
The Public Procurement Act 663 of 2003: An Empirical Investigation on Accountability and Transparency in the Public Sector of Ghana**Jewel Dela Novixoxo¹, Fausta Wongnaah², Lucy Anning^{3*}, Samuel Darko⁴**¹Lecturer, Department of Marketing, Procurement and Supply Chain Management, University College of Management Studies, Accra-Ghana²Associate Researcher, Department of Marketing, Procurement and Supply Chain Management, University College of Management Studies, Accra-Ghana³Doctoral Researcher, School of Business Administration, Zhongnan University of Economics and Law, Wuhan 430072, China⁴Associate Researcher, Department of Marketing, Procurement and Supply Chain Management, University College of Management Studies, Accra-Ghana***Corresponding author***Lucy Anning***Article History***Received: 02.11.2018**Accepted: 11.12.2018**Published: 30.12.2018***DOI:**

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Abstract: This study critically examines the procurement Act 663, its impact on accountability and transparency of officers in the public sector. Specific research objectives were set to determine the laid down procedures for procurement Act; determine the competence of procurement staff in the procurement sector and to review the budgetary perspective of the procurement entity in Ghana. As methodology, the study adopted a quantitative research approach while employing a case study approach. Overall, 380 questionnaires were administered as well as face-to-face interviews conducted. The study findings revealed that the staff lacked professional knowledge on procurement service as the financial budget allocated for staff training was vastly inadequate. The study also revealed that a varied level of compliance existed among the procurement institute studied in respect of part II of the Act. It was also established that, whereas there was a high level of compliance in areas of well-established tender committees among significant others, prior mandatory days before scheduled date for meetings and professional expertise in procurement practice showed relatively low compliance. Furthermore, even though high education levels were indicated in the study; little was revealed about the acquisition of professional qualification in procurement among staff in the entity. The study recommends among others that an operational manual for procurement Act should be given to all procurement staff to guide and make them conversant with the procedures that guide procurement profession.

Keywords: procurement Act, accountability, transparency, public sector.

1. INTRODUCTION

Increasing the effectiveness, efficiency and transparency of public procurement systems is an on-going concern of governments and of the international development community. It is generally recognized that increasing the effectiveness of the use of public funds requires the existence of an adequate national procurement system that meets international standards and that operates as intended. Statistics show that public procurement account for 50-70% of the Ghanaian national budget, 14% of GDP and 24% of total import [1]. Public procurement therefore has significant economic and social impact.

Public procurement is the act of providing goods, services or awarding work assignments by a state body, organization, institution or some other legal person regarded as a procuring entity in the manner and under the conditions prescribed by a nation's law [2].

Public procurement is therefore the main means by which government spending is carried out and for that matter of great significance. Public procurement accounts for about 80% of government expenditure [3] in this country but regrettably, this is the area bedeviled with corrupt practices. Because public funds are used to procure goods, works and services, it becomes a big drain on the nation's coffers if public officers misappropriate the funds meant for development. It has been reported that health services and hospitals do not have qualified procurement personnel resulting in corrupt behaviors running from the top management to employees [4]. Besides, it is generally known that increased public resources do not always translate into better outcomes, because Budgets are mis-planned, misallocated, and/or misappropriated. As part of the Government effort to improve Public Expenditure Management in order to achieve Macro fiscal discipline and stability, it became necessary to establish some

institutional frameworks. The Public Procurement Authority among others like External Audit Department, Ghana Revenue Authority (VAT, IRS, Customs, etc.) emerged as one of the institutional framework necessary for managing public procurement and for that matter public fund.

The Public Procurement Act, 2003 (Act 663) is the main law that governs public procurement practice in Ghana. It establishes the Public Procurement Board, Tender committees and Tender Review Boards; it specifies and outlines rules for the procurement methods, procedures, appeals by tenderers and disposal of stores; it defines offences and applicable penalties; it specifies thresholds in schedules to the Act; and finally, it authorizes the issue of regulations which are enforceable under the Act [5]

The Procurement Act was enacted to ensure efficiency, effectiveness, accountability and transparency. The main objectives of procurement include supplying organizations with stable flow of goods and services, aiding in efficient and effective purchasing and ethically obtaining the best value for money. Others include managing stock, enabling the service provider offer their best service at a low cost and at the same time protecting the government cost structure [6] as cited by [7]. In spite of the existence of the procurement law, there still appears to be loopholes in the procurement processes. Recent public outcry on corruption traced the source to the award of contracts in the operations of Ghana Youth Employment and Entrepreneurial Development Agency (GYEEDA), [8]. It will therefore be interesting to find out how the law is impacting on public procurement practice.

