.

2. Public Procurement Authority (PPA) The Public Procurement Authority acts as the statutory advisory and co-ordination body on procurement (Part1of Act 663). All Procurement Entities, Tender Committees and Tender Review Boards are required to abide by the technical guidelines and regulatory instructions issued by the PPA. The PPA

has responsibility for the overall co-ordination, direction and development of Government procurement practices and procedures.

3. Procurement Entity A Procurement Entity is an organization or person that has legal/administrative mandate for procurement purposes (Chapter 2.2, Procurement Manuel). In order words, any entity conducting public procurement under the Act. A Procurement Entity is responsible for all procurement activity of the entity in compliance with the law and any regulations or administrative instructions issued by the Ministry of Finance in consultation with the Authority (Section 15, (1) Act 663). Section 15 (2) provides the role and responsibilities of the head of a procurement entity.
4. Head of Entity Each Procurement Entity has a head that is responsible for taking decisions on procurement and all matters arising there from (Section 15(2)). The head of entity is required to establish a procurement unit to undertake all activities related to procurement within the entity in accordance with the Act and shall appoint or designate a proficient procurement person with the requisite qualifications, experience and skills as head of the procurement unit to undertake the detailed activities of procurement on behalf of the procurement entity (Regulation 15).
5. Procurement Unit Procurement Unit is an outfit in a procurement entity with the responsibility of superintending procurement. The head of the Procurement Unit shall be responsible for undertaking and co-ordinating all procurement activities with the procurement entity.
6. Functions of Procurement Unit The functions of the procurement unit include:
 - a) Receiving procurement requests from originating officers, checking that, the proposed procurement is within the approved procurement plan and that, budget funds are available prior to commencement of procurement proceedings,
 - b) That, funds are properly committed prior to issue of any contract or purchase order,

- c) Coordinating the preparation of specifications, terms of reference, bills of quantities, drawings, short-list or advertisements and pre-qualification, tender or request for quotation documents. When so required by the Tender Committee, submission of documentation for review by the tender committee prior to issue,
- d) Arranging the publication of advertisements and notices of contract award,
- e) Co-ordination the process of opening of tenders and quotations and ensuring the preparation of formal records of tender or quotation opening in accordance with Section 56 of the Act,
- f) Participating in evaluation activities of the tender evaluation panel where necessary and assisting in preparation of formal evaluation reports,
- g) Preparing submissions for approval of award by the appropriate authority in accordance with the threshold values established in Schedule 3 of the Act,
- h) Maintaining and updating the database of Suppliers, Contractors and Consultants,
- i) Participating in negotiations with Consultants where necessary or other tenderers where expressly permitted in the Act or Regulations,
- j) Preparing notification of awards and contracts,
- k) Arranging publication of notices of contract awards,
- l) Preparing contract documents and purchase orders in line with the award decision,
- m) Preparing and issuing tender rejection and tenderer debriefing letters,
- n) Preparing contract variations and modifications,
- o) Assisting with inspection and acceptance of goods, works and services, and
- p) Maintaining procurement records in accordance with Section 28 of the Act and the Regulations.

7. Entity Tender Committee:

Section 17 of the Act; mandate each procurement entity to establish a Tender Committee in the manner set out in schedule 1.

8. Establishment of Entity Tender Committee:
Tender Committee is established at the following levels: a.) Central Management Agency/Ministry/Sub vented Agency,
b.) Tender Committee for Regional Co-ordination Council, and
c.) Metropolitan/Municipal/District Tender Committee However, the study focused on the District Entity Tender Committees in the Central Region.

9. Metropolitan/Municipal/District Tender Committee The committee is made up of eight (8) members and has a number of functions to perform, which includes the following:
a.) Review procurement plans in order to ensure that, they support policies and programmes of the Assembly,
b.) Confirm the range of acceptable cost of items to be procured and match these with the available funds in the approved budget of the Assembly, c.) Review the schedules of procurement and specifications and also ensure that, the procurement procedures to be followed are in strict conformity with the provisions of this Act, its operating regulations and guidelines,
d.) Ensure that, the necessary approval is secured form the relevant Tender Review Board in terms of the applicable threshold in Schedule 3 of this Act, prior to the award of the contract
e.) Facilitate contract administration and ensure compliance with all reporting requirements under this Act, and
f.) Ensure that, stores and equipment are disposed of in compliance with this Act. The committee shall refer its decisions to appropriate review Tender board for concurrent approval, if contracts are above the threshold of entity tender committee.

10. Evaluation Panel:
Section 19 of the Act establishes a Tender Evaluation Panel by each procurement entity to evaluate tenders and assist the tender committee in its work. A panel is an ad hoc body (Regulation 19(20)) of not more than five members constituted for a specific procurement package. The panel includes members with skills, knowledge and experience relevant to procurement requirements.

11. Municipal/ District Review Board:

A District Review Board is established in accordance with schedule 2 of the Act to review procurement decisions of the District Tender Committee within the thresholds set out in schedule 3 of the Act 663. The District Review Board is to review the activities at each of the procurement cycle which will lead to the selection of the lowest evaluated tender by the District Tender Board. The board is made up of five (5) members. The committee shall refer its decisions to appropriate review Tender board for concurrent approval, when contracts are above the threshold of entity tender committee.

