

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY

COLLEGE OF ARCHITECTURE AND PLANNING

DEPARTMENT OF BUILDING TECHNOLOGY

KNUST

**THE LEVEL OF COMPLIANCE WITH THE TRANSPARENCY
PROVISIONS IN THE PUBLIC PROCUREMENT ACT, 2003 (ACT 663)
BY THE COLLEGES OF EDUCATION IN THE ASHANTI REGION OF GHANA**



BY

OBENG LARBI, BALTHARZZAR (REV. FR)

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B. Ed., LL.B. (Hons), BL [GH.]

A THESIS PRESENTED TO THE DEPARTMENT OF BUILDING TECHNOLOGY,
COLLEGE OF ARCHITECTURE AND PLANNING,
IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR A DEGREE OF
MASTER OF PHILOSOPHY IN PROCUREMENT MANAGEMENT

NOVEMBER, 2014

ABSTRACT

The Public Procurement Act, 2003 (Act 663) was introduced to improve financial management and judicious use of state resources. However, procurement entities in the public sector, especially the Colleges of Education, have been said to perform poorly in complying with the procurement provisions in the Act. Though transparency is one of the key objectives of Act 663, provisions which deal with it are not explicitly seen from the Act. This poses a challenge in assessing compliance by procurement entities. This study, therefore, highlights the transparency provisions and assesses the level of compliance by the Colleges of Education in the Ashanti Region of Ghana. A review of past research revealed an absence of a specific tool for assessment of the transparency provisions in Act 663. This lack was, therefore, addressed at the initial stages of the study. Tender Committees in the Colleges were then interviewed using the tool developed to ascertain the transparency provisions and questionnaires were used to collect data to measure the compliance level. The data were analysed through percentages, descriptive statistics, statistically significant tests and factor analysis using SPSS and Microsoft Excel. The study revealed that the transparency provisions in Act 663 constituted about 27% of the total provisions in the Act. Two tools, one based on parts provided for in the Act and the other based on themes identified across the various parts of the Act can be used to assess transparency. The average percentage level of compliance with the transparency provisions in Act 663 among the study population was 77.4%. The study concluded that the procurement entities in the Colleges of Education complied with the transparency provisions in Act 663 though they faced certain challenges which include high cost in advertising procurement, delays by the PPA in approving single-source procurement, low patronage of tender due to unattractive packages, and delays in procurement proceedings through ordinary mailing of correspondence. It is recommended that approval of single-source procurement should be expedited; attendance by tenderers to tender opening should be mandatory and cluster procurement should be encouraged.

DEDICATION

I dedicate this thesis to God Almighty, my wife, Mrs Lilian Florence Obeng Larbi and my lovely children, Alison, Lord Bartels and Lynnette Obeng Larbi. I also dedicate it to the entire members of Adansiman Chambers, Adum – Kumasi.

KNUST



ACKNOWLEDGEMENT

To God be the glory for His grace in all the efforts connected with this study.

My profound gratitude goes to my supervisor, Dr Bernard K. Baiden, for his directions, preparedness to read through this work, and useful suggestions in the writing of this thesis, despite his heavy schedules.

I am also grateful to the Principals and other member of the tender committees in the Colleges of Education who responded to my questionnaire and interview with willingness.

I express my sincerest appreciation to Lawyer Kwame Asiedu-Basoah, head of Adansiman Chambers, for the fatherly support he gave me during the period I undertook this course. To all members of the Chambers, I say “God bless you”.

To the staff of the Department of Building Technology, KNUST, and to my study mates, I thank you for your encouragement and willingness to share with me any relevant academic material and adding value to my good self.

Special thanks go to Rev. Fr. Yaw Barnie Poakwa and his family, and all members of my household for your support, patience and prayer in the past, present and anticipated future, to make my life whole.

May the Almighty God continue to shower His blessings on all of you and make you worthy of all His promises through His son, Jesus Christ our Lord. Amen.

TABLE OF CONTENTS

CONTENT	PAGE
DECLARATION	ii
ABSTRACT	iii
DEDICATION	iv
ACKNOWLEDGEMENT	v
TABLE OF CONTENT	vi
LIST OF TABLES	x
LIST OF FIGURES	xi
LIST OF ABBREVIATIONS	xii
CHAPTER ONE: INTRODUCTION	1
1.1 Background of the Study	1
1.2 Statement of the Problem	3
1.3 Aims and Objectives of the Study	4
1.4 Research Questions	4
1.5 Significance of the Study	5
1.6 Scope of the Study	5
1.7 Limitations of the Study	6
1.8 Organization of the Study	6
CHAPTER TWO: LITERATURE REVIEW	7
2.1 General Procurement Background	7
2.1.1 The Meaning of Public Procurement	7
2.1.2 The Legal and Regulatory Frameworks of Public Procurement	11
2.1.3 Overview of the Public Procurement Act, 2003 (Act 663)	12
2.2 The Principle of Transparency in Procurement	14
2.3 Tools for Assessing Transparency in Procurement	19
2.4 Level of Compliance with Act 663	25
2.4.1 Procurement in the Colleges of Education	25

2.4.2	Compliance Levels of Act 663 by the Colleges of Education	26
2.5	Procurement Challenges	28
2.6	Profile of the Colleges of Education	30
2.6.1	Colleges of Education Act, 2012 (Act 847)	31
2.6.2	Colleges of Education in the Ashanti Region	34
2.7	Summary of Chapter	35
CHAPTER THREE: RESEARCH METHODOLOGY		37
3.1	Philosophical Considerations	37
3.1.1	Ontological Consideration	37
3.1.2	Epistemological Consideration	38
3.1.3	Philosophical Position of the Study	38
3.2	Research Strategy	39
3.2.1	Quantitative Research	39
3.2.2	Qualitative Research	40
3.2.3	Strategy adopted in this Study	40
3.3	Research Design	41
3.4	Conceptual Framework of the Study	42
3.5	Research Process	45
3.5.1	Study Population	45
3.5.2	Sample and Sampling Technique	46
3.5.3	Data Collection Techniques and Administration	47
3.5.3.1	Interview	47
3.5.3.2	Questionnaire	48
3.6	Data Analysis and Presentation	50
3.7	Summary of Chapter	51
CHAPTER FOUR: DATA ANALYSIS AND DISCUSSION OF RESULTS		53
4.1	Transparency Provisions in Act 663	53
4.1.1	Part III: Procurement Rules	54
4.1.2	Part IV: Methods of Procurement	56
4.1.3	Part V: Tendering Procedures	56

4.1.4	Part VI: Methods and Procedures to engage the services of a Consultant	58
4.1.5	Part VII: Review	59
4.1.6	Part IX: Miscellaneous Provisions	60
4.1.7	Summary of the Transparency Provisions in Act 663	61
4.2	Tools for assessing Transparency in accordance with Act 663	61
4.2.1	Developing Tools for Assessment using the Baseline Indicator	61
4.2.2	Developing Tools for Assessment using the Performance Assessment System	64
4.2.3	Adopted Tool for the Study	67
4.3	Level of Compliance with the Transparency Provisions in Act 663	69
4.3.1	Background Information	69
4.3.2	Indicators of Transparency in the Procurement Process	71
4.3.2.1	Record of Proceedings	72
4.3.2.2	Giving of Notice on Records	72
4.3.2.3	Publicizing Procurement Activities	74
4.3.2.4	Advertising Procurement	74
4.3.2.5	Holding Proceedings in Public	75
4.3.2.6	Summary of Overall Response to Objective Three of the Study	76
4.3.3	Discussion of Objective Three of the Study	77
4.3.3.1	Record of Proceedings	78
4.3.3.2	Giving of Notice on Records	78
4.3.3.3	Publicizing Procurement Activities	79
4.3.3.4	Advertising Procurement	80
4.3.3.5	Holding Proceedings in Public	80
4.3.3.6	Summary of Overall Response to Objective Three of the Study	81
4.4	Procurement Challenges	81
4.4.1	Challenges in observing Transparency Provisions in Act 663	82
4.4.1.1	Record of Proceedings	82
4.4.1.2	Giving of Notice on Records	82
4.4.1.3	Publicizing Procurement Activities	83
4.4.1.4	Advertising Procurement	83
4.4.1.5	Holding Proceedings in Public	83

4.4.1.6 Summary of Challenges	83
4.4.2 Proffered Recommendations to Challenges	85
4.4.2.1 Record of Proceedings	85
4.4.2.2 Giving of Notice on Records	85
4.4.2.3 Publicizing Procurement Activities	85
4.4.2.4 Advertising Procurement	86
4.4.2.5 Holding Proceedings in Public	86
4.4.2.6 Summary of Recommendations	86
4.5 Summary of Chapter	87
CHAPTER FIVE: FINDINGS, CONCLUSIONS AND RECOMMENDATIONS	89
5.1 Overview of Research Problem and Methodology	89
5.2 Summary of Findings	90
5.2.1 Transparency Provisions in Act 663	90
5.2.2 Tools for assessing Transparency in accordance with Act 663	91
5.2.3 Level of Compliance with the Transparency Provisions in Act 663	92
5.2.4 Procurement Challenges	94
5.3 Contribution to Knowledge	96
5.4 Conclusion	97
5.5 Recommendations	98
5.5.1 Recommendations arising from the Study	98
5.5.2 Recommendations for Future Research	99
REFERENCES	100
APPENDIX A: Interview Guide	113
APPENDIX B: Questionnaires for members of the Tender Committees in the Colleges of Education in the Ashanti Region of Ghana	116

LIST OF TABLES

		Page
Table 2.1	Aggregate Compliance Levels of Entities	27
Table 2.2	Compliance Level of the Education Sector	27
Table 4.1	Summary of Transparency Provisions (TP) in Act 663	61
Table 4.2	Tools for assessing Transparency using Parts provided in Act 663	63
Table 4.3	Scoring Key for assessing Transparency (by Parts)	64
Table 4.4	Tools for assessing Transparency using Themes	65
Table 4.5	Scoring Key for assessing Transparency (by Themes)	67
Table 4.6	Tools for assessing Transparency in Act 663 (for Goods)	68
Table 4.7	Colleges of Education	70
Table 4.8	Roles of Individuals on Tender Committees	71
Table 4.9	Summary Statistics on Record of Proceedings	72
Table 4.10	Summary Statistics on Giving of Notice on Records	73
Table 4.11	Summary Statistics on Publicizing Procurement Activities	74
Table 4.12	Summary Statistics on Advertising Procurement	75
Table 4.13	Summary Statistics on Holding Proceedings in Public	75
Table 4.14	Difference in Deviation	77
Table 4.15	Factors affecting Compliance with the Transparency Provisions in Act 663	84
Table 4.16	Suggested Solutions to Challenges in complying with Transparency in Act 663	87

LIST OF FIGURES

	Page
Figure 3.1 Conceptual Framework	44
Figure 4.1 Relative Percentage Deviations of Transparency Indicators in Procurement Process	76



LIST OF ABBREVIATIONS

ARC	Administrative Review Council
CIOB	Chartered Institute of Building
CIP	Compliance/Performance Indicators
CPAR	Country Procurement Assessment Report
CPPR	Country Portfolio Performance Review
DAC	Development Assistance Committee
EBRD	European Bank for Reconstruction and Development
EMIS	Educational Management Information System
GES	Ghana Education Service
GET Fund	Ghana Education Trust Fund
IFRC	International Federation of Red Cross and Red Crescent Society
INECE	International Network for Environmental Compliance and Enforcement
LRN	Laboratory Response Network
MCN	Mother and Child Nutrition
MoE	Ministry of Education
MoFEP	Ministry of Finance and Economy Planning
NCTE	National Council for Tertiary Education
OECD	Organization for Economic Cooperation and Development
PED	Planning and Evaluation Department
PPA	Public Procurement Authority
PPB	Public Procurement Board
PPDA	Public Procurement Disposal of Assets Authority
SPSS	Statistical Package for Social Science
SRC	Students Representative Council
STD	Standard Tender Documents
TED	Teacher Education Division
TIC	Transparency International Canada
UNDP	United Nations Development Programme
WDB	Workforce Development Board

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

The Public Procurement Act, 2003 (Act 663) was introduced to improve financial management and judicious use of state resources (Arrowsmith, 2009). One of the objectives of Act 663 (Section 2 of the Act) is to ensure that public procurement is carried out in a transparent manner (Dennis, 2014). This objective runs through the components and objectives of public procurement management. Increasing transparency in the public procurement system has been an on-going concern of various governments, as well as of the international development community (Osei-Tutu *et al.*, 2011). Reforms have been instituted in public procurement processes by several countries (Hunja, 2003) aimed at promoting the concept of transparency in procurement.

Information and communication which promote transparency is one of the areas in the Performance Assessment System which is one of the methods used by the World Bank for the assessment of procurement systems to the compliance of various procurement rules (OECD-DAC and World Bank, 2004). Changes in the world economy which brought increasing interdependence and internationalization have placed transparency issues at the forefront of economic policy making. Higher transparency in public procurement is expected to increase competition for goods, works and services contracts and to increase the number of bids per tender (Adu Sarfo, 2011).

Again, transparency in public procurement improves public financial management (Anvuur *et al.*, 2006). Fiscal Transparency which assists social control is, therefore, one of the four generally accepted objectives of public financial management system (Adu Sarfo, 2011). Public financial management should, as one of its objectives, bring transparency to government activities (Shand, 2005 cited in Adu Sarfo, 2011). This is because with improved public financial management due to transparency in public procurement, it is anticipated that there will be an annual savings of around US\$150 million in procurement financed by government alone in Ghana (Anvuur *et al.*, 2006).

The World Bank principles of procurement which is imperative to be seen in all procurements include the principle of transparency. These principles of procurement are linked to transparency one way or the other. Transparency is a condition, which is necessary if value for money will be achieved (World Bank, 2003b). The purpose of accountability is to strengthen the perception of transparency (PPB, 2007). Transparency imposes predictability and, therefore, brings the principle of efficiency in policy decisions in procurement (Adu Sarfo, 2011). Transparency makes it possible to create fair procedures and to promote competitiveness (PPA, 2007). All other principles of procurement such as professionalism and ethical approach can be acknowledged only when procurement activities are transparent (Greuning, 2005).

Transparent procurement procedures help to limit bribery and corruption in both developed and developing countries (OECD, 2003 cited in Ayitey, 2012). Corruption is one of the problems discussed most of the time in this world. The Corruption Perception Index (CPI) of 2009 released by Transparency International shows that Ghana is not making any progress in the fight against corruption through the passage of legislation. The score of 3.9 CPI Ghana had in 2008 was maintained in the 2009 CPI report. This score indicates that corruption is deeply rooted in the country's procurement process (Transparency International, 2009).

According to the 2010 and 2011 Annual CPI released by Transparency International, with the CPI scores of 4.1 and 3.9 respectively, Ghana was ranked the 62nd and 69th most corrupt country respectively, out of 183 countries worldwide (Transparency International, 2012). Ghana moved to the 64th position according to the 2012 report. This means that corruption in Ghana remains a significant hindrance to effective resource utilization and efficient service delivery. Transparent procedures are, therefore, needed to limit or eradicate corruption in the country.

From the discussions supra it can be clearly seen that transparency runs through the components and objectives of, and is relevant to, public procurement management. It is, therefore, necessary to be discussed. The objective of this study was, thus, to find out the level of compliance with the transparency provisions in the *Public Procurement Act*,

2003 (Act 663) to see whether or not this important objective of the Act was being achieved.

1.2 Statement of the Problem

The Public Procurement Authority (PPA) has been authorized by Section 3(d), (e) and (h) of Act 663 to assess the performance of each procurement entity to ensure compliance with the Act. Though transparency is one of the key objectives of Act 663 provisions which deal with it are not expressly seen from the Act. There are many ways of measuring that are used to assess compliance with procurement processes (Kakwezi & Nyeko, 2010). However, no specific tool has been developed to assess transparency in itself. These setbacks pose a challenge in assessing compliance by procurement entities.

The expenditure approved by the Parliament of Ghana for all the seven sectors of her economy for the year 2013 was Ghs31,839,600,605.00. The Ministry of Education alone was allocated Ghs4,412,695,383.00 (13.85%) out of the approved expenditure (MoFEP, 2013). It is expected that the education sector, which benefits most from a well developed economy of the country, will do well to ensure that the objectives of Act 663 are achieved.

Several allegations have been leveled against procurement entities in relation to compliance with the procurement provisions in Act 663. A study conducted in the Ashanti Region by Ayitey (2012) revealed that the overall average compliance of public entities in the local government, education and health sectors was 55.22%, revealing weak management and control systems, lack of management commitment, ineffective contract management, weak procurement structures, and lack of qualified staff to effectively supervise the procurement operations of entities.

Comparing the compliance levels of the three chosen sectors by Ayitey (2012) above, it was found out that educational institutions had the worst compliance level. A total average score of 45.34% compliance level was achieved in the educational sector and especially that the educational sectors do not have functioning procurement units. The research also revealed that procurement entities in the Colleges of Education were the

entities which performed very poorly in compliance with procurement procedures within the education sector (Ayitey, 2012).

Assessment of public procurement management is defined in terms of how procurement rules are complied with (Schapper *et al.*, 2006). This study identified the transparency provisions in Act 663 and developed tools meant specifically to assess transparency in accordance with the Act. It found out the extent to which the Colleges of Education complied with these transparency provisions and the problems they encounter in complying with same including possible solutions to resolve the problems. It was believed that recommendations to resolve the poorest performing entity may be applied to all other entities to yield better compliance results.

1.3 Aim and Objectives of the Study

The aim of this study was to assess the level of compliance with the transparency provisions in the *Public Procurement Act, 2003 (Act 663)* by the Colleges of Education in the Ashanti Region of Ghana.

The specific objectives of this study were to:

- i. Identify the relevant transparency provisions in the *Public Procurement Act, 2003 (Act 663)*.
- ii. Develop tools for assessing transparency in accordance with Act 663.
- iii. Find out the level of compliance with the transparency provisions in Act 663 by the Colleges of Education in the Ashanti Region of Ghana.
- iv. Identify factors affecting compliance with the transparency provisions of Act 663.

1.4 Research Questions

In order to achieve the objectives of the study the following research questions were answered:

- i. What are the provisions on transparency in the *Public Procurement Act, 2003 (Act 663)*?
- ii. How do we assess procurement transparency in accordance with Act 663?

- iii. What is the level of compliance with Act 663 by the Colleges of Education in the Ashanti Region of Ghana?
- iv. What are the challenges associated with the compliance of the transparency provisions in Act 663?

1.5 Significance of the Study

The study provides policy makers, other individuals and groups like suppliers and contractors who have interest in the implementation of public procurement with information on the effectiveness of the Act that deals with procuring.

It serves as a tool for shaping public legal education on the need for proper procurement management and builds confidence in the procurement system. It enlightens procurement entities on rules and procedures they may not have hitherto been aware of and thereby help to resolve the procurement problems of non-compliance with the procurement procedures tagged to the educational sector of Ghana.