The term impact from the point of view of this study means a combination of all the effects or influences on public procurement practice following the implementation of the Public Procurement Act [5]. This includes intended as well as unintended effects, negative as well as positive changes, long-term impact and short-term or interim benefits.

The purpose of this project is to investigate the impact of the public procurement law in the Shama municipal assembly with respect to procurement practice in order to establish the extent to which the objectives of the law have been met. However, there have been a number of contract failures arising from poor pro effectiveness and efficiencies. In this vein, the staffs entrusted with procurement responsibilities in the department are often given training in the forms of seminars and workshops in procurement procedures whilst others are sponsored to pursue further courses in procurement and management. Against this backdrop, the study sought to establish the impact the Act has had on procurement practices in the municipal assembly. The Municipal Assembly is one of the of the government agencies that have had issues with

corruption and bribery. Has the law increased corruption, has it helped reduce corruption, has it helped to improve or ameliorate the procurement process with respect to delivery time, cost efficiency, etc. What has it done? Procurement practice due to ignorance of the requisite procurement procedures to ensure it is in line with all the above that this researcher seeks to investigate the problem. A procurement plan is an integral part of the procurement process. It is one of the essential tools in achieving the ultimate objectives of public procurement, to achieve value for money, the preparation of the procurement plan inextricably linked with the entities budget in which the requirement of recurrent procurement inputs, good works and services are listed and quantified in monetary terms during a particular year. Public Procurement is undertaken by Public Entities of which the MMDAs are no exception. Here budgets are supposed to be prepared prior to the ensuing year for approval and subsequent spending. A cursory observation however indicates that in spite of the use of the Public Procurement Act, 2003(Act 663), there are still numerous challenges and problems in the procurement of goods, works and services. Most of the procurements, especially Works, end up with Cost Overruns due to lack of qualify persons do the work, the likes of quantity surveyor ,civic engineer .These overruns range between 40% to 60% and at times 100%. It is said to be due to various factors like unsuitable contractor selection, non-availability of funds, variations, political interferences, poor scope definition etc.

These bring about untold pressure on the Assemblies. The Assemblies would have to deal with the non-completion of projects, abandoning of sites/projects which leads to re-packaging and re-award. Delays in the transfer of budgetary funds allocation to the Assemblies also account for making them have difficulties in implementing projects and programmes. It further does not send good signals to contractors since public procurement could be non-attractive. Some of these contractors adjust by increasing their workloads in order to make up. Other stakeholders like the taxpayer easily notice that he/she is not having value for money just like the donor agencies because for instance the cost per same projects at not too variant locations have very vast variations in cost. This study therefore comes into assess the effect that the public procurement act 663 of 2003 can have on accountability and transparency.

This study is to assess the effect of public procurement act 663 of 2003 on accountability and transparency in the Shama Municipality of Ghana. Following the general introduction in section one is the research methodology, research area and presentation of data collection in section two. Section three presents the data, analysis presentation. Section four presents the research findings and conclusion. Finally, section five presents recommendation.

2. RESEARCH MATERIALS AND METHODS

This section highlights the methodology of the study. It includes the study area (Shama Municipal Assembly) used for the study, a description of the research design, study population, sampling design, sources of data collection, data collection methods and data processing and presentation.

2.1 Sample Population

The populations for this study comprised of the staff working in Local Government in the Shama Municipal Assembly who are involved directly or indirectly in the procurement process, in ensuring that structures of the Act are complied with. The population is made up of Thirty (380) staff members. The main reason for using these Local Government Officials in the Municipality is because they procure works goods and services using public funds at the local level. It is therefore important to find out how they acquire works and their level of compliance with the Public Procurement Act, to ensure the optimum utilization of state resources [9].

2.2 Sample Size and Sampling Technique

In conducting a research, it is highly impossible to cover every member of the population. This is because of the time limitation for the project the cost factor that will be incurred in trying to get all the members of population. Therefore, a representative sample is chosen from which generalization can be made about the population [10]. A total of twenty (380) questionnaires were administered. The District Coordinating Director, Senior Purchasing Executive Officer and other senior members of staff as well as other staff members were given questionnaire to fill.

