

**Public Procurement Methods and Approval Process in The Ghana Civil Service: Review of
Some Selected Ministries in The Ghana Civil Service**

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Abstract

Procurement has become part of human life, from the fisherman to the cooperate man, the private sector to the public sector. It can be primarily grouped into private sector and public sector procurement. Public Procurement (PP) is a key economic activity of Governments that represents a significant percentage of the Gross Domestic Product (GDP) generating huge financial flows, estimated on average at about 10-15% of GDP across the world. Governments and institutions worldwide purchase products and services to enhance their activities. In the spate of corruption and scarce resources, the public sector has often developed a procurement system to guard the entire process (Sarfo & Baah-Mintah, 2013). In Ghana, the public procurement Act 663 (2003) is the legal regulatory instrument that guard's procurement processes in the public sector. It is the main regulatory framework for all procurementsmade in the name of public institutions. Though the procurement Act 663 (2003) plays a major role in guarding Government procurement processes, it is not without challenges. The study used multiple case studies as the strategy for the research. The target population of the research included procurement and stores officers of some selected Ministries of the Ghana Civil Service. The research aimed at identifying major procurement methods and their modes of operation in the Ghana Civil Service, determine the extent to which procurement methods used in the Civil Service give value for money and determine whether the approval process of public procurement takes a top-down approach or vice versa before the appointment of boards. The findings revealed request for Quotation as the most applied procurement method used in the Ghana Civil Service followed by National Competitive Tendering. The findings further revealed that a correct usage of the procurement methods ensures some benefits especially value for money. The bureaucratic structure of the government within the Ministries is a major impediment for the procurement system. The Chief Director has high powers over resources available in the Ministry and thus the power to interrupt the procurement process. Corruption was identified as the main snag of the entire procurement system.

Keywords: *Approval process, Civil service, Corruption, Public procurement, Public institutions, Public sector*

Introduction

Procurement has become part of human life, from the fisherman to the cooperate man, the private sector to the public sector. It can be primarily grouped into private sector and public sector procurement. Public Procurement (PP) is a key economic activity of governments that represents a significant percentage of the Gross Domestic Product (GDP) generating huge financial flows, estimated on average at about 10-15% of GDP across the world. Public procurement refers to the acquisition of goods, equipment, supplies, and or services on behalf of a government entity. According to the World Trade Organization (2010) “The procurement of goods and services by government agencies for their own purposes is a core element of the operation of governments”. Effective public procurement systems are systems that are defined as offering a high level of transparency, accountability and value for money in the application of a procurement budget. According to Organisation for Economic Cooperation for Development (OECD), “Governments and state-owned enterprises purchase a wide variety of goods, services and public works from the private sector, from basic computer equipment to the construction of roads, schools, Hospitals etc.”

Background

In Ghana, the public procurement Act 663 (2003) is the legal regulatory instrument that guards procurement processes in the public sector. It is the main regulatory framework for all procurements made in the name of public institutions. The Act is in place to avoid some of the damning consequences associated with bad public procurement which includes; low productivity, inefficiencies, loss of state revenue, payment of judgment debts and negative effects on national budget chief amongst them being huge budget deficits (Osei-Owusu & Gyapong, 2013). Furthermore, the importance of public procurement to Ghana as a nation cannot be overemphasized. This is as a result of the quantum of state funds that are used in procurement. According to Adjei (2005), statistically, public procurement forms about 24% of total imports as well as represent about 50 -70% of the national budget and 14% of Gross Domestic Product (GDP) of Ghana. These figures show that a lot of attention needs to be paid to public procurement in the country to avoid wastage of the scarce financial resources available.

Though the procurement Act 663 (2003) plays a major role in safeguarding government procurement processes, it is not without challenges. For instance, although Section 35 of the procurement Act explicitly advocates for competitive bidding of contracts except in special cases, a study by (Ameyaw et al 2012) revealed that sole sourcing and request for quotations are predominantly used in organizations. A situation they argue to be a direct contravention of Section 35 of the Procurement Act.