Complete conformance to the recommendations of this research guarantees maximum adherence to Act 663, enhances efficiency in public procurement, builds public and administrative trust as well as confidence in the public procurement system, protects public resources and grants equal opportunity for all.

Finally, the study adds to the knowledge of procurement issues as a whole and in particular mechanisms and procedures for promoting transparency in the public procurement system.

1.6 Scope of the Study

The study was limited to the procurement of goods. This was because the Colleges of Education in Ghana were more into procurement of goods than of works or service.

The study also considered the legal framework of procurement leaving out the supporting details provided by the regulatory framework. In so doing, the study was limited to the procurement of goods financed wholly or partly from public funds as captured by Section 14(1) of Act 663.

The time frame was July, 2012 to December, 2013. This was because the Colleges of Education became more independent after they had been upgraded to tertiary status effective 27th June, 2012 and collection of data was done in February, 2014.

1.7 Limitation of the Study

The low level of literacy in respect of procurement rules, regulations and procedures meant that not every person on the Tender Committees within the Colleges of Education could supply relevant information on the procurement processes. This may have discouraged some respondents from responding to the questionnaire used to collect data from the study group.

1.8 Organization of the Study

The study was divided into five chapters. Chapter one introduced the study with sub-topics arranged in seriatim: background of the study, statement of the problem, objectives of the study, the research questions, significance of the study, scope of the study, limitations of the study and organization of the study.

Chapter two dealt with the review of related literature on the subject; it examined trends and attitudes in procurement and identified gaps which this study fills.

Chapter three dealt with the methodology. This described the philosophical position of the study, research strategy, research design, the population and sample selection, research data collection instrument and administration of the instrument.

Chapter four analyzed the data which comprised data presentation, examination and description of findings.

Finally, chapter five discussed the summary of findings, recommendations and conclusions of the study.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter deals with what scholars and researchers have already written about the level of compliance with the *Public Procurement Act, 2003 (Act 663)*. The first broad area gives the general procurement background of the study. The other broad areas focus on the objectives of the study: procurement principles relating to compliance in respect of transparency (objective one), tools for assessing transparency (objective two), level of compliance with Act 663 (objective three), and procurement challenges (objective four). The chapter finally outlines the profile of the Colleges of Education.

2.1 General Procurement Background

This aspect of the literature looks at three main issues: the meaning of public procurement, the legal and regulatory framework of public procurement and overview of the *Public Procurement Act, 2003 (Act 663)*.

2.1.1 The Meaning of Public Procurement

In the ordinary sense, procurement means acquiring or obtaining something by care or effort. In its technical sense, it is the process used to obtain goods, works and services. The *Black Law Dictionary* (2009) defines procurement as the act of getting or obtaining something or bringing about something. In Ghana, the definition is broad in nature and includes the management or administration of the contractual framework. Procurement is the process of acquiring goods, works and services (PPB, 2003). It is the buying, purchasing, renting, leasing or otherwise acquiring any information, material, service, construction or construction service (*Arizona Procurement Code, 2004* cited in Lloyd and McCue, 2004). It is also the acquisition by purchase, rental, lease, hire-purchase, license, tenancy, franchise or any type of works, services or supplies or any combination up to the time a user consumes or utilizes a service as per his requirement and in line with the procurement Act and regulations of the country (PPDA, 2014).

Procurement is the acquisition of appropriate goods, works and services from an outside external source at the best possible cost to meet the needs of the purchaser in terms of quality, quantity, time and location (McGlinchey, 2014). It is the management of sustainable acquisition of goods, works and services to optimize value for money (Sarpong, 2007). It is also the organizational structure needed to design and build projects for a specific client (Masterman, 2002). Kidd (2007) defines procurement to include not only the activities or events that are carried out before and after the signing of a contract but also the general management activities associated with various contracts. It may then be said that procurement is the business management function that ensures access, identification, management and sourcing of the external resources that an organization needs or may need to fulfill its strategic objectives (Kidd, 2007).

Public procurement is the process by which government, organizations and individuals acquire goods, works and services from outside the performing organization using public, corporate or personal funds (PPA, 2007). It is the process by which government departments or agencies purchase goods and services from the private sector. It takes place at both the national and regional level, and the process is usually subject to specific rules and policies covering how the relevant decisions are made (Lister, 2014). Waara (2007) defines public procurement as any purchasing performed by any public authority within various sectors of the economy. It is the process whereby public sector organizations acquire goods, services and works from third parties (OGC, 2008). Public procurement is the procurement of goods and services on behalf of a procurement authority such as government agency (Brack, 2013). It is the buying of goods and services by government organizations (*Cambridge Business English Dictionary*, 2014).

From the foregoing, it may be concluded that public procurement is concerned with how goods, works and services are acquired at the lowest possible total cost in the right quality, quantity, time and place for the benefit or use of government, public institutions or corporations, and/or individuals through contract (PPA, 2007). It is the way in which public policies are implemented and, therefore, has an important effect on the economy and a direct impact on the daily lives of the people (Ghana Integrity Initiative, 2007). It is a comprehensive process that begins with proper procurement planning, budget

allocation, bids invitation, tender evaluation, contract award, contract management, and performance measurement, monitoring, auditing and reporting. It involves selecting a contractual framework and identifying the responsibilities of the parties involved (PPA, 2007).

Public procurement may, however, be referred to the designated legal authority to advice, plan, obtain, deliver and evaluate a government's expenditure on goods and services that are used to fulfill stated objectives, obligations and activities in pursuant of desired policy outcomes (Prier & McCue, 2009). It is a public policy tool used to translate development finance into particular economic and social outcomes (Ellmen, 2011).

Although the primary objective of procurement is the acquisition of goods, works and services on the best possible terms, it is also used as an instrument of national policies (Arrowsmith & Trybus, 2002) and to achieve the best possible value for money in procuring goods and services, and regulatory compliance (Arrowsmith *et al.*, 2000). Public procurement is used to guarantee economically efficient contracting, giving equal opportunity for all, and preserve integrity, that is, to prevent corruption, favoritism and their appearance thereof (Dekel, 2009). The objectives also include supplying an organization with a steady flow of materials and services to meet its needs and to manage inventory so as to give the best possible service to users at the lowest cost and protect the government's cost structure (Barly, 1994 cited in Adu Sarfo, 2011). Other specific objectives of public procurement are to achieve economy and efficiency in both public and private sector operations; achieve transparency and accountability in public administration; and to ensure that public sector contracts are awarded on the basis of open competitive tenders (EBRD, 2013).

For procurement to achieve its objectives, it should follow the principles: Professionalism which is the discipline whereby educated, experienced and responsible procurement officers make informed decisions regarding purchase operations (Adjei, 2006; PPA, 2008); Competitiveness: the active encouragement of greater suppliers to participate in the tendering process through advertising, sourcing review, prequalification and transparent procedures (EBRD, 2013); Ethical Approach: This principle deals with the

need for an exemplary approach to all procurement processes that cannot be questioned or criticized (Transparency International, 2009); Fairness: showing consideration and impartiality at all stages of the procurement process, especially demonstrating equality in tender evaluation (Adu Sarfo, 2011); Transparency: The procurement process needs to be open enough to avoid giving competitive bidders advantage over one another (Sarpong, 2007); and Value for money: It is the best or most favourable combination of whole-life cost and quality to meet the customers' requirements (World Bank, 2003b).

These principles are in line with the World Bank's principles of procurement and it is essential to see these principles in all procurements. Any procurement which does not make use of these principles is not in the interest of the nation and should not be considered as a good procurement (Adu Sarfo, 2011). The principles of procurement are linked to transparency one way or the other. Transparency is a condition, which is necessary if value for money will be achieved (World Bank, 2003b). The purpose of accountability is to strengthen the perception of transparency (PPB, 2007). Greater focus on external accountability can lead to improved governance. In this context transparency mechanisms, among others, have been emphasized (Ahmad, 2008). Transparency imposes predictability and, therefore, bringing the principle of efficiency in policy decisions in procurement (Adu Sarfo, 2011). Transparency makes it possible to create fair procedures and to promote competitiveness (PPA, 2007). All other principles of procurement such as professionalism and ethical approach can be acknowledged only when procurement activities are transparent (Greuning, 2005).

With respect to this study, procurement management is defined as the process by which the Colleges of Education in the Ashanti Region of Ghana acquire goods using government, donor agencies and/or internally generated funds. The principle of transparency is the focus of this study. The study found out how the Colleges of Education have been complying with this principle to ensure that the objectives of the Public Procurement Act of Ghana were achieved.

2.1.2 The Legal and Regulatory Frameworks of Public Procurement

The legal and regulatory frameworks of public procurement include the *Public Procurement Act, 2003 (Act 663)*, the Public Procurement Regulations, Guidelines, Standard Tender Documents and Public Procurement Manual (PPB, 2003).

Act 663 was passed by the Parliament of Ghana to provide a comprehensive legal regime to harmonize and safeguard public procurement (Ayitey, 2012) and to bring sanity and conformity to public procurement by instituting bodies and principles that harmonize the public procurement process and activities (Dabaga, 2013). It establishes the Public Procurement Board, now Public Procurement Authority, as a regulatory body and specifies the functions of the Tender Committees, the Tender Review Boards and the Procurement Entities (Parts I and II; Quaynor, 2009). It specifies or outlines rules for procurement methods, procedures for tendering, appeals by tenderers and disposal of stores (Parts III to VIII and Section 85). As Dabaga (2013) puts it, Act 663 establishes guidelines, principles and tender committees to take charge of its objects, and has establish the Public Procurement Board to harmonize the process of public procurement in the public sector. The Act defines offences under the Act and applicable penalties (Sections 89(4), 92, 93 and 97(3)). It also specifies thresholds which require regular updating in schedules to the Act (Section 94 and Schedule 3 to the Act) and authorizes the issue of Regulations that can be enforced just as under the Act (Section 97(1) and (2)).

The Public Procurement Authority is the central body for policy formulation on procurement with oversight responsibility for the process (Dabaga, 2013). Training is an important function of the Authority (Section 3). The Tender Review Boards are mostly technical people who have enough knowledge of what is being procured. They are also the advisory bodies which help the Committees to review the management (Section 20 and Schedule 2) (World Bank, 2013). However, they only come in when the threshold is at the sealing (Section 21 and Schedule 3).

The Public Procurement Regulations are issued by the Minister of Finance in consultation with the Public Procurement Authority under Section 97 of Act 663. They contain

detailed rules and procedures for all aspects of the procurement system including the operations of the Public Procurement Authority and the Procurement Entities, as well as the conduct of procurement activities (PPA Regulation, 2006; Ayitey, 2012).

The Public Procurement Guidelines are issued by the Public Procurement Authority under Act 663 (Dabaga, 2013). They provide supplementary guidance on specific topics such as single source procurement, margins of preference, disposal of stores, plant and equipment, framework contract agreements, and sustainable public procurement, among others. Further guidelines are issued as and when they are required (PPB, 2003).

Standard Tender Documents (STDs) are issued by the Public Procurement Authority for the use by procurement entities in accordance with Schedule 4 to Act 663 (PPA STD, 2010). They contain standard invitation and contract documents for the procurement of all values (Ayitey, 2012) from tender documents to request for quotations. They include separate standard tender documents for goods, works and services (PPB, 2003).

Public Procurement Manual is issued by the Public Procurement Authority. It provides practical guidance and step-by-step procedures to assist procurement entities to undertake procurement in accordance with Act 663. It contains standard forms to assist with procurement record keeping (PPB Manual, 2006).

The regulatory framework (which is the Regulations, Guidelines, STDs and Manual) lends support to the legal framework (that is, the Act). The study considered the legal framework and left the supporting details provided by the regulatory framework.

2.1.3 Overview of the *Public Procurement Act, 2003 (Act 663)*

By Section 14(1) of Act 663, the Act applies to procurement financed from public funds wholly or partly. It also applies to goods, works and services and contract administration. Furthermore, it applies to disposal of public stores and equipment and applies also to procurement financed by funds or loans taken by the government, including foreign aid funds (Ayitey, 2012).

The Act, however, does not apply where the Minister of Finance decides that alternative procedures are in the national interest (Section 14(1)(a)). It does not also apply where a loan or funding agreement specifies alternative procedure, for example, some aid agreement (Section 96). In addition, the Act does not apply to stores management or distribution (Part VIII, that is, Sections 83 and 84; Affotey-Walters, 2007).

The Act, per Section 14(2), applies to the central management agencies; government ministries, departments and agencies (MDAs); subvented agencies; governance institutions; state owned enterprises when using public funds; public universities, schools, colleges and hospitals; the Bank of Ghana and financial institutions owned or majority owned by the government; and institutions established by the government for the general welfare of the public (Quaynor, 2009).

The Act comprises 99 sections divided into nine (9) parts. Part I establishes the Public Procurement Board, now Public Procurement Authority (Sections 1 to 13). Part II deals with procurement structures by the establishment of Entity Tender Committees and Tender Review Boards (Sections 14 to 20; World Bank, 2013). Part III deals with procurement rules (Sections 21 to 34; Affotey-Walters, 2007). Part IV is about methods of procurement and specifies in clear terms the laws for procurement methods and thresholds (Sections 35 to 43; Barikisu, 2012). Part V deals with tendering procedures (Sections 44 to 65; Affotey-Walters, 2007): this part is further divided into three (3) sub-parts. Sub-part I is on invitation of tenders and applications to prequalify (Sections 44 to 51); Sub-part II is about submission of tenders (Section 52 to 55); and Sub-part III concerns evaluation and comparison of tenders (Sections 56 to 65; Barikisu, 2012). Part VI deals with methods and procedures to engage the services of consultants (Sections 66 to 77). Part VII is about reviews, that is, appeals and complaints resolution procedures (Sections 78 to 82). Part VIII, which has only two sections (Sections 83 and 84) deals with disposal of stores, plant and equipment (Affotey-Walters, 2007). The last part (Part IX) concerns miscellaneous provisions (Sections 85 to 99). It authorizes the issuance of enforceable regulations, Guidelines, Standard Tender Documents (STDs) and Manual under the Act (PPA Regulation, 2006; Ayitey, 2012).

The study found out how the Entity Tender Committees in the Colleges of Education, which is subjected to the Act, procure goods financed wholly or partly from public funds, applying the various procurement rules, methods of procurement, tendering procedures and review provisions provided by the Act to procure and/or dispose of stores, plants and equipment. The provisions to be considered in the Act were directed at the principle of transparency in procurement management.

In summarizing this section (Section 2.1), public procurement is defined, in this study, as the process by which the Colleges of Education in the Ashanti Region of Ghana procure goods financed wholly or partly from public funds, applying the various procurement rules, methods and procedures in Act 663. The principle of transparency is the focus of this study. The study found out how the Colleges of Education have been complying with this principle to ensure that the objectives of the Public Procurement Act of Ghana were achieved. The study considered the legal framework and left the supporting details provided by the regulatory framework.

2.2 The Principle of Transparency in Procurement

This section deals with the procurement principles relating to compliance in respect of transparency. The section reviews literature in respect of the first objective of the study, that is, to identify the transparency provisions in the *Public Procurement Act, 2003 (Act 663)*. The objective of this section is to find out the meaning and indicators of transparency.

According to the *Longman Dictionary of Contemporary English* (2007), “transparency” means the quality of being easy to understand or know about or being clear and about which there is no doubt. Thus, transparency in procurement means the act of making activities within procurement very visible so that the activities are clear, understandable and without doubt.

Transparency has, therefore, been defined by various scholars in the light of the above meaning. According to Osafo-Marfo (2003), transparency means information on decisions taken is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that those decisions taken and their

enforcement are done such that they follow rules and regulations. It, again, means that as much information as needed is provided and that it is provided in forms and media that are easy to understand.

Transparency has also been defined as a principle that allows those affected by administrative decisions, business transactions or charitable works to know the basic facts and figures and also the mechanisms and processes (OECD & World Bank, 2007).

Greuning (2005) also states firmly that transparency refers to the principle of creating an environment wherein information on existing actions, conditions and decisions are made accessible, understandable and visible to all individual participants. Transparency, again, means promoting accountability and better governance (Ahmad, 2008). The general public will be able to effectively monitor public sector institutions and, for that matter, poor decisions will not go unnoticed and/or unquestioned. It forces the public sector and institutions to make quality decision, especially if they know they will have to justify their actions, decisions and views afterwards, and leads to more efficiency in the public sector (Greuning, 2005; Adu Sarfo, 2011).

Transparency refers to the actions of government being visible rather than secret or hidden (TIC, 2005). Its underlying premise relates to ethics and accountability, which suggests that things should not only be done right but must also be seen to be so done (Ahmad, 2008; PPB, 2007). The government in their day-to-day practice must create a culture of making it easy for their activities to be seen. Those who make decision are expected to follow due procedure and record, and for accountability purpose, make known the reasons for a particular decision (Baa-Ennumh, 2009 cited in Adu Sarfo, 2011)

Transparency requires the government to make the necessary provisions to ensure that information by the public can have a feedback effect on the activities of government. This is because transparency empowers the public to put pressure on government to deliver services effectively (Deolalikar & Jha, 2013). Transparency improves governance through increasing citizen participation. It has been recognized as a means of ensuring an informed citizenry and for pursuing a collective vision (TIC, 2005). Empowered citizens

and communities can hold the government and service providers accountable for the delivery of basic quality services of legally enforceable rights such as the right to food, employment, health and education. The guarantee of these rights without adequate provisions in the budget is meaningless (Deolalikar & Jha, 2013).

Transparency in decision making reduces the number of appeal cases and allows aggrieved citizens to discover the formal reasons for a decision (ARC, 2004). It enables decisions which are perceived to be flawed or unfair to be challenge. Incorporating mechanisms to promote procedural fairness and creating an appeals process for aggrieved participants will promote transparency in the decision-making processes (Streck & Lin, 2008).

Transparency has been explained to mean that the same rules apply to all those who supply goods, works and services and that these rules are published as the basis of procurement decisions prior to their use (Adu Sarfo, 2011). I hold a different view in respect of this definition in the sense that applying same rules does not mean information is freely available and directly accessible or that the information is clearly understood and without doubt. This definition rather supports the principle of fairness which means showing impartiality at all stages of, and demonstrating equality in, the procurement process. Adu Sarfo (2011) would be better understood if he meant that transparency enables open and fair procedures whereby same rules apply to all.

In the context of this study, transparency means that information concerning procurement must be known and accessible to all who participate in the procurement process (Osafu Marfo, 2003). Procurement must be conducted in the most efficient manner upholding the principle of transparency and all transactions must be fully supported with written records (Greuning, 2005; Adu Sarfo, 2011). The rules governing public procurement must be readily available to all interested parties (Greuning, 2005; OECD & World Bank, 2007).

