

## An Assessment of the Impact of the Public Procurement Act 663 (2003) of The Republic Of Ghana, Approaching A Decade Of Its Enactment

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### Abstract

The Public Procurement Act ever since its enactment about a decade ago has received mixed reactions from key stakeholders. Whilst some see it as a panacea to the numerous problems that bedevil public procurement in Ghana, others too see it as inadequate and lacking the needed punch to curb the various ethical concerns that characterize the sector. The time was due after nearly a decade of its enforcement to wholly assess the impact of the Public Procurement Act of the republic of Ghana. The research relied on both primary and secondary data. The targeted population was 70 which included the staff and managers of the procurement department, store officers, senior staff, head of department and personnel who constitute the Lower Manya Krobo district assembly procurement board. A sample size of 50 was chosen with the purposive sampling technique. It was found out that the benefits derived from using the Public Procurement Act, 2003 (Act 663) include the assurance of quality goods, timely delivery of goods, right delivery of right quantities, transparency, reduced corruption, value for money, right price is given and right place of delivery is assured, uniformity in performing procurement activities, economic and efficient use of state resources and harmonize public procurement processes in the district assemblies and also greater efficiency. Public Procurement Act, 2003 (Act 663) comes with some benefits to district assemblies. The following difficulties were also revealed from the research; difficulties in applying and implementing the Public Procurement Act, 2003 (Act 663), lack of usage flexibility, lack of authority to dispose public assets, the lack of independent procurement auditing function, no central body with technical expertise and also threshold are too small for entities like a district assembly in case of emergency situation. The Public Procurement Act has been largely effective. However, it needs to be amended to include provisions for electronic procurement. This will improve transparency, accountability, and compliance within public procurement systems. This will mean the amendment of the current Act.

**Key words:** Public Procurement Act, Public Procurement, Procurement Law

### 1.0 INTRODUCTION

Public procurement is the process by which government departments or agencies purchase goods, works and services from the private sector. It takes place at both national and regional level. The procurement process will usually be subject to specific rules and policies covering how the relevant decisions are made. Depending on local laws, the relevant government officials will have to follow a set system for public procurement. This system could cover the way they advertise suppliers, the grounds on which they choose a supplier and the way in which they measure and enforce the requirements they put on the supplier. The usual aims of such a system will be to take advantage of competition between suppliers and to reduce the risk of corruption. The public procurement Act brings out the guidelines that must be followed in the procurement of goods, works and services. The procurement Act (Act 663) is constitutionally approved and it is used in all public sector organizations to help promote transparency and accountability. Public procurement Act (Act 663) is document that spells out the procedures that all public sector organizations must go through before acquiring goods, works or services above a certain minimum amount. It could be explained as a method of acquiring goods, works and services with the use of public funds or money.

## 2.0 THEORETICAL BACKGROUND

Procurement does not just relate to ‘buying things’ but covers the whole process from the initial identification of need for a good or service, through selecting a supplier or partner, receiving the goods or service, managing a contract, achieving the benefit expected, to finally getting rid of an asset or ending a contract. It is very necessary for every entity to engage in procurement to enhance productivity as well as equipping the skills and technical know how employees. *Public procurement* is the process by which government departments or agencies purchase goods and services from the private sector. It takes place at both a national and regional level. The procurement process will usually be subject to specific rules and policies covering how the relevant decisions are made. Procuring is the act of acquiring or obtaining something; hence it is a general activity of mankind. Procurement is a process of obtaining goods and services in any way, including borrowing, leasing and even force or pillage. Per this definition, we can say that procurement is the process or direction of acquiring goods, services, works and consultancy by putting in the necessary effort. Procurement is the process of buying supplies or equipment for a government department or a company or the process of obtaining something, especially with effort or difficulty. This process is the life wire of every organization-private and public sectors.

### 2.1 Concept of Procurement

Procurement is a major function of any organization. Procurement to obtain goods, service and works are governed by; quality, quantity, time, price, source and place. The volume and scope of procurement vary from organization to organization however; the principles and procedures are basically the same. It is therefore important to understand the application of principles and procedures at all levels. According to the procurement manual, procurement is a function responsible for obtaining resources (equipment, logistics, materials, supplies and services) required by an organization to fulfil its core business and development programme. This may be done by purchase, lease or other legal means. (Manu, 2009)

Procurement is a major function of any organization. Procurement to obtain goods, services and works are governed by quality, quantity, time, price, source and place. The volume and scope of procurement vary from organization to organization however; the principles and procedures are basically the same. It is therefore important to understand the application of principles and procedures at all levels. However, this research will concentrate on procurement in the public sector. Public procurement is an action or a process of acquiring or obtaining material property or service at the operational level, for example, purchasing, contracting, and negotiating directly with the source of supply. Public procurement can also be said as the process of acquiring goods, works, and services by an organization using public funds or money. Public procurement plays a prominently important role in the acquisition and delivery of goods, works, and services to end user organization, groups, and individuals. Studies have shown that public procurement represents about 24% of total import of Ghana and from personnel emolument, it represent between 50% to 70% of the national budget.(Dominic Tano, Crown Agent Ghana, 20<sup>th</sup> November 2009).

