



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

USING PUBLIC PROCUREMENT TO FIGHT CORRUPTION

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Corruption, is said to exist in almost all societies, all stages of development and under all types of politico-economic regimes. The word **corrupt** which takes its roots from the Latin word “corruptus” refers to a state of destruction and absolute brokenness which seem to define our world today.

Of all the many facets of corruption, the most pervasive of them all is that which occurs in the process of public procurement and made manifest in the form of unfair competition and lack of transparency in the process. Corruption, be it bribery, rent-seeking, contractor-client payoffs, kick-backs etc. has huge repercussion on national development. For instance, a 2002 Afri-

can Union study estimated that corruption costs the continent roughly \$150 billion a year. Moreover, Transparency International (TI), has asserted that the real cost of corruption in public procurement is not just money in terms of inflated cost of contracts but also how it reduces the quality of works or services delivered, not to talk about the personal price we pay for collapsed buildings due to poor supervision and counterfeit medicine due to non-inspection administered to the sick, indeed, it does cost lives!

Given the high values and complex nature of corruption in public procurement, it is imperative to approach this societal menace head-on by taking a critical look at the systemic challenges inherent in the procurement cycle as well as some of the

(Continued on page 6)



Online Activities

List of entities that have submitted their 2016 Procurement Plans Online As At February 29 , 2016

- | | |
|--|--|
| 1. Abor Senior High School | 44. Ghana Cocoa Board |
| 2. Accra Polytechnic | 45. Ghana College of Physicians and Surgeons |
| 3. Adiembra Senior High School | 46. Ghana Education Service |
| 4. Adisadel College | 47. Ghana Grid Company Ltd. |
| 5. Afadzato South District Assembly | 48. Ghana Health Service |
| 6. Agona West Municipal Assembly | 49. Ghana Institute of Journalism |
| 7. Akatsi South District Assembly | 50. Ghana Investment Fund For Electronic Communications |
| 8. Akim Oda Government Hospital | 51. Ghana Library Board |
| 9. Akwapim South Municipal Assembly | 52. Ghana National Gas Company |
| 10. Ankaful Psychiatric Hospital | 53. Ghana National Petroleum Corporation |
| 11. Asare Bediako Senior High School | 54. Ghana Police Service |
| 12. Asokore Mampong Municipal Assembly | 55. Ghana Ports And Harbours Authority |
| 13. Asuansi Technical Institute | 56. Ghana Prisons Service |
| 14. Bank of Ghana | 57. Ghana Reinsurance Company Ltd |
| 15. Bolgatanga Municipal Assembly | 58. Ghana Revenue Authority |
| 16. Bolgatanga Polytechnic | 59. Ghana Standards Authority |
| 17. Breman Asikuma Senior High School | 60. Ghana Tourist Board |
| 18. Bulk Oil Storage and Transportation | 61. Ghana Water Company Limited |
| 19. Cape Coast Metropolitan Assembly | 62. Gomoa East District Assembly |
| 20. Central- Regional Co-ordinating Council | 63. Ho Polytechnic |
| 21. Chiana Senior High School | 64. Ketu District District Hospital |
| 22. Controller And Accountant General Dept | 65. Ketu North District Assembly |
| 23. Copyright Administration | 66. Ketu South District Assembly |
| 24. Council for Law Reporting | 67. Kibi Government Hospital |
| 25. Council for Scientific and Industrial Research | 68. Korle bu Teaching Hospital |
| 26. Council of State | 69. Krachi West (Krachi) District Assembly |
| 27. Department Of Urban Roads | 70. Kwaebirem District Assembly |
| 28. District Assembly Common fund | 71. La Polyclinic |
| 29. Driver and Vehicle Licensing Authority | 72. Management Development And Productivity Institute |
| 30. Economic and Organised Crime Office | 73. Mankesim Senior High Technical School |
| 31. Effutu Municipal Assembly | 74. Maternal and Child Health Hospital |
| 32. Ekumfi District Assembly | 75. Mfantisman Girls Senior High School |
| 33. Energy Commission | 76. Minerals Commission |
| 34. Environmental Protection Agency | 77. Ministry of Fisheries and Aquaculture Development |
| 35. Essikadu District Hospital | 78. MINISTRY OF FOREIGN AFFAIRS AND REGIONAL INTEGRATION |
| 36. Foods and Drugs Board | 79. MINISTRY OF HEALTH |
| 37. Forestry Commission | 80. Ministry of Lands and Natural Resources |
| 38. Ga South Municipal Assembly | 81. MINISTRY OF ROADS AND HIGHWAYS |
| 39. Ghana Airports Company Limited | 82. Ministry of Youth and Sports |
| 40. Ghana Atomic Energy Commission | |
| 41. Ghana Audit Service | |
| 42. Ghana Book Development Council | |
| 43. Ghana Civil Aviation Authority | |