According to Shadrach and Ekeanyamwu (2003), key features of transparency include publicly available information on procurement policies; information dissemination on bidding programmes; standardized documentation and bid lodgment; progressive evaluation of tender documents and declaration of tender results. Government agencies

can achieve transparency by skillful planning of procurement through effective and efficient advertisement; public opening of bid documents; effective evaluation of bid documents; the publication of award results; fair and speedy protest and dispute resolution handling processes and the disclosure of signed contracts (Barden, 2006). For Act 663 to achieve transparency, it must follow all the rules and regulations in public procurement.

Thus, indicators of transparency include keeping records on procurement (Osei-Tutu *et al.*, 2011), making those records available for public consumption (Adu Sarfo, 2011), advertisement, publicly opening tenders, public declaration and publication of tender results and award of procurement contracts (Barden, 2006; Ayitey, 2012), and public dispute resolution handling processes (ARC, 2004). In effect, any activity that enables the public to have information and access to procurement processes and decisions could be considered as a transparent activity.

Procurement entities need to plan their procurement activities and record same. The plans are then published in the Public Procurement Bulletin (Ayitey, 2012). The publication of the plan allows procurement activities of various entities to be made freely available and directly accessible to all interested in the procurement (Greuning, 2005). However, entities do not seem to abide by this provision in the Act. According to the Public Procurement Authority's Procurement Bulletin (2010/2011), in 2010, only 164 entities out of over 1000 entities across the country submitted their annual procurement plan. As at October, 2011 only 199 entities had submitted their plan to the Public Procurement Authority.

Procurement planning is the process of determining the procurement needs of an entity and the timing or their acquisition and their funding such that the entity's operations are met as required in an efficient way (Mullins, 2003). Effective planning is fundamental to project success (Rani, 2011). Effective planning of procurement makes it easy to identify areas where it is performing well and where there is the need for improvement (Kakwezi & Nyeko, 2010). Planning of procurement is supposed to be part of budget preparation process which includes: a detailed breakdown of goods, works, and services required; a

schedule of the delivery, implementation and/or completion dates for all goods, works and service procurement; an estimation of the value of each package of goods, works and services required; and the source of funding (Adu Sarfo, 2011).

It is essential that effective planning is carried out prior to procurement. The planning should include consultation with stakeholders about what is needed and the available budget to satisfy the need; engaging with the market to understand available solutions and how to best meet the requirements; and the establishment of effective governance arrangements and resourcing plans (OGC, 2008). According to Odadirin (2013) entities need to plan speed, certainty of time and knowledge of how much to spend, flexibility in accommodating change, risk allocation and/or avoidance, price competition and dispute resolution. Ellmen (2011) states that procurement plan should cover records management, assessment of request for information, provisions of documents, and interpretation of Act. Planning of the procurement process by public entities needs to be transparent to enable the entities answer questions posed on the procurement issues (Hassim *et al.*, 2010).

Lack of data collection and records by procurement entities prevent the effective monitoring of the tendering process, which is aimed at encouraging transparency in the tendering process. In support of this view, it has been suggested that in order to allow proper accountability in the procurement process, details of procurements undertaking together with all necessary documentations should be available (Jones, 2007).

In respect of publicizing procurement activities, Hui *et al* (2011) stated that wide publication of tenders in the media such as newspapers and websites increases transparency, thereby enhancing public procurement compliance. The United Nations Development Programme [UNDP] (2010) indicated that a free and independent press is a powerful tool to promote transparency. In Ghana the mass print media have been used in disseminating information. Publishing calls for tenders, notifying contract awards in the media including the successful bidder's name and final price, and bringing more transparency in the award criteria are some of the basic principles of transparency in government procurement which directly affect corrupt practices (Evenett *et al.*, 2005).

In this regard, Act 663 endorses the use of competitive tendering which encourages maximum competition in the procurement system. It involves the use of STDs, advertising procurement opportunities, opening tenders publicly, contract award publication, and creating windows of addressing appeals and complains, among others. Public Procurements using other uncompetitive methods are vigorously monitored and evaluated by the Public Procurement Authority and Audit Agency to ensure transparency (Barden, 2006).

Again, accurate and readily accessible records of judicial rulings reduce the potential for illicit manipulation resulting from delays, corruption and inaccuracies (ARC, 2004). In Ghana, the Public Procurement Authority has established Appeals and Complaints Panel made up of seven (7) members comprising legal procurement experts and representatives from the private and public sectors. The Panel was inaugurated in 2007 and in that same year it successfully concluded fourteen (14) cases out of twenty (20) cases it had received (PPA, 2007). The appeal and complains procedures give bidding firms the chance to show their disapproval before the procurement process is completed, as well as thereafter (Streck & Lin, 2008).

One of the objectives of Act 663 is to ensure that public procurement is carried out in a transparent manner (Section 2). The literature reviewed so far in this section gives information about what transparency is and the indicators of transparency. However, none was able to come out with provisions in Act 663 which deals with the objective of transparency in the Act. This study fills that gap by identifying the transparency provisions in Act 663 in order to be more specific in checking whether or not this objective of Act 663 is being achieved.

2.3 Tools for Assessing Transparency in Procurement

This section reviews literature in respect of the second objective of the study, that is, to develop tools for assessing transparency in accordance with Act 663. It identifies various procurement assessment criteria and establishes which of the criteria or methods aid in developing tools for assessing transparency in accordance with Act 663.

The Public Procurement Authority has been authorized by Section 3(d), (e) and (h) of Act 663 to assess the performance of each procurement entity to ensure compliance with the provisions of Act 663. Performance provides the basis for assessing how well an organization is progressing towards the predetermined objectives. It identifies areas of strengths and weaknesses and decides on initiatives to improve performance (Ayitey, 2012). Compliance compares a regulator's conduct to the equivalent legal obligation expected to be complied with by the regulator (Gelderman *et al.*, 2006). Compliance is, therefore, considered by regulators, such as political and social regulators, as a prescribed way of finding the right answer or avoiding risk that is normally associated with public procurement systems (INECE, 2008).

Assessment is the act of estimating, evaluating or judging the quality of a thing. It is a part of the cycle of management that comprises measuring performance (Evans, 2004). It is the process of interaction that gives information in respect of the actual performance of an organization in order to improve the organization's final achievements (Mouzas, 2006). In simple terms assessment means measurement (Douh *et al.*, 2014). Assessment of procurement performance is defined in terms of compliance with a set of procurement rules (Schapper *et al.*, 2006). The Act specifies a number of rules, methods and procedures for the whole procurement process. These rules, methods and procedures are to secure, *inter alia*, transparency in the procurement process. The Act is, therefore, the basis of measuring procurement performance. It must be stated, however, that performance cannot be directly measured. Rather, a number of measurable indicators are used and, on their basis, inferences about the relative performance are made (Douh *et al.*, 2014).

Subsequent to the mandate given to the Public Procurement Authority under section 3 of Act 663, the Authority has been conducting annual procurement assessment. The objective of the assessment is to find out how the good practices in procurement enshrined in Act 663 and its regulatory documents are being employed by public entities and to inculcate into the public entities the need to monitor and evaluate procurement performance (Ayitey, 2012). Under the auspices of the joint World Bank and the Organization for Economic Cooperation and Development (OECD) Development

Assistant Committee (DAC), methods of assessment of procurement systems to compliance of various procurement legislations have been developed. These methods of assessment are Baseline Indicators, Compliance/Performance Indicators and Performance Assessment Systems (OECD-DAC & World Bank, 2006).

An indicator is a person, thing or device that measures records or declares something. It can be thought of as pieces of information that provide evidence on matters of broader concern (INECE, 2008). Indicators should be specific to the objective, measurable either quantitatively or qualitatively, available or achievable at an acceptable cost, relevant to the information needs of decision-makers, and time-bound so that users know when to expect the objective or target to be achieved (MCN, 2014). Aside of the types of indicator mentioned supra, other types of indicators include financial (input), output, results and impact indicators (European Commission, 2012).

Baseline refers to measurement of conditions (indicators) before a project begins, from which change and progress can be assessed (IFRC, 2013). The baseline indicators present a snapshot of the system design at a given time. It is used to assess the strengths and weaknesses of national procurement systems. It covers the legal and regulatory framework from the highest level legislation (that is national laws, acts, regulations, decrees, among others, on procurement) to detailed regulations, procedures and bidding documents that are formally in use (OECD-DAC & World Bank, 2006). Baseline indicators should come from officially recognized source of information such as demographic health survey, multiple indicator cluster survey or health and nutrition survey (MCN, 2014). Sometimes the baseline data is already known; other times it is necessary to have some baseline study to come out with a data (IFRC, 2013).

Since baseline indicators may not fully reflect all effects of programme activities, it is necessary to construct additional indicators or programme specific indicators to capture the full range of intended effects for a given programme (European Commission, 2012). The baseline indicators by the OECD-DAC & World Bank (2006) are further broken down into eight sub-indicators which are individually scored (Osei-Tutu *et al.*, 2011). These sub-indicators are scope of application and coverage of the legislative and

regulatory framework, advertising rules and time limits, procurement methods, rules concerning participation, documentation of tender and technical specifications, evaluation of tenders and criteria for awarding contracts, submitting, receiving and opening of tenders and complaints (OECD-DAC & World Bank, 2006).

It is necessary to quantify targets particularly in terms of impact in relation to the baseline situation. Evaluators, therefore, need to provide quantitative assessment of the indicators to the extent possible. If this is not possible, estimations or qualitative assessment should be provided (European Commission, 2012). Scoring ranges from 3 to 0 for each baseline indicator. A score of 3 indicates full achievement of the stated standard; 2 indicates less than full achievement; 1 shows that substantive work is needed for the system to meet the standard; and 0 means failure to meet the proposed standard (OECD-DAC & World Bank, 2006).

Compliance/Performance indicators (CPIs), on the other hand, deal with how the system actually operates. They are more closely related to the application of the regulations and to the prevailing procurement practices in the country (OECD-DAC & World Bank, 2006). They are linked to activities. Data on CPIs should be available for routine monitoring systems (MCN, 2014). CPIs can serve many purposes including communicating with public, and identifying performance problems and needed corrections (INECE, 2008). CPIs can be used to measure business process, budget, efficiency, service legal agreement, service quality and compliance. Under compliance, the programme specific indicators include frequency (in days) of compliance reviews, and average time lag between identification of external compliance issues and resolutions (PNMsoft, 2014).

The OECD-DAC and World Bank (2006) identified the following as CPIs: implementation of regulation that provides defined processes and procedures not included in higher level legislation; model tender documents for goods, works and services; procedures for prequalification; procedures suitable for service contracts or other requirements where technical capacity is a key criterion; users guide or manual for procurement entities that are contracting and general conditions of contract for public

sector contracts covering goods, works and services consistent with national requirements (OECD-DAC & World Bank, 2006; Osei-Tutu *et al.*, 2011). The indicators cannot be measured quantitatively and no scoring of compliance is proposed (OECD-DAC & World Bank, 2006).

The Performance assessment system is the mechanism of providing continuous monitoring of procurement processes, identifying specific needs and prescribing interventions. It provides a qualitative report on procurement entities' performance (Asbury University, 2002-2014). The performance assessment system report considers four main compliance areas namely management systems, information and communication, procurement process and contract management (OECD-DAC & World Bank, 2006).

The management systems thoroughly looks at ethics and compliance with regulatory framework, human resources, leadership, monitoring and control system, and complaints, appeals and dispute resolution mechanisms (LRN, 2007). Information and communication looks at procurement entities' capacity to give out information in the right format, and ability to utilize information received (Ayitey, 2012). Procurement process tries to get information on the procurement entities' knowledge of the procurement cycle and how they conduct their activities in each stage of the cycle. This comprises procurement planning, notice on preparation of tender documents, invitation to tender, submission of tenders, tender opening, tender evaluation and contract award (Lynch, 2013). Contract management assesses how procurement entities monitor and supervise the performance of the contract they award. This comprises planning and mobilization, implementation, inspection and supervision, inventory control and disposal, and reporting (OECD-DAC & World Bank, 2006).

Indicators of transparency within the baseline indicator are advertising rules, tender documentation, rules on participation, opening of tenders and complaints (OECD-DAC & World Bank, 2006). Indicators of transparency are not expressly seen within the performance indicator (Osei-Tutu *et al.*, 2011). Indicators of transparency may probably be seen when considering the specific questions asked under each performance indicator

(INECE, 2008). Information and communication is the indicator that deals with transparency within the performance assessment system (Ayitey, 2012).

There are other criteria adopted by other scholars in assessing public procurement. For instance, Pauw and Wolvaardt (2009), in an analysis of public procurement, established five criteria namely, fairness, equitableness, competitiveness, cost-effectiveness and transparency. The Public Procurement Disposal of Assets Authority [PPDA] (2007), in a report on Compliance and Performance Indicators for Uganda Procurement System, used four criteria to assess public procurement. These criteria were procurement plan, procurement records, procurement cycle time, and compliance with laws and regulations. Other identified assessment criteria by International Network for Environmental Compliance and Enforcement [INECE] (2008) are relevancy, transparency, credibility functionality, feasibility and comprehensiveness. In effect, there are many ways of measuring that may be in use. There is no one way of standardizing the measurements (Kakwezi & Nyeko, 2010).

A look at the literature reviewed so far in this section (Section 2.3) reveals that transparency is used as an indicator for assessing public procurement in all the assessment methods except the performance indicator which does not expressly state so. However, none of the tools specifically deals with the measurement or assessment of transparency in itself. Again, almost all the literature reviewed made use of both the legal and regulatory frameworks of public procurement but not specifically the Procurement Act itself. This study, therefore, develops tools meant specifically to assess transparency in accordance with Act 663. The baseline indicator, as mentioned supra, covers, among others, the legal framework, which is the Act itself. The performance indicator covers procedures not included in the Act. The performance assessment system provides a qualitative report on procurement entities' performance and includes information and communication. The performance indicator will not apply here since it does not deal with the Act and this study is limited to only transparency provisions in the Act. The baseline indicator and performance assessment system will, therefore, be applied to aid in the development of the assessment tools.

2.4 Level of Compliance with Act 663

This section reviews literature in respect of the third objective of the study, that is, to assess the level of compliance with the transparency provisions in Act 663 by the Colleges of Education in the Ashanti Region of Ghana. It considers procurement in the Colleges of Education and compliance levels of Act 663 by the Colleges of Education.

2.4.1 Procurement in the Colleges of Education

The Colleges of Education are tertiary institutions (Section 2 of Colleges of Education Act, 2013 (Act 847)). At the tertiary institutions procurement is funded by donors, GET Fund and Ministry of Finance and Economic Planning [MoFEP] (MoE, 2012). Goods that are procured include furniture, stationery, workshop equipment, textbooks, vehicles, ICT equipment and office equipment. Works that are procured include halls of residence, commercial centre, laboratories, lecture theatres, classroom blocks, roads, workshops, office blocks, churches and clinics. Technical services procured include maintenance of facilities and aerial photography. Consultancy services include design report, project output, transfer of knowledge and training (Wilson, 2013).

Due to the fact that the scope of the research is limited to the procurement of goods, items such as furniture, stationery, workshop equipment, textbooks, vehicles, ICT equipment and office materials were of interest to the study. The study sought to find out how these goods were procured by the Colleges of Education and how in procuring these goods the Colleges complied with the principle of transparency provided for in Act 663.

Some divisions have been established for bulk procurement activities. The National Council for Tertiary Education (NCTE) is in charge of the procurement of office equipment and vehicles for tertiary institutions. It also procures Council members and senior management of universities and polytechnics in governance and other aspects of management of tertiary institutions. It, again, procures finance and budget officers of tertiary educational institutions (MoE, 2013/14; Wilson, 2013).

It is obvious that as tertiary institutions, procurement of office equipment and vehicles are done by the NCTE on behalf of the Colleges of Education (Wilson, 2013). The Colleges

may then be limited to the procurement of low value goods that may not follow rigid competitive procedures (Osei-Tutu *et al.*, 2011). The likely methods of procurement to be adopted by the Colleges may be one of restricted tendering, single-sourced procurement or request for quotations (PPA Annual Report, 2009; Adu Sarfo, 2011).

2.4.2 Compliance Levels of Act 663 by the Colleges of Education

Allegations leveled against procurement entities in relation to compliance with the procurement provisions in Act 663 include inefficiency, corruption and lack of transparency in the selection and award of contracts leading to non-achievement of value for money (Ayitey, 2012). Ayitey (2012) identified these allegations when he conducted a research on the level of compliance with Act 663 in public entities in the Ashanti Region. These public entities were the local government, education and health sectors. His research revealed an overall average compliance level of 55.22%. The education sector recorded the worst compliance level with an average compliance level of 45.34%. In general, the research indicated that procurement management in public institutions has been poorly handled especially the education sector of Ghana.

Another research conducted by Osei-Tutu *et al* (2011), using the same entities as that of Ayitey (2012) and also in the Ashanti Region, revealed that the compliance level observed in respect of the education sector were very low and below average as non of the four main compliance areas was a 50% attained. This was evident by the 6.41% level of compliance obtained by the education sector.

Using the four main areas of the performance assessment system for the local government, the health sector and the education sector in the Ashanti Region, the following as represented in table 2.1 below were realized for both studies by Ayitey (2012) and Osei-Tutu *et al.* (2011). The education sector compared with the other entities in both researches indicated that the education sector has relatively low compliance levels.

Table 2.1: Aggregate Compliance Levels of Entities

Researcher	Description	Management Systems (%)	Information and Communication (%)	Procurement Process (%)	Contract Management (%)	Average (%)
Ayitey (2012)	Local Government	56.84	54.33	71.89	60.75	60.95
	Health	51.71	56.26	73.98	55.55	59.38
	Education	42.67	48.89	57.56	32.22	45.34
Osei-Tutu et al. (2011)	Local Government	35.00	20.54	37.50	41.07	33.53
	Health	31.58	10.53	23.95	9.21	18.82
	Education	15.56	1.39	5.91	2.78	6.41

Source: Ayitey (2012) and Osei-Tutu et al. (2011)

A detailed analysis of the compliance level of the education sector revealed that four (4) categories of the sector were selected by Ayitey (2012) for his research. These comprised one (1) University, one (1) Polytechnic, four (4) Colleges of Education and three (3) Senior High Schools. The average performance ratings for these four categories are shown in table 2.2 below.

Table 2.2: Compliance Level of the Education Sector

Category	Management System (%)	Information and Communication (%)	Procurement Process (%)	Contract Management (%)	Average (%)
University	58.33	64.81	68.69	58.33	62.54
Polytechnic	61.67	70.37	71.72	28.57	58.08
College of Education	40.81	43.06	52.53	25.60	40.50
Senior High School	33.44	44.16	55.89	34.09	41.90

Source: Ayitey (2012)

Thus, the Colleges of Education, with an average compliance level of 40.5%, were revealed to be performing very poorly even within the poorest performer in the three chosen sectors, that is, the education sector. Information and communication deal with

provisions on transparency; the level of compliance with the transparency provisions in Act 663 by the Colleges of Education in the Ashanti Region was 43.06%, still revealing poor performance amongst the other entities.