The questionnaire took the form of closed and open-ended questionnaires. None of the questionnaires that were administered was dropped after they have been checked for correction and completeness. This was because the questionnaires were delivered by hand, and it was explained to all the respondents individually before it was completed. Before leaving any respondent, the questionnaires were checked for correction and completeness which made every questionnaire viable for the analysis. As sampling technique a combination of purposive sampling and Quota Sampling was used in this study.

2.3 Data Collection Instrument

They are the tools for data collection. They include Questionnaire, Interview, Observation and Reading. Essentially the researcher must ensure that the instrument chosen is valid and reliable. The validity and reliability of any research project depends largely on the appropriateness of the instruments. A questionnaire is a data collection instrument that consist of a series of questions and other prompts for the purpose of gathering information from respondents. The questionnaire was invented by Sir Francis Galton [11].

Accurate and systematic data collection is critical to conducting scientific research. Data collection allows us to collect information that we want to collect about our study objects. Depending on research type, methods of data collection include documents review, observation, questioning, Measuring or a combination of different methods.

2.4 Data Collection Methods

In the search for relevant and genuine documentary materials for this research, the four key guidelines posited by [11] in appraising documentary data were taken in to consideration. These are first, its authenticity. That is whether the information is genuine or original. Second, its credibility. Thus whether is it accurate? Third, its representativeness. Whether it is representative of the totality of documents of its class and fourth it's meaning. What is it intended to say? [11]. In the search for research materials for the study, various primary and secondary sources were consulted. Materials came from various sources like official documents from Press releases, Newsletters, Research papers and academic works. The internet served as one of the main sources to gather information for the study due to its easy accessibility. A primary data source is an original data source, that is, one in which the data are collected first-hand by the researcher for a specific research purpose or project [8]. Primary data can be collected in a number of ways that include historical and legal documents, eyewitness accounts, and results of experiments, statistical data, pieces of creative writing, audio and video recordings, speeches, and art objects. A Questionnaire was used in collecting data from some of the procurement staff at the Shama Municipal Assembly. Secondary data is one type of quantitative data that has already been collected by someone else for a different purpose to yours [12]. For example, this could mean using data collected by a hotel on its customers through its guest history system.

2.5 Data Analysis Technique

Data analysis entails bringing order, structure, and meaning to the mass of data collected which is a time consuming, creative and fascinating process [13]. Recorded data were transcribed and analysed by the researchers to be able to identify the relevant themes. The numerical information in the study was described quantitatively. Highlighting on the issue of biasness in data analysis [14] indicates that the role of the researcher in quantitative analysis refers particularly to the awareness of bias and preconceived ideas, since assumptions may hide the evidence of the data. A quantitative content analysis of the materials gathered became necessary for the study to achieve its purpose. Krippendorff understands content analysis to mean "a research technique for making replicable and valid inferences from data to their context. Intuitively, it could be characterized as a method of inquiry into symbolic meaning of message" [15]. The data that was collected was coded and analysed with the use of

Advance Microsoft Excel software programme. Descriptive statistics like percentages and frequencies was the statistical instruments that were used for the analysis. The results are presented in the form of tables for easy analysis and interpretation of data.

3. FINDINGS AND DISCUSSION

This section includes the results from the study and analysis of findings and their discussions in relation to the objectives of the study. A total number of 380 questionnaires were administered to staff of Shama Municipal Assembly, Shama in the western Region of Ghana, out of which 380 questionnaires were woefully

retrieved and valid for the data analysis. These valid questionnaires used for the analysis obtained 100% response rate. This indicates that, the response rate was quite high and reflects the views of the entire population. Questionnaires, documents and observations were conducted and recorded. The findings from the frame of references are connected to the findings of the empirical study in order to enable a valuable conclusion for this study. Aside the biographical data such as gender specifics, some of the findings are presented in tables below.

