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"An Assessment of the Effectiveness and Adequacy of Public Procurement Regulations in Tackling Corruption: Ghana in Perspective"

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Abstract
The Paper presents an assessment of current public procurement regulations in Ghana and whether these have been effective and adequate in the fight against corruption in public procurement.

I. INTRODUCTION

Corruption appears to be one of the structural, endemic and topical issues affecting most developing countries and indeed, a cardinal force, pushing for public procurement reforms especially in developing countries including Ghana. Such reforms among others, aim at reducing or eliminating those elements of the procurement process, which presents opportunities for corruption. As a consequence, a reform strategy which seeks to introduce regulations to combat corruption would not only help limit the discretion of procurement officials or superior public officers from being corrupt but more importantly, help promote transparency, accountability, fairness and judicious use of state resources. Such reforms are embarked upon as a result of the benefit such reforms would bring to a State. Hunja (2002), states that "in the face of shrinking budgets and the need to fight ***corruption***, governments are realising that significant savings can be gained by a well-organised procurement system. Many developing countries have also realised that a well-organised procurement system contributes to good governance by increasing confidence that public funds are well spent. Many developing countries have therefore instituted reforms aimed at making procurement system more transparent and efficient and increasing the accountability of public officials".

The lack of measures to tackle corruption can therefore, serve as an incentive for actors in the procurement processes to be corrupt. This is against the premise that, the susceptibility of an individual being corrupt, is determined by the level of risk. Impliedly, the higher the risk of being caught and punished for corruption related offences, the less likely it is for an individual to engage in corruption. It is however important to state at the outset that, corruption cannot be completely eradicated as noted in the following statement:

(The King) shall protect trade routes from harassment by courtiers, state officials, thieves and frontier guards… and frontier officers shall make good what is lost… Just as it is impossible not to taste honey or poison that one might find at the tip of one's tongue so is it impossible for one dealing with government funds not to taste at least a little bit of the King's wealth. Adapted from the Treatise: The Arthahnstra, by Kantily (Chief Minister to the King in ancient India, circa 300 B.C.-150 A.D. "just as fish moving under water cannot possibly be found out either as drinking or not drinking water, so government servants employed in the government work cannot be found out (while) taking money (for themselves)R P. Kangle, 1972. (As reproduced by Daniel Kaufmann' "Corruption: The Facts" 1997).

Indeed, some have argued that, corruption exists because of the very existence of the procurement function. This is as a result of the huge amounts of money expended in the provision of infrastructure and other social services for the proper functioning of a State. Procurement therefore, accounts for a significant proportion of the Gross Domestic Product (GDP) of most countries ranging between 10-15% in Organisation for Economic Corporation and Development (OECD) countries and in the case of developing countries, this is around 25 percent of GDP (Trepte 2010). Similarly, in the view of Ware et al (2007), public procurement in developing countries account for more than 20 percent of GDP. In the case of Ghana, the World Bank (2003) estimated that this is around 14% of GDD, 50-70% of the national budget (after personal emoluments) and representing about 24% of total imports due to a huge taste and a preference for foreign goods.

In Ghana, the government is largely deemed to be responsible for the provision of majority of infrastructure in the area of health, energy, water and sanitation, roads and education among others, The huge amount of money spent on these various areas of needs, indubitably, has the tendency to create an appetite for corrupt practices or moreso, exacerbate the susceptibility of corruption in public procurement especially, if discretions in the making of procurement decisions are not limited. Corruption in public procurement is therefore induced by the relatively high degree of discretion that public officials and politicians, typically have over public procurement processes relative to

other areas of public expenditure. Preventing practices, controlling and enforcing punishments for corrupt practices are without a doubt, critical indicators of good governance and economic development. This is because, the position of a country in the league table of Corruption Performance Index (CPI) by Transparency International (TI), is frequently used by donors and regulators to justify additional interventions and sometimes, by countries themselves to demonstrate improvements in their governance structures. (Galtung, 2006).