This study, therefore, selected the Colleges of Education as its population of study with the intention that if the problems within the weakest performing group were identified and somehow resolved, the recommendations suggested may be used for the less weak performing group(s) so that at the end the entire problem of non-compliance with Act 663 would have been minimized if not resolved.

2.5 Procurement Challenges

This section reviews literature in respect of the fourth objective of the study, that is, to identify factors affecting compliance with the transparency provisions of Act 663.

Many countries have started reforms in the public procurement processes (Hunja, 2003). This is intended to clean up the bad practices in the procurement sectors, ensuring accountability, and encouraging competition, efficiency and transparency. The reforms, however, come with certain challenges (Hunja, 2003). These challenges include the inability to spread wide the procurement law and implement same (Azeem, 2007) due to inadequate training for procurement managers (Forgor, 2007); and that cost of advertisement out-weighs the real cost of items (Dabaga, 2013).

In 2003, the Country Procurement Assessment Report (CPAR) of Ghana made it known that majority of the staff in charge of procurement at the ministries, departments and agencies (MDAs), and district assemblies were not skilled in procurement despite the fact that they have been trained. According to the report, there is the need for refresher programmes and broad training to make successful the implementation of Act 663. However, financial difficulties make such programs unsustainable resulting in many procurement managers being ignorant in the application of the Act (Osei-Tutu *et al.*, 2011). Poor record keeping (World Bank, 2003a) have been cited as one of the critical factors that challenge the procurement reforms implementation.

In its review in 2006, the Public Procurement Authority identified some weakness in the procurement system among public institutions that need urgent attention. These included poor record keeping and high cost of advertisement (PPA Annual Report, 2007). The major findings of the Country Portfolio Performance Review [CPPR] of World Bank projects in 2002 also revealed slow project implementation and disbursement due to, *inter alia*, lack of transparent procurement procedures as some identified procurement challenges (Osei-Tutu *et al.*, 2011). A large number of the internal customers act on their own and more frequently bypassed the procurement department (Schiele & McCue, 2006).

Communication between parties to the procurement process is vital to achieving best practice with regards to procurement (CIOB, 2010). Ameyaw *et al* (2012) say, however, that there is not enough interaction between most of the procurement entities and the Public Procurement Authority and this permits breaches of the law including not communicating procurement to unsuccessful bidders. According to the Chartered Institute of Building [CIOB] (2010), lack of communication is the most significant problem arising during the procurement process.

Procurement challenges in the education sector include the non-involvement of end-users in drawing up specifications for goods contracts (OGC, 2008); poor communication between project implementers and end-users; poor specification for goods contract (CIOB, 2010); tender documents not prior-reviewed by the approval authority; poor or weak contract management; and irregular payment of Government of Ghana counterpart funds (Wilson, 2013). Other challenges identified were that most of the procurement undertaken by the schools dealt with the supply of low value procurement such as perishables like tomatoes and okra, among others. In most cases procurement officers available were not procurement-proficient. In other cases, one time or another, heads and their accountants and matrons doubled as procurement officers. The procurement staff in most of the educational institutions complained of difficulty in following required procurement processes when dealing with such low value procurements (Osei-Tutu *et al.*, 2011).

The study by Ayitey (2012) discussed *supra* revealed weak management and control systems, lack of management commitment, ineffective contract management, weak procurement structures, lack of qualified staff to effectively supervise the procurement operations of entities and, especially, that the education sector does not have functioning procurement units as some challenges affecting compliance with Act 663.

Thus, aside lack of knowledge of the provisions in Act 663 and their implementation by procurement officers (Azeem, 2007; Osei-Tutu *et al.*, 2011) who mostly have insufficient skill in procurement (Forgor, 2007; CPAR, 2003), poor record keeping (World Bank, 2003a) and high cost of advertisement (PPA Annual Report, 2007) have been identified as some of the factors affecting compliance with the transparency provisions of Act 663.

Suggestions about developing peculiar procurement guidelines for the educational institutions came up in most cases. Among these were: procurement practitioners must take cognizance of the amount of time and resources required so they can begin early enough and allow sufficient time to complete the procurement process (Ayitey, 2012); electronic procurement should be used to enhance transparency and procedural efficiency in the procurement process (Hill, 2005; Shadrach & Ekeanyamwu, 2003) and to increase contract compliance, transparency and lower processing cost (Staatscourant, 2008; Almeida, 2004); that specific procurement guidelines tailored to suit the nature of procurement commonly carried out in the educational institutions should be developed to enable smooth compliance; frequent assessment of entities; engaging of professionals by all entities and encouraging entities to organize intensive and regular in-house procurement training for the personnel handling public procurement to specifically address their peculiar needs especially in the area of procurement process (Osei-Tutu *et al.*, 2011; Ayitey, 2012).

2.6 Profile of the Colleges of Education

Education in Ghana is regulated by the *Education Act, 2008 (Act 778)*. Tertiary education, according to Act 778, consists of education provided in a university, polytechnic or college of education established by an Act of Parliament or accredited by the National Accreditation Board (Section 1(4) of Act 778). The tertiary education also

includes university colleges and community colleges (Section 30 of Act 778). The National Council for Tertiary Education (NCTE) is responsible for education at the tertiary level (Section 16 of Act 778).

2.6.1 Colleges of Education Act, 2012 (Act 847)

“College of Education” means teacher training institutions (Section 30 of Act 778). Before the year 2008, teacher training institutions were considered as post-secondary institutions under the Ghana Education Service (GES). They were under the direct supervision of the Teacher Education Division (TED) of the GES. In 2008, they became known as tertiary institutions under Act 778. However, until 2012 when the *Colleges of Education Act, 2012 (Act 847)* was enacted, the teacher training institutions continued to be under the supervision of the TED of the GES. With the enactment of Act 847, the teacher training institutions, also known as the Colleges of Education, became public tertiary institutions (Section 2(1) of Act 847) under the NCTE.

Act 847 is an act to upgrade teacher training colleges to tertiary education institutions to be known as colleges of education and to provide for related matters (Long Title of Act 847). The aims of a college of education are to train students to acquire the necessary professional and academic competencies for teaching in pre-tertiary institutions and non-formal education institutions; build professional and academic capacities of serving teachers through regular continuing education; provide programmes that will promote the effective teaching of science, mathematics, information and communication technology and other related subjects to meet the needs of contemporary society; and foster links with relevant institutions and the community in order to ensure the holistic training of teachers (Section 3 of Act 847).

To achieve its aims, a college of education shall provide teacher education to citizens in the teaching profession; decide on the subjects to be taught based on their special relevance to the needs of the educational system of the country and for national development; expose students to modern and innovative techniques of teaching and learning in order to promote critical thinking and problem-solving skills in the classroom; ensure that basic research and action research form an integral part of teacher education

to promote quality teaching and learning in the classroom; set up well-equipped resource centres where staff, students and serving teachers will be assisted to acquire skills in making and using teaching and learning materials for effective classroom teaching; develop close relationships with professional teacher organizations, the GES, pre-tertiary educational institutions, universities and other tertiary institutions both local and international for the exchange of ideas and professional development; offer programmes for the award of diplomas and other certificates through affiliation with other chartered institutions accredited by the National Accreditation Board; make provision for the general welfare, recreational and social needs of the staff and students of the college; and exercise powers that are incidental to the performance of the aims and functions of a college (Section 4 of Act 847).

The governing body for each college of education is a Council consisting of a chairperson; the Principal of the college; the President of the Student Representative Council [SRC]; one person each elected by the academic staff and the non-teaching staff; one representative each of the GES, NCTE, National Teaching Council, affiliated institution that awards the diploma or other certificates of the college of education, and the alumni; and three persons at least two being women. The Vice-Principal, the Secretary and the Finance Officer of the college shall be non-voting members of the Council (Section 5(1) and (2) of Act 847).

The Council of each college shall determine policies of the college and have control over the general programmes and shall ensure the attainment of the aims of the college; approve the educational programmes developed by the academic board having regard to the mandate of the college; oversee the internal organization of the college including the establishment, variation and supervision of academic divisions departments and faculties of the college; prescribe the terms and conditions for the admission of persons selected for a course of study organized by the college; institute awards, fellowships and scholarship schemes in furtherance of the aims of the college; appoint the Principal and Vice-Principal of the college, tutors and other persons to academic and administrative positions in the college; manage the finances and fixed assets of the college; consider and approve annual estimates of income and expenditure of the college; be responsible for the

policy on the discipline of staff and students of the college; promote income-generating activities and perform any other functions that are ancillary to the aims of the college (Section 6(1) of Act 847).

The principal officers of a college of education are the chairperson of the Council and the Principal of the college. The Principal is the chief academic, administrative and disciplinary officer of the college and in that capacity shall ensure the implementation of the decisions of the Council; exercise general authority over the staff; and be responsible for the assignment of staff other than the persons assigned by the Council, the discipline and supervision of staff and students, the preparation of the annual estimates of income and expenditure for consideration by the Council; and provide the Council with returns, reports and other relevant information required by the Council (Sections 13 and 15 of Act 847).

The Vice-Principal of the college shall perform the functions assigned by the Principal and act in the absence of the Principal (Section 16(2) of Act 847).

The Council of the college shall appoint the Secretary of the college who shall be answerable to the Principal in the discharge of the administrative duties of the Secretary to the college. The Secretary shall act as secretary to the Council and any other committee prescribed by the status of the college made under the Act (Section 17 of Act 847). This is the reason why the Senior Assistant Registrar who is the Secretary to the Entity Tender Committees is represented by the College Secretary in this study (Refer to paragraph 3.4.1 on Study Population).

There is also established for each college an Academic Board which shall consist of the Principal, Vice-Principal, heads of the academic divisions, departments and faculties, one representative of each academic department, the librarian, the Secretary and any other person prescribed in the statutes of the college (Section 23 of Act 847).

The Board shall, subject to the overall directive of the Council, formulate and implement the academic policies of a college, develop and regulate courses of instruction and study, determine academic standards, validation and review of courses, regulate the conduct of

examination and the assessment of students, award diplomas and certificates and promote quality assurance of academic work and activities of a college, all in consultation with an institution to which the college is affiliated; determine the appointment of internal and external examiner, ensure the provision of adequate resources to support academic work and activities of the college, advise the Council on the admission of students and the award of scholarship and bursaries, determine the policy and procedure for the discipline of students, establish collaboration with educational institutions and other relevant industrial and commercial institutions, and report back to the Council on matters referred to the Board by the Council (Section 24 of Act 847).

Each college shall have a SRC responsible for representing students duly admitted and registered to study at the college (Section 21 of Act 847). There are, in all, thirty-eight (38) Colleges of Education in Ghana (see Schedule to Act 847).

2.6.2 Colleges of Education in the Ashanti Region

Ashanti Region is centrally located in the middle belt of Ghana. It shares boundaries with four (4) of the ten (10) political regions namely the Brong-Ahafo Region to the north, the Eastern Region to the east, the Central Region to the south and the Western Region to the west. It is the third largest of the ten administrative regions in Ghana and occupies a total land surface of 24,389 square kilometers; that is, ten percent (10%) of the total land area of Ghana. However, in terms of population, it is the most populated region with a population of about nineteen percent (19%) of Ghana's total population (GSS, 2005 cited in Ayitey 2012). It has Kumasi as its capital. Agriculture, mining, trading and related works are the major occupation within the Ashanti Region, though the level of intensity of a particular occupation varies from one district to another.

There are about twenty-seven (27) educational districts and two-hundred (200) educational circuits in the Ashanti Region of Ghana. Not less than seventeen percent (17%) of schools in Ghana are located in the Ashanti Region (EMIS, 2014). Out of the thirty-eight (38) Colleges of Education in Ghana, seven (7) of them, that is about eighteen percent (18%), are in the Ashanti Region. These are St. Louis and Wesley (both in Kumasi), St. Monica and Mampong Technical (both at Ashanti-Mampong), Agogo

Presbyterian Women, Akrokerri and Offinso Colleges of Education (see Schedule to Act 847).

2.7 Summary of Chapter

With respect to this research, procurement management is defined as the process by which the Colleges of Education in the Ashanti Region of Ghana procure goods financed wholly or partly from public funds, applying the various procurement rules, methods and procedures in Act 663. The principle of transparency is the focus of this study. Transparency means that information concerning procurement must be known and accessible to all who participate in the procurement process. Procurement must be conducted in the most efficient manner upholding the principle of transparency and all transactions must be fully supported with written records. Furthermore, the rules governing public procurement must be readily available to all interested parties. Indicators of transparency include keeping records on procurement, making those records available for public consumption, advertisement, publicly opening tenders, public declaration and publication of tender results and award of procurement contracts, and public dispute resolution handling processes. This study identifies the transparency provisions in Act 663 in order to be more specific in checking whether or not this objective of Act 663 is being achieved.

The PPA is mandated by Section 3(d), (e) and (h) of Act 663 to assess the performance of each entity to ensure compliance with the provisions of Act 663. There are many methods of measurement that may be used to assess performance. These include baseline indicator, performance indicator and performance assessment system but none specifically assesses transparency in accordance with Act 663. With guidance from the methods mentioned *supra* this study identifies tools to assess transparency in accordance with Act 663.

The NCTE is in charge of bulk purchases for the tertiary institutions. It procures office equipments and vehicles for its members. The tertiary institutions may then be limited to the procurement of low value goods that may not follow rigid competitive procedures. The likely methods of procurement to be adopted by the tertiary institutions may be one

of restricted tendering, single-sourced procurement or request for quotations. The Colleges of Education were revealed as performing very poorly in compliance with Act 663 with an average compliance level of 40.5%. The level of compliance with the transparency provisions in Act 663 by the Colleges of Education in the Ashanti Region was also 43.06%.

Aside lack of knowledge of the provisions in Act 663 and their implementation by procurement officers who mostly have insufficient skill in procurement, poor record keeping and high cost of advertisement have been identified as some of the factors affecting compliance with the transparency provisions of Act 663.

In conclusion, the research sought information from the procurement entities in the Colleges of Education whether or not provisions in the Act in respect of the principle of transparency are complied with when they embark on public procurement for their colleges especially in the procurement of goods.



CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction

This chapter discusses approaches and processes adopted in this research with the view of finding the best method to achieve the aim and objectives of this research. These include the philosophical position of the research, research strategy and research design. The methods and techniques used to gather, analyze and interpret data, as well as the conceptual framework, are also presented.

3.1 Philosophical Considerations

Philosophical issues in a research study influence the choice of instruments to select for the research study (Christou *et al.*, 2008). Two main philosophical issues for a research study are ontology and epistemology (Bryman, 2004). This section decides the philosophical stance considered in the course of the study.

3.1.1 Ontological Consideration

Ontology answers the question “what kinds of things exist in the world?” It questions the existence of a real world that is not controlled of our knowledge. It is a theory of being (Marsh & Stoker, 2002). Ontology is what exists in the world (Burney, 2008), something that is impossible to change; a truth that was not discovered (Christou *et al.*, 2008). Ontological position may come in two forms namely, objectivism or constructionism.

To the objectivist, the external world comprises pre-existing structures that can be easily seen and firmly touched. This implies that things that happen or exist in a society happen or exist as external facts which cannot be influenced (Bryman, 2004). To the constructionist, on the other hand, things that happen or exist in a society and their meanings are influenced by the society within which they are situated. In this way, concepts such as goodness and badness, right and wrong, or truth and falsehood are not definite but change from culture to culture and from situation to situation (Fitzgerald &

Howcroft, 1998). The constructionist stresses that objective reality does not exist but rather ideas or constructions of it (Christou *et al.*, 2008).

3.1.2 Epistemological Consideration

Epistemology answers the question “how is knowledge created?” (Orlikowski & Baroudini, 1991 cited in Osei-Hwedie, 2011). It is the technical term for the theory of knowledge (Marsh & Stoker, 2002). It considers the relationship between an inquirer and the knowledge the inquirer can acquire by direct observation at the external world; in other word, it considers when an observer and what is being observed must interact to create knowledge (Christou *et al.*, 2008). Epistemological position may also come in two forms namely, positivism or interpretivism.

Positivism sees society as a definite and specific reality, which laws can be found to explain. According to this view, knowledge of this real world can be acquired only through the use of methods that are free from human influence. Scientific inquiries must, therefore, be carried out free of the inquirers effect. Neutral observation of reality is to take place without any bias from the observer or researcher (Bryman, 2004).

Interpretivism, on the other hand, thinks that society cannot exist independently of how we interpret them. It is the meaning or interpretation we give to what happens in the society that affects social reality. The society is viewed as the creation and modification of individuals; or the interpretation individuals put on the environment within which they function. In consequence, it is impossible to objectively analyze a society since the researcher is part of the research process (Christou *et al.*, 2008). The values and beliefs of the researcher are the driving force in the interpretation and understanding of the research findings (Bryman, 2004).

3.1.3 Philosophical Position of the Study

The position adopted for this study at the ontological level was objectivism. This was because rules, methods and procedures for transparency in procurement exist in Act 663 and must be complied with as they appear without the influence of the procurement

entity. These existing rules, methods and procedures for transparency in Act 663 cannot be interpreted differently by procurement entities in Ghana.

Epistemologically, this study followed the positivists approach to knowledge. For the positivists, scientific knowledge is established through the accumulation of verified facts (Bryman, 2004). The study was of the view that the identification and analysis of the level of compliance with the transparency provisions in Act 663 must be carried out in an objective way, that is, free of researcher effects, and which can be replicated. Data on the level of compliance with the transparency provisions in Act 663 can be gathered and the results presented as taken without the researcher having to influence same.

3.2 Research Strategy

Aside the philosophical considerations discussed supra it is necessary to make it clearer the direction adopted in conducting a research (Bryman, 2004). Research strategy is the manner of questioning the objectives of a research (Baiden, 2006). Two main research strategies are quantitative and qualitative research. Adopting any particular strategy depends on the aim and objectives of the study, and the type and availability of the information needed for the study (Naoum, 2002).

3.2.1 Quantitative Research

Quantitative research involves the collection of quantitative data which are put to rigorous quantitative analysis in a formal and rigid manner. It involves measurement of quantity or amount (Kothari, 2004). It uses mathematical and statistical techniques to identify facts. It follows the norms and practices of positivism and views society as an objective reality (Naoum, 2002).

The common techniques for collecting data in quantitative research are questionnaires, tests and existing databases. Its stress is on quantification and, therefore, the data that are normally collected are hard and reliable data. Large and representative samples are normally collected and, therefore, the results of the research can be generalized within limits of acceptable error (Baiden, 2006).

Quantitative measures are also required for evaluation and can be repeated or duplicated using complex statistical techniques (Bryman, 2004). The measuring instrument employed and the accuracy it measures targets account for the validity of the results (Patton, 2002). Quantitative research strategy is used to seek for facts about attributes, concepts or questions by collecting evidence of facts and studying the relationships between those facts for the purpose of testing a particular theory or hypothesis (Naoum, 2002).

