

## Issues Influencing the Successful Operation of Public Procurement Act

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### I. INTRODUCTION

The world's estimate of monetary government activities of procurement officers are known to ranging between 10% – 30% of GNP Callender & Mathews, (2000). Thus, effectively managing the procurement and dealing with the various challenges is a hard fact that has to be faced by all procurement practitioners and governments in the world. Challenges in public procurement have a global toll making Africa and Ghana inclusive.

### II. GLOBAL CHALLENGES IN PUBLIC PROCUREMENT

One global challenge of public procurement is that of balancing the said country's local procurement regulations and regional or international trade agreements. The inter-global trade unions by many countries make procurement managers face another challenge: The ability to follow suit both the home and the global agreements.

#### A. Procurement reforms due to challenges: Global Perspective

According to Arrowsmith and Trybus (2003), "the last decade of the twentieth century had witnessed the start of a 'global revolution' in the regulation of public procurement." Actually, challenges in procurement reforms are beyond procurement regulations to include procurement process, methods, procurement organizational structure, and workforce. Procurement reforms occur constantly in all countries, developed as well as developing countries.

#### A. Public Procurement Challenges in Africa

South African public procurement was directed to an immense and institutionalised contractor before 1994. New contractors found it challenging to enter into state procurement. There has been various reform processes in South African Public Procurement Policy due to inconsistency in policy application and the lack of accountability and supportive structures as well as fragmented processes. Matthee (2006) asserted that a uniform implementation approach to procurement was required, due to a research study on opportunities for reform processes in the South African government conducted by the Joint Country Assessment Review (JCAR) in 2000 and the World Bank in 2001. Irrespective of the restructuring of SCM job as a top management function, challenges abound in procurement issues in South Africa, Smart Procurement, (2011).

*These challenges are discussed shortly below.*

- i. **Lack of proper knowledge, skills and capacity:** According to Sheoraj (2007), skills and capacity shortages have been identified as the single greatest challenges to the success of public procurement in South Africa. Adequate capacity in the form of proper structures with fully skilled and professional SCM personnel is a key success factor for proper SCM implementation.
- ii. **Non-compliance with policies and regulations:** Matthee (2006) had stated that non-compliance practices associated with the regulations augur for a non-utilisation of any competing process for both quotations and bids.
- iii. **Inadequate planning and linking demand to the budget:** One of the principal factors in SCM procedures is the management of demand. It explains the decision-making process allowing organisations to purchase at the right time, place, and cost. But, most state organisations continually encounter difficulties of poor planning and linking demand to budget, Ambe & Badenhorst-Weiss, (2011a).
- iv. **Accountability, fraud and corruption:** One of the pivots in state procurement is accountability Soudry, (2007). But for openness and accountability, the volumes of state resources pushed via state procurement procedures are likely to be wasted due to corrupt practices, Jeppesen, (2010).
- v. **Inadequate measures for monitoring and evaluation of SCM:** Whether a state's policy is appropriate or not is dependent on information explaining good or bad whether government is doing things right or wrong,

Acevedo et al. (2010). It is therefore significant under the auspices of monitoring and evaluation activities to integrate the important information into the policy cycle. This provides the fundamentals for serene governance and accountable public policies, Acevedo *et al.*, (2010).

- vi. ***Unethical behaviour:*** Basically, the study of moral judgements relative to right and wrong behaviour is referred to as ethics. While the National Treasury's guide to accounting officers recommends a standard approach towards SCM procedure, in most cases practitioners fraught such guidelines. This is one of the challenging issues in procurement.
- vii. ***Too much decentralisation of the procurement system:*** In South Africa, government procurement of own or local requirements (materials, equipment and services) is to a large extent decentralised to departments, provinces and municipalities. If one takes the number of cases of tender fraud and lack of services on all levels of government into account one should ask oneself whether these parties have the knowledge and/or the intention to get the best value for tax-payers' money. Arguments for a larger extent of centralisation of procurement to knowledgeable, accountable procurement officials/agents or procurement consortiums could be put forward, Fawcett et al (2007).
- viii. ***Ineffectiveness of broad-based black economic empowerment:*** The South African government came out with BEE to revitalise those at a disadvantage instead of few individuals. Hence, it used the Broad-Based Black Economic Empowerment Act (BBBEEA). Challenges of its implementation are summarised below: First, ownership and senior management issues get lesser attention. Secondly, the laws do not enough incentives to create jobs, funding for smaller enterprises and domestic procurement. The democratic state owns public entities on behalf of its people yet the regulations do not count them as 'black empowered', Zuma, ( 2009). The public procurement function experiences a myriad of challenges due to the growing government expenditure and funding from development partners. It's therefore important to profile the challenges faced by public procurement partners to ensure cost-effective utilization of government resources.

