



EVALUATING THE EFFECTIVENESS OF PUBLIC PROCUREMENT REFORM IN GHANA.

Ebenezer Essilfie-Baiden

*Acting Director, Procurement and Supply Chain
Civil Serve. Ghana*

Abstract

Public procurement is a sector that directly affects the Gross Domestic Product (GDP) of a country cannot be overemphasised. In fact, according to the Dr. Kwabena Duffuor, Minister for Finance 2011, Ghana's public procurement represents 24 per cent of national imports and accounts for between 50-70 per cent of the national budget, excluding personnel emoluments, and represents about 14 per cent of GDP. The importance of such a sector in the national affairs makes a study of this nature very pertinent. The study set out to interview 200 respondents from four main departments. These were the Finance and Administration, Stores, Audit and Procurement departments. The recovery rate was 75%, indicating that a total of 150 questionnaires were returned. The analysis was done with the aid of the SPSS software and Microsoft Excel. Tables, graphs and pie chart picturesquely illustrated the analysis. The analysis covered the demographic information, familiarity with procurement, compliance with public procurement rules, monitoring or supervision of procurement activities, adherence to laid down practices in procurement procedures, association between monitoring of practitioners behaviour and compliance with procurement rules, organizational goal achievement and compliance with public procurement rules as well as challenges with compliance in supply chain or procurement. The analysis revealed that there is indeed relationship between organizational goal achievement and procurement rules, familiarity with procurement rules and compliance with those rules and monitoring of practitioners and compliance with procurement rules.

KEYWORD: *Public Procurement, Procurement Cycle, Procurement Processes, Procurement Reform*

INTRODUCTION

Public procurement is the process by which large amounts of public funds are utilized by public entities to purchase goods and services from the private sector (Hunja, 2003). It therefore involves the acquisition of goods and/or services at the best possible total cost of ownership, in the right quantity, quality, time and place for use by government and public organizations via contracts. Government procurement accounts for approximately 4.5 per cent of developing countries' gross domestic product and governments tend to be the largest single consumers of goods and services in most countries. Globally, government procurement is big business, with annual spending estimated at more than \$4 trillion.

Public procurement systems are the bridge between public requirements such as roads, hospitals, defence and private sector providers. Government provides goods and services to meet the diverse needs of her citizens (Wittig, 1999). Inputs needed to produce these needs are obtained from either internal government organizations (hospitals, public works departments and others) or from sources external to the government in the private sector (domestic or international suppliers). It has been said that in Ghana public

procurement represents 24 per cent of national imports and accounts for between 50 per cent and 70 per cent of the national budget, excluding personnel emoluments, and represents about 14 per cent of Gross Domestic Product (GDP) (Daily Graphic, Monday, June 12, 2006, pp35).

In a recent public forum organized by the Public Procurement Authority (PPA), the Finance Minister, Dr. Kwabena Duffuor said "public procurement in Ghana utilised about 80 per cent of national tax revenue that represented about 24 per cent of total imports. That figure also represented between 50 and 70 percent of the national budget accounting for 17 percent of the country's Gross domestic Product (GDP)". (Source Annual public forum of the Public Procurement Authority (PPA) Accra, Aug. 16, 2011, Ghana News Agency). The public procurement sector is often the largest domestic market in less developed countries. The International Trade Centre's experience in developing countries is that public procurement can account for up to 50%-70% of imports. One measure of this fact is the emphasis which the World Bank and other regional institutions like the African Development Bank are placing on assisting developing countries to review and revise their



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procurement systems. Countries like Afghanistan, Bangladesh, Ghana, Peru, Rwanda, Sierra Leone, Tanzania and Uganda have all introduced new procurement legislation since 2001 in response to World Bank conditions.

BACKGROUND OF THE STUDY

The government of Ghana embarked upon an exercise to reform the Public Procurement System in 1996 as an integral part of a wider Public Financial Management Reform Programme (PUFMARP). The exercise was to improve the overall public financial management in the country.

The need for an efficient, non-corrupt and transparent public purchasing system is one of the main drivers behind most reforms. So much money is spent by developing nations in the procurement of goods and services and the need for transparency and efficiency in government purchasing has led to the transformation of the purchasing process through public procurement reforms.

Many developing countries have also realized that a well-organized procurement system contributes to good governance by increasing confidence that public funds are well spent (Hunja, 2003). Whilst an equally important reason is that they may be a condition for access to foreign markets and therefore incumbent upon the country seeking access to the foreign market to undertake such reforms (Evenett and Hoekman, 2003).