This contravention could breed grounds for corruption as a result of lack of competitiveness. The quality of work or services needed by the government could also be compromised if a study is not done to ascertain why a law that gives fair opportunities for bidding to ensure effectiveness of products is taken for granted.

In the light of the above discussions, this research explores the major methods for procurement in Ghana with focus on the used procurement methods that are applied in the Ghana Civil Service.

Literature Review

Public Procurement

Many scholars have defined the concept of public procurement. All of these definitions describe how the public sector acquires goods and services. One key definition identified by Lyson (1996) is the process of obtaining by purchase, lease or other legal means, equipment, materials, supplies and services required by a public entity for use in satisfying wants. The public sector in developed and developing countries all have a process to go through in ensuring that they obtain goods and services for their activities as well as development. The Public Procurement Authority of Ghana (2013) identifies the 6Rs of procurement and indicates that public procurement should be done to obtain materials, goods and services at the right quality, in the right quantity from the right source delivered to the right place at the right time and at the right price. These Rs clearly show the main objective of public procurement which is acquiring quality products and services at low value and thus ensuring value for money.

Public Procurement Principles

The overall objective of the public procurement system is to provide value for money to the Government by ensuring that public funds are spent in a transparent, efficient and fair manner.

The Procurement Manual incorporates policy provisions and procedures to promote transparency, accountability and ethics in the operation, management and reporting of procurement and asset disposal. All Public Servants shall consistently apply these policies and procedures, together with professional judgment and good management (e.g. Public Procurement Act, 2003)

Public Procurement in Ghana

The Public Procurement Act 2003 (Act 663) is the law that governs public procurement in Ghana. The law amongst other things seeks to develop Public Procurement in Ghana. As Nketia-Asante (2013) asserts procurement laws are very essential for achieving the objectives of procurement. Thus, Act 663 is the legal regulatory framework for the operation of Public Procurement to achieve its objectives. However, Etse (2014) argues that non-compliance with procurement regulations and the perpetuation of procurement malfeasance has become a norm and in many instances the problems of low productivity, inefficiency, loss of revenue to the state and its detrimental effects on government budget keep occurring, often within the same government agency.

Institutional Framework

The Public Procurement Authority (PPA) is established by Act 663 as the statutory advisory and coordinating body on procurement in Ghana. Other bodies such as Procurement Entity, Tender Committee and Tender Review Board are required to abide by the technical guidelines and regulatory instructions issued by the PPA. A manual by the Public Procurement Authority (2007) gives details of the institutions involved with procurement at all levels.

Procurement Structure

The procurement structure is made up the following (In a descending order)

- Public Procurement Board
- Procurement Entity
- Head of Procurement Entity
- Procurement Unit
- Entity Tender Committee
- Tender Evaluation Panel
- Tender Review Boards
- Originating Department, Project or Unit
- Stores Department
- Inspection/Takeover teams

Procurement Methods in Ghana

The public procurement Act of Ghana (Act 663) outlines six (6) procurement methods to be used by institutions in their procurement of Goods and works. They include the following.

International Competitive Tendering (ICT) (Section 35 & Part V of Act 663)

International Competitive Tendering is appropriate for high value or complex procurements, or where the supply of goods by their nature or scope, is unlikely to attract adequate local competition. The Act requires the use of ICT for procurement of goods above the threshold stated in Schedule 3.

National Competitive Tendering (NTC) (Section 35 & Part V of Act 663)

National Competitive Tendering is appropriate for lower value procurements, where the goods by their nature or scope are unlikely to attract foreign competition, or where there are justifiable reasons for the Procurement Entity to restrict tendering to domestic suppliers. The Act permits the use of NCT for procurement of goods valued at the thresholds stated in Schedule 3.

Request for Quotation (Sections 42-43 of Act 663)

This is also known as “shopping” and is based on comparing price quotations obtained from several suppliers, usually at least three, to ensure competitive prices.

