



E-Bulletin



P u b l i c P r o c u r e m e n t A u t h o r i t y

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ACT 663-ANTIDOTE TO CORRUPTION IN PUBLIC PROCUREMENT



Corruption, according to Karl Kraus- a famous satirist, is worse than prostitution. While the latter endangers the morals of an individual, the former invariably endangers the morals of an entire people. It exists in almost all societies, all stages of development and under all types of politico-economic regimes. The word **corrupt** takes its roots from the Latin word “corruptus” and refers to a state of destruction and absolute brokenness. Indeed, such is the scene that seem to define our world today.

Corruption has many facets, but one of the most pervasive of them all is that which occurs in the process of public procurement.

Public procurement constitutes over 50% of Government budgets besides the cost of government wage bill and accounts for the largest share of government expenditure. Corruption in public procurement sometimes manifests as bribery, rent-seeking, contractor-client payoffs, kick-backs etc. According to a recent study by the World Bank, Corruption costs the African Continent about \$148 billion approximately 25% of its Gross Domestic Product (GDP) and usually results in the execution of shoddy contracts which have far-reaching and most debilitating effects on society as a whole.

In an effort at stemming the tides of procurement corruption, Ghana's Public Procurement Act, 2003 (Act 663) which is fashioned after the UNCITRAL Model Law of Public Procurement guarantees transparency and accountability in the use of public funds. Some of the salient provisions in the Act 663 that could serve as effective antidote for procurement related corruption are:

1. **Establishment of a regulatory body:** Considering the stakes involved in public procurement, the Act has also established an independent regulator which is the PPA to supervise procurement activities as they occur at the procurement entity levels. This they do by conducting periodic assessments to uncover any probable lapses and initiate appropriate policies and programmes to remedy them.
2. **Establishment of Procurement Structures:** Decision making is one critical function of any procurement process. To rid the process of individualism, and forestall the many risks associated with procurement decision making, Section 17, 20 & Schedule 1 & 2 prescribes the establishment of Entity Tender Committees (ETCs) and Tender Review Boards (TRBs). Membership of these bodies are

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Online Activities

List of entities that have submitted their 2013 Procurement Plans online As At June 30th , 2013

- | | |
|--|---|
| 1. Accra Academy Sec. Sch. | 49. Ghana Cocoa Board |
| 2. Accra Polytechnic | 50. Ghana Cocoa Board - Quality Control Division |
| 3. Adisadel College | 51. Ghana Education Service |
| 4. Aflao District Hospital | 52. Ghana Free Zones Board |
| 5. Agona West Municipal Assembly | 53. Ghana Grid Company Ltd. |
| 6. Achantaman Sec. School | 54. Ghana Highway Authority |
| 7. Akatsi Dist. Hospital | 55. Ghana Immigration Service |
| 8. Amenfiman Sec. Sch | 56. Ghana Institute of Journalism |
| 9. Aowin Suaman | 57. Ghana Institute of Management And Public Administration |
| 10. Ashiaman Sec. Sch. | 58. Ghana Investment Fund For Electronic Communications |
| 11. Assin Manso Sec. | 59. Ghana Investment Promotion Council |
| 12. Assin State College | 60. Ghana Library Board |
| 13. Atebubu Tr. College | 61. Ghana National Fire Service |
| 14. Bank of Ghana | 62. Ghana National Gas Company |
| 15. Berekum Tr. College | 63. Ghana National Petroleum Corporation |
| 16. Besease Sec. Comm. | 64. Ghana National Sec.Sch. |
| 17. Bibiani Sec/Tech | 65. Ghana News Agency |
| 18. Bolgatanga Polytechnic | 66. Ghana Police Service |
| 19. Central- Regional Co-ordinating Council | 67. Ghana Ports And Harbours Authority |
| 20. Centre for Scientific Research Into Plant Medicine | 68. Ghana Post Company |
| 21. Christ The King Cath. | 69. Ghana Post Company Limited |
| 22. Controller And Accountant General Dept | 70. Ghana Prisons Service |
| 23. Copyright Administration | 71. Ghana Railway Development Authority |
| 24. Council for Law Reporting | 72. Ghana Railways Corporation |
| 25. Council for Scientific and Industrial Research | 73. Ghana School of Law |
| 26. Council of State | 74. Ghana Secondary/Tech. |
| 27. Daboase Sec./Tech | 75. Ghana Shippers Authority |
| 28. Dental School | 76. Ghana Standards Authority |
| 29. Department of Children | 77. Ghana Tourist Board |
| 30. Department Of Urban Roads | 78. Ghana Water Company Limited |
| 31. Driver and Vehicle Licensing Authority | 79. Ghana Water Company Limited - Operations |
| 32. E. P. Tr. College Amedzofe | 80. Ghana-India Kofi Annan Center of Excellence |
| 33. East Akim Municipal Asseby | 81. Gomoa |
| 34. Economic and Organised Crime Office | 82. Grains And Legumes Development Board |
| 35. Effa Nkwanta Regional Hospital | 83. GRATIS Foundation |
| 36. Effutu Municipal | 84. Half Assini Sec. Sch |
| 37. Effutu Sec./Tech | 85. Ho Polytechnic |
| 38. Encyclopaedia Africa Project | 86. Holy Child Sec. |
| 39. Energy Commission | 87. Holy Child Tr. College |
| 40. Environmental Protection Agency | 88. Internal Audit Agency |
| 41. Fiaseman Sec. Sch | 89. Juabeso district Hospital |
| 42. Foods and Drugs Board | 90. Judicial Service |
| 43. Ga West (Ga) | 91. Jukwa Sec. Sch. |
| 44. Ghana Academy of Arts And Sciences | 92. Koforidua General Hospital |
| 45. Ghana Airports Company Limited | 93. Komfo Anokye Teaching Hospital |
| 46. Ghana Atomic Energy Commission | 94. Korle bu Teaching Hospital |
| 47. Ghana Broadcasting Corporation | 95. Kpone Katamanso District Assembly |
| 48. Ghana Civil Aviation Authority | |