### III. PUBLIC PROCUREMENT CHALLENGES IN GHANA

From the foregoing discourse, it can be realized that Ghana is no different from the countries facing the various challenges with procurement in the public sector. The Country Procurement Assessment Report of Ghana obtained in 2003, reported that majority of employees in the Ministries, Departments and Agencies (MDAs) and District Assemblies (DAs) assigned for procurement were not procurement-proficient, despite the fact that they had had a considerable amount of professional training. The document reported that application of the PPA and the Standard Tender and Contract Documents cannot be beneficial unless there have been organised workshops for practitioners of procurement. Comparatively, Forgor (2007) admits that absence of appropriate skill building for practitioners is a limitation that faces procurement restructuring. This confirms the statement that inappropriate spread of procurement law is one of the difficulties that faces the proper fulfilment of public procurement laws Azeem, (2007).

Ameyaw *et al.*, (2012) identified also non-compliance with provisions of the law, deliberate controlling of competition, inadequate skills of procurement practitioners, less collaboration between procuring organisations and Public Procurement Authority (PPA), lack of funds and non-cooperativeness of suppliers, dividing contracts into smaller bits, as the main drawbacks facing the full realisation of the Public Procurement Law. All these problems can be said to spread throughout all facets of public procurement.

#### A. *Indicators/Benchmark of successful implementation of Public Procurement policies*

It is significant to note that blueprints and blueprinting have become vital towards the attainment of success in public procurement and for gainful public procurement reforms Tudor, (2005). Blueprinting in state procurement is significant for various factors. Benchmarks provide very good indicators of Public Procurement's successful implementation. The following value for the money, efficiency, effectiveness, competition, ethics, transparency, accountability and administrative responsibility are among the many principles that enable public procurement to be successfully implemented. It is evident that the attainment of one principle does conflict with the achievement of the other. Governments globally are supposed to realise the full potentials of all the principles so as to achieve value for money, Bartle & Korosec, (2003). Based on USAID Deliver Project 2012, the indicators of procurement performance reported in their guide were drawn from a review of many publications on the use of performance indicators. Such indicators were chosen to harness the performance of procurement practitioners on varied aspects of a procurement

system, which include cost, quality, and timeliness of processes, system productivity, and system integrity. Monitoring and evaluation tools should be used for weaknesses identification and rectification, USAID, (2012). The USAID Deliver Project 2012 identified eleven performance indicators which are Product Price Variance, Effective Contract Utilization, Expiration Management, Supplier Performance, Procurement Cycle Time, Payment Processing Time, Emergency Procurement, Procurement Cost, Staff Training, Transparent Price Information, and Transparent Tendering. These various indicators were then grouped into Performance Categories of Cost, Quality, Timeliness, Systems Productivity, and Integrity. The indicators and their Performance Categories are as tabulated below in Table 1.

**Table 1: Procurement Performance Indicators**

Indicator Name	Performance Category
<b>Product Price Variance</b>	Cost
<b>Effective Contract Utilization</b>	Cost
<b>Expiration Management</b>	Quality
<b>Supplier Performance</b>	Quality
	Timeliness
<b>Procurement Cycle Time</b>	Timeliness
<b>Payment Processing Time</b>	Timeliness
<b>Emergency Procurement</b>	Systems Productivity
<b>Procurement Cost</b>	Systems Productivity
<b>Staff Training</b>	Systems Productivity
<b>Transparent Price Information</b>	Integrity
<b>Transparent Tendering</b>	Integrity

Source: Extract from Summary of Procurement Performance Indicators, USAID Deliver Project. (2012)

*All indicators are expressed in percentages. Below however in Table 2 is a tabular summarization of the indicators outlined by the USAID Deliver Project 2012.*

Table 2: Summary of Procurement Performance Indicators

<b>Name</b>	<b>Procedure for performance improvement</b>	<b>Description</b>
Product Price Variance	Prices paid for focus goods are in line with international prices	Percentage price variance between contract unit price and global unit price for focus products
Effective Contract Utilization	Effective procurement systems are applied.	Percentage by value of purchases made under simple purchase orders, annual contracts, and multi-year contracts
Expiration Management	Good supply chain procedures are being used, including inventory management, demand management, and the timely supply of good quality products	Yearly dollar amount of expired products or percentage value of expired products
Supplier Performance	A) Supplier delivers the correct goods	Percentage of orders in compliance with contract criteria
	B) Supplier delivers goods on time	Percentage of orders delivered on time
Procurement Cycle Time	There are no delays in executing procurements	Percentage of procurements completed (placed) within standard time guidelines
Payment Processing Time	There are no delays in processing payments to suppliers	Percentage of supplier payments made within the payment period called for in the contract
Emergency Procurement	Good supply planning practices are being used	Percentage, by value and number, of purchase orders or contracts issued as emergency orders