3.1 Number of Years Spent On the Job Post

Table 3.1

| Response | Frequency | Percentage % |
|------------------|-----------|--------------|
| Less than 1 year | 110 | 29 |
| 1- 3 years | 125 | 33 |
| 3- 5 years | 98 | 26 |
| 5 years and over | 47 | 12 |
| Total | 380 | 100 |

Source: Field Work (2018)

The respondents who were contacted have been at SMA for a long period of time so the staffs who were contacted were matured people with reasonable decision, good knowledge on the routine work, with

enough experience and their response was acceptable. This is indicated in Table 3.1 above

3.2 Highest Academic Qualification

Table 3.2

| Level | Frequency | Percentage % |
|-----------------|-----------|--------------|
| Post graduate | 52 | 14 |
| Graduate | 257 | 68 |
| Hnd certificate | 52 | 14 |
| Others | 19 | 5 |

Source: Field Work (2018)

Table 3.2 above indicates that, all the respondents selected were educated. This was expected, since the respondents were already working in the departments which have a required educational level for its minimum qualification. From the Table it was found that, majority of the respondents were university first degree holders (Graduates), which constitute 68% of respondents. This was followed by post graduate degree and HND certificate holders which also constitutes 14% respectively. Other certificate holders constituted 5% respectively.

The results meant that, all the respondents could read, comprehend and give meaningful answers to the questionnaires administered to them. The literacy factor is necessary due to the academic and intellectual nature of the topic being worked on by Researcher. All the respondents are regular participants in public procurement activity and can really give good assessment of the effect of the works by the Shama Municipal Assembly and how to improve on the compliance of the structure.

3.3 Specialization of personnel practicing procurement in the assembly

Irrespective of the high educational levels of the respondents, the researcher found it necessary to find the specific professional qualifications of the respondents in order to have a fair view of their capacity to comply with the Public Procurement Act. It was observed that SMA do not have a functioning procurement unit. Procurement activities were managed by the Planning Officer and Public Works Engineer. This implied that most of the staff are not procurement professionals, but what they did was just buying requirements originated from the users without making thorough investigations.

3.4 Existence of procurement budget

Respondents were asked whether there was a Procurement Budget at the SMA. With this question the researcher aimed at finding if SMA had procurement budget. The responses to the question are as shown in table 3.5.

Table 3.4: Existence of procurement budget

| Response | Frequency | Percentage % |
|----------|-----------|--------------|
| Yes | 380 | 100 |
| No | 0 | 0 |
| Total | 380 | 100 |

Source: Field Work (2018)

The response at table 3.4 shows that at SMA there is a procurement budget that guided all procurement activities in the Assembly. This was agreed to by all respondents.

3.5 Existence of annual procurement plan

Respondents were asked whether there was an annual procurement plan in the assembly. Majority respondents answered yes. This is shown in Table 3.5 below.

Table 3.5

| Response | Frequency | Percentage% |
|----------|-----------|-------------|
| Yes | 312 | 82 |
| No | 68 | 18 |
| Total | 380 | 100 |

Source: Field Work (2018)

Other related questions were asked where respondents answered each. The question of “If the answer is yes, show your level of participation in preparation of annual procurement budget and plans” was a continuation to questions five and respectively for more clarity to the answers provided, The researchers aimed to go further into finding the level of participation of SMA staff in preparation of Procurement budget and Annual Procurement Plan (APP). All the respondents said they participated highly. The responses showed that at SMA only senior staff and departmental heads participated highly in preparation of budget and corporate plans. On the question of “Opinions on SMA’s procurement budget and planning regarding problems, challenges and suggestions that improve efficiency of works” the respondents were required to give their views on problems regarding planning and budgeting, many respondents insisted that there was a problem on the procurement budget and plans; they suggested various opinions on what could be done. Amongst these suggestions included the planning and budgeting activities could involve as many employees as possible, the budget for works could be raised to cover their needs, to make a close follow up on implementation of allocated budget to avoid misuse of funds and reallocation of funds, procurement a plans and budgets were not timely executed and resulted to inconsistency deliverance as well as lack of training in new technologies and little experience in works affected procurement efficiency