The Authority urges all other entities who have not submitted their plans as yet to emulate the example of the above listed entities and comply accordingly.



96. Kumasi High Sch
 97. Kumasi Polytechnic
 98. Lands Commission
 99. Lands Title Registry
 100. Ledzokuku-Krowor
 101. Management Development And Productivity Institute
 102. Management Services Division
 103. Manso-Adubia Sec. Sch.
 104. Margaret Mary High School
 105. Maternal and Child Health Hospital
 106. Medical School
 107. Mfantseman
 108. Minerals Commission
 109. MINISTRY OF CULTURE And CHIEFTAINCY
 110. Ministry of Employment and Labour Relations
 111. Ministry of Employment and Social Welfare
 112. Ministry of Environment Science and Technology
 113. MINISTRY OF FINANCE AND ECONOMIC PLANNING
 114. Ministry of Fisheries and Aquaculture Development
 115. MINISTRY OF FOOD And AGRICULTURE
 116. MINISTRY OF FOREIGN AFFAIRS AND REGIONAL
 INTEGRATION
 117. Ministry of Gender Children and Social Protection
 118. MINISTRY OF HEALTH
 119. MINISTRY OF JUSTICE AND ATTORNEY GENERAL
 120. Ministry of Lands and Natural Resources
 121. MINISTRY OF LOCAL GOVERNMENT AND RURAL
 DEVELOPMENT
 122. MINISTRY OF ROADS AND HIGHWAYS
 123. Ministry of Tourism Culture and Creative Arts
 124. Ministry of Transport
 125. MINISTRY OF WATER RESOURCES, WORKS And
 HOUSING
 126. Mount Mary College
 127. Nandom District Hospital
 128. Narcotics Control Board
 129. National Board for Professional And Technical Examinations
 130. National Cardiothoracic Centre
 131. National Commission For Civic Education
 132. National Communication Authority
 133. National Council for Tertiary Education
 134. National Health Insurance Authority
 135. National Identification Authority
 136. National Insurance Commission
 137. National Lottery Authority
 138. National Pensions Regulatory Authority
 139. National Petroleum Authority
 140. National Service Secretariat
 141. National Sports Authority
 142. National Vocational Training Institute
 143. Nkwawie District Hospital