The focus of this paper, is to assess the effectiveness and adequacy of procurement regulations in tackling corruption and by extension, how this fits within the context of good governance. It is however, noteworthy to state at the outset that, in other to ensure the legal certainty and enforcement of anti-corruption measures, such measures are enshrined in national Constitutions and Procurement Acts/Laws or Regulations. In the case of Ghana for instance, the various anti corruption measures in the context of public procurement, are principally provisioned in the Public Procurement Act, 2003 (Act 663) (as Amended), supported by Article 284 of the 1992 Republican Constitution and the Criminal Code, 1960 (Act 29). These measures could, be preventive (aimed at preventing the occurrence of corruption), corrective (correcting the possibilities of corruption) or enforceable/punitive (ensuring that those who engage in corruption are criminalized and punished. Notwithstanding a plethora of anti-corruption measures in the form of regulations in the procurement laws of most jurisdictions such as Ghana, there still exist the view that corruption in public procurement is generally rife. Could such a view imply: the need for more regulations; current regulations are not deterring enough; or it depicts the possibility of a lack of enforcement of current regulations? The following paragraphs would seek to explore these concerns by looking at what corruption is, the various regulations provided to fight corruption and whether these are adequate.

A. Definition of Corruption

Corruption being a topical issue all over the globe, has undoubtedly, generated a lot of interests resulting in a number of studies by individual researchers or corporate organisations with the view among other things, to identify the causes, effects and how it can be prevented or controlled. The word corruption has been defined differently by different scholars to mean different things. Indeed, notwithstanding the divergence of views on what corruption actually is due largely to a perception of what constitutes corruption in different contexts and cultures, there is a consensus on some working definitions which include the following: ''*the abuse of an official position for personal gain'.* (Anechiarico and Jacobs, 1996); and "the sale by government officials of government property for personal gain" (Schleifer and Vishny, 1993); "the abuse of public office for private gain" World Bank, 1997) and Transparency International (TI) (2001), defines corruption as "the misuse of entrusted power for private gain". Regardless of how one views or tries to define corruption, a very resounding notion about it has to do with its relationship with unethical conducts or practices, the outcome of which, benefits an individual(s) at the expense of the general public.

B. Effects of Corruption

Bradhan (1997), argues that corruption has adverse effects not just on static efficiency but also on investment and growth. For instance, a payment of bribe to get a permit or license can potentially reduce the incentive to invest in a particular country and if it does occur, there is the possibility of diversion of funds meant for specific projects for private consumption which does not only lead to slow growth rate but more importantly, it can also increase the cost of a project thereby putting a strain on the public purse. Ware et al (2007), provide very revealing statistics about the negative costs of corruption. Some of these include for example, the African Union (AU) estimating that approximately one-quarter (or $148 billion) of African's GDP is lost to corruption each year". Similarly, Transparency International (2006) estimated that government costs were increased by about 20-25 percent due to bribery and corruption in public procurement. This it observed, amounts to at least $400 billion globally, each year. In Asia, the ADB (1998) noted that corruption in public procurement led to so many countries paying between 20-100 percent more for goods and services than they would have had to otherwise pay. Similarly, Mauro (1995), in a study, found out that a corrupt country is likely to achieve aggregate investment levels of almost 5% less than a relatively uncorrupt country and to lose about half a percentage point of GDP growth per year. He further found corruption as being likely to distort public expenditures.

According to Wei (2000), investing in a relatively corrupt country, as compared with an uncorrupt one, is equivalent to an additional 20 percent ("private") tax on investment. This confirms a growing concern about the relationship between corruption and lower foreign investment across many regions globally.

Kaufmann (1997), further states that, corruption is negatively associated with developmental objectives everywhere and states that, "opportunistic'' bureaucrats and politicians who try to maximize their take without regard for the

impact of such perdition on the "size of the overall pie" may account for particularly adverse impact corruption has in some countries of Africa, South Asia, and the former Soviet Union".

However, it is interesting to note that, due to a lack of a complete consensus in the literature on whether corruption harms or facilitates social welfare, some researchers such as Linarelli as reproduced in Arrowsmith and Davies (1998), believe that corruption can also have positive effects on an economy. Some of the arguments advanced include:

- Corruption facilitates trade by improving the efficiency of a sluggish bureaucracy with facilitation payments and bribes oiling the wheels with a resulting reduction in delays.
- Corruption also facilitates the avoidance of cumbersome regulations which hinder entrepreneurship ("speed money").
- Some have even argued that corruption lowers public costs by enabling lower salaries to be paid since these may be supplemented by bribes.