The contribution public procurement makes to the government and the countries gross domestic product (GDP) is about 14%, this in no doubt explains why management of public procurement needs to be done with a dint of professionalism. (CEO of PPA, Miklin Hotel, Accra, 21<sup>st</sup> May 2007).

### 2.2 Public Procurement Principles

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

Due to these facts, the Government of Ghana deemed it important and enacted the public procurement Act 2003, (Act 663) spelling out the procedures that must be followed in acquiring goods, works, and services for public consumption. (Manu, 2009)

### 2.3 Professionalism

Professionalism is a discipline whereby educated, experience and responsible procurement officers make informed decisions regarding purchased operation.( Asare & Bentum, 2009) The role of procurement professionals is critical to Ghana’s economic development. It is in this recognition of this fact that procurement boards objectives; include the professional development, promotion and support for individuals engaged in public procurement and ensure adherence by the trained to ethical standards.

#### **2.4 Significance of Public Procurement Act 2003 (Act 663)**

The relevance of public procurement in the country since the institution or enactment of the public procurement Act 2003 (Act 663) cannot be overemphasized since it contributes substantially to its GDP. Before the enactment of the procurement Act 2003, (Act 663), the statutory basis for public procurement in Ghana was unclear, a situation which dented confidence in government business. (Dominic Tano, Crown Agent Ghana, 20<sup>th</sup> November 2009). In other words, the public procurement system before the passage of the Act was and characterized by inadequate procurement policy, strategy, structure and process. (Ayuure Kapini Atafori, stateman, 30<sup>th</sup> April 2007, in an article titled: “public procurement Board: Achieving Transparency and cost effectiveness”)

#### **2.5 Promulgation of the Act**

The government of Ghana embarked on procurement and financial management reforms for the public sector in 1996. As consequence of these reforms, the public procurement Act 2003, (Act 663) was promulgated in order to streamline and harmonize procurement rules, regulations and practices in the public sector. The objective of the improved public procurement and financial management system were better economy, efficiency, accountability and transparency. It is expected that the reported corrupt practices in the procurement of goods, works and services would be curbed and the capacity of the government of Ghana enhanced. At the same time, the government of Ghana to provide needed essential services for the people of Ghana enhanced. At the same time, the government would be enabled to fulfil its long term strategies of economic growth and poverty reduction. In short, Act 663 was designed to ensure judicious, economic, and efficient use of limited state resource. (Asare & Bentum, 2009)

#### **2.6 The Public Procurement Authority**

Under the Act, the public procurement authority (PPA) was established to champion the quest for procurement excellence in Ghana. To be effective and efficient, the secretariat of the PPA has been structured to include eight (8) department namely; legal, public affairs, policy and strategy, capacity development, monitoring and evaluation, management information system, finance and internal audit. Since its implementation in 2004, the country public procurement system has been doubted by the world Bank and other international agencies and countries as a model in Africa for significant success it has achieved.

As part of its mandate under the Act, the public procurement authority (PPA), the apex body with the oversight responsibility of public procurement in Ghana, has develop regulation and manuals that provide detailed and step by step information as a guide for effective implementation of the Act. To meet international standard and best practices; and to ensure cost effectiveness and transparency, web-based procurement planning software that seek to standardized the formats of entities to ensure timely delivery and receipt of procurement plans has also been developed. (Attah-Kofi, 2010)

#### **2.7 The Public Procurement Module of Excellence (PPME)**

In May 2006, the PPA launched the public procurement module of excellent (PPA) tool with the objectives of monitoring compliance of the Act. The tool provides result on the level of performance of procurement entities and institutionalizes the assignment process in the public sector. The tool has been used to assess more than 200 entities, and so far, the result show significant progress in the performance of public procurement in Ghana. In the quest to support and develop local business, the Act has made provision for margin of preference. The guidelines for the application for the margin of preference, tailored and applicable goods, works and services procured under international competitive bidding, has been launched. These margins are supposed to give preference to local suppliers and contractors in the competition with their foreign counterparts. (Ansah, 2008)