144. Non Formal Education Division
 145. Nyinahin District Hospital
 146. Office of the Head of Civil Service
 147. OFFICE OF THE PRESIDENT - MAIN
 148. Office of the Regional Health Directorate – Eastern Region
 149. Office of the Regional Health Directorate – Greater Accra
 Region
 150. Opoku Ware Sec.
 151. Parliament
 152. Peki Training College
 153. Pharmacy Council
 154. Prempeh College
 155. Public Procurement Authority
 156. Registrar Generals Department
 157. Ridge Hospital
 158. Savannah Accelerated Development Authority
 159. School of Allied Health Sciences
 160. Sekondi-Takoradi Metropolitan Assembly
 161. Shama Sec. Sch
 162. SIC Life Company Limited
 163. Social Security and National Insurance Trust (SSNIT)
 164. Sogakope District Hospital
 165. St. Augustine's College
 166. St. Francis Trg. College
 167. St. Joseph's Tr. College
 168. St. Monica Training College
 169. Students Loan Trust Fund
 170. Sunyani General Hospital
 171. Sunyani Polytechnic
 172. Takoradi district Hospital
 173. Takoradi Polytechnic
 174. Tamale Polytechnic
 175. Tarkwa Nsuaem Municipal Assembly
 176. Tarkwa Sec. Sch
 177. Tema Development Corporation
 178. Tema Metropolitan Assembly
 179. University For Development Studies
 180. University Of Cape Coast (UCC)
 181. University of Energy and Natural Resource
 182. University Of Ghana (UG)
 183. University of Ghana Business School (UGBS)
 184. University of Mines -Tarkwa
 185. University of Professional Studies Accra
 186. University Of Science And Technology (KNUST)
 187. Upper Denkyira East Municipal Assembly
 188. Volta Lake Transport Company Limited
 189. Volta River Authority
 190. Wa General Hospital
 191. Wa Polytechnic
 192. Water Resources Commission
 193. Wesley Girls High Sch
 194. West African Examination Council



(Continued from page 1)

supposed to provide a fair representation of each Entity and be made up of people with integrity who will guide decision making and collectively review reports for concurrent approvals in consonance with the provisions of the law.

3. Procurement Rules: To preserve the integrity and sanctity of the procurement system, the Act 663 prescribes a set of rules. For instance:

- the strict adherence to competition (as a default) in the conduct of public procurement;
- the involvement of representatives of tenderers during tender openings;
- the disclosure of evaluation criteria prior to the start of tendering processes;
- the publication of tender and disposal notices and contract awards;
- rules for procurement planning, procurement records keeping, and
- grounds for rejection of tenders, proposals and quotations;

These therefore reduce the tendency for capriciousness and the worst forms of subjectivity in the procurement process.

4. Methods of Procurement: Too much discretion in the use of procurement methods could also have the potential of breeding corrupt practices in the procurement system, hence, Part 4, Schedule 3 of the Act 663 provides a sound basis for the application of any method of Procurement taking into consideration thresholds and appropriate conditions that will warrant their use.;

5. Administrative Review: To effectively manage vested interests that lead to corruption in procurement, and also provide an avenue for conflict resolution Ghana's Act 663 has put in place an appeals and complaints mechanism that adjudicates procurement cases through an administrative review process

In spite of the afore mentioned provisions and their intended measures to fight corruption in public procurement, studies have revealed that the mere enactment of laws and regulations alone may not be enough to combat this menace unless it is coupled with stringent monitoring and evaluation activities. Perhaps, the time is ripe for us to heed to the numerous calls for the application of sanctions when and wherever these provisions are flouted in order to serve as a deterrent and safeguard the use of public funds for the wider social good.

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FIGHTING CORRUPTION WITH THE PUBLIC PROCUREMENT ACT, FROM A PRACTITIONER'S PERSPECTIVE

Introduction:

According to Transparency International, Corruption is the abuse of entrusted power for private gains. It hurts everyone who depends on the integrity of people in a position of authority. Ghana was in 2012 ranked 64th scoring 45 on the Corruption Index.

Corruption watch also defines corruption as the abuse of public resources to enrich or give unfair advantage to individuals, their family or their friends. It is believed that corruption has been with human institutions for a long time. It is simply using government or institutional resources as a result of a person's control over those resources to gain personally at the expense of the common good. Public Procurement has a significant impact on the allocation of public funds and how these funds so allocated are used efficiently to the benefit of all. It is per-

ceived that procurement provides a huge avenue for corrupt individuals to operate in Ghana.

Forms and Examples of Public Corruption

Soliciting for bribes, kickbacks or acting deliberately to delay service delivery in order for the recipient of the service to make a gain.,

A business or individual pays a bribe to a government official in order to be given a government contract and the official accepts this and uses his position and control of resources to offer such assistance.

A government official takes advantage of his or her position to favour a family member or business associate for a job or contract.

Effects of Corruption

Corruption undermines development. In most cases con-



tracts are believed to be awarded to individuals or businesses which are not capable of performing or delivering.

It also kills competition. Overtime, suppliers who think they have been unduly denied of contracts become uninterested in the institution's tender offers if it is believed that its procurement staff is corrupt.