- | | |
|--|--|
| <ul style="list-style-type: none"> 83. Mpohor District Assembly 84. Narcotics Control Board 85. National Accreditation Board 86. National Board for Professional And Technical Examinations 87. National Commission For Civic Education 88. National Communication Authority 89. National Development Planning Commission 90. National Film and Television Institute 91. National Pensions Regulatory Authority 92. National Petroleum Authority 93. National Service Secretariat 94. Navrongo Community Health Nurses Training College 95. Northern Electricity Distribution Company 96. Nsawam Government Hospital 97. Nyakrom Day Senior High School 98. Office of the Head of Civil Service 99. OFFICE OF THE PRESIDENT - MAIN 100. Office of the Regional Health Directorate – Ashanti Region 101. Office of the Regional Health Directorate – Central Region 102. Office of the Regional Health Directorate – Eastern Region 103. Office of the Regional Health Directorate – Northern Region 104. Office of the Regional Health Directorate – Upper West Region 105. Office of the Regional Health Directorate – Western 106. OlaCollege of Education 107. Peki Senior High Technical School 108. Petroleum Commission 109. Pharmacy Council 110. PPA Demo 111. Presby College of Education - Akropong | <ul style="list-style-type: none"> 112. Presby Senior High School. - Legon 113. Prestea District Hospital 114. Public Service Commission 115. Registrar Generals Department 116. Savannah Accelerated Development Authority 117. School of Medicine and Dentistry 118. SIC Life Company Limited 119. Sogakope District Hospital 120. St. Augustine's College 121. St. Monica Training College 122. Suhum Government Hospital 123. Suhum Municipal Assembly 124. Sunyani Polytechnic 125. Sunyani West District Assembly 126. Takoradi Polytechnic 127. Tamale Polytechnic 128. Tarkwa Nsuaem Municipal Assembly 129. Tarkwa Senior High School 130. Techiman Municipal Assembly 131. Tema Development Corporation 132. Tema Metropolitan Assembly 133. University Of Cape Coast (UCC) 134. University of Energy and Natural Resource 135. University of Health and Allied Sciences 136. University of Mines -Tarkwa 137. University of Professional Studies Accra 138. University Of Science And Technology (KNUST) 139. Upper Denkyira East Municipal Assembly 140. Uthman Bin Afan Senior High School 141. Volta River Authority 142. Wa General Hospital 143. Wa Polytechnic 144. Wesley Girls High School 145. West Mamprusi District Assembly 146. Youth Employment Agency |
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USING PUBLIC PROCUREMENT TO FIGHT CORRUPTION



Globally, significant efforts have been made in the fight against corruption resulting in the development of legislations and frameworks. Notable among these are the United Nations Convention Against Corruption (UNCAC) and AU convention on Preventing and Combating Corruption. Both frameworks have specific provisions for shaping national public procurement legislations. Examples include establishment of appropriate systems of public procurement based on the fundamental principles of transparency, competition and objective criteria in decision-making. Additionally, Article 11 (2) of the AU convention calls for States Parties to establish mechanisms to encourage participation by the private sector in the fight against unfair competition, respect of tender procedures and property rights.

In many cases, government entities seek private sector providers in order to secure quality goods and services at a lower cost but also attaining value for money, streamlining processes in order to shorten delivery and performance times and reduce administrative costs. However, these objectives cannot be achieved unless contracts are awarded on competitive basis under a system with clear guidelines incorporating transparency, efficiency, economy, accountability and fairness in the system. Recognizing that public procurement is a huge arena where interaction between the public and private sector occur frequently, it is a prime area for corrupt activity including, collusion, cronyism, favoritism, the use of discretion as well as outright bribery. Hence, public procurement has been targeted by various national, international and multilateral anti-corruption initiatives as an area to regulate.

Ghana enacted the Public Procurement Act, 2003 (Act 663) with the aim of streamlining and sanitizing procurement in the public sector. The act defines roles, responsibilities, and authority for procurement as well as rules and regulations to guide, direct, train

and monitor the process with the view to increasing transparency and accountability and confidence in the system. Ghana's procurement law is one of the best laws that directly seek to seal gaps in the public procurement process which usually result in the perpetuation of corruption.