Influence from the donor community has also been a factor in urging and providing the necessary resources to support reforms as for example the World Bank has been an active supporter of procurement reform efforts of almost all of the countries where it lends (Hunja, 2003).

Public Procurement reforms has taken center stage in many developing nations and Ghana is no exception to this new trend as most governments are putting much effort into reducing budget deficits and combating corruption (Barden, 2006).

Ghana has attempted to address weaknesses in its public procurement process by the passage of several financial and legal instruments. These have come in the form of constitutional, legislative instruments, administrative instructions and financial reforms.

In 1960, the Government enacted the Ghana Supply Commission Act which was reviewed later in 1990 by

PNDC law 245. In the same year, Contracts Act, Act 25 of 1960 was also passed. In 1976, the National Procurement Agency Decree 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. Unfortunately, none of these legal frameworks included the establishment of an effective oversight body to oversee the successful implementation of these laws

The Public Procurement Board of Ghana, renamed Public Procurement Authority (was established to oversee and enforce the Public Procurement Act 2003 (Act 663) following the government's reformation of the public procurement system in 1996 culminating into the passage of Act 663 in 2003

Some short comings that the Public Financial Management reform identified necessitating the enactment of the Act were as follows:

- Absence of a comprehensive public procurement policy;
- Lack of legal regime to safeguard the integrity of the public procurement system;
- Lack of a central body with oversight responsibility for regulating public procurement in Ghana

Since procurement is the means by which public resources (funds) are spent, improvements within the procurement system by means of reforms have developmental impact within the economies of developing countries within which such reforms are undertaken. In view of the above mentioned shortcomings the Public Procurement Act 2003 (Act 663) was promulgated to serve as a regulatory framework to regulate all government and public purchases within the Ghanaian economy using public funds.

The Act 663 establishes the Public Procurement Authority as the regulatory body for public procurement in Ghana. The Public Procurement Authority's objective is to secure a judicious, economic, and efficient use of public funds in a fair, transparent and non-discriminatory manner while promoting a competitive local industry.

The Public Procurement Authority is itself not involved in the conduct of procurement except that it



has the authority to approve requests from public procurement entities seeking approval to use single source procurement and restricted tendering. The various functions that the Public Procurement Authority includes but not limited to policy formulation, monitoring and regulation and standards, as well as capacity building, professional development and the dissemination of relevant information to all stakeholders.

STATEMENT OF THE PROBLEM

Today governments all over the world have received a great deal of attention as providers of essential services, such as health, education, defence and infrastructure. To be able to meet the demand for these services, governments purchase goods and services from the marketplace. In other words, governments are purchasers of works, supplies and services from the open market, placing their demands alongside those of the private sector. The business operations of governments in the marketplace or public procurement have thus both economic and political implications.

Although several developing countries have taken steps to reform their public procurement systems, the process is still shrouded by secrecy, inefficiency, and corruption and undercutting. In all these cases, huge amounts of resources are wasted. This study attempts to address the effectiveness of public procurement act on the performance of a public institution.

LITERATURE REVIEW

Public procurement has a long history as reported by Thai (2001). The importance of public procurement cannot be overstated in view of the huge financial outlays that are usually involved: Pagnato (2003) estimated United States federal procurement figure at around US\$200 billion per annum while Coggburn (2003) put the combined level of state and local government's at more than US\$1trillion. Thai and Grimm (2000) estimated government's collective purchasing at around 20% of GDP while for developing countries, Nicol (2003) put the figure at 15% of GDP. Public procurement is therefore an important function of government as the huge outlays has a great impact on the economy and needs to be well managed (Thai,2001) and secondly, as an important tool for achieving economic, social and other objectives (Arrowsmith, 1998).

In view of the importance that public procurement play in both economic and social development, the World Bank's Procurement under International Bank for Reconstruction and Development (IBRD) Loans and IBRD Credits specifies four major concerns or

objectives of public procurement for projects funded by its loans as reported by Thai (2001):

- Ensuring that the loan is used to buy only those goods and services needed for the project;
- Ensuring fair competition for all qualified bidders from the world bank's eligible countries;
- Promoting transparency or integrity, and
- Encouraging development of indigenous contractors and manufacturers by allowing local buyers to build in a margin of preference for local contractors and manufacturers (tucker, 1998).

In the promotion of transparency or integrity, Barden (2006) said that transparency was important to assure the trust and confidence in the procurement system and that it is important to assure vendors that the opportunity to supply goods and services are offered on a level playing field while avoiding corruptive influences. Barden (2006) suggested that transparency can be achieved by government agencies through the following strategies: use of effective advertising; public bid opening procedures; effective bid evaluation criteria; independent evaluation methods consistent with the stipulations of the bidding documents and the awarding of contracts to qualified vendors having submitted the lowest evaluated bid without negotiations. Other strategies included: the publication of award results; fair and speedy protest and dispute resolution handling processes and the disclosure of signed contracts and prices.