Notwithstanding these positive effects of corruption, it is generally acknowledged that such nefarious and unethical practices are unlawful and represent a social, economic cost to a country.

C. Measures to tackle Corruption

The difficulty in defining, detecting and measuring corruption directly through hard data or the possible inaccuracies in gathering corruption related data indirectly through surveys of perception, calls for the need to have in place measures that can be used to address corruption. These measures should aim at reducing or eliminating those opportunities or incentives for corruption. These measures could be preventive (aimed at preventing the occurrence of corruption), corrective (correcting the possibilities of corruption through 'red flags') or enforceable/punitive (ensuring that those who engage in corruption are criminalized and punished. These views are shared by Trepte (2005) and D Ases (2005). These include the use of the following measures:

D. Transparency: Transparency in the context of public procurement refers to the idea that procurement procedure should be "characterised by clear rules and by means to verify that those rules were followed". (Arrowsmith and Davies, 1998). Arrowsmith, Linarelli and Wallace (2000), suggest the following interrelated ways through which transparency can be used to support other policy objectives of public procurement: (a) Publicity of contract opportunities; (b) Publicity for the rules governing each procurement procedure; (c) Limits to control the discretion of procuring entities or officers in making public procurement decisions; (d) The possibility for interested parties to verify the application of the public procurement rules and to enforce them. These are also contained in Article 9 of the UN Convention against Corruption (2004). Some specific provisions under the Public Procurement Act, 2003 (Act 663) (as Amended), that seek to promote transparency, include, Section 51 which details out the procedure to be followed by procurement entities in responding to requests for clarifications; public opening of tenders as provided for under Section 56; a provision under section 59 (5) to the effect that no criteria shall be used that has not been set out in the invitation documents; a requirement for debriefing under section 65 (9) which most entities unfortunately, don't adhere to; the right of a supplier, contractor or consultant to challenge the actions of a procurement entity under section 78 of Act 663 (as Amended) which can either be directed to the Head of Entity under Section 79 or through the Administrative Review process under section 80. Transparency therefore helps to prevent the occurrence of corruption since actors in the procurement process will find it quite risky to engage in corruption.

E. Accountability: Accountability as a means to combating corruption is to ensure that those responsible for making procurement decisions are held ultimately responsible for their actions. The fact that such persons will be held accountable for their actions increases their risks of they being found out if they engage in any corrupt practice. Trepte (2005), relates the role of such officials in the procurement process, to that of an agent who has a lot of discretion in defining procurement needs, designing the procurement process and making decisions consistent with budgeted responsibilities. A failure to hold someone accountable for procurement decisions can present an opportunity for corruption. It is as a result of this that Section 17(1) of Act 663 (as Amended), provides that the Head of Procurement Entity and any other officer to whom responsibility is delegated are responsible and accountable for action taken with respect to the Act. Similarly, Section 18 (2) provides that notwithstanding the grant of concurrent approval by a tender review committee, that the Head of Entity will be ultimately held accountable for a contract that may be determined to have been procured in a manner that is inconsistent with the Act.

F. Audits: According to Kaufmann et al (2007), audits provide a basis to compare spending with the physical outputs of projects and can provide useful information about malfeasance in specific projects within a very particular context in a country and not necessarily, an indication of corruption more generally. In a jurisdiction such as Ghana, the Internal Audit Agency Act, 2003, (Act 658) requires every public entity to have an internal auditor whose role is to ensure that public funds are judiciously utilised with due regard to approved spends. Section 91(1) and (2) of Act 658 further places an obligation on the Auditor-General, to conduct ***annual*** and ***specific*** audits of entities and to subsequently, submit such reports to the Public Procurement Authority (PPA). So far, these reports have done little to improve the public procurement system especially in the fight against corruption with the exception of instances where public official were brought before the ***Public Accounts Committee*** (**PAC**) of Parliament to account for how funds entrusted into their care as fiduciaries, were been spent. The recent decision by the new Auditor General to prosecute and to have individuals who have been found to have misappropriated public funds to refund such monies is a welcome news.