Request for Quotations may be used when:

- The estimated value of the threshold specified in Schedule 3 of the Act;

Standard RFQ documents are particularly suitable for procuring readily available off-the-shelf goods or standard specification items of low value.

Single Source Tendering (Sections 40-41 of Act 663)

Single source procurement from a supplier without competition (direct procurement) is subject to a specific approval being granted by the Public Procurement Board

Single source procurement may be appropriate when:

- The purchase is for urgently needed products, provided this is restricted to the minimum quantity to meet the urgent need until a purchase by other methods can be fulfilled; or
- The requirement can only be supplied by one source for physical, technical or policy reasons, e.g., the required equipment is proprietary and obtainable only from one source.
- When national security (non-economical) considerations are paramount.

Two- Staged Tendering (Sections 36-37 of Act 663)

Two-stage Tendering is an infrequently used procurement process in which a Procurement Entity invites tenderers in the initial stage to contribute to the detailed specification of the goods. Following review and consultations, new detailed specifications are prepared and a restricted tender issued in the second stage to all participants who were not rejected in the first-stage.

It is an appropriate method of procurement when it is not feasible for the Procurement Entity to formulate detailed specifications for the goods, to identify their characteristics, or the character of the goods is subject to rapid technological advances.

Restricted Tendering (Sections 38-39 of Act 663)

Restricted Tendering is a tendering process by direct invitation to a shortlist of pre-qualified, pre-registered or known suppliers, and is subject to a specific approval being granted by the Public Procurement Board:

It is an appropriate method of procurement where:

- The requirement is of a specialized nature or has requirements of public safety, or public security which make an open competitive tender inappropriate;
- Due to the urgent nature of the requirement, an open competitive tender is not practical;
- The number of potential suppliers is limited; or
- An open competitive tender has failed to bring an award of contract.

Public Procurement Methods in the Ghana Civil Service

As public institutions, respondents identified the procurement methods as referenced in the Public Procurement Act 663. All respondents were familiar with the Act and identified the 6 procurement methods in the Act.

A review of 60 projects undertaken in the various selected Ministries between 2020 and 2021 revealed the various procurement methods that were mostly used in the Civil Service as shown in table 2.

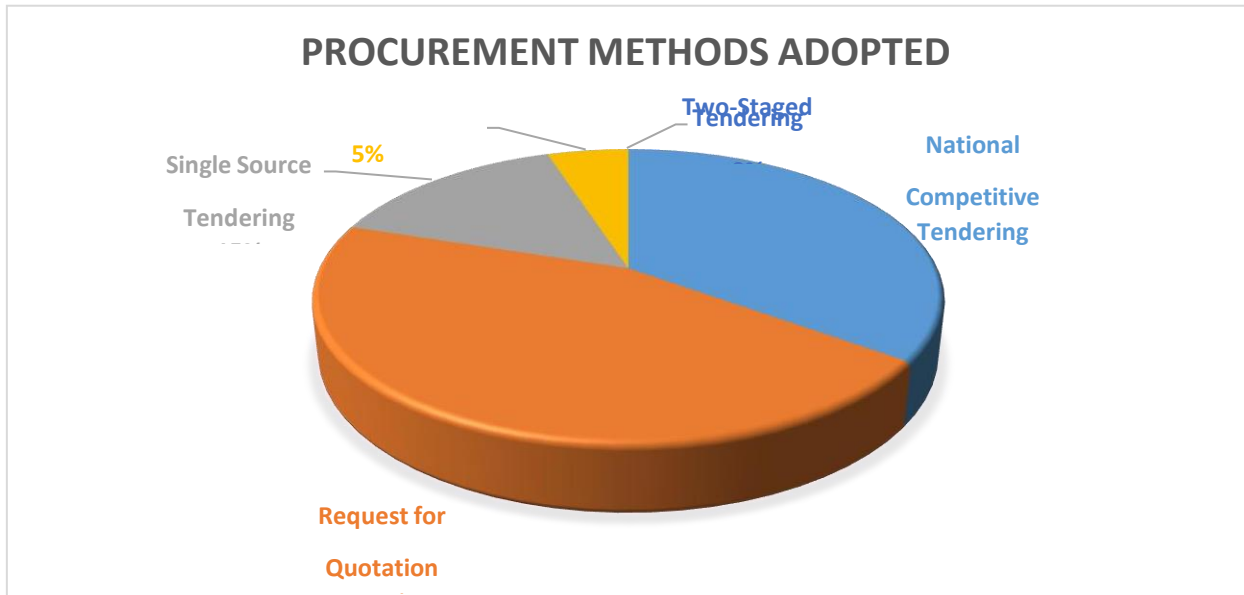
The findings revealed Request for Quotation as the most applied procurement method used in the Ghana Civil Service followed by National Competitive Tendering.