12. The Regional Tender Committee:

The Act of 663 also establishes Regional Tender Committee to procure goods, works and services at the regional level. The functions of the Regional Tender Committee are:

- i.) Confirm the range of acceptable costs of items to be procured and match these with the available funds in the approved budget,
- ii.) Review the schedules of procurements and specifications and also ensure that the procurement procedures to be followed are strict conformity with the provisions of the Act,
- iii.) Ensure that the necessary concurrent approval is secured from the relevant Tender Review Board, in terms of the applicable threshold in schedule 3 of the Act, prior to the award of the contract,
- iv.) Facilitate contract administration and ensure compliance with all reporting requirements under this Act, and
- v.) Ensure that stores and equipment are disposed of in compliance with the Act.

13. Regional Review Board

A Regional Review Boards is established in accordance with schedule 2 of the Act to review procurement decisions of the Regional Tender Committee within the thresholds set out in schedule 3 of the Act 663. The Regional Review Board is to review the activities at each of the procurement cycle which will lead to the selection of the lowest evaluated tender by the Regional Tender Committee. The board is made

up of five (5) members. It is only when the procurement structures is well established, that it is easy to identify areas where it is performing well, and where there is need for improvement (Kakwezi & Nyeko, 2010). Therefore the objective of the study was to find out the level of compliance of public procurement entities in Eastern Regional Municipalities with the Procurement Law, in the Local Government, Health and Education sectors which was instituted to ensure that procurement are carried out in a fair and transparent manner.

3 METHODOLOGY

3.1 Concept and Approach

The study employ data collected on the representative sample of the population within the scope of the project and considers the sampling techniques. Furthermore, the source of data, the instrument for data collection and the presentation of data are rationalised. The study continued with the development of an interpretive research methodology together with a review of the objective of the research.

3.2 Source of Data

The study area of the research was conducted in the Eastern Region of Ghana. The Eastern region is bordered to the east by the Lake Volta, to the north by Brong-Ahafo region and Ashanti Region, to the west by Ashanti region, to the south by Central region and Greater Accra Region. Akans are the dominant inhabitants and natives of Eastern region and Akan and English are the main spoken languages. Eastern region of Ghana covers an area of 19,323 square kilometres, which is about 8.1% of Ghana's total land-form. The region is a rich blend of dramatic Landscape, historic relief and traditional culture. In terms of population, however, it is ranked third according to the 2010 population census with a total number of 2,633,154. Agriculture, mining, trading and related work are the major occupation within the study area, though the level and intensity of a particular occupation varies from one district to another.

3.3 Population and Sample characteristics

A research population can be defined as the totality of a well-defined collection of individuals or objects that have common binding characteristics or traits. The populations for this study comprised the staff of Local Government, Health and Education sectors in the region who are involve directly or indirectly in the procurement process in ensuring that structures of the Act are complied with. However, the main reason for using these three public procurement institutions and sectors in the Region is because these sectors procure works, goods and services using public funds at the local level. It is therefore important to find out their level of compliance with the Public Procurement Act, so as to ensure the optimum utilization of state resources. The research covers a population of over seven hundred (700) direct stakeholders and two-hundred and ten (210) public entities in the Eastern Region of Ghana.

Table 5: Sample Frame selected from the Population

Sample Frame	No. of Person
Staff of Public Procurement Authority (PPA)	10
Staff of Educational Institutions	50
Staff of Metropolitan, Municipal and District Assemblies (MMDAs)	60
Staff of Health Institutions	60
Suppliers, Contractors and Consultants in the Private Sector	20
Total	200

Source: Researchers Fieldwork.

3.4 Sample and Sampling Techniques

In conducting a research, it is highly impossible to cover every member of the population . This is because of the time limitation for the project the cost factor that will be incurred in trying to get all the members of population. Therefore a representative sample is chosen from which generalization can be made about the population (Graziano & Raulin, 1997). Census sampling technique was used for the sake of convenience.

$$n = N$$

$$1 + N(e)2$$

$$n = \text{SampleSize}$$

$$N = \text{Sampleframe}$$

$$E = \text{ConfidenceLevel}$$

With the use of the above formula, a sample size of 200 people was considered appropriate and representative enough for the study. The study purposively targeted selected public entities in the local government, education and health institutions to represent procurement activities in the Eastern Region of Ghana. The study also involved tender evaluation panel, members of entity tender committees, suppliers/contractors, consultants as well as staff of the Public Procurement Authority and procurement and management staff of Public Entities (PEs).

Table 6: Respondent and sample size

Category of respondents	Population	No. of Sample Frame
Procurement & Staff	60	45
Management & Tender Committees	37	37
Staff of the Public Procurement Authority	10	8
Suppliers/Contractors and Consultants	43	36
Stores and user Department	50	37
Total	200	150

Source: Researcher's Fieldwork.

3.5 Data Collection Instrument-Approach and Instrument used

According to Patton (2002), using more than one data collection instrument strengthens and gives credibility to the study. The researcher therefore made use of both primary and secondary data to portray a true picture of the case under study. Both approach was used because it revealed issues that could not be raised in using only one data collection instrument.

3.6 Primary Data

The main research instruments used were questionnaires and interview. This was done with the focus on the objectives set in the study. The primary data

were collected and selected from the sample of the population respondents within the sample frame from the population. The analysis of the study was substantially based on data collected.