On the question of staff knowledge on procurement of works, respondents were asked about their general knowledge on procurement of works. With this question the researchers wanted to get more opinions about the general knowledge of SMA staff on procurement of works. The respondents gave their different views about the real situations concerning the

subject matter as summarized below. These included factors such as the issue of staff lacking enough knowledge in the procurement of works, the budgets allocated for staff training is inadequate, lack of training in new technology impact negatively on procurement of works, Inexperience has a negative impact on efficient purchase of works and the lack of scheduled seminars on purchase of works impact negatively on procurement. Furthermore with regards to the challenges in public sector procurement respondents were asked to indicate on a 5-point scale, varying from 1 (strongly agree) to 5 (strongly disagree) on their perception on the challenges faced by public sector when procuring goods and services. In this study, the researchers analyzed the responses that were collected on the scale 1 and 2 (strongly agree and agree) to mean that respondents are in agreement with the fact that the variable is present. On the other hand, the scale 4 and 5 (disagree and strongly disagree) mean that respondents disagree to the fact the variable is present. Scales 3 mean that respondents are neutral to the question. In line with this study, [16], outlines two broad challenges that are faced by procurement practitioners in Africa: external factors and internal factors. The external factors he categorized as environmental factors include, market environment, legal environment, political environment, organizational environment, and socio-economic and other environmental factors. Again, [17] said that “Political Interference” is a major challenge facing the effective implementation of public procurement practices in many countries especially African countries, [18]. This collaborate the findings of [16, 17] that there are problems faced when procuring goods and services. Compliance to set regulations is also said to be an area that could pose as a challenge. [19] confirms that non-compliance problem affects not only the third world countries but also countries in the European Union. This position is further supported by [20] who contend that compliance in public

procurement is still a major issue and challenge. As rightly indicated by [21] while analyzing procurement issues in Malaysia established that procurement officers were blamed for malpractice and non-compliance to the procurement policies and procedures which is a major challenge facing practitioners.

4. CONCLUSION

This research was set to investigate and know how MMDA's acquire works and whether they comply with the Public Procurement Act, 2003 (Act 663) and amendment Act 2016, Act 914. The Procurement Act, 2003 (Act 663) and amendment Act 2016, Act 914 has put in place measures to bring about efficiency, effectiveness and accountability. The study showed that although the government is making efforts to bring about efficiency, and effectiveness into public procurement system or process; bottlenecks still exist. The impact of the Act 663 and amendment Act 2016, Act 914 and its accountability on public officers by public procurement institutions remains the biggest challenge to realize the objectives of achieving transparency, competition, economy, fairness and accountability in public procurement in Ghana. The survey concluded that a varying level of compliance existed among the procurement institutions studied in respect of Part II of the Act.

It established that, whereas there was a high level of compliance in areas of well-established tender committees, tender review boards, awareness of availability of legal framework, functionality of various procurement structures, areas including prior mandatory days before scheduled date for meetings and professional expertise in procurement practice shows low compliance. It is also worth noting that, high education levels were shown in the study; little was revealed about possession of professional qualification in procurement in the entity.

The Act required at least four meetings should be held in a year, the study shows that public procurement officers are monitored to ensure good accountability of procurement practices on officers in the public sector by tender committees as compared to once a year, which indicates non-compliance. The existence of the procurement unit in the entities which is the execution arm of the institutions shows high level of compliance, which greatly improves the execution of procurement activities, functions and compliance.

The quest to derive maximum benefits from the Public Procurement Act, Act 663 (2003) and amendment Act 2016, Act 914 requires addressing the issue of compliance and challenges faced by procurement entities in the areas identified as problematic in this study. These findings from the study are therefore relevant in the process of identifying any interventions to facilitate speedy implementation of Act 663 and amendment Act 2016, Act 914.

5. RECOMMENDATIONS

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

An operation manual for works should be given to all procurement staff to guide them and make them conversant with the procedures that guide purchase of works

The procedures for purchase works should be clearly stated and if possible the staff should be trained on the Public Procurement Act.

Operation manual for procurements should be reviewed regularly when any fundamental changes occur and those amendments should be disclosed to all staff to avoid ambiguity.

The management at SMA should practically take procurement as the priority area and therefore start aggressive procedures for its audit. Some of the efforts should be to create the department of procurement audit which will develop all required plans, directives and audit manuals.

SMA should establish Procurement Structures. The Public Procurement Act makes provision for the establishment of structures such as Procurement Units, Entity Tender Committees (ETCs) to manage procurement activities in all entities and to engage persons proficient in procurement. The study, therefore, recommends the establishment of permanent Procurement Unit to be managed by qualified procurement experts to ensure an improved overall procurement structure functions and compliance with the Public Procurement Act, 2003 and amendment Act 2016.

5.2 Areas for further Research

In conducting and reporting on this research, there is the opportunity for other researchers to investigate further by looking at the effect of procurement by MMDA's in Ghana.

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