Procurement Cost	Level of efficiency of operations in procurement unit	Ratio of annual procurement unit cost-to-value of annual purchases
Staff Training	An effective training program is in place to improve procurement staff skills	Key training program components are in place and the percentage of staff who receive training annually
Transparent Price Information	The level of product pricing information that is available to the public	Percentage of products with prices posted on publicly accessible website

*Source: USAAID Deliver Project, 2012*

I will consider for the purpose of this review the Product Price Variance. This indicator shows price equality and effectiveness compared to the global ruling price of goods, works and services procured. This is where prices paid for goods are in alignment with international prices. It is calculated as Percentage price variance between contract unit price and international unit price for focus products and thus stated in percentage. The resultant should be equal or less than 100% to indicate successful procurement. This is as shown in formula 1.

Formula 1:

$$PPV = \frac{\text{Price paid for focus item} *}{\text{International Reference Price (IRP) of item}} \times 100\%$$

\* Focus item is the good, work or service procured

#### **IV. NEGATIVE FACTORS THAT MILITATE AGAINST THE IMPLEMENTATION OF PPA 663**

Public procurement has been utilized by various governments of the world as an important tool for achieving economic, social and other national objectives (Arrowsmith, 1998; Thai, 2001). Public procurement has been perceived as an area of waste and corruption. There are various factors that militate against the successful implementation of Public Procurement Laws.

##### **A. Reliability of Response**

The extent to which the responses for the negative factors that militate against the successful implementation of the PPA 663 can be relied upon was tested using Cronbach's Alpha coefficient. Table 4.8 below reveals a Cronbach's Alpha of 0.848 for the militating factors. This was done using the Reliability Analysis of SPSS. Since this figure is greater than 0.75, Hinton et al, (2005), the responses provided are reliable and can be used and relied upon for this study. According to Hinton, it is the measure of internal consistency, that is, how closely a set of items are as a group. It is thus the measure of scale reliability.

Table 4.8: Reliability Statistics for negative factors that militate against the successful implementation of PPA

Cronbach's Alpha	Cronbach's Alpha based on Standardized Items	N of Items
0.848	0.841	15

*Source: Field Data, 2014*

##### **A. Descriptive Statistics of negative factors that militate against the successful implementation of PPA 663**

Descriptive analyses such as means, standard errors and standard deviations of each of the determinant variables or factors were conducted using Statistical Package for Social Sciences (SPSS) and Microsoft Excel to help provide a clearer picture of the outcome of the survey. Using a five-point rating scale, a variable was arbitrary considered important if it had a mean of 3.5 or more Field, (2005) cited in Owusu and Badu (2009) and is used for the analysis. Mean values of 4.0 indicates severe determinants. The standard error is the standard deviation of sample means and it is a measure of how representative a sample is likely to be of the population, Field, 2005). A large standard error reflects a lot of variability between means of different samples and a small standard error suggests that most sample means are similar to the population mean and so the sample is likely to be an accurate reflection of the population (Field, 2005). Standard deviations of less than 1.0 signal that, there is little variability in the data collected and consistency in agreement among the respondents. The table is as shown below in table 4.9.

From the statistical table 4.9, it can be seen that no clear guidelines by the NHIA on how laws should be used has a mean value of 4.77 and 0.621. This is followed by no procurement department in the district with a mean of 4.47 and a standard deviation of .676. This is also followed by spending done as long as it is within the approved budget has a mean value of 4.33. This is followed by non-implementation of I.T in procurement with a mean value of 4.23. The

least severe determinant of negative factors that militate against successful implementation of PPA is political interference with a mean of 2.25. Table 4.9: Descriptive statistics of negative factors

<b>Determinant of Militating Factors</b>	<b>N</b>	<b>Mean</b>		<b>Std. Deviation</b>	
		<b>Statistic</b>	<b>Statistic</b>	<b>Standard Error</b>	<b>Statistic</b>
Non-enforcement of PPA 633 by the district office	60	4.77	0.084	0.647	1
No clear guidelines by the NHIA on how laws should be used	60	4.77	0.08	0.621	1
There is no procurement department in the district	60	4.47	0.087	0.676	3
Spending is done as long as it is within approved budget	60	4.33	0.123	0.951	4
Non-implementation of I.T in procurement	60	4.23	0.099	0.767	5
All major procurements are done by the NHIA Head Office	60	3.85	0.125	0.971	6
Over centralization of NHIA procurement power at its Head Office-Accra.	60	3.83	0.128	0.994	7
No invitation for tenders during procurement	60	3.57	0.124	0.963	8
No user specification before procurement	60	3.38	0.137	1.057	9
Spending officers spend on their own terms	60	3.33	0.179	1.386	10
Budget constraints	60	3.25	0.134	1.035	11
Bureaucracy (red tape)	60	2.82	0.125	0.965	12
Low salaries of practitioners causing corruption of officials	60	2.58	0.156	1.211	13
Non competitive nature of contracting service providers	60	2.25	0.118	0.914	14
Political interference	60	2.25	0.155	1.202	14