3.7 Secondary Data

The researcher referred to various publications, books, journals, articles, newspapers, reports obtained from libraries, Dictionaries, encyclopaedias, Public Procurement Act, 2003 (Act 663), Public Entities, and the internet on the subject to obtain additional information in order to answer the questions set in the problem definition.

3.8 Questionnaire Design and Questionnaire Administration

Research questionnaire was developed and were reviewed by some experts in academia and in the procurement practice. The questionnaire is designed to collect general data from the public entities, staff of PPA and the private sector. These questions were grouped in categories to collect data on nature of procurement systems, state of compliance, as well as the effect of the public procurement reform on entities in the Eastern Region. The questionnaire was designed into four sections.

- a) Section A: comprises of personal and general information of respondent's or participant's using objective test,
- b) Section B, deals more about information on respondent's perception on the implementation of the Public Procurement Reform, and
- c) Section C, consist of items scaled from 1-4 with statement: Strongly Agree, Agree, Disagree, and strongly disagree respectively.

In addition, the method for assessment of national procurement systems jointly developed by the organization for Economic Co-operation and Development (OECD)/Development Assistance Committee and World Bank has been adopted in this research. The Evaluation Grid has Key Performance Criteria (KPC) with weight scores as followed: Management Systems (15), Information & Communication (15), Procurement Process (45), and Contract Management (25) which was used to capture a relevant performance

data relating to each of these four areas. The questionnaire were administered to the respondent or the participants for data collection. The primary data collected was reviewed by the researcher to ensure optimum accuracy, completeness, consistency, legibility, and to minimise ambiguity.

3.9 The Research Design

Parahoo (1997:142) describes a research design as “a plan that describes how, when and where data are to be collected and analysed“. However, there are three main research approaches: qualitative, quantitative and mixed approach that can be adopted for a study. The mixed approach which combines the two approaches was used. The strategy chosen in this research was determined by considering three conditions: type of research question, the researcher’s control over actual events of public procurement, and degree of focus on contemporary events.

3.10 Data Analysis

Both quantitative and qualitative methods were employed in the data analysis in this study research. This mixed method of data analysis focuses on whether there is a necessary connection between method-type and research paradigm that makes the different approaches incompatible. The quantitative method expresses the assumption of the positivist paradigm which holds that behaviour can be explained through objective facts. Qualitative method also expresses the assumptions of a phenomenological paradigm that are multiple realities that are socially defined. The Statistical Package for Social Sciences (SPSS) and excel was used for the data entry and analysis of the data collected. Data preparation was the initial step to convert raw data into structured format that was more appropriate for the analysis. Tasks in this stage included data editing, data coding and data entry, frequency distributions, percentages, and descriptive analysis of assessing the effect of public procurement reform on the organizations in the Eastern Region of Ghana.

4 DATA ANALYSIS, RESULTS PRESENTATION AND DISCUSSIONS

4.1 Introduction

This research sought to assess the level of compliance of the public procurement Laws in respect to four main sectors within the public organizations and private sectors that have directly affected by the public procurement Act, 2003(663). The sectors include; Educational institutions, local Government, and Health institutions. However, this was mainly carried out to gather information to assess the level of the compliance of the public procurement reform by the public and private organizations in the Eastern Region, Ghana.

4.2 Background of Respondents

The researcher, administered a total number of two hundred (200) questionnaire to the staff of the Health institution, Educational institution, Local government, and total number of hundred and fifty (150) were obtained out from the above target administered two hundred (200), which was valid for the data analysis. The percentage valid questionnaire used for the analysis yielded 75% respondents rate. Hence, this indicate or reveal that, the rate was high and reflects the views of the population of the Eastern Region, Ghana. The below Table 7 illustrates the sex of the respondents sam-

Table 7: Demography and Age Group of Respondents both male and female

Description	Male	Female
18-30	33	13
31-40	27	28
41-50	42	5
+51	2	0
Total(%)	104(69.33%)	46(30.66%)

Source: Researcher's Fieldwork.

ple for the study. Out of the one hundred and fifty (150) valid questionnaire retrieved on the field, one hundred and four (104), which represented 69.33% were male and the remaining forty-six (46) respondents, representing

30.66 were also female. However, the biased or skewed result in favour of the male may be attributed to the respondents. It should also be noted that, male to female ratio across all the section of the selected departments were dominated heavily by male.