3.2.2 Qualitative Research

Qualitative research adopts the method of subjective assessment of attitudes, behaviours and opinions. In this situation, research depends on the impression and insights of the researcher. The results generated are not in quantitative form neither can it be put to rigorous quantitative analysis (Kothari, 2004). This is because it puts emphasis on words rather than quantification in data collection and analysis. It follows the norms and practices of interpretivism (Baiden, 2006). Usually, small numbers of non-representative samples are used and the selected respondents fulfill a given demand (Sherif, 2002 cited in Baiden, 2006).

Techniques usually used in this research are in-depth yet open-ended interviews, focus group interviews, direct observations and written documents. These produce either unstructured or semi-structured descriptions, excerpts or quotations (Kothari, 2004; Patton, 2002). The data are deep, rich and soft, determining what things exist rather than how many there are. The competence, rigor and skill of the researcher account for the credibility of qualitative research (Baiden, 2006). A qualitative research strategy is used when, for example, research data on the topic does not exist and the most appropriate unit of measurement is not certain or the concepts to be researched are assessed on a nominal scale with no clear limits set, and it involves the exploration of attitudes and behaviour (Baiden, 2006).

3.2.3 Strategy adopted in this Study

Triangulation research strategy comprising qualitative and quantitative strategies to data collection and analysis of data (Baiden, 2006) was adopted for this study. Using both

strategies enabled the study to benefit from the advantages in both strategies and reduce the weakness in each approach (Morgan, 2006). Mixed methods allow a thorough approach to examining the research problem than employing only a single method (Creswell & Clark, 2007). The methodology presented herein includes a numeric scoring with defined criteria that enables the indicators to be monitored (that is, quantitative research strategy). Qualitative research strategy was, however, used to inquire into the actual procurement methods and procedures used by the Colleges of Education in order to bring the quantitative research strategy into its right perspective.

In achieving the first and second objectives of the study a detailed literature review was considered. However, for the third objective a quantitative approach was adopted in order to obtain the required data for determining the compliance levels in all the compliance areas. The fourth objective of the research required a deeper understanding of factors that affected transparency in procurement, and opportunities for the development of procurement laws on transparency as pertaining to Act 663. It was, therefore, necessary to use the qualitative approach because perceptions, beliefs, ideas and opinions are difficult to measure in a quantitative way.

3.3 Research Design

This section of the study deals with the framework for data collection and analysis. Research design is the tool that shows the way data collection and analysis should be carried out. Thus, research design is the framework within which research methods are employed (Baiden, 2006). It enables the researcher to make certain that the data collected answers the research questions without, or with less, ambiguity (De Vaus, 2001). It helps to answer questions such as when, what, where, how much, by what means, among others, with regard to a research study. It is the conceptual structure within which researches are conducted (Kothari, 2004). In short, the main object of research design is to identify methods for collecting data and explain, in clear terms, the processes used in carrying out each method.

Research design includes action research, case study, experimental and survey (Blismas, 2001 cited by Baiden, 2006). Other types of research design are descriptive, diagnostic,

exploratory and hypothesis-testing (Kothari, 2004). The selection of a particular design depends on the purpose for the study such as generalizing to larger groups of individuals than the sampled population, expressing the causal connections between various variables, having temporal time appreciation of social phenomena and their interconnections or understanding behaviours and their meaning in their specific social context (Bryman, 2004).

This study used the descriptive research design. Descriptive research design is concerned with conditions and relationships that exist at the time of the study. It attempts to find out the nature of attitudes, conditions and practices that are prevailing at the time of the study, as well as processes on-going. It involves the collection of data to test hypothesis or to answer questions that concerns the current status of the subject of the study (Gay, 1990 cited by Adu Sarfo, 2011).

Descriptive research design is used to portray the characteristics of a particular individual, group or situation as accurate as possible. It involves different types of fact-finding enquiries and surveys including comparative and correlational methods. Its main object is to describe the state of affairs as they prevail at the time of study. The researcher does not have control over the variables here. He only has to report what is happening or what has happened. The study may, however, attempt to discover the causes of the selected problem (Kothari, 2004).

Descriptive research design was adopted because it is economical and convenient for the determination of the current status of the level of compliance with the transparency provisions in the *Public Procurement Act, 2003 (Act 663)* and to identify factors affecting compliance with the transparency provisions of Act 663. However, it was preceded by in-depth interviews to, as stated earlier, inquire into the actual procurement methods and procedures used by the Colleges of Education in order to put the design into its right perspective.

3.4 Conceptual Framework of the Study

The framework of a study relates to the philosophical basis on which the research takes place. It forms the link between the theoretical and practical aspects of the study.

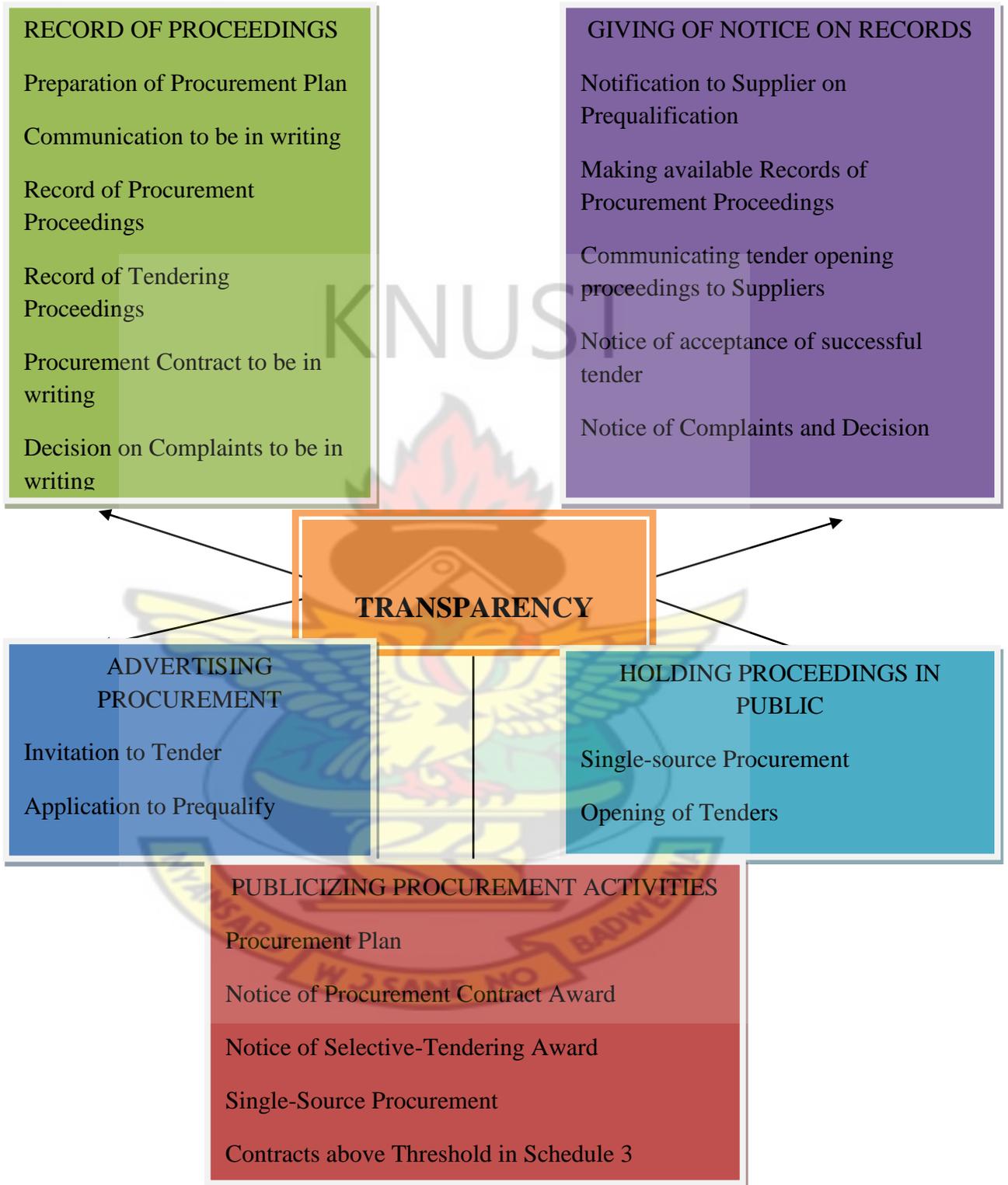
However, frameworks are developed or identified to add an understanding to the fact or event in nature undertaken or been observed by explaining it in the simplest form as possible (Camp, 2000). A conceptual framework is a map or travel plan; it is a collection of concepts that are interrelated and guide research activities (Sinclair, 2007).

The framework is hinged on five (5) major themes in the study, which are related to various research questions and interrelated. These themes are generally referred to as the main compliance areas. The five key compliance areas adopted for determination of the compliance levels were record of proceedings, giving of notice on records, publicizing procurement activities, advertising procurement and holding proceedings in public.

Compliance levels in these areas were assessed based on certain predetermined key compliance indicators, which were used as sub-criteria for assessing the five main compliance areas adopted. These key compliance indicators covered issues on procurement plan, decisions on prequalification, form of communication, record of procurement proceedings, public notice of procurement contract award, restricted tendering, single-source procurement, international competitive tendering, procedures for inviting tenders or application to prequalify, opening of tenders, acceptance of tender and entry into force of procurement contract, and rules applicable to review proceedings. The indicators were intended to provide harmonized tools for use in the assessment of transparency in procurement systems.

The main compliance areas and key compliance indicators are represented as the conceptual framework in the diagram below. The framework was developed using the performance assessment system method jointly developed by the Organization for Economic Cooperation and Development through its Development Assistance Committee (OECD-DAC) and World Bank as a guide (see section 2.3). Under this method, a qualitative report on procurement entities' performance that deal with monitoring performance data is used to determine level of compliance with the formal system. The method helps to identify those areas where compliance or performance is weak. Based on review of the data, analysis and findings are recorded.

Figure 3.1: Conceptual Framework



Source: Researcher's Construct (2014)

3.5 Research Process

This section of the study addresses the study population, sample and sampling methods, data collection techniques and administration, instruments, methods, and procedures. It provides detailed explanations to each of the methods employed and how the methods adopted were used to address the aim, objectives and research questions.

3.5.1 Study Population

The population of the study comprised the Tender Committees within the Colleges of Education in the Ashanti Region. The reason for using this population was that they have been mandated to ensure that at every stage of the procurement activity, procedures prescribed by the Act have been followed (Section 17(2)(a) of Act 663).

Section 17(1) of Act 663 provides that each procurement entity establishes a Tender Committee in the manner set out in Schedule 1 to the Act. Schedule 1 outlines the composition of the Tender Committee of various entities from Central Management Agencies, Ministries and Subvented Agencies, through Regional Coordinating Council; Metropolitan, Municipal and District; and State Enterprises to Tertiary Institutions; School and Colleges; Hospitals and Health Institutions; and Bank of Ghana or Financial Institutions.

In this study, the interest was on the Tender Committees of Tertiary Institutions since the Colleges of Education, per the *Colleges of Education Act, 2012 (Act 847)*, are tertiary institutions. Schedule 1 to Act 663 outlines the membership of the Tender Committees of Tertiary Institutions as comprising the Chairperson of the Council, the Registrar (hereinafter called “the Principal” of the College), the Finance Officer, a lawyer, the Senior Assistant Registrar (hereinafter called “the College Secretary”) and a member each from the Development Committee, Ministry of Education (MoE), National Council on Tertiary Education (NCTE), Students Representative Council (SRC) and an association of university teachers. Thus, each tertiary institution is composed of ten (10) members forming its Tender Committee.

There are seven (7) Colleges of Education in the Ashanti Region. These are St. Louis and Wesley (both in Kumasi), St. Monica and Mampong Technical (both at Ashanti-Mampong), Agogo Presbyterian Women, Akrokerri and Offinso Colleges of Education (see Schedule to Act 847). Thus, the population for the study would have been seventy (70). However, the procurement officer of each of these Colleges of Education was included in the population, bringing the total to seventy-seven (77). This was done because the activities of the procurement officers directly had a bearing on public procurement within the Colleges of Education.

3.5.2 Sample and Sampling Technique

Cherry (2014) defines a sample as a subset of a population that is used to represent the entire group as a whole. Fifty-six (56) people were sampled for this study. This was because majority of the Colleges did not have the required number of members forming the Tender Committee. For instance, all, except one, of the Colleges did not have a lawyer on the Committee; and all of the Colleges had no NCTE representative on the Committee. Majority of the Chairpersons of Council were not even aware that they were the Chairpersons of the Tender Committees of their respective College.

The purposive and convenience sampling were used in selecting the sampled population. Purposive sampling refers to the selection strategies in which the researcher “exercises his or her judgment about who will provide the best perspective on the phenomenon of interest, and then intentionally invites those specific perspectives into the study” (Kissi, 2013). Purposive sampling is a sample where subjects are included based on their knowledge about the issue under study. The sample was purposively chosen because of their experiences in procurement activities and for the fact that they were directly in charge of procurement management in the various Colleges.

Convenience sampling, on the other hand, is the method involved in choosing the available subjects at hand to form the study sample. In convenience sampling the subjects are included in the study because they happen to be at the place and at the time of data collection. Convenience sampling is a type of sampling which involves the sample being drawn from that part of the population which is close to hand (Osei-Hwedie, 2011).

Though the whole population could have been used (but for the reason stated for the sample), it was not possible to meet all the members of the Tender Committees at the same time together especially as some of them were not full time members of their various Colleges and were not based on the campuses of the Colleges. However, in each College, at least the Principal, Finance and Procurement Officers, College Secretary and the tutors and SRC representatives were available for the group interview and/or data collection. This was probably because they were those among the Tender Committees of the various Colleges who were actively involved in the Colleges' activities and were, therefore, almost always available at the campuses of the Colleges.

3.5.3 Data Collection Techniques and Administration

The *Public Procurement Act, 2003 (Act 663)* was used to collect information necessary to answer the first and second research questions namely, the provisions on transparency in Act 663 and tools for assessing transparency in accordance with Act 663 respectively. Additionally, publications from the Public Procurement Authority (and the Public Procurement Bulletin), newspapers and other documents collected from the sampled population were used to cross-check or confirm some of the responses given by the respondents. Interviews and questionnaires were the data gathering instruments used for collecting data for both objectives 3 and 4.

3.5.3.1 Interview

Interview involves posing questions to respondents about a topic in an informal way in a face-to-face situation or by phone. Interviews were used to ascertain the transparency provisions that applied to the Colleges. Interviews were used because, according to Patton (2002), they provide direct quotations from respondents about their experiences, feelings and opinions. The interviews were, therefore, better way of obtaining trustworthy information from members of the Tender Committees of the Colleges of Education. Interviews differ in nature and may be structured, semi-structured or unstructured (Legard *et al.* 2003; Patton 2002).

Structured interviews are interviews in which the specific questions to be asked and the order of the questions are predetermined and set by the researcher. Unstructured

interview has no strict procedure to follow and no strict restrictions in the wording of the questions, the order of questions or the interview schedule. The interviewers have the discretion to form questions on the spot, probe into issues and in some cases follow the order dictated by the situation (Osei-Owusu *et al.*, 2007). Semi-structured interview is a combination of both the structured and unstructured interview.

This research followed a semi-structured interview approach to allow in-depth and free flow of information from interviewees. The flexible nature also encouraged the interviewees to participate fully and more comprehensively (Fellows & Liu, 2003). The sampled population in each College was interviewed simultaneously in their small groups. Each interview lasted for about one-and-half hours. An interview guide was developed and given to the interviewees prior to the interviews. The guide sought to elicit general information on procurement activities on goods and the methods used in procuring, as well as issues on record of proceedings, giving of notice on records, publicizing procurement activities, advertising procurement and holding proceedings in public. It also considered factors that affected compliance with the transparency provisions in Act 663 and recommended solutions. Sample of the interview guide is found in Appendix A of this study. In order to increase the reliability of the answers all interviews were recorded. The fact of the recording was made known to the interviewees.

3.5.3.2 Questionnaire

A questionnaire is a self-report data-collection instrument filled by research participants (Burke & Larry, 2000). The content and organization of the questionnaire corresponds with the research objectives (Rani, 2011). There are two forms of questionnaire namely close-ended and open-ended questionnaires. Close-ended questionnaires call for short, check-list. Respondents mark a “yes” or “no”, rank alternatives provided based on how they feel about the issue, or check items from a list of suggested responses or scale responses. An open-ended questionnaire calls for a free response in the respondents’ own words (Osei-Owusu *et al.*, 2007).

A close-ended questionnaire was mainly used to obtain data required for determining the compliance levels in all the compliance areas. The choice of this technique was based on

the fact that it is quite an effective instrument for collecting data from literates. It can also be used to collect data from a large number of people at the same time. This method was, therefore, relied on because the respondents were all literates, though the number was not quite large.

A questionnaire was designed for members of the Tender Committees of Colleges of Education in the Ashanti Region of Ghana and their procurement officers. In all, fifty-six (56) questionnaires were prepared and administered to respondents. The questions were extensive and ranged from questions on personal data information to detailed information on the level of compliance with the transparency provisions in Act 663. The use of questionnaire made counting and analysis of results relatively easier.

There were, in all, thirty-seven (37) items in the questionnaire. Thirty-five (35) of them were close-ended while two (2) were open-ended items. The first two (2) items sought to elicit personal data information about the respondents. These covered the name of the College and the role of the respondent on the Entity Tender Committee. The remaining items sought to obtain detailed information about the level of compliance with the transparency provisions in Act 663. They covered issues on record of procurement proceedings, giving of notice on records, publicizing procurement activities, advertising procurement and holding proceedings in public. Respondents indicated their reactions to each issue by ticking an appropriate cell on a likert scale of 1 to 4. Sample of the questionnaire is found in Appendix B.

The researcher personally distributed the questionnaires to the respondents present at the time of administration. The rest were handed over to the procurement officers of the Colleges to be given to those who were not present. It must be acknowledged to the credit of the respondents that they gave their maximum co-operation to the answering of the questionnaire. Most of them decided to answer the questions on the spot. Others returned them through the procurement officers within two days. In this way, fewer follow-ups were made to retrieve the questionnaire. In all, fifty-three (53) of the questionnaires were retrieved. Aside of the fact that the research instrument was less expensive, it offered greater assurance of anonymity.

3.6 Data Analysis and Presentation

In this study, both the qualitative and quantitative methods were used to analyze the data. The thematic content analysis was adopted for the qualitative data. Thematic content analysis is a descriptive presentation of qualitative data. Qualitative data may take the form of interview transcripts collected from research participants or other identified texts that reflect experientially on the topic of study. In conducting thematic content analysis, the epistemological stance of the study is objectivism (Anderson, 2007).