Table 2: Contracts and Procurement Method Adopted (2020 – 2021)

No	Procurement Methods	Goods/Works	Percentage (10%)
1	National Competitive Tendering	21	35
2	Request for Quotation	27	45
3	Single Source Tendering	9	15
4	Restricted Tendering	3	5
5	Two-staged Tendering	0	0
	Total	60	100

Source: (Field data, 2022)

Figure 2 Contracts and Procurement Methods Adopted



Principles of Procurement in the Civil Service

The literature reviewed indicated that there are some principles of procurement. Data was thus gathered on these principles from the perspective of the respondents. The survey revealed that a correct usage of the procurement methods ensures some benefits especially Value for Money.

Value for money

Respondents rated how the procurement methods employed in the Civil Service helps to achieve value for the limited money available

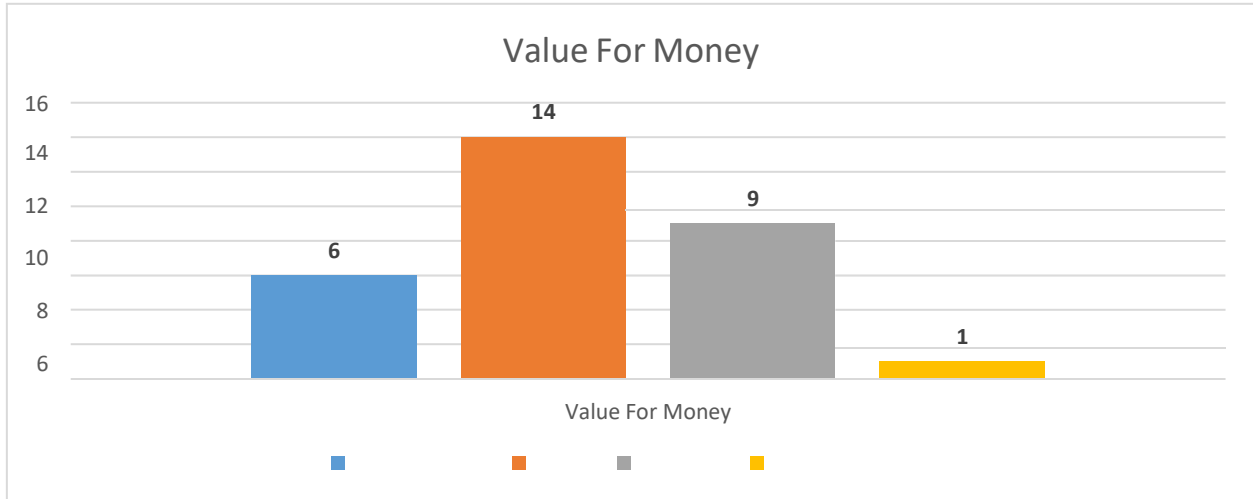


Figure 3: Value for Money

Challenges in Complying with Procurement Methods

The survey revealed numerous challenges in complying with the conditions of using the procurement methods in the right way. These challenges include.