In all the phases of the procurement process, that is the pre-tender, tender and post-tender stages, corruption risks exist throughout the entire procurement cycle, but the law identifies and deals with them accordingly. For instance, procurement rules outlined in the Act alongside many others mention a Procurement plan to guide and direct the Procurement Entity in its activities; it also stipulates the appropriate form of communication and evidence in procurement proceedings among others. The introduction of the independent appeals process with the aim of addressing complaints is a plus in promoting transparency and enhancing confidence in the system thereby reducing suspicion and increasing trust in the system. Finally, with the advent of Act 663, there is now an independent Procurement Auditing function. According to Part IX Section 91 of the Act, there shall be Statutory Audits which will be undertaken by the Auditor-General and furnish the Board with its report upon request. This helps identify corrupt practices which lead to the loss of revenue by the state or the embezzlement of public funds.

Notwithstanding the enormous benefits the Act has introduced, there are still challenges and frequent abuse of the single source procurement with its tendencies in promoting corrupt practices. Procuring entities must therefore plan ahead to gain the external and internal approvals in due time.

In conclusion, the Act 663 has brought a great deal of sanity into the system and has succeeded in the removing of many corruption risks associated with the procurement process though it has not removed all the weaknesses that existed before its introduction. It is, therefore, worth mentioning that the amendment of the current law which is currently before parliament will further build on the gains made so far and further nib the bud of corruption in the all sectors of the economy.

Mary Awelana Addah

Ghana Integrity Initiative



USING PUBLIC PROCUREMENT PROCESS TO FIGHT CORRUPTION



There is no globally accepted definition of corruption. Transparency International defines corruption as “the abuse of entrusted power for personal gain”. Corruption is a form of dishonest or unethical conduct by a person entrusted with a position of authority, often to acquire personal benefit.

Considering these definitions, one can conclude that when corruption in public procurement occurs, public interest is undermined by private interest. What happens in such a situation is that there is no real competition in the bidding process and there is very likely to be a biased selection resulting in poor contractor/supplier performance which makes the taxpayers the eventual losers.

The degree of corruption can be said to be a function of the degree of monopoly and discretion in deciding who should get a contract on the one hand and the degree to which the procurement activity is accountable and transparent on the other hand.

The procurement process as detailed in the Public Procurement Act 2003, Act 663, shows a way out of this dilemma. The procurement process is modelled to-

wards ensuring that there is objectivity, competition and transparency in public procurement, thus minimizing the incidence of corrupt practices and achieving Value for Money.

Objectivity

The Act aims at harmonising the processes of public procurement in the public sector. It promotes the use of standardized bidding documents which spell out all the requirements of the tender (as in specifications, drawings, bills of quantities, terms of reference etc.) thus creating a level-playing field for all bidders.

Evaluation of bids is also standardized and prohibits the introduction of fresh criteria not previously disclosed in bidding documents. This increases objectivity.

Competition

The public procurement process encourages competition among all bidders, ensuring better quality and price for public expenditure. The Act has been developed in such a manner as to restrict human intervention as much as possible. Procurement Methods have been set with thresholds which have corresponding

monetary values. This minimizes the use of discretion in deciding what method of procurement to use. It has to be emphasized that the default method of procurement for the public sector is competitive tendering.

Another important aspect of public procurement is procurement planning. When an entity plans its annual procurement activities very well, it enables it to go through competitive tendering and reduce the incidence of using other methods where there is the absence of or minimal competition. The not so competitive methods are however permitted in the Act to be used minimally for lower value procurement so as not to cripple the smooth operations of entities. It is an additional boost to fighting corruption in the public sector where the Single-Source and the Restrictive Tender Methods can only be used for specific reasons and is subject to oversight from the regulatory body. Its application is therefore not discretionary.

Transparency

Competitive Tendering promotes transparency in addition to competition. Tenders are advertised in dailies with a wide circulation. Dates and times for submission of bids are all advertised as well as the final award. Public opening of tenders affords the bidders the opportunity to witness the competition at first hand.

The establishment of evaluation panels to review the bids received increases transparency in the decision-making process.

The Procurement Act sets thresholds for different approving bodies. The composition of the Entity Tender Committees makes it imperative for all the major stakeholders of the procuring entity to have an input in the decision making. The higher the value of the procurement activity, the more transparency it demands as there are Review Boards to oversee the process.

The fight against corruption

The oversight provided at various levels, the transparency provided by the public publication from advertising of bids through to publishing of awards, the competitive nature of the bidding processes thus providing some level of value for money as well as the standardization of bidding documents and evaluation criteria all seek to remove the element of discretion from a single person or group of persons. If applied in its full form the procurement Act will be a major tool in the fight against corruption

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Legon

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human interferences that encourage such practices as we jointly assess how best we can ensure transparency and accountability in the entire system.