Data collected were first edited by rewriting the information gathered into full text, and correcting detected errors and omissions where necessary. Themes emerged out of the data collected. Each of the edited information was placed under one of the themes that emerged (that is, data coding). The information under each theme was then classified into various sub-themes. The data were finally summarized and displayed orderly in a compact form (by tabulation) for further analysis.

In the analysis of the quantitative data, the study adopted descriptive statistics, statistically significant tests and factor analysis. Descriptive statistics is the discipline of quantitatively describing the main features of a collection of information. It aims to summarize a sample.

Data collected for the study were quantitatively described by the use of mean, standard deviation (SD) and percentiles (in most cases, in the form of relative importance index [RII]). The mean was the average of most probably used frequency. To compute the mean all the values were added up and divided by the number of values (Trochim, 2006). The mean calculated in this study was actually the weighted mean of the responses where the weights were the number of individuals that selected a particular choice. The mean, therefore, was reflective of the average overall response and its value; since it is a measure of central tendency, it is indicative of the majority of individual views.

The standard deviation (SD) shows the relation that set of scores has to the mean. To compute the standard deviation the distance between each value and the mean were found (that is, the discrepancies); the discrepancies were then squared and the sum of the squares taken; this sum was then divided by the number of scores minus one to give the

variance; the square root of the variance was then taken to get the standard deviation (Trochim, 2006). The standard deviation allowed the study to reach some conclusions about specific scores in the distribution; it provided consistent summary useful for comparison; it is reflective of the divergence in the views of the sample.

The relative importance index (RII), on the other hand, provides some sort of priority for the factors being investigated apart from being a compliment to the mean. Therefore, apart from meaning that a relative importance index which was high (close to 100) was indicative of the fact that a factor was almost always practiced, the relative importance index were also used to rank the factors, based on which factors were practiced more than others. The relative importance indexes in this study were reported in percentages.

Statistical Package for Social Science (SPSS) version 16.0 and Microsoft Excel 2013 were also employed for analyzing the data collected. Results were presented in the form of tables and bar chart to facilitate easy and accurate pictorial presentation. A comparison of data was also done in order to ascertain whether or not the information gathered from the respondents were *in tandem* with the provisions of the Procurement Act of Ghana and the literature review.

3.7 Summary of Chapter

The study adopted objectivism and positivism at the ontological and epistemological levels respectively. Triangulation research strategy comprising qualitative and quantitative strategies to data collection and analysis of data, and descriptive research design, were also adopted for this study. The conceptual framework was hinged on five (5) major themes namely, record of proceedings, giving of notice on records, publicizing procurement activities, advertising procurement and holding proceedings in public.

The population of the study comprised the Tender Committees within the Colleges of Education in the Ashanti Region. Fifty-six people were sampled for the study. The purposive and convenience sampling were used in selecting the sampled population. The research data gathering instruments used for collecting data were an interview and a questionnaire. Act 663 with others such as the PPA and its Bulletin, newspapers and

other documents collected from the sampled population were also employed to find answers to some of the research questions.

The qualitative and quantitative methods were both used to analyze the data. The thematic content analysis was adopted for the qualitative data while descriptive statistics, statistically significant tests and factor analysis were drawn for the quantitative data. SPSS and Microsoft Excel were also adopted for the analysis. Results were presented in the form of tables and bar chart. A comparison of data was done for corroboration of evidence gathered.

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CHAPTER FOUR

DATA ANALYSIS AND DISCUSSION OF RESULTS

4.0 Introduction

This chapter deals with the presentation and analysis of data gathered on the field and the discussion of same. The chapter is in four sections: the transparency provisions in the *Public Procurement Act, 2003 (Act 663)*; the tools for assessing transparency in accordance with Act 663; the level of compliance with the transparency provisions in Act 663 by the Colleges of Education in the Ashanti Region of Ghana; and factors affecting compliance with the transparency provisions of Act 663. The data collected are analysed mainly through percentages, descriptive statistics, statistically significant tests and factor analysis.

4.1 Transparency Provision in Act 663

One of the objectives of Act 663 is to ensure that public procurement is carried out in a transparent manner (Section 2 of Act 663). This section identifies the transparency provisions in the Act, that is, the first objective of this study. It considers the various parts of the Act and extracts the transparency provisions in each section. The percentages of the transparency provisions in the various parts are then worked out to come out with the total percentage of transparency provisions in Act 663.

Section 2.2 of this study (the Principle of Transparency in Procurement) identified indicators of transparency to include keeping records on procurement (Osei-Tutu *et al.*, 2011), making those records available for public consumption (Adu Sarfo, 2011), advertisement, publicly opening tenders, public declaration and publication of tender results and award of procurement contracts (Barden, 2006; Ayitey, 2012), and public dispute resolution handling processes (ARC, 2004). The following sub-sections of this section of the study, therefore, deal with provisions in the Act that are identified as procurement rules and procedures that deal with approaching procurement in a transparent manner. The Act comprises 99 sections divided into nine (9) parts. The first two parts: Establishment of the Board (13 Sections) and Procurement Structures (7

sections), and Part VIII: Disposal of Stores, Plant and Equipment (2 Sections) do not contain any transparency provisions. The following parts shall, therefore, apply:

4.1.1 Part III: Procurement Rules

There are fourteen (14) sections in this part. The following have been identified as the transparency provisions in this part:

A procurement entity shall prepare procurement plan to support its approved programme and submit same to its Tender Committee not later than one month to the end of the financial year for the following year (Section 21(1) and (2)). The procurement entity shall send to the Tender Review Board, procurement notices for contracts and procurement plans above the thresholds stipulated in Schedule 3 for publication in the Public Procurement Bulletin (Section 21(4)).

This is in line with Ayitey (2012) who says that it is essential for procurement entities to plan their procurement activities for the coming year by the 30th day of November of the preceding year. The plan would be reviewed and approved by their Entity Tender Committees. The plan is updated every quarter of the year. The list of entities who submit their procurement plans are published in the Public Procurement Bulletin (Ayitey, 2012). Procurement planning enables entities to spend within their budget and avoid unplanned expenditure (Adu Sarfo, 2011). The publication of the plan allows procurement activities of various entities to be made freely available and directly accessible to all interested in the procurement (Greuning, 2005).

A procurement entity shall make a decision with respect to the qualification of each supplier or contractor submitting an application to prequalify. The procurement entity shall promptly notify each supplier or contractor submitting an application to prequalify of whether or not it has been prequalified and shall make available to any member of the general public upon request, the names of the suppliers or contractors who have been prequalified (Section 24(1) and (2)). The procurement entity may require a supplier or contractor who has been prequalified to demonstrate its qualification again. The procurement entity shall promptly notify each supplier or contractor requested to

demonstrate its qualification again whether or not the supplier or contractor has done so to the satisfaction of the procurement entity (Section 24(5) and (7)).

Another provision in the Act that throws light on the principle of transparency has to do with the form of communication to be adopted in procurement proceedings. The Act requires all communication between procurement entities and tenderers to be in writing (Section 26). Communication between parties to the procurement process is vital to achieving best practice with regards to procurement (CIOB, 2010).

For this reason, the Act provides that a procurement entity shall maintain a record of the procurement proceedings. Portions of these records and documents maintained by the procurement entity shall be made available, upon request, to: any person after a tender, proposal, offer or quotation has been accepted or after proceedings have been terminated without resulting in a procurement contract; suppliers, contractors and consultants that submitted tenders, proposals, offers or quotations, or applied for prequalification after a tender, proposal offer or quotation has been accepted or procurement proceedings have been terminated without resulting in a procurement contract; the Public Procurement Board, an investigator appointed by the Board and the Auditor-General for inspection; and where donor funds have been used for the procurement, donor officials shall upon request to the Minister have access to relevant procurement files for purposes of verification and review (Section 28(1), (2), (3) and (6)).

In support of Section 28 discussed above, it has been suggested that in order to allow proper accountability in the procurement process, details of procurements undertaking together with all necessary documentations should be available (Jones, 2007). Record keeping enhances transparency; therefore, keeping of same by procurement entities will ensure transparency in any procurement they make (Adu Sarfo, 2011).

In further support of the maintenance of records and making them available to key players as well as all other interested persons the Act provides that a procurement entity shall promptly publish notice of procurement contract awards (Section 31(1)).

From the above discussion, five (5) out of the fourteen (14) sections in this part have been identified as containing transparency provisions. Thus, the transparency provisions constitute about 35% of the total procurement provisions in this part.

4.1.2 Part IV: Methods of Procurement

This part consists of nine (9) sections. The following have been identified as the transparency provisions in this part:

Where the procurement entity engages in restricted tendering on the grounds that goods, works and services are available only from a limited number of suppliers or contractors; or the time and cost required to examine and evaluate a large number of tenders is disproportionate to the value of the goods, works or services to be procured, it shall cause a notice of the selective-tendering award to be published in the Public Procurement Bulletin (Sections 38 and 39(2)). Authorities normally prefer the restricted procedure because it reduces cost and improves manageability since there is no scope to negotiate with tenders following receipts of bids (OGC, 2008).

A procurement entity may engage in single-source procurement with the approval of the Board after public notice and time for comment where procurement from a particular supplier or contractor is necessary in order to promote a policy (such as balance of payment position and foreign exchange reserves of the country, countertrade arrangements, local content, economic-development, employment for locals, transfer of technology, development of managerial, scientific and operational skills, and national security considerations), and procurement from another supplier or contractor cannot promote that policy (Section 40(2)).

This part identifies three (3) out of the nine (9) sections as containing transparency provisions. This constitutes about 33% of the total procurement provisions in this part.

4.1.3 Part V: Tendering Procedures

This part contains twenty-two (22) sections. The following are the identified transparency provisions in this part:

Invitation to tender in an international competitive tendering shall be placed in a newspaper with adequate circulation to attract foreign competition (Section 45(2)(b)). A procurement entity shall invite tenders or application to prequalify by causing an invitation to tender or prequalify to be published in the Procurement Bulletin, at least two newspapers of wide national circulation, and a newspaper of wide international circulation, in a relevant trade publication or technical or professional journal of wide international circulation (Section 47). In support of these sections it has been indicated that wide publication of tenders in the media such as newspapers and websites increases transparency, thereby enhancing public procurement compliance (Hui *et al.*, 2011) and that a free and independent press is a powerful tool to promote transparency (UNDP, 2010).

The Act stipulates that procurement entities open tenders publicly in the presence of the tenderers or their representatives. A supplier or contractor, who has submitted a tender or a representative of that supplier or contractor, shall be permitted by the procurement entity to be present at the opening of tenders. The name and address of each supplier or contractor whose tender is opened and the tender price shall be announced to those present at the opening of tenders and communicated on request to a supplier or contractor who has submitted a tender but is not present or represented at the opening of the tender. The tender price shall be recorded immediately in the record of tendering proceedings (Sections 56(3), (4) and (5)). Procurement process should be open enough to avoid one bidder gaining advantage over other bidders (Sarpong, 2007).

A tender that has been ascertained to be the successful tender shall be accepted and notice of acceptance of the tender shall be given to the supplier or contractor submitting the tender. A procurement entity shall give notice of the procurement contract in writing to unsuccessful suppliers and contractors and the notice shall specify the name and address of the successful supplier or contractor who has entered into the contract and the contract price, the provision by the supplier or contractor of security for the performance of the contract, and for contracts above the threshold in Schedule 3, be published in the Procurement Bulletin which discloses the names of firms or individuals awarded

contracts, the start and completion dates, as well as the value of the contract (Section 65(1) and (9)).

Publishing calls for tenders and notifying contract awards in the media including the successful bidder's name and final price are some of the basic principles of transparency in government procurement which directly affect corrupt practices (Evenett *et al*, 2005).

Four (4) out of the twenty-two (22) sections in this part contain transparency provisions. This is about 18% of the total procurement provisions in this part.

4.1.4 Part VI: Methods and Procedures to engage the services of Consultants

There are twelve (12) sections in this part. Seven (7) of these sections, constituting about 58% of the total procurement provisions in this part, contain transparency provisions. These seven sections are as follows:

A procurement entity shall invite consulting services by causing a notice seeking expression of interest in submitting a proposal to be published in the Public Procurement Bulletin for consultancy contracts above certain threshold stipulated in Schedule 3. The notice shall be published in a newspaper of wide circulation or in a relevant trade or professional publication of wide circulation except where participation is limited to national consultants (Section 66(1) and (2)). The procurement entity shall provide invitation for proposals to shortlisted consultants selected on the basis of quality. It shall also provide the invitation for proposals to the most qualified or single source consultant selected on the basis of the consultant's qualification (Section 67(3) and (4)). The consultants shall be notified of the criteria to evaluate the proposals in the invitation for proposals (Section 69(1) and (2)).

A consultant may request clarification of the invitation for proposals from the procurement entity and the procurement entity shall communicate the clarification to the other consultants to whom the procurement entity has provided the invitation for proposals. Where an addendum is issued to modify the request for proposals it shall be communicated promptly to the shortlisted consultants to whom the procurement entity has provided the request for proposals. Where a procurement entity convenes a meeting

of consultants, it shall prepare minutes of the meeting and the minutes shall be provided promptly to the consultants participating in the selection proceedings to enable them take the minutes into account in preparing their proposals (Section 70(1), (3), (4) and (5)).

In the selection of consultants, the technical and financial proposal shall be submitted to a procurement entity in separate sealed envelopes. The financial proposals shall remain sealed until they are opened publicly (Section 73(3) and (5)) and the name of the consultant, the quality scores and the proposed prices shall be read aloud and recorded when the financial proposals are opened (Section 75(3)). Minutes of public opening of financial proposals shall be prepared by the entity which shall form part of the evaluation report and the entity shall retain this record. The procurement entity shall also notify unsuccessful consultants about their disqualification (Section 75(2) and (4)).

The procurement entity shall inform the consultants that attained rating above the threshold that they may be considered for negotiation if the negotiations with the consultant with the best rating do not result in a procurement contract; and also inform the consultant with the best rating that it is terminating the negotiation if it is apparent that the negotiation will not result in a procurement contract (Section 76(2)(c) and (d)).

4.1.5 Part VII: Review

It is also provided in the Act that the head of the procurement entity or the Board shall notify the suppliers, contractors or consultants participating in procurement proceedings about the submission of a complaint and of its substance for a review so that a supplier or contractor or any government authority whose interest are or could be affected by the review proceedings participates in the review proceedings if he or she so wishes. After a decision has been taken by the procurement entity or the Board a copy of the decision shall be furnished to the supplier or contractor submitting the complaint and to other supplier, contractor or government authority that has participated in the review proceedings; and the complaint and decision shall also be made available for inspection by the general public (Section 81). This aligns with Streck and Lin (2008) who say that incorporating mechanisms to promote procedural fairness and creating an appeal process for aggrieved participants will promote transparency in the decision-making process.

The complaint and the decision shall be in writing (Sections 79(1) and (5) and 80(4)). Any decision by the procurement entity to suspend procurement proceedings and the grounds and circumstances for the suspension shall be made part of the records of the procurement proceedings (Section 82(6)). Accurate and readily accessible records of judicial rulings reduce the potential for illicit manipulation resulting from delays, corruption and inaccuracies (ARC, 2004).

This part is made up of five (5) sections. Four (4) of these sections, constituting 80% of the total provisions in this part, contain transparency provisions.

4.1.6 Part IX: Miscellaneous Provisions

This part comprises fifteen (15) sections. Out of these sections four (4) contain transparency provisions. This constitutes about 26% of the total procurement provisions in this part. The following are the transparency provision identified in this part:

Every procurement entity shall provide the Board with such information as the Board may require in writing, regarding procurement engaged in by the entity (Section 88). The Board may appoint a person to conduct an investigation into any matter related to procurement proceedings by a procurement entity. The investigator shall forward a copy of the investigation to the Board; and send a summary of the findings and recommendations to the procurement entity and to any tenderer, supplier, contractor or consultant whose conduct was the subject of the investigation (Section 90(1)).

The Auditor-General shall conduct annual audits of the procurement activities of entities and shall furnish copies of the reports on the audit to the Board upon request from the Board (Section 91(1)). The Chief Executive of the Board shall ensure that administrative rulings and directives of general application under the Act are promptly made available to the public (Section 95).

4.1.7 Summary of the Transparency Provisions in Act 663

Table 4.1: Summary of Transparency Provisions (TP) in Act 663

Parts of Act 663	No. of Sections	No. of TP	% of TP
Part I: Establishment of the Board	13	-	-
Part II: Procurement Structures	07	-	-
Part III: Procurement Rules	14	05	35.7
Part IV: Methods of Procurement	09	03	33.3
Part V: Tendering Procedures	22	04	18.2
Part VI: Methods and Procedures to engage the services of Consultant	12	07	58.3
Part VII: Review	05	04	80.0
Part VIII: Disposal of Stores, Plant and Equipment	02	-	-
Part IX: Miscellaneous Provisions	15	04	26.7
Total	99	27	27.3

Source: Public Procurement Act, 2003 (Act 663)

Table 4.1 above summarizes the transparency provisions in Act 663. The table indicates that out of the 99 sections in Act 663, 27 of them contain transparency provisions. Thus, the transparency provisions constitute about 27% of the total provisions in Act 663.

4.2 Tools for assessing Transparency in accordance with Act 663

To achieve the second objective of this study, this section developed tools for assessing transparency in accordance with Act 663. On one hand, main compliance areas were first developed and key compliance indicators were also identified under each main compliance area. Suggested points were then assigned to each main compliance area based on the number of key indicators under them to serve as scoring guide or marking scheme. On the other hand, tools for assessing transparency in general were first developed and then narrowed down to the scope of this study. In section 2.3 of this study, it was concluded that the baseline indicator and the performance assessment system will be applied to aid in the development of the assessment tools.

4.2.1 Developing Tools for Assessment using the Baseline Indicator

In section 2.3 of this study it was indicated that the baseline indicator covers the legal and regulatory framework from the highest level legislation to detailed regulations,

procedures and bidding documents that are formally in use; and that this indicator is further broken down into eight sub-indicators which are individually scored (Osei-Tutu *et al.*, 2011). The sub-indicators were identified as scope of application and coverage of the legislative and regulatory framework, advertising rules and time limits, procurement methods, rules concerning participation, documentation of tender and technical specifications, evaluation of tenders and criteria for awarding contracts, submitting, receiving and opening of tenders and complaints (OECD-DAC & World Bank, 2006).

Indicators of transparency within the baseline indicator were identified as tender documentation (Osei-Tutu *et al.*, 2011), rules on participation and advertising, as well as opening of tenders and complaints (Barden, 2006; Ayitey, 2012). The baseline indicator covers the legal framework (Osei-Tutu *et al.*, 2011), which is the Act itself. Following the baseline indicator, the divisions of the Act may be employed as the main compliance areas just as they appear in the Act. Sections under each part relating to transparency may then be used as key compliance indicators (or sub-indicators). The divisions which concern transparency (with reference to section 4.1 of this study and its sub-sections) are as provided for in table 4.2 below.