(Schapper et al., 2006) made a strong case for the potential of technology to enhance transparency as noted by other authors such as Shadrach and Ekeanyanwu (2003). They suggested that e-commerce helps in the enhancement of transparency through effective audit for the great volume of simple low value transactions while for high value complex procurement processes, the key transparency features included: public access to up-to-date policies; information on bidding programs; standardised documentation and lodgements of bids; progress of tender evaluation and announcement of outcomes.

Schapper et al (2006) and Shadrach and Ekeanyanwu (2003) therefore concluded that for high value procurement processes, transparency is strengthened through direct public disclosure of all stages of the procurement process while low value procurement is strengthened primarily through improved audit capabilities. But unfortunately, public procurement



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reforms programs in developing countries do not incorporate the reformation and incorporation of technology with respect to e-commerce but mostly the reformation of the regulatory and management processes of the procurement systems for efficiency, value for money and compliance. This is affirmed by Schapper et al., (2006): '...enhanced transparency from the application of technology to procurement systems delivers directly what volumes of regulations seek to do indirectly and often tenuously'.

CONCLUSIONS

On the first objective of examining the association between organizational goal achievement and compliance with public procurement rules, it can be concluded that goal achievement was assigned the highest priority and also available procurement rules facilitate the achievement of organizational objectives. It was further concluded under this objective that the MoI does not have conflicting objectives as far as its procurement activities are concerned and that their rules matched with the applied procurement regulations.

Under the second objective of examining the association between familiarity with procurement rules and compliance with public procurement rules, it was found that respondents were familiar with the Procurement Act, but do not have strong knowledge on what the law really entails. In fact, it was realized that familiarity with the rules is a requirement for work in procurement. To ensure that only those with this vital knowledge are employed, MoI ensures that only those with knowledge of the procurement laws are allowed to carry out procurement tasks. Despite this, the number that did not have the relevant procurement knowledge were quite sizeable, necessitating the need for continues education for staff on procurement rules and regulations.

On the third objective of examining the association between monitoring of practitioners behaviour and compliance with public procurement rules, it was found out that monitoring, though undertaken, is quite lax. It was also concluded that the procurement policy of the ministry conforms to the provisions in the Procurement Act, 663. Despite this, the ministry falls foul to the provisions. It was further realized that sanctions are not effected immediately after violations and if they be, they are not effected in private. The study could not, however, establish for certain whether respondents' procurement activities are frequently inspected or monitored to ensure they adhere to established procurement rules as stipulated in Act 663. Another issue that was not clearly articulated by

respondents was whether they are assessed based on reported procurement performance. This was further confirmed when it was found out that performance reports were not verified through physical checkups all the time.

There are various challenges associated with procurement practices but the principal one is misprocurement; nepotism and favouritism and project delays. It was further concluded that the influence of these issues has not changed since the enactment of the procurement laws. It was also evident in the study that the usage of proforma invoices is quite extensive and also purchasing being approved by relevant authorities is the norm. Moreover, records of goods and services received were found to be kept or filed without delay.

RECOMMENDATIONS

Based on the conclusions reached, the researcher recommend to the MoI to undertake the following in order to streamline and achieve maximum efficiency in its procurement practices:

- Ministry of Information should regular refresher (upgrading of skills) training courses on procurement planning as stipulated in Section 21 of Act 663 and procurement compliance audit
- There should be an effective procurement monitoring mechanism such as quarterly or half yearly procurement performance audit and all variations and deviation investigated immediately with the necessary corrective steps taking but not to wait for the public accounts committee's report.
- There must be regular individual performance appraisal of procurement related staff to avoid corruption and skills gap filled by either recruitment of refresher courses
- Ministry of Information should put in a proper supervisory system in that will assess reports regularly to reduce the suspicion from staff that they are constantly being watched.
- There should be extensive collaboration between the Ministry of Information and the Public procurement Authority on the guidelines and regulation which are regularly issued by the PA and to facilitate their training



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- There should be regular forum with users of the Act 663 and also to educate them on their compliance.

For future research, the researcher recommends that it will be interesting to see a study into the same topic of evaluating the effectiveness of public procurement reforms but on a large scale possibly to cover all the Ministries, Departments and Agencies since due to time and resource constraints this research was limited to only the Ministry of Information.

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