G. Direct Supervision*:* there is a provision for the use of direct supervision through the establishment of various approving structures in the procurement process in line with specific thresholds as provided for under the Fifth Schedule of Act 663 (as Amended). Sections 20 and 20F (1) of Act 663 (as Amended), establish Entity Tender Committees (ETC) and Tender Review Committees respectively. Section 20 (1) specifically, requires every Procurement Entity (PE), to establish an ETC to among others, ensure that at every stage of a procurement activity, procedures prescribed in the Act are followed and also, to exercise sound judgment in the making of procurement decisions. ETCs therefore serve as vehicles for direct supervision over the activities of their procurement entities, to help fight corruption and improprieties among others. It is as a result of this, that all recommendations for contract awards as contained in evaluation reports for any type of procurement (goods, works or services) above a particular threshold, will have to be approved by an ETC to ensure among other things that all the award criteria or other requirements of a particular procurement were followed in arriving at a recommendation for contract award. The ETCs therefore have a right to reject a recommendation if the evaluation panel's erred in their selection of the successful supplier/contractor or consultant or moreso, if the justification appears to derail the achievement of value for money and therefore in the considered opinion of the ETC, the entire procurement process or the process leading to the selection of a particular tenderer smacks of some irregularities which could serve as a platform for the conception and nurturing of corrupt practices. Thus, the right of the ETC or CTRC to reject ill-informed recommendations could serves as a means of preventing unscrupulous procuring officers, members of the evaluation or even Heads of Entities from being corrupt.

I. Review Mechanism*:* In the view of De Ases (2005), "enforcement mechanisms are also important to ensure that bidders have the opportunity to present complaints to an oversight or judicial body". For instance in Ghana, section 78 of Act 663 (as Amended) provides that, 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 by the Act, can seek a review. There are however, some exceptions to this provision. Actors in the procurement processes who are aware of such a right, will ensure they live above board and eschew corrupt practices which could be a basis for commencing a review process. Thus, the equitable maxim ''he who comes to equity must come with clean hands'' is illustrative here.

J. Reporting Mechanisms*:* most jurisdictions provide for the public to act as either informants or whistleblowers of any suspected acts of corruption. Such a mechanism is useful because of the very fact that, corruption is carried out clandestinely and therefore difficult to detect. Such tools should however, be used with care since they might be mere "red flags" and not necessarily the occurrence of actual corruption. To ensure success in the use of such a mechanism, it is of crucial importance to ensure that the desire of government to encourage whistleblowers should be commensurate with the level of protection that will be given to them due to the risks such informants will be exposed to.

K. Codes of Ethics*:* Codes of ethics and integrity packs have also been used in the fight against corruption. These are used as preventive measures which impute duties on public officials in adhering to strict conducts in the performance of their duties. This is against the premise that, an official who lives above board, will not engage in or encourage corruption. Section 86 (1) of Act 66 (as Amended), provides for the publication of a code of conduct that shall apply to each official of a procurement entity, the members of an evaluation panel, members of tender review committees, members of the Board as well as tenderers, suppliers, contractors and consultants. The specific areas to be addressed by the code of conduct include: (a) conflict of interest in procurement which without doubt, has found expression under Article 284 of the 1992 Republican Constitution of Ghana, though broad as this constitutional provision might

be; (b) measures to regulate matters concerning personnel responsible for procurement. Indeed, as a result of this provision, majority of procurement regimes place significant limits on the discretion of procurement officers because of informational asymmetry and the potential for the abuse of such discretions; (c) declaration of interest in a particular procurement. It is standard practice for members of evaluation panels, to be made to sign a declaration prior to the commencement of an evaluation process and in fact, this requirement must apply to all persons involved in the procurement process. Thus, officers, evaluators or even members of ETC or CTRC should be made to sign such declarations so as to avert the possibility of any apparent interests, unfairly influencing the outcome of a procurement process and as a corollary, undermining the achievement of value for money; (d) screening procedures and training requirements: It is not enough to have in place a world class code of conduct to govern the process of public procurement in Ghana but more importantly, actors in the procurement process should be given some formal training to enable them appreciate, understand and apply the code of conduct in the performance of their roles. Indeed, the Public Procurement Authority (PPA), could add this responsibility to their already prescribed functions to build the capacity of actors within the process as provided for under Section 3 of Act 663 (as Amended). It is important to add that, the already existing code of conducts for a relevant professional body such as that of the Chartered Institute of Procurement and Supply (CIPS-UK), could prove relevant in the development of a code of conduct for actors within Ghana's public procurement system.