Figure 1: Educational Level or Background of Respondents

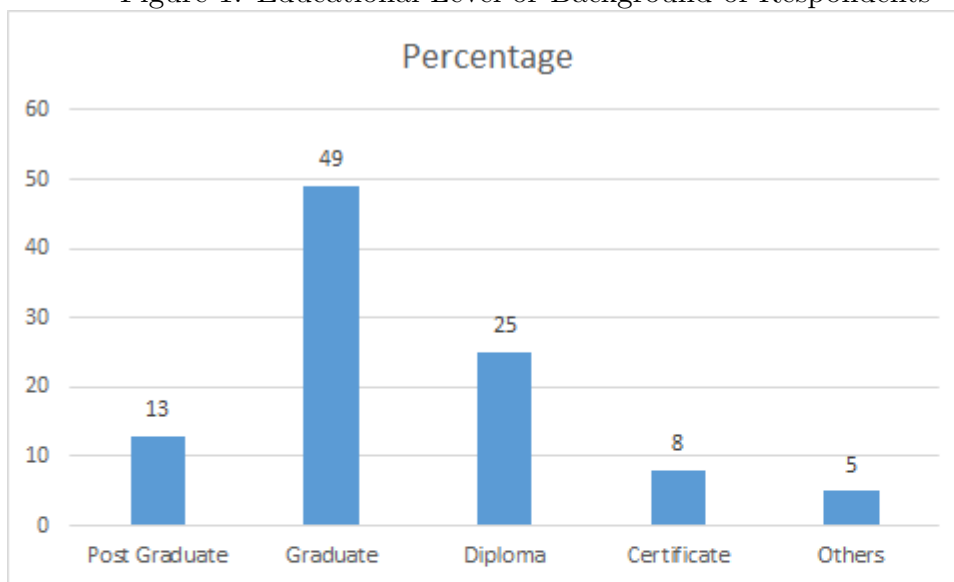


Figure 1 above, indicates that, all the respondents selected were educated, this was expected, since educational qualification was required to enable one to work in the departments. It was also found out from the figure above that, majority were holders of university graduate degree holders, which constitute 49%, this was followed by post graduate degree holders, which constitutes 25%. Holders of diploma constitute 13%, certificate holders also constitute

8% and finally, the other educational level constitute 5%. All the respondents were regular participants in public procurement activity.

4.3 Specialization of Personnel Practising

Public Procurement in the Region. Irrespective of the high educational levels of the respondents in the research, the researcher finds it important to point out the specific professional qualifications of the respondents in order to have a fair view of their ability to comply with the Public Procurement Act. These entities above do not have functioning procurement units. However, procurement activities in Local Government sector are managed by Planning Officers and Public Works Engineers and that of second cycle school is managed by Accountant/bursar. The research established that Procurement is a profession and therefore required technical staff with procurement qualification and training in order to understand the importance of the structure in the entities and the entirety of the legal framework of the reform.

4.4 Performance/Compliance/Passivity Assessment of Public Entities in the Eastern Region, Ghana

Performance /passivity with the public procurement Act (663) is ultimate in the execution of roles of persons entrusted with the functions. The research seeks to assess the entities to find out the ‘good practices enshrined in the Procurement Act (663) and its other relevant document that are being employed in the public entities to determine performance or compliance level of the Eastern Region of Ghana.

4.5 COMPLIANCE/PASSIVITY ASSESSMENT SCORE FOR PUBLIC ENTITIES

Table 8: HEALTH INSTITUTIONS

Entry	MS(%)	IC(%)	PR(%)	CM(%)	PR(%)	PRa
Kwahu Gov. Hospital	46.65	46.00	73.89	33.94	53.82	3rd
East Akim, Municipal Hosp.	52.73	62.59	76.76	63.82	63.49	2nd
Birim Central Hospital	74.17	79.48	86.80	80.30	81.08	1st
Birim South Hospital	48.25	48.52	70.64	54.35	53.50	4th
Suhum Gov. Hospital	41.75	44.67	61.80	44.35	44.48	5th
Total Average Score	52.71	56.25	73.98	55.35	59.68	

Source: Researchers work. MS- Management System
 IC-INFORMATION AND COMMUNICATION
 PR-PROCUREMENT PROCESS
 CM-CONTRACT MANAGEMENT
 PR-PERFORMANCE RATING
 PRa-PERFORMANCE RAKING

Table 8 above indicate that Management System scored 50.69%, Information and Communication 56.62%, Procurement Process 75.62% and contract Management 54.65% for the five entities. Among the entities, Birim Municipal Hospital adjudged the best performing entity of 80.08%, and second with East Birim Municipal Hospital of 63.49%.The worst performing entity is Suhum Government Hospital with 44.48%.A total average score of 60.58% was achieved in the health sector in the eastern region of Ghana.

Table 9: LOCAL GOVERNMENT INSTITUTIONS

Entry	MS(%)	IC(%)	PR(%)	CM(%)	PR(%)	PRa
Atiwa District	53.88	45.15	72.75	64.5	57.16	5th
Kwahu East District	55.73	66.81	73.75	50.39	60.08	4th
Kwahu West Municipal	64.50	60.96	68.76	60.02	66.79	1st
Akyemansa District	52.56	48.3	72.67	60.2	63.53	2nd
West Akim Municipal	56.88	55.15	75.69	66.9	62.04	3rd
Birim North	57.17	48.10	68.71	61.49	57.08	6th
Total Average Score	56.79	54.01	73.72	61.41	62.95	

Source: Researcher's work. MS- Management System

IC-INFORMATION AND COMMUNICATION

PR-PROCUREMENT PROCESS

CM-CONTRACT MANAGEMENT

PR-PERFORMANCE RATING

PRa-PERFORMANCE RAKING

Table 9 above shows the performance level for the local government institutions in the eastern region of Ghana. The results show non-weighted score of 56.79% for Management System, 54.01% for Information and Communication, 73.72% for procurement Process, and 61.41% for Contract Management. Kwahu West municipal came first with a performance rating of 66.79%, which was followed by Akyemansa district as the second performing entity with a score of 63.53%. Hence, the least performed district is Birim North with a performing rating of 56.08%. The sector's total average performance score is 62.95% which indicates a higher compliance level than the health institution.