### **3.0 METHODOLOGY**

#### **3.1 Respondents**

The target population was the staff and managers of the procurement department, store officers, senior staff, head of department and personnel who constitute the Lower Manya Krobo district assembly procurement board. Seventy (70) people constituted the target population. Data collected was inductively explained to represent the situation. The sample size for the study was fifty (50) out of the total population of seventy (70). The sample size was to aid the researchers do an in depth research about the effectiveness of the public procurement Act, 2003 (Act 663) and its usage or implementation in the Lower Manya Krobo district assembly. The sample size was made up of staff and managers of the procurement office, store officers, senior workers, head of department and personnel's who make up

the Lower Manya Krobo district assembly procurement board. The purposive sampling technique was employed to select only those with category knowledge for the interview. To make the result free from bias, the simple random sampling was used to select workers in the various categories.

### 3.2 Instrument

Participants were asked to evaluate the importance of variables relating to the importance of the public procurement act, identified from the literature and personal interviews, by making five choices for every one of the variables: “extremely important” for the variables which were considered to have the highest importance to the public sector and “not important” for the variables considered to having no influence on the sector.

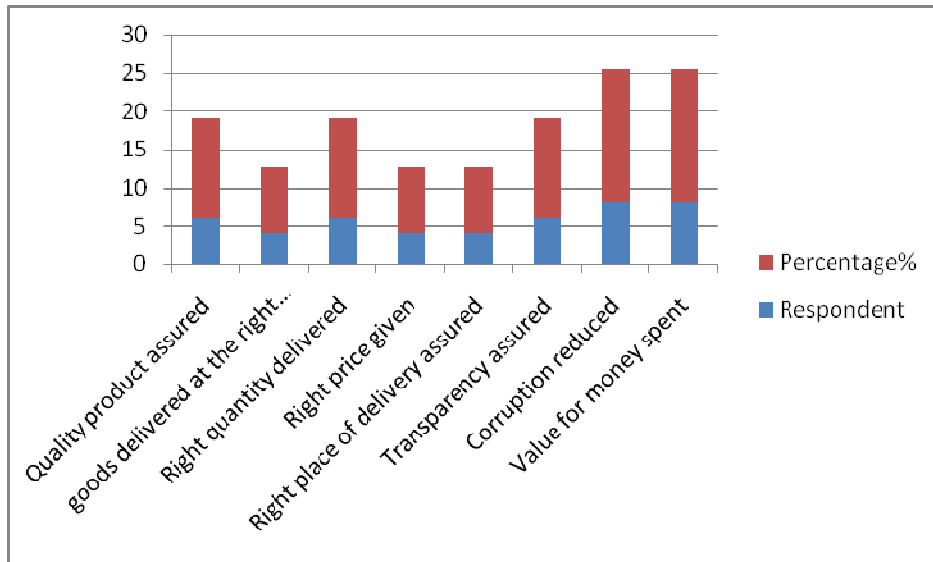
## 4.0 DATA ANALYSIS, RESULTS AND DISCUSSIONS

**Table 4.1: Benefits derived from using the public procurement Act, 2003 (Act 663)**

<b>Benefit</b>	<b>Respondent</b>	<b>Percentage%</b>
<b>Quality product assured</b>	<b>6</b>	<b>13</b>
<b>goods delivered at the right time</b>	<b>4</b>	<b>8.7</b>
<b>Right quantity delivered</b>	<b>6</b>	<b>13</b>
<b>Right price given</b>	<b>4</b>	<b>8.7</b>
<b>Right place of delivery assured</b>	<b>4</b>	<b>8.7</b>
<b>Transparency assured</b>	<b>6</b>	<b>13</b>
<b>Corruption reduced</b>	<b>8</b>	<b>17.4</b>
<b>Value for money spent</b>	<b>8</b>	<b>17.4</b>
<b>Total</b>	<b>46</b>	<b>100</b>

Source: Field Survey (June 2012)

**Figure 4.1: Benefits derived in using the public procurement Act, 2003 (Act 663)**



**Source: Field Survey (June 2012)**

Table 4.1 and figure 4.1 outline the benefits derived by Lower ManyaKrobo District Assembly in using the Public Procurement Act, 2003 (Act 663).