Fighting Corruption in Ghana

Various governments have put in place measures to help fight corruption in Ghana especially in the Public Sector. In 2001 for instance, President J. A. Kufuor launched the Zero Tolerance for Corruption with the aim of eradicating corruption altogether from our public sector and also from among government officials. Fighting corruption is also one of the priorities of the current government.

International organizations such as transparency international also help in the fight against corruption in Ghana through the organization of seminars and workshops and public education of various forms.

These are all geared towards reducing the impact of corruption to the barest minimum in Ghana.

Using the Procurement Act 2003, Act 663 As A Tool

The opportunity for corruption usually comes about when there are weak systems and/or institutions of accountability, lack of checks and balance. In 2003 therefore, Ghana introduced the Public Procurement Act 2003, Act 663. It is an Act to provide for public procurement, establish the Public Procurement Board, make administrative and institutional arrangements for procurement; stipulate tendering procedures and provide for purposes connected with these.

The Procurement Act plays a major role in the fight against corruption.

Section 93 of the Act states that "entities and participants in a procurement process shall, in undertaking procurement activities, abide by the provisions of article 284 of the Constitution".

The act stipulates that institutions go through National and International Tendering procedures depending on the amount involved in a particular procurement. These are very transparent procurement processes which help in the fight against corruption in the sense that contracts are not just awarded to individuals or institutions but qualified suppliers win contracts only after going through a competitive procurement process. This is to ensure fairness and transparency which the Act seeks to promote.

Again, the Procurement Act establishes Approval authorities and Tender review Boards which give approval or concurrent approval in terms of the applicable threshold in schedule 3 of the Act, prior to the award of contract. Procurement practitioners knowing that their activities relating to award of contract are subject to approval by relevant authorities and/ or tender



review boards will do their best to ensure fairness in the process and ultimately guard against any temptation to engage in corrupt practices.

According to Section 32 of the Act, Procurement entities shall reject a tender, proposal, offer or quotation if the supplier or contractor or consultant tries to manipulate the procurement process to his advantage by offering anything as an inducement.. This restrains both suppliers and practitioners to proceed on caution when it comes to whether to influence the procurement process unduly.

Section 31 of the Act states that: "a procurement entity shall publish notice of procurement contract awards". The Public Procurement Authority requires that all entities publish notices of contract awards on its website. The aim of this I believe among other things is to promote transparency. The general public has access to the outcome of tendering procedures through this medium.

The Public Procurement Authority by the powers conferred on it by the Procurement Act, monitors and supervises public procurement and ensures compliance with statutory requirements. Constant monitoring of practitioners and entities and education on the provisions of the Act reduces the probability of the occurrence of corrupt practices in procurement.

Conclusion

The Public Procurement Act is a very effective tool for the fight against corruption in Ghana. Practitioners and entities therefore need to be educated on the provisions of the act and the consequences of breaching those provisions for both the practitioners and entities and service providers

.If the Act is allowed to work without the perceived manipulations it will be one of the most effective tools with which to win the battle against corruption.

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E-GP

AN EFFECTIVE TOOL FOR FIGHTING CORRUPTION

INTRODUCTION

The fight against bribery and corruption ranks high on the reform agenda of many countries including Ghana. Public Procurement is now among the most dynamic areas of anti-corruption reforms being championed by the World Bank and many countries including Ghana. One of the reforms being considered or introduced is Electronic-Government Procurement (E-Gp).

Corruption in Public Procurement

If you take the Procurement Cycle, one can encounter risk of corruption in the different Phases. Some of the Phases include:

- Procurement Planning
- Procurement Invitation/Process
- Contract Award and Performance

In the above mentioned Phases in Procurement, the lack of transparency, limited access to information and lack of accountability and control at each stage culminates in corruption.

Corruption in Government/Public Procurement results in increase in government operational cost. It also increases the wrong perception in the area of Governance and trust in Government. It complicates the budgets of Government of the economy. It is therefore a very serious socio-economic problem which has to be fought with every reform or tool that has worked with other countries or institutions. Globally, there has been concrete examples in Singapore, South Korea, Bangladesh, India, Portugal amongst others.

Electronic-Government Procurement (E-GP)

Electronic Government Procurement (E-Gp) has been identified as a reform or tool capable of fighting corruption. E-Gp is simply the use of Information and Communication Technology (ICT) such as internet/web based systems to conduct the Procurement Process for the acquisition of goods, works services required by the Public Sector.

How can E-Gp reduce the risk of corruption?

1. E-Gp eliminates the direct human interface between tenderers and Public Sector Procurement Personnel. This is made possible with the introduction of



documents being available on-line and not through persons, where one pays bribe just to get access to the documents to buy to be part of the tendering process. Often times, tenderers are faced with non availability of documents from the entities to allow them the chance to respond to the particular tenders with the excuse that, the documents were finished.