Table 10: EDUCATIONAL INSTITUTIONS

Entry	MS(%)	IC(%)	PR(%)	CM(%)	PR(%)	PRa
Pope John Snr. High School	32.18	40.74	63.63	18.06	36.20	7th
Abetifi Presby Snr. High School	24.37	48.5	43.43	30.57	33.28	8th
Koforidua Polytechnic	60.67	70.37	70.74	56.33	56.98	2nd
S.D.A College of Education	46.78	43.59	58.4	35.51	45.44	5th
Abetifi Training College of Education	48.52	53.7	60.63	17.67	46.64	4th
Akim Oda Snr. High School	35.8	42.59	46.47	18.87	33.15	9th
All Nation University	58.33	64.33	68.67	46.3	61.52	1st
Mpraeso Snr. High School	32.3	61.1	44.46	32.33	47.87	3rd
Nkawkaw Snr. High School	44.80	35.17	62.59	35.51	45.00	6th
Total Average Score	42.64	51.12	58.56	32.35	45.12	

Source: Researchers work. MS- Management System

IC-INFORMATION AND COMMUNICATION

PR-PROCUREMENT PROCESS

CM-CONTRACT MANAGEMENT

PR-PERFORMANCE RATING

PRa-PERFORMANCE RAKING

Table 10 shown above indicate the performance score for selected educational institutions in the Eastern Region of Ghana. The results show a non-weighted score of 42.64% for Management System, 51.12% for Information and Communication, Procurement Process of 58.56% and Contract Management 32.35%, for all the nine educational entities assessed in the eastern region of Ghana. The best performed entity is All Nation University with a score of 61.52%, followed by Koforidua Polytechnic with 56.98% and Akim Oda Senior High School scoring 33.15% as the least performed entity. A total average scored of 45.87% were achieved in the sector.

Table 11: EDUCATIONAL INSTITUTIONS

Description	Health Institutions	Local Government	Educational Institutions	Overall
Management Systems	52.71	56.79	42.64	50.71
Information and Communication	56.25	54.01	51.12	53.79
Procurement Process	73.98	73.72	58.56	68.75
Contract Management	55.35	61.41	32.35	49.70
Total	59.57	61.48	46.17	55.70

Source: Researcher's work.

Table 11 indicates the summary of the compliance level of the entities of health institution, local government and educational institution using the four performance indicators for the study in the eastern region of Ghana. Procurement process scored an overall mark of 68.75%, followed by information and communication scoring 53.79%. Alternatively, management system scored 50.71% and contract management recording the least performance level of 49.70%. Amaratunga & Baldry (2002), suggest that absolute performance is a major driver to improving the quality of services, while its absence or inappropriate procedure use can lead to non-compliance with purchasing function. From the analysis above, it reveals that contract management and management control system in the public entities have been poorly handled. Making a comparison of the performance or compliance level in the three sectors (Health institution, Local Government, and educational institution), it was shown that the educational institutions have the worst compliance among the other sectors. However, local government performed the best, whereas the overall average compliance performance for the three sectors (Health Institution, Local Government and Educational Institution) in the eastern region of Ghana recorded 55.70 %. The score signifies a weak management commitment, ineffective contract management, poor management and control system, lack of qualified staff to effectively monitor and supervise operations of the entities.

4.6 FACTORS AFFECTING PERFORMANCE/PASSIVITY/ COMPLIANCE

Professionalism under Public Procurement seeks to discuss the competence, skills, educational capability, quality and efficiency of personnel to make well efficient decision regarding procurement operations.

Table 12: EDUCATIONAL INSTITUTIONS

DESCRIPTION	MEAN	STANDARD DEVIATION
Selection of project bid is solely based on the lowest price	2.44	11.736
Unqualified and inexperienced procurement staff to handle procurement process	2.42	11.400
Tender evaluation is conducted by persons with little or no expertise in evaluation process	2.37	11.662
Total	2.41	0.225

Source: Researcher's work.

The table 12 shows that the mean score of 2.41 is greater than 2.0 which indicates that generally, all respondent description in professionalism agreed that procurement staff do not have the qualification and experience to manage procurement process effectively. A mean score of 2.41 and a standard deviation of 0.225 recorded, show a high satisfaction. This mean shows that professionalism incompetence in managing procurement process, through public procurement Act, (2003) and hence have to be mandated by the Public Procurement Authority to develop career guidance for procurement staff of qualified staff to gain professional qualifications. But it was realised only 20% of staff holds procurement qualifications. However, EOC/DAC, (2007) in a study that some procurement officials lack some level of skills and knowledge to handle procurement processes effectively.

4.7 EFFICIENCY AND VALUE FOR MONEY

The section seeks to find out the effective duty and value for money in the practice of procurement process. Value for money must be a justification to address procurement process to reflect the price of the good or service to be rendered.

Figure 2 overleaf, indicates a dissatisfaction on the description of items, with a low score of (1.96) for whether there is a greater efficiency in the public procurement, (1.98) for better utilization, and (1.94) for effective contract management and reporting by procurement entities and project completion on time within the stipulated cost scoring 1.96. The analysis reveals that efficiency and value for money scored a total mean of 1.94 and a standard deviation of 0.140, which indicate and confirm a general dissatisfaction and non-committed towards achieving efficiency and value for Money. Hence, the (Act 2003, 663) can be mandated to regulate and have competent personnel capable of putting the procurement Law into practice to attain the described efficiency and value for money.