Similarly, section 32 of Act 663 (as Amended), prohibits any form of inducements from suppliers, contractors or consultants. This provision is to prevent a situation where procuring officers could be unduly influenced by such inducements in the making of procurement decisions relating to the award of a contract to the supplier, contractor or consultant who offered such inducements. Without doubt, therefore, the offer and receipt of inducements could serve as a fertile ground to breed corruption which should be nipped in the bud with all full force.

L. Criminal Punishment*:* Any punishment for any violations of a procurement process, is a demonstration of the commitment to make such violations an unattractive enterprise for perpetrators. Thus, detecting corruptions without any sanctions will not be a strong preventive measure in the fight against corruption. By publicly exposing and sanctioning the wrongdoing of a range of firms or actors in the procurement process, investigations can have an asymmetrical deterrent effect that encourages companies to take preventive action to reduce the likelihood of corruption in their operations. (Ware et al 2007). As D Ases puts it, "a reviewing entity should not only detect corruption, but also have the power to link the detection to punishment". Conventions against corruption such as the UN Convention against Corruption under Article 17, supports the criminalization of offences such as embezzlement, misappropriation or other diversion of property by a public official. In Ghana for example, the penalty for any contravention of any provision of the procurement Act is covered under section 92(1) of Act 663 (as Amended) which provides that *''any person who contravenes any provision of this Act commits an offence and where no penalty has been provides for the offence, the person is liable on summary conviction to a fine not exceeding 2500 penalty units or a term of imprisonment not exceeding five years or both''*

Section 92(2) outlines the offences which are punishable: *(a) ' entering or attempting to enter into a collusive agreement, whether enforceable or not, with any other suppliers or contractor were the prices quoted in their respective tenders, proposals or quotations are or would be higher than would have been the case has there not been collusion between the persons concerned''; (b) ''directly or indirectly influencing in any manner or attempting to influence in any manner the procurement process to obtain an unfair advantage in the award of a procurement contract''; (c) altering any procurement document with intent to influence the outcome of a tender proceeding and this includes but is not limited to (i) forged arithmetical correction and (ii) insertion of documents such as bid security or tax clearance certificate which were not submitted at bid opening''; and request for clarification in a manner not permitted under this Act''* (with respect to section 51 of Act 66 (as Amended).

Actors in the public procurement process in Ghana, need to be mindful about the sanctions for corrupt practices which is not only limited to section 92 as mentioned above. It is instructive to note that, any violation of the Act 663 (as Amended) can be criminalized. Indeed, Section 93(2) provides that '' *an act amounts to a corrupt practice if so construed within the meaning of corruption as defined in the Criminal Code, 1960 (Act 29)''*. Thus, the provisions of Act 663 (as Amended) with respect to potential or actual corrupt practices will be read together with the relevant provision in Act 29.

From the forgoing, the question begging for an answer is, to what extent have the provisions under Section 92 been invoked since the promulgation of Act 663 (as Amended)? From the writer's research, there is no record of a

conviction under the above provision of the Act. Is it a question of there being no breaches or that, or that our governance system is so polarised to that extent that the wrongs are eventually being seen as the right way to act? This takes us to the realm of the test of the adequacy of procurement regulations in tackling corruption in Ghana.