First and foremost, six(6)of the respondents of the total sample size of fifty (50) which represent (13%) were of the view that one of the benefit derived in using the Public Procurement Act, 2003 (Act 663) is that quality product are assured.that is suppliers deliver to the assembly goods or works that are of no defect or that fit to their purpose.

Furthermore, four(4) of the respondents of the total sample size of fifty (50) which represent (8.7%) were of the view that one of the benefit derived in using the Public Procurement Act, 2003 (Act 663) is delivery at the right time. This means that goods,works and services are delivered as and when needed by Lower ManyaKrobo District Assembly.

Another six(6)of the respondents of the total sample size of fifty (50) which represent (13%) were also of the view that one of the benefit derived in using the Public Procurement Act, 2003 (Act 663) is right quantity delivered. With this the quantity of goods ordered by Lower ManyaKrobo District Assembly is always delivered by the suppliers without any shortage.

Again, four(4) of the respondents of the total sample size of fifty (50) which represent (8.7%) asserted that one of the benefit derived in using the Public Procurement Act, 2003 (Act 663) is right price. This means that the value of the goods, works and service conform to the price given by the suppliers.

Moreover, four(4) of the respondents of the total sample size of fifty (50) which represent (8.7%) also asserted that one of the benefit derived in using the Public Procurement Act, 2003 (Act 663) is right place of delivery. This means that suppliers deliver the goods, works and services at the stated place of delivery.

Additionally, six(6)of the respondents of the total sample size of fifty (50) which represent (13%) were also of the view that one of the benefit derived in using the Public Procurement Act, 2003 (Act 663) is transparency. This means that due to the accountability of people responsible for procuring, there is always some amount of fairness which brings about transparency.

More so, eight(8)of the respondents of the total sample size of fifty (50) which represent (17.4%) also asserted that one of the benefit derived in using the Public Procurement Act, 2003 (Act 663) is reduction in corruption. This means that the level at which people use public purse to make money is reduced.

Furthermore,eight(8)of the respondents of the total sample size of fifty (50) which represent (17.4%) also asserted that one of the benefit derived in using the Public Procurement Act, 2003 (Act 663) is value for money spent. This is optimum combination of a whole life cost and quality to meet customer’s requirements. The objective of the Act is “to secure a judicious, economic and efficient use of the state resources in the public procurement.

The analysis done in table 3 and illustrated in figure 3 with regards to benefit derived by Lower ManyaKrobo District Assembly in using the Public Procurement Act, 2003 (Act 663) in procuring goods, works and services conforms to the existing literature, the proof of this statement can be found in the procurement manual 1.6 of page 12.

**Table 4.2: Difficulties encountered in using the PPA, 2003 (Act 663)**

Difficulties	Respondent	Percentage %
<b>Difficult in its application</b>	<b>6</b>	<b>13</b>
<b>Not flexible</b>	<b>4</b>	<b>8.7</b>
<b>Difficulty in it implementation</b>	<b>4</b>	<b>8.7</b>
<b>No authority to dispose off public asset</b>	<b>10</b>	<b>21.7</b>
<b>lack of independent procurement authority</b>	<b>6</b>	<b>13</b>
<b>Inadequate thresholds</b>	<b>10</b>	<b>21.7</b>
<b>Lack of central technical expertise</b>	<b>6</b>	<b>13</b>
<b>Total</b>	<b>46</b>	<b>100</b>

**Source: Field Survey (June 2012)**

Table 4.2 outline the difficulties encountered by Lower ManyaKrobo District Assembly in using the Public Procurement Act, 2003 (Act 663).

First, six(6)of the respondents of the total sample size of fifty (50) which represent (13%) were of the view that one of the difficulties in using the Public Procurement Act, 2003 (Act 663) is difficulty in its application. This is because, if they want to procure when there is emergency they cannot procure, since they have to follow or go through the necessary procedures before procuring.

Moreover, four(4) of the respondents of the total sample size of fifty (50) which represent (8.7%) were of the view that one of the difficulties in using the Public Procurement Act, 2003 (Act 663) is that there is no flexibility. This is because, Lower ManyaKrobo District Assembly cannot procure by making ones and adjustment in the Act (Act 663) this makes the use of the public procurement Act, 2003 (Act 663) so rigid.

Again, four(4) of the respondents of the total sample size of fifty (50) which represent (8.7%) asserted that one of the difficulties in using the Public Procurement Act, 2003 (Act 663) is difficulty in its implementation. This is because; before the Lower ManyaKrobo District Assembly procures they have to go through various processes before they can procure.