Figure 2: EFFICIENCY AND VALUE FOR MONEY IN THE PRACTICE OF PROCUREMENT PROCESS

DESCRIPTION	MEAN	STANDARD DEVIATION
There is value for money in terms of government awarded project in the eastern region	1.87	7.642
Greater efficiency in public procurement	1.96	9.040
Better utilization of funds by public procurement activities	1.98	8.924
Projects are completed on time and within the proposed cost	1.96	8.369
Effective contract management and reporting by procurement entities	1.94	8.809
Total	1.94	0.140

4.8 COMPETITIVENESS AND FAIRNESS

The section of this work is intended to find the ability, fairness and performance demonstration of the public procurement entities in the tendering process to allow a transparency and accountability in the procurement process of goods and services.

Figure 3 shows a mean score of 2.67 for trust and confidence in public pro-

Figure 3: COMPETITIVENESS AND FAIRNESS IN PROCUREMENT PRACTICE

DESCRIPTION	MEAN	STANDARD DEVIATION
Trust and confidence in public procurement among stakeholders	2.67	12.305
Many companies compete for public contract	2.49	11.211
The public procurement reform has stimulated private sector growth	2.57	11.520
Total	2.58	0.128

Source: Researcher's work

curement among stakeholders, 2.49 for many companies competent for public contract and 2.57 for reform stimulation of the private sector performance. With a mean score greater than 2.0, indicates that majority of the respondents are in total agreement. In summary, competitiveness and fairness has a total mean of 2.58 which show and suggest that the procurement reform made in the procurement (Act, 2003) has ensured an increased competition for more companies of both private and public sector for more companies of both private and public sectors of international and local to compete for contracts.

4.9 CHALLENGES IN THE IMPLEMENTATION OF THE PUBLIC PROCUREMENT ACT:663 AND ITS EFFECTS ON ENTITIES IN PROCUREMENT

Reform in all forms faces challenges, and this section is intend to identify how these challenges affect the operations of the public procurement entities and how they are confronted in the implementation of the Act and its effects on their performance.

Figure 4: ETHICS AND COMPLIANCE WITH THE REGULATORY FRAMEWORK

DESCRIPTION	MEAN	STANDARD DEVIATION
Do public procurement entities comply with the procurement Act(663)	2.69	11.602
Do entities prepare and post annual procurement plan on the PPA website as required	1.46	7.875
Tender adverts and contract of entities are posted on PPA website	1.63	7.610
Procurement entities hail to procurement methods for appropriate threshold	2.60	11.582
Entities used required tender documentation from PPA in procurement	2.90	10.005
Total	2.26	0.246

Source: Researcher's work

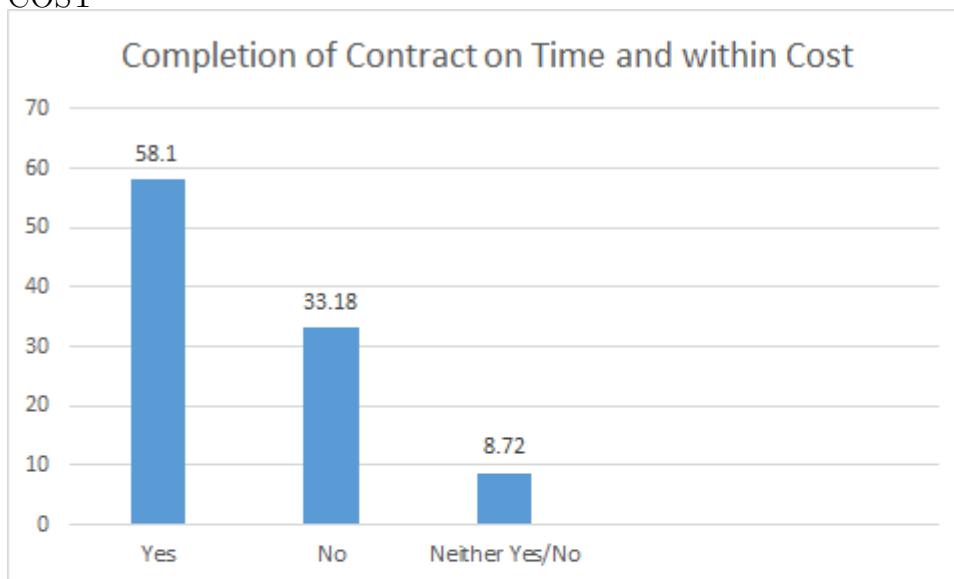
Figure 4 indicates that respondents, preparation and posting of annual plan on the PPA website by entities scored a mean of 1.46, tender advert and contract of entities posted on the PPA web scored 1.63, with 2.60 and 2.90 for procurement entities to appropriate procurement methods for thresholds and hence with a mean scores greater than 2.0 showing a highly agreed with value 1.46 and 1.63 less than 2.0 indicates a failure. However, the failure

is attributed to the lack of access to internet facilities for e-procurement. Finally, a total mean of 2.26 was recorded, showing an average compliance.