II. ADEQUACY OF PROCUREMENT REGULATIONS

How adequate are the above measures in tackling corruption in public procurement with particular reference to Ghana? Trepte (2005), argues that, procurement regulations cannot address all forms of corruption and cannot address opportunities which do not arise in the procurement context. He cited examples of the failure of procurement regulations in eliminating facilitation payments extracted from companies in their bid to obtain licensing or registration for their businesses so as to enable them participate in procurement opportunity. The entrenched nature of systematic corruption in a particular country makes null, the effect of procurement regulations. This is because, all actors in the procurement process including the technocrats and politicians, all believe that corruption is part and parcel of their culture. Political pressures coming from political leaders appear to be one of the factors negating the effectiveness of procurement regulations. Procurement officers who are under pressure from politicians or superiors, in a bid to save their jobs, allow corrupt practices to go on. This is one of the pervasive practices militating against the control of corruption in a country such as Ghana. This is without doubt a major concern for procurement officers in the public sector in Ghana. The fight against corruption in procurement therefore requires the total commitment of politicians and heads of procurement entities. As Mr. Witting said during the 2004 Global Forum as reproduced by Trepte (2005), "what is required is a system-wide approach, not a piecemeal or partial approach. The fight against corruption needs to address all the opportunities for corruption and its success will also depend on the commitment of the central authority to eradicating corruption (and its willingness to prosecute instances of corruption at whatever level), as well as the reaction of tax payers".

During the 2004 Global Forum, Ms Soreide presented a report relating to an empirical study conducted among businesses in Norway which revealed that, 55% of the respondents did not believe that procurement regulations prevented corruption. Moreover, only 6% considered procurement regulations to be an efficient obstacle to corruption. Similarly, in Ghana, majority of the public hold the view that procurement regulations cannot be relied on in the fight against corruption simply because our laws are not enforced.

It is also important to note that, an increase in the number of regulations can have a potential pervasive effect which could invariably, create opportunities for corruption. (Trepte 2005). Indeed, this is so because corruption becomes evident when there are cumbersome regulations and a sluggish bureaucracy in place, which can only be circumvented through facilitation payments and "speed money". Also, an increase in procurement regulations can also eliminate the possibility of procurement officers from making good procurement decisions just as lack of regulations can result in they making wrong procurement decisions. The achievement of value for money could be lost through excessive regulations. This can potentially create a gap between the desire to fight corruption and the achievement of the ultimate procurement objective which has to do with the achievement of value for money.

Concerns have also been raised as to the application of the provision of section 92 of Act 663 (as Amended) as discussed above. Such concerns seek to find out the number of convictions recorded for the application of section 92 of Act 663 (as Amended). Is it conclusive to state that, the fact that not many people (if any) are known to have been convicted under section 92 since the enactment of Act 663 in 2003 and its amendment in 2016, implies such a provision is not a strong deterrent in the fight against corruption in Ghana or it depicts a failure to bring perpetrators to book. The popular view is that it is as a result of a failure to criminalize perpetrators.

Furthermore, Act 663 (as Amended) provides that a supplier, contractor or consultant who has engaged in unethical practices such as bribing a procuring officer, engaging in collusive practices or fraudulently misrepresenting a statement of fact, would be debarred or suspended in line with section 22A (1) (b) and 22A(2) (g) of Act 663 (as Amended). However, a visit to the Public Procurement Authority (PPA) website- www.ppa.org, does not seem to have a list of debarred individuals or companies. What is the implication of such a state of affair in our fight against corruption? Could it be that all actors in procurement processes live and act professionally and ethically which is not possibility? Or that the responsible state apparatus hasn't got the teeth to bite? Clearly, such a situation does not sufficiently seem to be deterrent to suppliers, contractors or consultants.

Additionally, the establishment of approving structures such as ETCs to act as supervisory, review and approving authorities, does not completely tackle corruption. Indeed, it is alleged that Entity Tender Committees or Tender Review Committees , contravene the provisions of the Procurement Act by altering or being persuaded by ''higher'' authorities, to alter the recommendations for award of contract in favour of their cronies which is inextricably, linked to political patronage.