Also, ten(10) of the respondents of the total sample size of fifty (50) which represent (21.7%) asserted that one of the difficulties in using the Public Procurement Act, 2003 (Act 663) is that there is no authority in disposing off public asset. According to part VIII of the Public Procurement Act, 2003 (Act 663) an organization cannot dispose off public asset if they are not given the authority to do so.

More so, six(6)of the respondents of the total sample size of fifty (50) which represent (13%) were of the view that one of the difficulties in using the Public Procurement Act, 2003 (Act 663) is lack of independent procurement authority. Here the respondents were of the view that the Lower ManyaKrobo District Assembly cannot procure goods, works and services on its own without using the public procurement board as well as following the Public Procurement Act, 2003 (Act 663).

Also, ten(10) of the respondents of the total sample size of fifty (50) which represent (21.7%) asserted that one of the difficulties in using the Public Procurement Act, 2003 (Act 663) is that there is inadequate threshold. This becomes a problem in the sense that it is a district assembly and the stated thresholds are too small for the district, since the smaller villages and towns within the district assembly depend on them for their equipment for work.

Finally, six(6)of the respondents of the total sample size of fifty (50) which represent (13%) were of the view that one of the difficulties in using the Public Procurement Act, 2003 (Act 663) is lack of central technical expertise. The respondents mentioned that although the district has a procurement board, only few members of this board are technical experts that is those from the procurement unit and stores department and the remaining are other

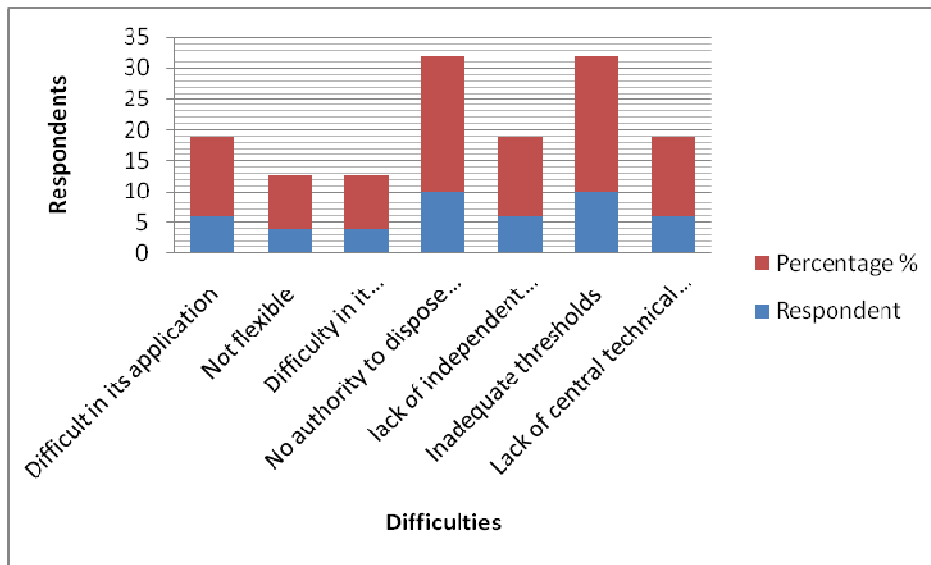
senior officers and the District Chief Executive officer who do not have any technical knowledge in procuring of equipment.

This analysis done in table 4 and illustrated in figure 4 with regards to difficulties encountered by Lower ManyaKrobo District Assembly in using the Public Procurement Act, 2003 (Act 663) in procuring goods, works and

services does not conform to existing literature, the problem in using the Act, 2003 (Act 663) may vary from one district assembly to another.

The above difficulties explained in table 4 can be illustrated with the figure below

**Figure 4.2: Difficulties encountered in using the PPA, 2003 (Act 663)**



Source: Field Survey (June 2012)

**Table 4.3: Improving the Public Procurement Act**

Areas of Improvement		Frequency	Percent
Valid	The use of E-procurement	30	60
	Severe punishment for non-compliance	20	40
Total		50	100.0

Source: Field Survey (June, 2012)

On the ways to improve the procurement act, 30 respondents representing 60 percent of the total respondents indicated the use of electronic procurement and 20 respondents representing 40 percent of the total respondents indicated instituting severe punishment for those who do not comply with the provisions of the Act.

### Conclusion

The Public Procurement Act has been largely effective. However, it needs to be amended to include provisions for electronic procurement. This will improve transparency, accountability, and compliance within public procurement systems. This will mean the amendment of the current Act. The Public Procurement Authority needs to intensify education on the Act.

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