4.10 COMPLETION OF CONTRACT ON TIME AND WITHIN COST

The researcher wanted to find out the completion of the project /contract and the cost associated and also the portion of contract that were able to meet the schedule period. their performance. From the research findings, it

Figure 5: COMPLETION OF CONTRACT ON TIME AND WITHIN COST



has been established and shown in the figure 5 that 58.10% of the respondents agreed that contracts awarded were not completed as scheduled as well as not within the cost budgeted. The disagreement is based on the reason that majority of the contracts are GOG and that contributed to the decision of the respondents. The researcher also confirms from the respondents that the District Assembly Common Fund (DACF) and Government grants were not paid within time. 33.18% respondents also agreed that contracts were completed on time. The reason were attributed to the price review upwards. However, 8.72% of the respondent did not express any opinion. From the

Figure 6: PRIVATE SECTOR GROWTH BY THE PUBLIC PROCUREMENT ACT

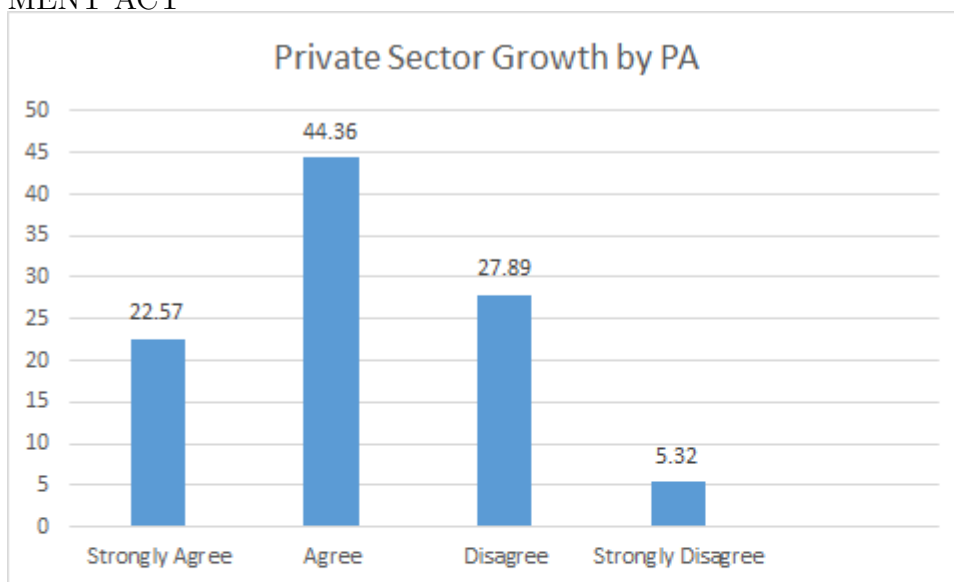
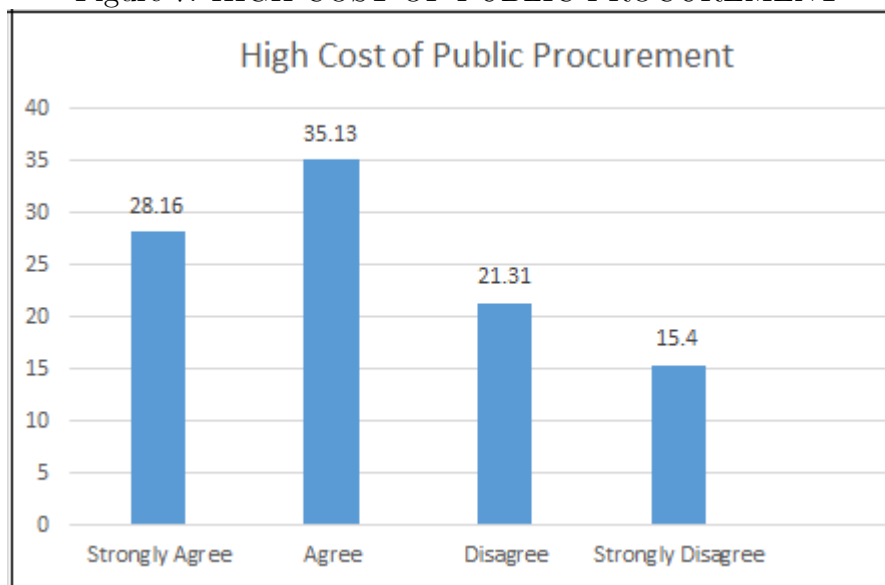


Figure 6, it indicates that a totality of 66.93% of the respondent positively agreed to the assertion that the public procurement Act has stimulated the growth of private sector. Also in a cumulative, 33.07% disagreed with the assertion. The Figure 7, indicates that 63.29% of respondents have positively

Figure 7: HIGH COST OF PUBLIC PROCUREMENT



agreed that cost of procurement in public entities in Ghana is highly expensive. The high cost of procuring can be attributed to the cost of advert in both the print and electronic media, unnecessary refreshment at tendering opening. The assertion was also rejected by 36.7% respondents, with the reason being that the respondents hold a view that extra charges form part of challenges, and hence the Act, 2003 (663) needs to be amended.

5 SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

This chapter summarizes the findings of the study .It also drafts conclusions and recommendations based on the findings. The recommendations have been provided to improve the administrative structures, procedures, performance and policies of Public Procurement Authority with the overall aim of improving on the level of performance of the entities (Health institution, Local government and Educational institution) in the eastern region of Ghana.

5.1 SUMMARY

The work revealed that the public procurement entities in the eastern region of Ghana have largely upheld the provision of the Act 2003 (663) and other legal requirements. Largely, the institutions have all relevant committees in place but prior notices before schedule meeting day were not adhere to.