2. E-Gp comes with centralized data which helps improve audit and analysis to avert wrong use of data/information.
3. E-Gp system allows government to monitor all the works and services more easily and efficiently through the modules available such as e-contract management which helps manage the contract to its final conclusion.
4. Most importantly, E-Gp increases transparency and makes information available and accessible to all citizenry who have something to do with Procurement and Good Governance.

5. On-line tendering automatically cuts out or reduces the collusion and rigging among some tenderers.
6. E-GP reform program seeks to have built-in business rules which are found in the Procurement Act 663 and any other Laws that deals with Electronic transactions. Examples of this is where the system will not allow for breaking bulk, will automatically give a particular procurement method with respect to thresholds approved in Schedule IV of the Public Procurement Act 2003, (Act 663)., and many others.

Conclusion

The benefits of technology in combating bribery and corruption do not automatically arise just because technolo-

gies are applied. The design, implementation and the associated reforms should have “people” directly incorporated into the plan. The system should be working in the people’s interest with respect to transparency, availability and access to information where legally possible, in the right format and with ease of use of the information. The use of Technology will increase competitiveness and efficiency, which will also allow civil society to play their watchdog role very well using all the information available to them in the E-GP system.

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PPA

FIGHTING CORRUPTION WITH THE PROCUREMENT ACT, FROM A PRACTITIONER’S PERSPECTIVE

Introduction

The fight against corruption continues to engage governments, donor partners and civil society’s highest attention as a result of its damaging ramifications on the socio-economic development of any country, especially developing ones.

Corruption has become an ‘anti-development virus’. It thrives where there is arbitrary use of discretion in making procurement decisions and awarding of contracts without strict adherence to laid down rules and procedures. That is to say; ‘Corruption = Discretion – Probity and Accountability’.

Addressing corruption in Public Sector Procurement is an indispensable element of any effective strategy for harnessing and promoting the socio-economic well being of the people by ensuring the prudent use of state resources. Fighting procurement corruption probably means, strengthening compliance mechanisms and ensuring strict adherence to the principles of probity and accountability. In discussing theme of fighting corruption, draws my attention and focus to looking at the term Corruption, Corruption Perception, the Points of Corruption Manifestation, and how to effectively deal with it using the Public Procurement Law (Act 663).

Corruption

The term ‘corruption’ is broad covering a wide range of abuse of entrusted power, funds and etcetera for self-centered interest. It means any abuse of a position of trust

in order to gain an undue personal advantage. It involves the conduct of both sides; that of the person who abuses his/her position of trust as well as that of the person who seeks to gain an undue advantage by the abuse.

Corruption Perception

Corruption is perceived to exist everywhere and that our daily lives seem to be riddled with situations in the grey areas between what is legal and illegal; acceptable and unacceptable. There is a wide spread perceived phenomenon of ten percent (10%) of contract value going into bribes for procurement officials, though hard to believe from the practitioners’ perspective.

That notwithstanding, due to the high level of intrinsic interest and influences, people tend to exploit procurement opportunities, hence breeding corruption. Procurement corruption is not necessarily associated with procurement practitioners but with all key decision makers in awarding contracts. Some of these procurement malfeasances include; giving and receiving bribes, extortion, favouritism and nepotism, embezzlement, fraud, conflict of interest as well as illegal monetary contributions to political parties. It’s worth looking at some areas in the procurement process where malpractice may occur.

Points of Corruption Manifestation

Corruption can arise in various forms in each of the following phases of the procurement process;

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- Procurement Budgeting and Planning
- Tender invitation
- Contract Award / Management

Procurement Budgeting and Planning

This phase of the procurement process is where the Procurement Entities determine what they would need in terms of goods and services (the requirements) and how much they would like to spend (the budget). Requirements in terms of quantities can be set unreasonably high with falsely prepared reports for justifications. Such moves are usually calculated at giving business opportunities to friends, favourite suppliers, contractors and political financiers to carry out projects or supply goods and services that the institutions may not sometimes have any immediate need for. Besides, budgets could be set artificially high so that excess allocations can be misapplied, misappropriated or diverted to unplanned projects.