Lastly, another avenue for corrupt practices to thrive revolves around the application of the closed competitive methods of selecting tenderers from an approved list and eventually, awarding a contract to the most responsive tenderer amongst those selected. Act 663 (as Amended) is not clear on how individual entities are to build such a database even though, under Section 3(p), the PPA is mandated to maintain a database of suppliers, contractors and consultants and a record of prices to assist in the work of procurement entities. However, it is common practice for entities to develop their databases to facilitate their procurement particularly, with respect to the use of closed competitive methods of procurement such as , Request for Quotation (RFQ) under Sections 42-43 of Act 66 (as Amended) and Restricted Tendering under sections 38-39 of Act 663 (as Amended). Of course, the selection of consultants through the use of Request for Proposals (RFP) could potentially lead to the restriction of tenderers during the procurement process. For instance, the use of procurement methods such as Request for Quotation (RFQ) and Restricted Tendering, require a minimum of three (3) suppliers/consultants to establish effective competition. Thus, procurement entities have a lot of discretion at their disposal to control who should take part in the procurement process. After all, procurement entities reserve the right to select a procurement method to be used either based on a circumstance as in the case of single source and restricted tendering, or based on the threshold as in the case of RFQ, National Competitive Tendering (NCT) or International Competitive Tendering (ICT). Therefore, potential tenderers cannot question a procurement entity with respect to why it decided to use one particular procurement method and not the other. It should be noted that, discretion comes with the real likelihood for the abuse of such discretion. Thus, the above could potentially lead to abuse of discretion in the selection of tenderers and indubitably, degenerate into sowing seeds of corrupt practices such as favouritism, tribalism, nepotism, political rent seeking and indeed, serious conflicts of interests situations arising.

III. PROPOSAL FOR IMPROVEMENTS ON CURRENT ANTI-CORRUPTION MEASURES

The above assessment raises concerns about the adequacy and effectiveness of current measures in combating procurement related corruption in Ghana. The following suggestions could prove useful in ensuring that, anti-corruption measures put in place are able to achieve the desired results. In the first place, a lot of education and commitment on the part of all stakeholders is required to ensure that anti-corruption measures are adhered to and commitments to ensure that they are enforced. The commitment of political leaders is key in the fight against corruption. Indeed, Ghana is one the countries where some unscrupulous political leaders or heads of procurement entities, believe they can live above the law and get away with it. Following the writer's role as a Procurement Consultant in Ghana, he believes within all mortal certitude that, the inadequacies of procurement regulations in tackling corruption and for that matter, failure to implement the provisions of Ghana's public procurement Act can be attributed to lack of political will by political leaders and heads of entities. Politicians have a responsibility to live by what they preach. After all, you can preach a gospel better with your lifestyle than with your lips.

Civil Society Organisations (SCO) such as TI and other anti-corruption civil society coalitions are invaluable and indispensable machinery in our bid to tackle the menace of corruption. Such groups are ideally not aligned with any political party so they are better placed to push for the enforcement of anti-corruption measures. This is because one evil canker serving as a snag in Ghana's clock of progress is the politicisation of the slightest issue. Regardless of how unethical an issue at stake might be, politicians and their followers would be quick to draw politics into it and thereby, watering it down. Actors found to be corrupt should be named and shamed to serve as a deterrent.

Additionally, periodic economic reforms can prove very useful in addressing corruption. The design of reform strategies and programmes, should seek to identify potential areas of discretionary control rights at the disposal of bureaucrats, politicians and actors in the procurement process. In this regard, the introduction of e-procurement in the Amendment to the Public Procurement Act, 2003 (Act 663), (as Amended), will significantly help to reduce the human interferences thereby reducing the possible emergence and perpetuation of corrupt practices. It is also submitted that, future amendments to the current procurement Act, should address how a database of short-list of potential suppliers are to be built, since the current practice gives room for the abuse of discretion. Indeed, to a large extent, the e-procurement system to be built, should have a robust feature on Due Diligence which allows for authentication and

validation of ownership of businesses and track records of businesses across the public sector. This will help pick up red flags of potential conflict of interest situation and also, help avert awarding public contracts to firms who either didn't perform well in previous contracts, or were debarred for unethical conducts.

Finally, it is the expectation of the writer and that of many Ghanaians that, the office of Independent Prosecutor will go a long way to deter potential corrupt acts. The Prosecutor should be able to work assiduously to break perpetrators to book. Similarly, the PPA has a major role to play in reducing procurement related corruption by ensuring that all applications for single source procurement demonstrate the achievement of value for money in line with the Guidelines for Single Source programme. There is currently a hue and cry about the suspicious manner some past approvals for single source procurement and restricted tendering running into millions of USD, have raised a lot of concerns about the integrity and independence of the regulator. The PPA as the regulator, must purge and redeem its image by ensuring that all approvals for single source and restricted tendering are justified.

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