The Public Procurement Act, 2003 (Act 663), Ghana's, legal framework on public procurement is replete with various provisions which when strictly adhered to, can guarantee transparency and accountability in the use of public funds. However, experience has shown that the mere enactment of laws and regulations alone may not be enough to combat this menace unless it is coupled with effective monitoring, supervisory and evaluation activities. Perhaps, the time is rife for us to heed to the numerous calls for the application of sanctions when and wherever these provisions are flouted in or-

der to serve as a deterrent and safeguard the use of public funds for the wider social good.

As we seek to further interrogate the theme for this edition-Using Public Procurement Processes to Fight Corruption, we present to you the views of seasoned procurement practitioners and that of civil society organisations on how best corruption can be curbed through the application of effective public procurement. After all, **"Every problem has in it, the seeds of its own solution..."** - Norman Vincent Peale.

Rhoda E. Appiah (Mrs.)

Head—Public Affairs

PPA



LIGHTING THE PATH OF PUBLIC PROCUREMENT TO EXPEL CORRUPTION



“Let there be light and there was light. God saw that the light was good and He separated the light from the darkness” (Gen 1:3). Since this command by God at creation, anytime light appears on the scene, darkness vanishes.

Corruption as defined by Transparency International (TI) is “the abuse of entrusted power for private gain”. It is an acknowledged fact that corruption thrives in secrecy, away from public view; in darkness. Public procurement which involves the use of public funds to acquire goods, works and services is one area that has globally been fraught with corruption. TI indicates that corruption in all its forms can arise in every phase of the procurement cycle; from Planning, to Bidding, Evaluation/ Selection to Contract Award and Monitoring. Accordingly, various countries and International Organisations have es-

tablished procedures to regulate public procurement. Underlying these procedures is the age old principle of dealing with darkness; Application of Light – Transparency.

As indicated by Article 1.6 of the Manuals to the Public Procurement Act, 2003 (Act 663), transparency is one key indicator for ensuring that procurement within the public sector provides value for money to Government. To achieve this, the standard processes require that “light” be applied to all the phases in the procurement cycle.

Procurement Planning

The law requires that prior to the business year, an entity determines its requirements based on which a procurement plan is prepared indicating the contract packages, the estimated cost for each package, the



procurement method as well as the processing steps and time. This plan which has to be subsequently published on the Public Procurement Authority (PPA) portal helps eliminate the “darkness” of artificial emergencies that allows users to circumvent due process to create avenues for private gain. In defining the requirements, particular trademark, brand name patent design, specific origin, producer or manufacturer should be avoided, unless there is no other feasible way of describing the product in which case the word “or equivalent” shall be included in the description. This provision enhances openness as it prevents the skewing of requirement to suit a particular product or manufacturer.

Tendering/Sourcing

The default method of sourcing in public procurement is open competitive tendering using standard documents and advertising the requirement openly for as many vendors as possible get the same information that allows them to put in bids. This eliminates the opportunity for offers to be given out secretly to cronies, a situation that perpetuates corruption.

Evaluation and Selection

At the evaluation and selection phase, the use of adhoc committees, comprising members from varied backgrounds relevant to the procurement, using the criteria set out in the advertised tender document facilitates an objective and transparent process. Depending on the value of the items, the appropriate Tender Review Boards, made up of independent third parties review and approve the procurement process validating the recommendations per the criteria set in the tender document. This validation serves to shed light unto the process as the darkness that might arise from an evaluation committee recommending the award of contract to an undeserving bidder is checked.

Contract Award and Management

The light at the contract award stage emanates from the fact that the basis for award is from the approval granted by the Review Boards and the fact that details of the contract award including contract sum, recommended tenderer is posted on the PPA portal. At the contract management stage, the contract is monitored to ensure that delivery is made in line with the documented contractual terms defined based on decisions taken at the preceding stages. Post-delivery inspection ensures that goods, works and services supplied conform to requirements, prior to acceptance by the procuring entity.

At the payment stage, the three-way match between Purchase Order, Invoice and Goods Received Notes (or appropriate documents to represent these three) sheds light on the process to ensure that public money pays for only what was contracted and received.

Conclusion

Yes, there are challenges with the established procedures that must be addressed, yet from the foregoing, it is obvious that the adoption of proper procurement processes as set out by Act 663 introduces transparency (light) along the cycle of public procurement thereby facilitating the elimination of corruption. It is time for procurement professionals and practitioners to arise with the torch of established procurement processes in hand to light the path of public procurement in Ghana and see the darkness of corruption flee. With all that is going on at the Public Account Committee of Parliament, Ghana can no longer wait!