Tender Invitations

At this phase, the main activities are compiling the request and specifications and preparation of request for proposals or tender documents. This is where products/service specifications and criteria for evaluation could be skewed to favour a particular supplier or service provider or likewise could be drafted to emphasize weaknesses of a particular competitor. Later during the evaluation of the proposals or tenders, the evaluation criteria could be misapplied or otherwise further defined or amended after proposal or tender receipt. During this phase, it is also possible that advance information could be provided to a particular favoured supplier. Other techniques which would wrongfully and unnecessarily restrict the solicitation protocols can be utilized to deny legitimate Tenderers the opportunity for fair competition and transparent procurement process.

Contract Award/Management

Procurement malpractice could also occur at the contract award and performance phase of the process. For instance, a Tenderer could propose an unrealistically low offer in the hopes that after the contract is awarded procurement officials would allow amendments to increase costs. Likewise, a firm could offer exceptionally high caliber of qualified personnel or quality product samples to meet a particular procurement requirement and then upon contract award substitute inferior products or personnel.

Furthermore, after the evaluation is complete, it is possible to award a contract that materially differs from the

terms and conditions of the tender, particularly regarding specifications, quantity, or delivery schedule, and that the terms and conditions of the contract are not enforced to ensure that contracts are diligently executed.

Oversight and reporting requirements may also be minimized and in some cases cost overruns can be corruptly explained or falsely justified. Finally, supporting documentation could be intentionally misplaced or destroyed making detection and prosecution of corruption offenses difficult.

Dealing with Procurement Corruption

Although no public procurement system will likely ever be fully free of all corruption, a system that promotes transparency, efficiency, economy, fairness and accountability will be a system where corrupt activities will be more difficult to conceal and will be easier to punish administratively or criminally. The aforementioned principles are the basic tenets the Public Procurement Act 663.

For example, in the procurement planning phase, budgetary and financial controls should be operationally separated and procurement requirements should be subject to Section 21 of the Public Procurement Law.

Likewise, in the Tender Invitation and Contract Award/Management phase, the process should be subject to the Procurement Act 663, Sections 22, 28, 29, 31, 32, 33, 59, and all the relevant sections in driving the procurement processes in a manner that ensures that corrupt practices in public procurement, if not completely eliminated, are reduced to the barest minimum. Finally, in the contract award and performance phase, strict financial controls and audit oversight are needed to protect the integrity of the final phase of the procurement process.

Conclusion

From the practitioners' point of view, the objective of streamlining procurement processes to achieving best value in the acquisition of goods and services cannot generally be achieved unless contracts are awarded on truly competitive basis, observing meticulously, the provisions of the Public Procurement Act 2003 (Act 663).

Procurement professionals, private sector providers and anti-corruption advocates should be constantly educated to understand their respective roles and responsibilities in the fight against procurement corruption using the procurement law. I believe that understanding the operational intricacies of the procurement process through the 'windows' of Act 663 will help public procurement stakeholders contribute meaningfully to this important endeavour.

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BREAKING THE VICIOUS CICLE OF CORRUPTION IN PUBLIC PROCUREMENT IN GHANA

The issue of corruption has over the years taken a centre stage during discussions about public financial management and by extension public procurement. The subject has become very critical in Ghana since recent public hearings of the public accounts committee of parliament and various commissions/committees set up by government in recent times have had to deal with procurement related corruption issues. Today, public outcry about judgment debt payments has remained a source of worry for most procurement practitioners since most of the debts have arisen as a result of procurement lapses.

Corruption, according to Transparency International “Is the abuse of entrusted power for private gain.” It further notes that “It hurts everyone who depends on the integrity of people in a position of authority.” My heart bleeds at a statement from the same source that “Africa lost about \$1.4trn in illicit financial flows between 1980 and 2009 (a figure which exceeds the inflows of revenues); a situation which is seriously undermining the development of our economies.”

Having said this, I agree with Wikipedia that, “It is no news that in Ghana, **corruption** has been common since independence.” May be true that since 2006, Ghana's score and ranking on the Transparency International Corruption Perceptions Index has improved slightly but the news in the recent past casts doubts on this claim especially when there is a growing perception that government-related corruption is on the rise. It's interesting that Citi FM reported on Monday, 28th May, 2013 that “Anti-corruption campaigner, P.C. Appiah-Ofori, has stated that the only way Ghana can rid itself of the pervasive corruption within its institutions is through the intervention of Jesus Christ.” I have been wondering if Jesus would step down to do this for Ghanaians.