- The bureaucratic structure of the government within the Ministries is a major impediment for the procurement system. The Chief Director has high powers over resources available in the Ministry and thus the power to interrupt the procurement process. This power has become a major challenge in doing simple things such as using the right procurement methods for procuring the right things. Methods such as single sourcing are being abused to just give favour to close friends.
- Besides the crosscutting challenge of political interference that run through the responses, 76 percent of respondents identified procurement to be an expensive process particularly the advertisement of tenders.
- Time is also a challenge that confronts the procurement process. Procurement plans are made with a time frame to it. Thus, the bureaucracies in using steps like competitive bidding coupled with cost become a stress to officers sometimes. Respondents admitted to using sole sourcing on some procurement just to save the time for advertisement and selection. This is because some people have worked with the Assembly overtime and are thus trusted to provide these goods and services though it is against the requirements for using such a method.

Challenges of Public Procurement in Ghana

Numerous challenges confront the implementation of public procurement in Ghana. They include the following:

- Clear understanding of procurement methods, processes and the law governing the process both on the path of some implementers and bidders.
- Some professionals who are in charge of tendering and involved in the process are also found wanting in certain cases.
- Political interference in public procurement in Ghana.
- Corruption, which has militated against the procurement system in Ghana.

Summary of Findings

- The Ministries under the Ghana Civil Service as procurement entities are eligible to use all methods in the procurement Act 663.
- The most used method of procurement in Civil Service is Request for Quotation which is not favoured by Act 663 as the ideal method in most cases and thus the Civil Service can be said to be adhering to the Act governing Procurement in Ghana.
- Chief Directors prefer to use the Request for Quotation method because they are able to manipulate the system to award contracts to their close friends.
- The inconvenience of using some methods is the stimulator for abusing the guidelines provided by Act 663 for the use of the procurement methods. The evidence is seen by the use of Two-Stage and Restricted tendering.
- The methods were agreed to be achieving the principles of procurement. However, interestingly a significant percentage of respondents strongly disagreed that the methods ensured competition attributing it to corruption and side stepping of procurement procedures.

Conclusions

Corruption was identified as the main root of the entire procurement system. The findings made in the research with regards to compliance of the use of the methods and the effects of those methods which were used for the execution of project in Ghana proved that the Civil Service

could achieve value for money when effective monitoring and supervision is conducted. Measures had been put in place to improve understanding of the procurement system but corruption is killing these efforts and the entire procurement process. It is believed that if anti-corruption measures are put in place in the district, the people in the district will get enough benefit from their resources. The Procurement Act, 663 faces challenges with compliance. Procurement Methods in the Ghana Civil Service are sometimes used at the entities convenience and not per the requirements of the Act. Inefficiency in the punishment system of defaulters is also encouraging side stepping of procedures and non-adherence to rules and regulations.

Recommendations

In light of the discussions and findings, the following recommendations are hereby made;

- The use of restricted and two-staged tendering should be encouraged to complement the other methods used. Procurement methods are not used at entities' convenience but in line with the Act 663 to achieve the principles of procurement.
- Corruptions and bribes are perceived as widespread in the Civil Service. In public procurement, any violation of standard procurement principles and procedures is considered willful and, therefore, construed as fraudulent and causing financial loss to the state. To prevent corruption in the use of the right procurement methods, Public Procurement Authority (PPA) should enforce disciplinary action against public officials who engage in irregularities and also be given powers to punish offenders or peoples/Institution who abuse the procurement law. Bidders who connive with public officials to win contracts through wrong means should also be blacklisted. The legal powers should also collaborate with PPA and punish offenders who are recommended to them.
- The regular and continuous monitoring and assessment of procurement systems in public entities with regard to their compliance with the procedures, rules and regulations setup in the Public Procurement Act must be strictly enforced. For such performance/compliance assessment to be taken seriously, it must be tied to some reward package or non-performance to some penalty.

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