Table 4.2 reveals six (6) main compliance areas and twenty-six (26) key compliance indicators (KCI) represented as follows: Procurement Rules (5 KCI), Methods of Procurement (2 KCI), Tendering Procedures (4 KCI), Methods and Procedures to engage the services of Consultants (7 KCI), Review (4 KCI) and Miscellaneous Provisions (4 KCI). Suggested points assigned to the main compliance areas as scoring key based on the number of key compliance indicators under each main compliance area were 20%, 8%, 15%, 27%, 15% and 15% respectively and are indicated in table 4.3 below.

Table 4.2: Tools for assessing Transparency using Parts provided in Act 663

Main Compliance Area (Parts)	Key Compliance Indicators (Sections indicated by “S.”)
Procurement Rules (Part III)	<ul style="list-style-type: none"> • Procurement Plan (S. 21) • Decision on Prequalification (S. 24) • Form of Communication (S. 26) • Record of Procurement Proceedings (S. 28) • Public Notice of Procurement Contract Award (S. 31)
Methods of Procurement (Part IV)	<ul style="list-style-type: none"> • Restricted Tendering (Ss. 38 and 39) • Single-Source Procurement (Ss. 40 and 41)
Tendering Procedures (Part V)	<ul style="list-style-type: none"> • International Competitive Tendering (S. 45) • Procedures for Inviting Tenders or Applications to Prequalify (S. 47) • Opening of Tenders (S. 56) • Entry into Force of Procurement Contract (S. 65)
Methods and Procedures to engage the services of Consultants (Part VI)	<ul style="list-style-type: none"> • Notice of invitation of expression of interest and preparation of shortlists (S. 66) • Shortlisted candidates (S. 67) • Criteria for the evaluation of proposals (S. 69) • Clarification and modification of Requests for Proposals (S. 70) • Receipt of Proposals (S. 73) • Selection Procedure where price is a factor (S. 75) • Selection Procedure where price is not a factor (S. 76)
Review (Part VII)	<ul style="list-style-type: none"> • Review by Procurement Entity (S. 79) • Administrative Review (S. 80) • Certain Rules Applicable to Review Proceedings (S. 81) • Suspension of Procurement Proceedings (S. 82)
Miscellaneous Provisions (Part IX)	<ul style="list-style-type: none"> • Request for information by the Board (S. 88) • Procedures on Completion of Investigation (S. 90) • Statutory Audit (S. 91) • Public access to Legal Texts (S. 95)

Source: Researcher’s Construct (2014)

Table 4.3: Scoring Key for assessing Transparency (by Parts)

Main Compliance Areas	No. of Key Compliance Indicators	Suggested Points Assigned (%)
Procurement Rules	5	20
Methods of Procurement	2	08
Tendering Procedures	4	15
Methods and Procedures to engage the services of Consultants	7	27
Reviews	4	15
Miscellaneous Provisions	4	15
Total	26	100

Source: Researcher's Construct (2014)

4.2.2 Developing Tools for Assessment using the Performance Assessment System

In section 2.3 of this study it was indicated that the performance assessment system report considers four main compliance areas namely management systems, information and communication, procurement process and contract management (Osei-Tutu *et al.*, 2011). The management systems thoroughly look at ethics and compliance with regulatory framework, human resources, leadership, monitory and control system, and complaints, appeals and dispute resolution mechanisms. Information and communication looks at procurement entities' capacity to give out information in the right format, and ability to utilize information received. Procurement process tries to get information on the procurement entities' knowledge of the procurement cycle and how they conduct their activities in each stage of the cycle. Contract management assesses how procurement entities monitor and supervise the performance of the contract they award (Ayitey, 2012; OECD-DAC & World Bank, 2006). In effect, the compliance areas are put in the form of themes developed from procurement management.

Information and communication was identified as the indicator that deals with transparency within the performance assessment system (Osei-Tutu *et al.*, 2011). The performance assessment system provides a qualitative report on procurement entities' performance (Ayitey, 2012). Following the performance assessment system, themes may be identified across the various parts of the Act as the main compliance areas and the sections and sub-sections in the Act that deal with the identified themes may be employed

as the key compliance indicators. Five thematic areas may be identified. This is suggested by table 4.4 below.

Table 4.4 reveals five (5) main compliance areas and forty (40) key compliance indicators (KCI) represented as follows: Record of Proceedings (13 KCI), Giving of Notice on Records (14 KCI), Publicizing Procurement Activities (5 KCI), Advertising Procurement (3 KCI) and Holding Proceedings in Public (5 KCI). Suggested points assigned to the main compliance areas as scoring key, based on the number of key compliance indicators under each main compliance area and the weights awarded each main compliance indicator, were 40%, 21%, 15%, 9%, and 15% respectively and are indicated in table 4.5 below. Giving of Notice on Records did not receive the same weight as the other main compliance areas because compliance to the key indicators mostly depends on whether or not the information is requested for or a complaint is made.

Table 4.4: Tools for assessing Transparency using Themes

Main Compliance Areas (Themes)	Key Compliance Indicators (Sections indicated by “S.”)
Record of Proceedings	<ul style="list-style-type: none"> • Preparation of Procurement Plan (S. 21(1)) • Communication to be in writing (S. 26) • Record of Procurement Proceedings (S. 28(1)) • Record of Tendering Proceedings (S. 56(5)) • Procurement Contract to be in writing (S. 65(9)) • Clarification and Modification of Invitation for Proposals (S. 70(4)) • Selection Procedure where price is a factor (S. 75(3) and (4)) • Review by Procurement Entity (S. 79(1) and (5)) • Administrative Review (S. 80(4)) • Decision on Complaints impliedly to be in writing (S. 81(4)) • Suspension of Procurement Proceedings (S. 82(6)) • Procedures on completion of Investigation (S. 90(1)) • Statutory Audit (S. 91(1))

Giving of Notice on Records	<ul style="list-style-type: none"> • Notification to Supplier on Prequalification (S. 24(2) and (7)) • Making available Records of Procurement Proceedings (S. 28(2), (3) and (6)) • Communicating tender opening proceedings to Suppliers (S. 56(4)) • Notice of Acceptance of Successful Tender (S. 65(1) and (9)) • Shortlisted Candidates (S. 67(3) and (4)) • Criteria for Evaluation of Proposals (S. 69(2)) • Clarification and Modification of Invitation for Proposals (S. 70(1)(b), (3) and (5)) • Selection Procedure where Price is a Factor (S. 75(2)) • Selection Procedure where Price is not a Factor (S. 76(2)(c) and (d)) • Notice of Complaints and Decision (S. 81(1), (4) and (5)) • Request for Information by the Board (S. 88) • Procedures on Completion of Investigation (S. 90(1)) • Statutory Audit (S. 91(1)) • Public access to Legal Texts (S. 95)
Publicizing Procurement Activities	<ul style="list-style-type: none"> • Procurement Plan (S. 21(4)) • Notice of Procurement Contract Award (S. 31(1)) • Notice of Selective-Tendering Award (S. 39(2)) • Single-Source Procurement (S. 40(2)) • Contracts above Threshold in Schedule 3 (S. 65(9)(c))
Advertising Procurement	<ul style="list-style-type: none"> • Invitation to Tender (S. 45(2)(b)) • Invitation to Tender or Application to Prequalify (S. 47) • Notice of Invitation of Expression of Interest (S. 66(1) and (2)(b))
Holding Proceedings in Public	<ul style="list-style-type: none"> • Single-source Procurement (S. 40(2)) • Opening of Tenders (S. 56(3) and (4)) • Receipt of Proposals (S. 73(5)) • Selection Procedure where Price is a Factor (S. 75(3))

Source: Researcher's Construct (2014)

Table 4.5: Scoring Key for assessing Transparency (by Themes)

Main Compliance Areas	(No. of KCI) x (Weight)	Suggested Points Assigned (%)
Record of Proceedings	13 x 2 = 26	40
Giving of Notice on Records	14 x 1 = 14	21
Publicizing Procurement Activities	05 x 2 = 10	15
Advertising	03 x 2 = 06	09
Holding Proceedings in Public	05 x 2 = 10	15
Total	40 x 1.65 = 66	100

Source: Researcher's Construct (2014)

Section 2.3 of this study revealed other criteria adopted in assessing public procurement by Pauw and Wolvaardt (2009) and the Public Procurement Disposal of Assets Authority [PPDA] (2007). This gave an indication that there are many ways of measuring that may be in use; and that there is no one way of standardizing the measurements (Kakwezi & Nyeko, 2010). For instance, a researcher may divide the theme of Record of Proceedings into two: the writing of minutes or records on one hand and the maintenance of the written record on the other hand. Another researcher may divide the theme of Giving of Notice on Records into two: information and communication on one hand and making records maintained available for inspection on another hand. Thus, over nine themes on transparency in Act 663 can be developed as indicators for measuring transparency in accordance with Act 663. Assessment may also not follow rigidly the suggested points assigned to the main compliance areas. It will largely depend on the key compliance indicators applicable to the particular procurement entity.

4.2.3 Adopted Tool for the Study

This section (4.2) discussed tools that may be employed to assess transparency in Act 663. Two tools were developed: Assessment by the use of Parts of the Act (section 4.2.1) and Assessment by the use of Themes developed from the Act (section 4.2.2). In respect of this study, the tool for assessing transparency using themes was adopted.

The study, per section 1.6 (Scope of the Study), was limited to the procurement of goods. For this reason only the transparency provisions under procurement of goods applied. The five themes remained constant. However, sections within Part VI: Methods and

procedures to engage the services of Consultants (Sections 66 to 77 of Act 663) were not included in the measurement.

The study population (section 3.5.1) was the Tender Committees within the Colleges of Education. Sections in Act 663 directed at the Board such as Administrative Review (Section 80), Request for Information by the Board (Section 88) and Procedures on Completion of Investigation (Section 90); sections directed at the Auditor-General such as Statutory Audit (Section 91); and sections directed at the Chief Executive such as Public access to Legal Texts (Section 95) were also not included in the measurement.

The sections applicable and used in this study are, therefore, as represented by table 4.6 below. The tool did not also follow the suggested grading points assigned above but depended on the key compliance areas applicable to the Colleges of Education on the likert scale provided in the questionnaire.

Table 4.6: Tools for assessing Transparency in Act 663 (for Goods)

Main Compliance Areas (Themes)	Key Compliance Indicators (Sections indicated by “S.”)
Record of Proceedings	<ul style="list-style-type: none"> • Preparation of Procurement Plan (S. 21(1)) • Communication to be in writing (S. 26) • Record of Procurement Proceedings (S. 28(1)) • Record of Tendering Proceedings (S. 56(5)) • Procurement Contract to be in writing (S. 65(9)) • Decision on Complaints to be in writing (S. 81(4))
Giving of Notice on Records	<ul style="list-style-type: none"> • Notification to Supplier on Prequalification (S. 24(2) and (7)) • Making available Records of Procurement Proceedings (S. 28(2), (3) and (6)) • Communicating tender opening proceedings to Suppliers (S. 56(4)) • Notice of Acceptance of Successful Tender (S. 65(1) and (9)) • Notice of Complaints and Decision (S. 81(1), (4) and (5))

Publicizing Procurement Activities	<ul style="list-style-type: none"> • Procurement Plan (S. 21(4)) • Notice of Procurement Contract Award (S. 31(1)) • Notice of Selective-Tendering Award (S. 39(2)) • Single-Source Procurement (S. 40(2)) • Contracts above Threshold in Schedule 3 (S. 65(9)(c))
Advertising Procurement	<ul style="list-style-type: none"> • Invitation to Tender (S. 45(2)(b)) • Invitation to Tender or Application to Prequalify (S. 47)
Holding Proceedings in Public	<ul style="list-style-type: none"> • Single-Source Procurement (S. 40(2)) • Opening of Tenders (S. 56(3) and (4))

Source: Researcher's Construct (2014)

4.3 Level of Compliance with the Transparency Provisions in Act 663

This section is a presentation, analysis and discussion of the third objective of the study: assessment of the level of compliance with the transparency provisions in the *Public Procurement Act, 2003 (Act 663)* within Colleges of Education in the Ashanti Region of Ghana in a survey. The section is structured based on a questionnaire administered in two parts. The first part captured the particulars of respondents who held various positions in the Colleges of Education within Ashanti Region (section 4.3.1). The second part comprises a five (5) section likert scale designed set (“The Marketing Universe”, 2012) of thirty-five (35) questions (section 4.3.2). The five sections are categorized into: record of proceedings, giving of notice on records, publicizing procurement activities, advertising procurement and holding proceedings in public; using a four point likert scale on the range: “1 = Always”, “2 = Sometimes”, “3 = Never” and “4 = Not applicable”. The research used SPSS version 16.0 and Microsoft Excel 2013 to analyze the data collected. Descriptive statistics, statistically significant tests and factor analysis were drawn for the variables considered. The following sub-section is a summary on the background information of respondents.

4.3.1 Background Information

This sub-section presents background information of data collected on fifty-three (53) respondents from seven (7) different Colleges of Education representing individual

procurement entities all located in the Ashanti Region. The data also includes specific positions of the respondents on their various Tender Committees in their respective Colleges.

Table 4.7 is a summary of the seven Colleges of Education that were sampled for this research with an average of eight (8) individuals selected from each College. A statistically insignificant majority of the respondents were from Wesley College of Education representing 19% and 15% each from Agogo, Offinso and Akrokerri Colleges of Education. The remaining respondents were from Mampong Technical College of Education representing 13% and then St. Monica's and St. Louis' Colleges of Education each with 11% representation as summarized in Table 4.7

Table 4.7: Colleges of Education

College of Education	Frequency	Percent
Agogo Women's College of Education	8	15%
Wesley College of Education	10	19%
Mampong Technical College of Education	7	13%
Offinso College of Education	8	15%
Akrokerri College of Education	8	15%
St. Monica's College of Education	6	11%
St. Louis College of Education	6	11%
Total	53	100%

Source: Researcher's Construct (2014)

A summary of the roles played by the respondents on the Tender Committees of their individual Colleges is given in Table 4.8 below. The roles squarely represented include Council Chairmen (4%), Ministry of Education (MoE) representatives (11%) and Student Representative Council (SRC) representatives (11%). The remaining constituted individuals serving on the Tender Committees of their Colleges as Principals, College Secretaries, Finance Officers, Procurement Officers and Staff representatives, each representing 13%.

Table 4.8: Roles of Individuals on Tender Committees

Role on Entity Tender Committee	Frequency	Percent
Council Chairman	2	4%
Principal	7	13%
College Secretary	7	13%
Finance Officer	7	13%
MoE Representative	6	11%
SRC Representative	6	11%
Development Committee Member	4	8%
Procurement Officer	7	13%
Staff Representative	7	13%
Total	53	100%

Source: Researcher's Construct (2014)

Based on the particulars of the respondents within the data collected, the respondents are very much involved in the procurement processes of tendering contracts to suppliers as they served in various capacities on the Tender Committees of their Colleges. The respondents are, therefore, very apposite in determining the level of compliance with the transparency provision in Act 663 within the Colleges of Education.

4.3.2 Indicators of Transparency in the Procurement Process

This sub-section presents and analyzes data collected on key indicators used as determinants of the level of compliance with the transparency provisions in Act 663 using data sampled from the Colleges of Education. The study uses a four point likert scale with an inclusive point to determine whether or not the item in question applies. The scale “1 = Always” was indicative of all the procured goods complying with the stated indicator, “2 = Sometimes” was indicative of the fact that not all the goods procured complied with the key indicator and “3 = Never” meant that none of the goods procured complied with the key indicator. The additional inclusive point, “4 = Not applicable” meant that the entity had not encountered the situation before. A mean of 4.0 means that everyone chose ‘always’ and a mean between 4 and 0 implies that individuals ‘sometimes’ engaged in that particular factor being investigated. The indicators are categorized into five (5) sections (Record of Proceedings, Giving of Notice Records, Publicizing Procurement Activities, Advertising Procurement and Holding Proceedings

in Public) under which there are subdivisions requesting specific responses on the presented likert scale.

4.3.2.1 Record of Proceedings

Table 4.9 is a summary statistics of the data collected on the record of proceedings during public procurement tendering at the individual Colleges. The results indicate that the committees always prepare procurement plans to support the approved programmes, communicate formally in writing between the entities and the tenderers, maintain records of procurement proceedings and also maintain records of tendering proceedings as shown with mean of 4.00 and RIIs of 100. Other forms of communication and procurement contracts were almost always confirmed in writing with RIIs of 97.1 and 93.2 respectively. The factor that was barely encountered was the decision of the committee regarding complaints being documented in writing. About 96% of the respondents specified that they have not encountered the situation before.

Table 4.9: Summary Statistics on Record of Proceedings

Factor	Mean	SD	RII(%)	N/A
Prepares procurement plan to support approved program	4.0	26.5	100.0	-
Writing communication between entity and tenderers	4.0	26.5	100.0	-
Other forms of communication are confirmed in writing	3.9	22.7	97.1	-
Maintains record of procurement proceedings	4.0	26.5	100.0	-
Maintains record of tendering proceedings	4.0	26.5	100.0	-
Procurement contracts are put into writing	3.7	17.5	93.2	-
Decision on complaints are in writing	1.1	25.1	27.4	96.2%

Source: Researcher's Construct (2014)

4.3.2.2 Giving Notice on Records

This section discussed how the records maintained in section 4.3.2.1 are made available to the general public, suppliers who submitted tenders, the Procurement Board and auditors, among others. The study investigated eighteen (18) factors in this section. This is represented by table 4.10 below.

Table 4.10: Summary Statistics on Giving Notice on Records

Factor	Mean	SD	RII(%)	N/A
Sending notices of procurement plans for publication	3.0	11.2	75.5	-
Information about brief description of goods to be procured	3.0	17.2	75.9	32%
Information about names and addresses of suppliers that submitted tenders	3.0	17.2	75.9	32%
Information about name and address of supplier with whom the procurement contract is entered	2.9	12.0	72.2	32%
Information on qualification or lack of qualification of suppliers who submitted tenders	2.2	12.2	54.3	47%
The price or basis for determining price and summary of other principals terms and conditions	2.3	8.6	56.1	42%
Summary of evaluation and comparison of tenders including any margin of preference	2.5	11.2	63.7	43%
Statement about tenders that were rejected and grounds for rejection	2.8	11.8	70.8	34%
Statements on single-source procurement and request for quotations that did not result in tendering	1.9	13.2	49.5	58%
Records and documents entity has maintained on procurement available for inspection	4.0	26.5	100.0	-
Relevant procurement files available to donor officials	1.0	25.8	25.5	98%
Announces names and addresses of suppliers whose tenders are opened and the tender price	3.6	22.1	90.1	13%
Gives notice of procurement contract in writing to the successful supplier	3.9	22.7	97.2	-
Gives notice of procurement contract in writing to unsuccessful suppliers	3.5	15.1	88.2	2%
<i>The head of entity notifies suppliers participating in procurement about submission of complaints and substance</i>	-	-	-	100%
<i>A copy of the decision of the head of entity is furnished to the supplier submitting the complaint</i>	-	-	-	100%
A copy of the decision of the head of entity is furnished to any supplier or government authority participating in review	1.11	22.7	27.8	89%
<i>The complaint and decision are promptly made available for inspection by the general public</i>	-	-	-	100%

Source: Researcher's Construct (2014)

The summary statistics given in Table 4.10 show that only one factor out of the total was always complied with (made bold in the said table). This factor was making of records

and documents maintained by the entities available for inspection by the Public Procurement Board, an investigator appointed by the Board and/or the Auditor-General upon request. The statistics also show that three factors were not applicable to all the entities (made bold and italicized in the said table). These were furnishing copy of the decision of the head of entity to supplier submitting complaint; promptly making available, for inspection by the general public, complaints and decisions; and the head of entity notifying suppliers participating in procurement proceedings about the submission of complaint and its substance.