5.2 STRUCTURES AND PROCEDURES OF THE PUBLIC PROCUREMENT

The Public Procurement Act, 2003 (Act 663) specify the establishment of procurement structures that will support and tighten the execution and supervision of the procurement functions. These structures include Procurement Unit Entity, Tender Committee (ETC), Evaluation Panel),and Head of Entity . These structures have varied activities to perform in the procurement cycle. The study established that these structures, especially ETCs and Procurement Units does exist in most institutions and are properly constituted and so do perform their functions well. Though majority of staff in these selected institutions for the study have a high education background, they lack the technical expertise in procurement practice to execute procurement activities efficiently and effectively to attain value for money.

5.3 USE OF INAPPROPRIATE PROCUREMENT PROCEDURE

It is discovered that inappropriate procurement structures are used to secure approvals for procurement activities to move on in the procurement cycle, instead of using the Standard Tender Documents (STDs), public institutions and the refusal to advertised procurement on the print and electronic media. **LACK OF PROFESSIONALISM AND CAREER GUIDANCE** From the analysis, it was realised that only 2% of the respondents hold qualification in procurement activities, with little training for most procurement practitioners which has little impact on the activities in the eastern region of Ghana. Lack of workshop and career guidance programme and low salary levels of officials of the public entities are disincentive to attract qualified personnel to take up jobs in the public entities in the eastern region of Ghana.

5.4 HIGH COST OF PUBLIC PROCUREMENT

The high cost of public procurement is attributed to the delay in payment after executed project or supplied goods. Contracts are also increased by cost of tendering documents which are factored in the determination of price. However, when contracts are awarded through tender, and an illegal fees (bribes) paid in securing the contract contributes to the high cost of contracts.

5.5 MONITORING AND EVALUATION OF PUBLIC PROCUREMENT

The Public Procurement Authority (PPA) have not been very effective over the years for monitoring and evaluation of procurement process, and hence more effort should be emphasised and concentrated on monitoring tender opening and Annual Procurement Assessment Report.

5.6 CONCLUSION

The Procurement Act, 2003(Act 663) has ensured measures to bring about efficiency, accountability and effectiveness though the government to bring about efficiency, and effectiveness into public procurement system or process; weakness still exist. Compliance to Act 663 by public procurement

institutions remains the biggest challenge to realize the objectives of achieving transparency, accountability, economy, fairness and competition in public procurement in Ghana. The study concluded that a varying level of compliance existed among the procurement institutions studied in respect of Part II of the Act. It established that, whereas there was a high level of compliance in areas of awareness of availability of legal framework, functionality of various procurement structures, areas including prior mandatory days before scheduled date for meetings and professional expertise in procurement practice shows low compliance. In the pursuit to improve compliance public entities must establish the required structures and engage procurement professionals to manage them. Coverage of monitoring activities must be increased to cover more low spend entities across all sectors in the region. Short/long term training must be continued to be provided and improved so as to improve capacity of entities, service providers and other key stakeholders to operate efficiently and effectively in the procurement system. PPA, Cabinet and Parliament must quicken to amend the Act to ensure smooth implementation and compliance. The existence of the procurement unit in the entities which is the execution arm of the institutions shows high level of compliance, which greatly improves the execution of procurement activities, functions and compliance. The quest to derive maximum benefits from the Public Procurement Act, Act 663 (2003) requires addressing the issue of compliance and challenges faced by procurement entities in the areas identified as problematic in this study. These findings from the study are therefore relevant in the process of identifying any interventions to facilitate speedy implementation of Act 663. However, it should be noticed that the study only captured or limited to a sample size in the selected population in the eastern region of Ghana.

5.7 RECOMMENDATIONS

In view of the study findings, discussions, and conclusion, the following recommendations are made for further study. ESTABLISHMENT OF PROCUREMENT STRUCTURE Provision for establishment of procurement unit, Entity tender committee (ETCS) are enshrined in the public procurement Act, 2003(663) to manage procurement activities in all entities to engage persons qualified in procurement. In health, Local government and educational institution selected in the region under study, all indicated the existence of procurement structure with few challenges. The study , therefore recom-

mends the establishment of permanent procurement unit and Entity Tender Committee (ETCS) to be managed and controlled by experienced officers to ensure an improved performance and compliance with the Act, 2003 (663).

5.7.1 TRAINING PROGRAMME FOR PROCUREMENT OFFICIALS (STAFF)

Officials without procurement qualification, practising procurement can be engaged and trained to acquire basic skills within short/long term to equip them enhance their performance and expertise. The study, therefore recommends that Tertiary institutions develop a curriculum to be introduced into their programmes to train well qualified personnel to take up responsibilities to ensure performance with the compliance.

5.7.2 INTRODUCTION OF E-PROCUREMENT TO ENSURE AND REDUCE COST OF PROCUREMENT

The public Procurement Authority (PPA) of the region must be resourced to enable them update its website to enable service providers to assess tender adverts and other necessary information to reduce cost.

5.7.3 REDUCING OF CORRUPTION IN PROCUREMENT

The Public Procurement Authority (PPA) should enforce that sole-sourcing be minimised, though the Act, 2003(663) makes provision to avoid irregularities engaged by officials. The researcher recommends that, contracts be sent to parliament for deliberations and discussions to ascertain the details of the contract to avoid causing financial loss to the state.

Suggested Areas for further research:

- I. The impact of qualified personnel with procurement expertise on public procurement in Local Government sector in Ghana.
- II. Reduction of procurement challenges on Entities in selected districts

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