Miriam Darke (Mrs)

Volta River Authority



CORRUPTION ALONG THE PUBLIC PROCUREMENT CYCLE



Introduction

In order to carry out its functions, government needs to purchase goods, services and works.

This government (including State Owned Enterprises and Sub-vented agencies) activity is referred to as public procurement (or as government procurement or government contracts or public contracts). The procurement of photocopy paper, information technology (IT) equipment or medical devices, the provision of health services or consultancy services, the construction of a road or an airport terminal, are just a few examples of government spending through public procurement.

In Ghana, 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 some-times 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 soci-

ety as a whole. (<http://ppaghana.org/documents/Bulletins/PPAE-BulletinJulAug2013Final.pdf>).

There is no single accepted definition of corruption, as it tends to mean different things to different people at different times, a contextual definition which basically defines corruption as the abuse of office for personal gain. According to Transparency International, corruption is the abuse of entrusted power for private gains. 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.

It is the sheer volume involved in public procurement that makes it so vulnerable to corruption.

In fact, public procurement is estimated to account for 15-30 per cent of the gross domestic product (GDP) of many countries. This means that thousands of billions of dollars are spent by governments every year to purchase different kinds of goods, services and works. Although the costs of corruption are difficult to meas-

ure, due to its clandestine nature, it is obvious that corruption in public procurement has an enormous negative impact on government spending. These costs arise in particular because corruption in public procurement undermines competition in the market and impedes economic development. This leads to governments paying an artificially high price for goods, services and works because of market distortion. Various studies suggest that an average of 10-25 per cent of a public contract's value may be lost to corruption. Applying this percentage to the total government spending for public contracts, it is clear that hundreds of billions of dollars are lost to corruption in public procurement every year.

The seriousness of the problems and threats posed by corruption and its effects on sustainable development, the United Nations General Assembly passed a resolution for a convention against corruption that called for the need to fight corruption in public procurement by providing under article 9 that "Each State Party shall in accordance with the Fundamental principles of its legal system take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia in preventing corruption."

A TYPICAL PROCUREMENT PROCESS AND EXPOSURE TO CORRUPTION:

Public procurement can be characterized as a process flow starting with procurement planning preparation of solicitation documents, advertising, invitation to tender, prequalification, tender evaluation (broken down further into technical and financial evaluation), post-qualification, contract award and contract implementation. Each link in the chain is potentially vulnerable to corruption in some form or another.

Identification of needs and design of tenders:

Different preparations take place before launching a tender. Identification of needs and the design of tender are known to be vulnerable to corruption as there are many opportunities for manipulation. Furthermore, corrupt acts that will occur later can be planned at that stage. For instance, exchanges and discussions at this initial stage may lead to the disclosure of confi-

dential bid information. Exchanges between project designers and intermediaries, involving the public bodies which provide or obtain funds for the project(s), may have an impact on the planning of public works and can lead to the introduction of inaccurate policy requirements.

During the planning period, hidden mistakes and fictitious positions can be built into the project calculation and designs, affecting the terms of reference, which leaves openings that can later be used to conveniently account for increased costs, influence the selection process or the selection. The briber (person offering the bribe) and the bribe (person being bribed) may for instance decide to: (i) limit the time frame for the tendering process, (ii) Use specifications that preclude competitive bidding, (iii) Select additional fictitious bidders or ones unlikely to submit competitive bids, (iv) Plan a very low bid price and include "hidden" possibilities to expand the contract at a later stage to recover the economies for the vendor, etc.

Selecting Tenderers: Fraud in the selection of tenderers may occur, with unqualified or untested companies being licensed to be a vendor or a bidder. This may result from various shortcomings. The participation criteria may be excessively selective, specifying features that are provided by only a few businesses. These features may or may not be relevant to the project. Unclear or ambiguous clauses may be included or insufficient explanations given as to the tendering arrangements. Any of these defects could result in the exclusion of a large number of bidders; the contract can then be awarded to those familiar with the clauses and conditions. When no tenders have been made in the public procedure, due to various types of built-in subterfuges, tendering authorities will resort to a private treaty, which provides a greater discretion.

To Be Continued

Ebenezer Essilfie-Baiden

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Ministry of Finance



Tendering and contract Information for periods indicated

[Tendering Opportunities for Mar - Apr 2016](#)

[Contracts Awarded for Jan - Dec 2016](#)

[Restricted Tender Awards Jan - Dec 2016](#)

[Expression of Interest Requests Mar - Apr 2016](#)

[Pre-Qualification Requests Mar - Apr 2016](#)

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



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