I personally prescribe the strengthening of institutions and systems as well as a total overhaul of the minds of Ghanaians to reverse this trend. A few years back I heard a very interesting comment that “among every group of persons who handle funds/money, 5% are completely incorruptible or are very corrupt while 90% are in the middle yet to make a determination to be corrupt or otherwise.” This explains the need for systems to protect this 90% from being corrupted while we strategize to deal



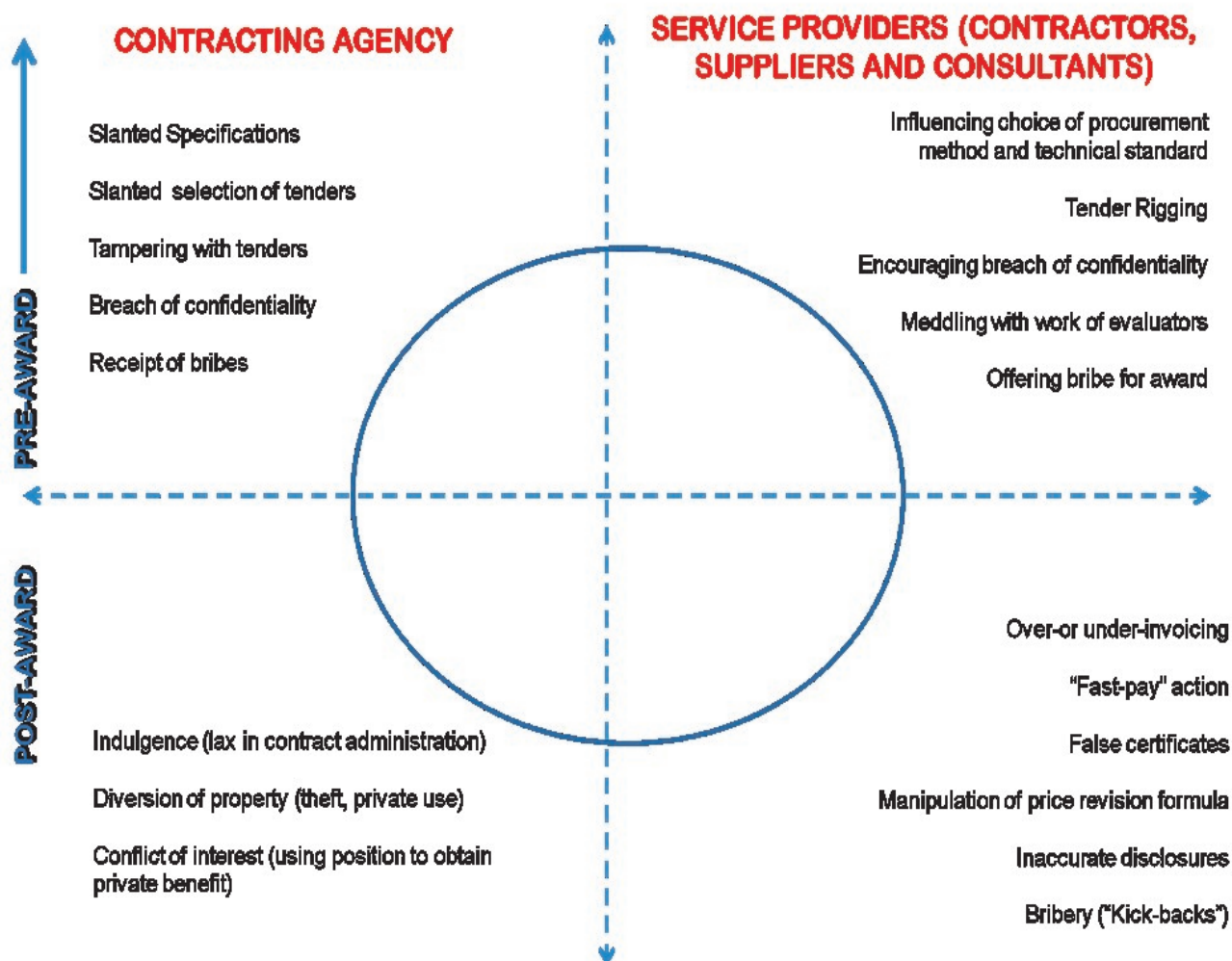
with the corrupt 5%.

In Ghana there is a proverb that “The one who goes to the river to fetch water is the same person who breaks the pot,” it is therefore not so strange that (public procurement), the expenditure area which accounts for about 70% of our expenditure seems to also be bedeviled with the highest level of corruption. However, as the Bible says “.... should sin continue that grace may abound? (Romans 6:1) It is obviously a big NO, hence, we certainly need to identify the loopholes and plug them if Ghana will progress any further in our development, because what is slowing our development is not a lack of resources or legislations but the greed and related corruption in governance (at the political, local or any other level).