*Source: Field Data, 2014*

It can also be said that the data collected from the sample is very representative of the population since the standard errors of the means are closer to 0 (zero). Also the standard deviation of the majority of determinants of negative factors that militate against successful implementation of PPA is less than 1. This indicates less variability in the data collected.

**B. Severity Index of negative factors that militate against the successful implementation of PPA**

The severity index and the ranking of each determinant are shown below in table 4.10. It can be seen that non-enforcement of PPA by the district office and no clear guidelines by the NHIA on how laws should be used are the most severe determinant of negative factors that militate against the successful implementation of PPA. The non-enforcement of the Public Procurement Laws has been affirmed globally by Schiele & McCue (2006) that regardless of the effort by the various central governments and its related agencies and the acknowledgement that the procurement department is capable of adding value to the organization, still a large number of the internal customers act on their own and more frequently bypass the procuring department and hence non-adherence to the Procurement Laws due to non-enforcement. This is followed by no procurement department in the districts with severity index of 87 through to the least severe determinant which is political interference with severity index of 30. This issue of political interference with the procurement process is also a big challenge to the implementation process and public procurement reforms. A good number of politicians think that they have the right to intervene in the procurement procedures thereby leading to a capricious procurement decisions, World Bank, (2004b). Low salaries of practitioners causing corruption of officials is among the least determinants but has been identified by the World Bank (2003) that the lack of career development path and low salaries of procurement personnel also militate against procurement reforms implementation.

**Table 4.10: Severity Index of negative factors**

<b>Severity Index</b>	<b>Determinant of Militating Factors</b>	<b>Ranking</b>
94	Non-enforcement of PPA 663 by the district office	1
94	No clear guidelines by the NHIA on how laws should be used	1
87	There is no procurement department in the district	3
84	No invitation for tenders during procurement	4
80	Non-implementation of I.T in procurement	5
72	Spending is done as long as it is within approved budget	6
71	All major procurements are done by the NHIA Head Office	7
62	Over centralization of NHIA procurement power at its Head Office- Accra.	8
59	Spending officers spend on their own terms	9
57	No user specification before procurement	10
56	Budget constraints	11
44	Bureaucracy (red tape)	12
40	Low salaries of practitioners causing corruption of officials	13
33	Non-competitive nature of contracting service providers	14
30	Political interference	15

*Source: Field Data, 2014*

**C. Analysis of Variance of Militating Factors of PPA**

Statistical test using One - Way Analysis of Variance (ANOVA) at 95% confidence interval and 5% level of significance was carried out to compare the means of all militating factors that go against the successful implementation of the PPA 663 and the result is shown on table 4.11. It is evident that, based on the samples analysed, Non-enforcement of PPA 663 by the district office and No clear guidelines by the NHIA on how laws should be used, are the most militating factors against the successful implementation of the PPA . This is because their p-values show significant difference in their means. However, no procurement department in the district office also follows suit with a p-value of 0.022 also showing a significant difference in mean. This stands to affirm the findings as revealed by the severity index.

**Table 4.11: ANOVA table for militating factors**

Militating Factor	F-Statistic Test		
	F-Stat.	Level of Sig. (P Values)	Significant Difference (Yes/No)
All major procurements are done by the NHIA Head Office	4.165	0.061	No
Spending is done as long as it is within approved budget	4.684	0.489	No
Over centralization of NHIA procurement power at its Head Office-Accra.	4.143	0.615	No
Bureaucracy (red tape)	3.050	0.523	No
No invitation for tenders during procurement	3.862	0.721	No
No user specification before procurement	3.656	0.629	No
Budget constraints	3.516	0.372	No
Low salaries of practitioners causing corruption of officials	2.791	0.288	No
Non competitive nature of contracting service providers	2.434	0.221	No
Spending officers spend on their own terms	3.602	0.421	No
Political interference	2.434	0.867	No
Non-enforcement of PPA by the district office	5.160	0.013	Yes
No clear guidelines by the NHIA on how laws should be used	5.260	0.023	Yes
Non-implementation of I.T in procurement	4.576	0.32	No
There is no procurement department in the district	4.386	0.022	Yes

Source: Field Data, 29145.

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