The actions of corrupt public procurement officials impacts on the whole society, in that it totally slows down development since governments are unable to meet the needs of the citizenry with the thinly spread budgets. I dare to say that the inability of governments to meet the medical, educational, infrastructural, etc. requirements, accompanied by the perception of corruption has contributed to various social and political unrests across Africa.

I am particularly elated that in this 21st century, most

THE VICIOUS CIRCLE OF CORRUPTION IN PUBLIC PROCUREMENT



organizations including governments have ceased to see procurement as a mere back office activity and are now making frantic efforts at establishing effective procurement systems and departments to guarantee the proper management of its input. In Africa today, almost all countries have seen the need to pass procurement laws to guide effective procurement processes while working towards curbing **“the vicious circle of corruption in public procurement”** among others

As referred to in PPA’s training modules, the diagram above which attempts a pictorial presentation of **“the vicious circle of corruption in public procurement”** highlights a few “landmines” within the procurement system that are susceptible to exploitation to the detriment of the “public purse” and therefore requires much attention to promote effective public financial management and good governance for that matter:

From the above, it is clear that corruption may occur be-

fore and after contract award:

- At the Contracting Agency / the Entity level
- On the side of Suppliers and by extension contractors and Consultants

Discussing all these situations in detail may take some more space, however let me attempt a brief explanation..

At the Entity Level, procurement practitioners may resort to the following in a bid to exploit the system:

- Slanted Specifications and Tenderers:**
This is where to reduce competition, invitations and specifications are limited or developed to suit only one(1) or a few preferred service providers. When this occurs, those who are offering the best value would be eliminated.

b. Tampering with Tenders: Some Entities desirous to give undue advantage to their preferred suppliers, may tamper with tenders by other competing tenderers and divulge sensitive information to them. It is for this reason that Act 663 requires public opening of tenders so that tenderers may confirm that their tenders have not been tampered with prior to opening.

c. Taking Bribes for award of contract: The possibility of manipulation of the process in favour of a service provider after taking an inducement also exists.

d. Indulgence and lax in contract administration may lead to payment for non or abysmal delivery on a contract. Often, procurement practitioners allow this where some form of inducement has been given by the Service Provider.

e. Diversion of Property: This is another landmine where procurement personnel connive with Service Providers to divert part of what has been contracted to different locations. A common example is in situations where building materials for public projects are diverted to personal project sites.

f. Finally, Conflict of Interest also occurs where public officials eventually manipulate the process for contracts to be awarded to persons or firms they have an interest in.

Briefly, I will also touch on a few situations where Suppliers, Contractors and Consultants (Service Providers) may attempt to influence the award and management of contracts to their advantage:

a. Influencing Choice of a Method: Suppliers may approach Entities with proposals which sometimes influence the choice of method. Typical incidents may occur in situations where suppliers claim sole ownership or dealership rights for some items.

b. Service Providers may also resort to tender rigging and formation of cartels (especially where competition is limited) to control the procurement process.

c. Encouraging breach of confidentiality, meddling with the work of evaluators and offering of bribes for award may also be strategies that service providers adopt to enable them receive favours for award.

d. During contract execution, Entities who do not pay attention, may eventually pay far more than what is expected due to over invoicing, false interim and completion certificates, manipulation of price revision formula etc by Service Providers.

e. Situations where Service Providers “put a weight” on their requests to facilitate payment (Fast Pay Action) to the detriment of others who might have submitted earlier claims, is an area open to abuse that must be checked.

It is worth noting that, the above notwithstanding, Act 663 has sufficient provisions that promote open, competitive and transparent procurement process which if followed will address these challenges and obviously break the circle of corruption. Indeed, effective implementation and compliance with the provisions in the Public Procurement Act, 2003, will save the public sector millions of cedis.

It is important that all stakeholders; including the PPA, Heads of Public Institutions, Procurement Staff, Private Sector, Media, Civil Society, CHRAJ, EOCO and other Oversight Bodies authorized by the constitution (and the state for that matter), pay particular attention to these issues while working together to “Nip corruption in public procurement in the bud” to enable Ghana succeed in its efforts at effective public expenditure management.

Yvonne Vanderpuye

Head HR&A -PPA

Tendering and contract Information for periods indicated

[Tendering Opportunities for Jul - Aug 2013](#)

[Contracts Awarded for Jan - Aug 2013](#)

[Restricted Tender Awards Jan - Aug 2013](#)

[Expression of Interest Requests Jul - Aug 2013](#)

The links above will take you directly to the PPA Website Reports for the months of period indicated.



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