4.3.2.3 Publicizing Procurement Activities

The statistics on the factors relating to publicizing procurement activities showed that procurement plans were hardly published in the Public Procurement Bulletin with a mean of 2.2 and RII of 55.7 as shown in Table 4.11. Contracts above thresholds were also hardly published in the Public Procurement Bulletin as indicated by an RII of 46.8. The prompt publication of procurement award and engagement of the committee in single-source procurement with the approval of the Board after public notice occurred only sometimes in the various Colleges with RIIs of 69.9 and 61.3 respectively as summarized in Table 4.11.

Table 4.11: Summary Statistics on Publicizing Procurement Activities

Factor	Mean	SD	RII(%)	N/A
Procurement plans published in Public Procurement Bulletin	2.2	22.7	55.7	-
Promptly publishes notice of procurement contract award	3.7	14.7	69.6	32%
Engages in single-source procurement with approval of the Board after public notice	2.5	4.6	61.3	23%
Contracts above thresholds stipulated in Schedule 3 of Act 663 are published in Public Procurement Bulletin	2.5	20.1	46.8	32%

Source: Researcher's Construct (2014)

4.3.2.4 Advertising Procurement

The results from respondents as summarized in Table 4.12 show that the Colleges of Education always published their invitations to tender in the Procurement Bulletin and also published the tender invitations in at least one newspaper of wide national

circulation as both of these factors had RIIs of 100 and complemented mean responses of 4.0 each. The responses also suggest that tender invitations were rarely published in at least two newspapers of wide national circulation which recorded a mean of 2.1 and RII of 52.8 as shown in Table 4.12.

Table 4.12: Summary Statistics on Advertising Procurement

Factor	Mean	SD	RII(%)	N/A
Tender invitations published in Procurement Bulletin	4.0	26.5	100.0	-
Tender invitations published in at least two newspapers of wide national circulation	2.1	22.7	52.8	-
Tender invitations published in at least one newspaper of wide national circulation	4.0	26.5	100.0	-

Source: Researcher's Construct (2014)

4.3.2.5 Holding Proceedings in Public

Results pertaining to the validity of holding tendering proceedings in public show that the entities within the Colleges of Education that manage the tendering proceedings only sometimes engage in single-source procurement with the approval of the Board after public comments represented by an average of 2.3 and a corresponding low RII of 58.5. Eleven percent (11%) of the respondents claimed that this was not applicable in their tendering proceedings as summarized in table 4.13. Other results from table 4.13 show that tenders are, however, always opened publicly in the presence of tenderers or their representatives and also the entities always announced the names and addresses of each supplier whose tender is opened and the tender price to those present at the opening of tenders.

Table 4.13: Summary Statistics on Holding Proceedings in Public

Factor	Mean	SD	RII(%)	N/A
Engages in single-source procurement with approval of the Board after public comments	2.3	11.9	58.5	11%
Tenders are opened publicly in the presence of tenderers or their representatives	4.0	26.5	100.0	-
Names and addresses of suppliers whose tenders are opened and the tender price are announced at the opening of tenders	4.0	26.5	100.0	-

Source: Researcher's Construct (2014)

4.3.2.6 Summary of Overall Response to Objective Three of the Study

The five indicators of transparency within the Procurement process that were investigated from the responses were all deviating in varying dimensions based on the factors categorized under each indicator. The responses of the indicators were collectively analyzed and their relative percentage deviations from the optimum practice (that is, “always”) were calculated.

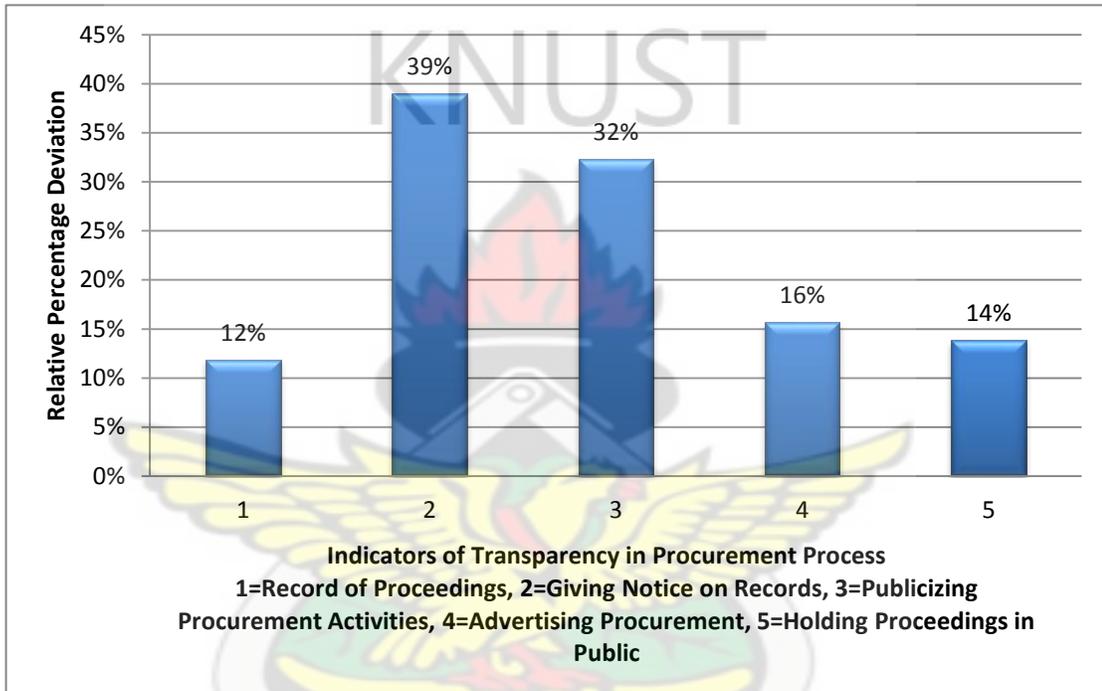


Figure 4.1: Relative Percentage Deviations of Transparency Indicators in Procurement Process

Source: Researcher's Construct (2014)

Figure 4.1 shows the relative percentage deviations of the indicators. The benchmark is that all of these indicators should always be practiced under the auspices of tendering project. Therefore the average should be 4. The graph therefore shows the relative percentage deviation of their overall means from 4 which indicates that those indicators are always practiced. The formula used is $[\text{Benchmark} - \text{Recorded}] \div [\text{Recorded} \times 100]$. From the figure, the record of proceedings appeared to be the indicator with the less deviation from optimum practice with a 12% deviation while the giving of notice on records was the most deviated indicator recording as high as 39% deviation. A close call

deviation in terms of magnitude to giving notice on records was the indicator for publicizing procurement activities, which recorded a deviation of 32%. The remaining transparency indicators comprising of advertising procurement and holding proceedings in public recorded relative percentage deviations of 16% and 14% respectively as shown in Figure 4.1.

Table 4.14: Difference in Deviation

Indicator	Mean	t Stat	p-Value
Record of Proceedings	3.53	1.16	0.288
Giving of Notice on Records	2.44	-6.30	0.000
Publicizing Procurement Activities	2.71	-3.93	0.029
Advertising Procurement	3.37	-1.00	0.423
Holding Proceedings in Public	3.45	-1.00	0.423

Source: Researcher's Construct (2014)

A paired t-test of significant difference in the deviations presented in table 4.14 showed that the only indicators with statistical different deviations were giving notice on records which was represented by an overall mean of 2.44 and a relative percentage of 39% (p-value = 0.00) and then publicizing procurement activities which recorded an overall mean of 2.71 and a relative deviation of 32% (p-value = 0.029). The remaining factors although registering deviations from the optimum practice were not statistically different (p-value > 0.05) from the optimum practice at a significance level of 5% as shown in Table 4.14.

4.3.3 Discussion of Objective Three of the Study

Prior research to this study by Ayitey (2012) and Osei-Tutu *et. al.* (2011) concluded that out of several governmental sectors under investigation, the Educational Sector had a relatively low compliance level. It was also established that amongst four categories (that is, University, Polytechnic, Colleges of Education and Senior High Schools), the Colleges of Education were found to be the poorest performers in terms of compliance levels (see section 2.4.2). The headline in this study was to duly investigate indicators of transparency within various Colleges of Education in the Ashanti Region. There were five indicators of transparency studied in this research including Record of Proceedings,

Giving of Notice on Records, Publicizing Procurement Activities, Advertising Procurement and Holding Proceedings in Public.

4.3.3.1 Record of Proceedings

From table 4.9, the results indicate that the committees always prepare procurement plans to support the approved programmes. This is in line with Adu Sarfo's (2011) assertion that all entities prepared procurement plans. The results also indicated that all the Colleges communicated formally in writing between their entities and the tenderers, maintained records of procurement proceedings and also maintained records of tendering proceedings. These are also in accord with the view that written records are maintained at the work places by entities (Adu Sarfo, 2011; PPA Ghana, 2010). Other forms of communication and procurement contracts were almost always confirmed in writing. Copies of procurement and tendering proceedings were shown to the researcher for verification.

The factor that was barely encountered was the decision of the committee regarding complaints being documented in writing. Again, this result agrees with the point that there is barely record of tenderers registering appeals or any protest (Adu Sarfo, 2011). 88% (that is 100% - 12%) compliance level was achieved in this main compliance area.

4.3.3.2 Giving of Notice on Records

Giving of notice on records was found to be of significantly lower level (see table 4.10). The release of information upon request of names and addresses of suppliers pertaining to the description of goods, individual tenders submitted, qualifications and lack of qualification of suppliers, among others, were factors which most of the Colleges of Education either sometimes experienced or did not experience at all. These factors contributed to the low compliance level of transparency with regards to giving notice on records together with the inclusion of non-availability of statements on single-source procurements and request for quotations. Other key contributors to the low indication of giving of notice on records were the fact that the heads of entities notifying participating suppliers and the general public about submission of complaints was not applicable. These confirm Osei-Tutu *et al.* (2011) assertion that compliance level of procurement

entities under the area of procurement information and communication was at the lower side. As Ameyaw *et al.*, (2012) put it, there is not enough interaction between most of the procurement entities and the public and that lack of communication of procurement results to unsuccessful bidders permits breaches of the law. CIOB (2010) likewise indicates that lack of communication is the most significant problem arising during the procurement process.

On the other hand, the results indicate that majority of the Colleges sent notices of procurement plans to the PPA for publication. This is in contrast to Ayitey's (2012) assertion that procurement entities do not submit procurement plans to PPA either manually or electronically for publication and, to the point that as at 28th February, 2013 only one College had submitted its procurement plan for the 2013 fiscal year to the PPA for publication in the Public Procurement Bulletin (PPA E-Bulletin, 2013). This main compliance area achieved a compliance level of 61% (that is, 100% - 39%).

4.3.3.3 Publicizing Procurement Activities

In like manner is the indicator of publicizing procurement activities found to be of significantly low level of compliance (see table 4.11). This aligns with Ayitey (2012) who says that procurement entities failed to post annual procurement plan, tenders and contract awards at PPA website; but contradicts Adu Sarfo (2011) that says, procurement entities published information on procurement. Procurement plans were found not to be sometimes or never published in the Public Procurement Bulletin. Other significant factors such as contracts awards publication, contracts above thresholds publication and engagement in single-source procurement with approval of the Board were not applicable in most of the Colleges of Education. The interview conducted between the researcher and the entities in the various Colleges also revealed that none of the entities have ever embarked on restricted tendering. This finding is not in harmony with OGC (2008) statement that says authorities normally prefer the restricted procedure and with PPA Annual Report (2009) and Adu Sarfo (2011) who say that the likely methods of procurement adopted by the Colleges may be one of restricted tendering among others. This was the primary reason why publicizing procurement activities were significantly

low. In all, 68% (that is, 100% - 32%) level of compliance was attained by this main compliance area.

4.3.3.4 Advertising Procurement

In the case of advertising procurement, the results from respondents (see table 4.12) showed that the Colleges of Education always published their invitations to tender in the Procurement Bulletin and also published the tender invitations in at least one newspaper of wide national circulation. These are in consonance with Ayitey's (2012) assertion that invitation to tender is always advertised, and with Adu Sarfo (2011) who says that procurement entities advertised their procurement and that majority used national newspapers for advertisement. The responses also suggested that tender invitations were rarely published in at least two newspapers of wide national circulation. This confirms that some entities refused to advertise procurement in two most widely read newspapers (Ayitey, 2012). The advertisement appeared in the Daily Graphic of October 17, 2012 and October 30, 2013 at page 42. The Colleges were involved in cluster procurement. A compliance level of 84% (that is, 100% - 16%) was attained by this main compliance area.

4.3.3.5 Holding Proceedings in Public

Results pertaining to holding proceedings in public show that the Colleges only sometimes engaged in single-source procurement with the approval of the Board after public comments. Other results show that tenders are always opened publicly in the presence of tenderers or their representatives and also that the entities always announced the names and addresses of each supplier whose tender was opened and the tender price to those present at the opening of tenders (see table 4.13). This is corroborated by the averments by Barikisu (2012), Ayitey (2012) and Adu Sarfo (2011) that all procurement entities opened tenders publicly according to defined rules of procurement. The compliance level achieved by this main compliance area was 86% (that is, 100% - 14%). This was also confirmed by some of the suppliers for the Colleges in a short interrogation by the researcher. These suppliers include Millan Enterprise, Sarfo Trading Company Limited, Spillway Company Limited and Naboafred Ventures.

4.3.3.6 Summary of Overall Response to Objective Three of this Study

In general, the relative average percentage deviation (see figure 4.1; that is, $12\% + 39\% + 32\% + 16\% + 14\% \div 5$) was 22.6%. This is indicative of the fact that the average percentage level of compliance of the transparency provisions in Act 663 was 77.4% (that is, $100\% - 22.6\%$). This indicates that most of the procurement activities in respect of transparency by procurement entities in the Colleges were carried out in compliance with Act 663. Comparing this results with Ayitey's (2012) 43.06% compliance level in respect of information and communication (see last but one paragraph of section 2.4.2), it may be concluded that the Colleges of Education have improved tremendously in their compliance with the transparency provisions in Act 663.

4.4 Procurement Challenges

In attempt to achieve objective four of the study, this section was to find out problems faced by the procurement entities in the Colleges of Education in the procurement process that discouraged them from complying with the various transparency provisions in Act 663. The section also found out the possible solutions proffered by the Colleges to help them resolve those problems to enable them comply with the transparency provisions in the Act. The section is grouped into two sub-sections, the first being the challenges faced by the Colleges (section 4.4.1), and the second being the proffered solutions (section 4.4.2).

Group interviews were conducted to collect data for this section. The responses gathered from the interview were first edited by rewriting the responses by the respondents into full text, and correcting detected errors and omissions. This was followed by coding: each of the edited responses was placed under one of the themes (that is, the main compliance areas). The responses under each theme were then classified into various key compliance indicators, The responses were finally summarized and displayed orderly in a compact form (that is, tabulation) for further analysis. The thematic matrix analysis was used. The analysis was based on the computation of percentages to find out the most common challenges and proffered solutions.

4.4.1 Challenges in observing Transparency Provision in Act 663

The study elicited from the Colleges problems they encountered in their attempt to comply with the record of proceedings, giving of notice on records, publicizing procurement activities, advertising procurement and holding proceedings in public. The following were some of the responses given by the respondents:

4.4.1.1 Record of Proceedings

In respect of record of proceedings the following responses were received: that not all items were taken through the process of procurement planning since previously the units purchased the items themselves. As Schiele and McCue (2006) put it, a large number of the internal customers act on their own and more frequently bypassed the procurement department; that College budget were not prepared in time hence inability to meet deadline on 30th November of the fiscal year. This is in total violation of Act 663 which states that not later than a month to the end of the financial year the procurement plan for the following year must be submitted for approval (Adu Sarfo, 2011). As at 28th February, 2013 only one of the Colleges of Education had submitted its procurement plan for the 2013 fiscal year to the PPA for publication in the Procurement Bulletin (PPA E-Bulletin, 2013).

Another problem was that sending procurement plans above the threshold stipulated in the schedule of the Act delayed proceedings. World Bank CPPR (2010), however, avers that real areas of delay in government purchasing are more attributable to administrative lapses within entities.

4.4.1.2 Giving of Notice on Records

Regarding the giving of notice on records, responses given were that correspondence by letter writing was time consuming and that ordinary mailing took longer time to get to their destinations and, therefore, delayed proceedings. Supported to this, Ayitey (2012) provides that the process of organizing fully fledged tendering or other competitive tendering was a time consuming exercise.

4.4.1.3 Publicizing Procurement Activities

Under publicizing procurement activities, giving notice of procurement contracts award came with extra cost to be published in the dailies and delays in the approval of single-source procurement by the PPA were some of the challenges given by the Colleges. It was also not clear whether, per Section 40(2) of Act 663, the PPA or the entity was to publish single-source procurement. However, some Colleges felt that publications in Public Procurement Bulletin were done by the PPA so that the entities were just to submit the information to the PPA and that if information sent to the PPA were not published in the Bulletin it was the fault of the PPA.

4.4.1.4 Advertising Procurement

Many of the Colleges advertised procurement only once due to the fact that advertisement was expensive and, therefore, making two or more adverts difficult. The items procured were also not attractive and, therefore, patronage was low creating loss or rescheduling of date for tender opening. For these reasons, some entities procured the goods before advertising just to formalize the procurement. This was corroborative of the PPA Annual Report (2007) assertion that cost of advertisement was very high and of Ayitey's (2012) view that cost of advertisement in two most widely read newspapers added up to cost of procuring an item. According to Dabaga (2013), cost of advertisement out-weighs the real cost of the item.

4.4.1.5 Holding Proceedings in Public

The failure of the Act to put any obligation on tenderers or their representatives to attend tender openings was the greatest challenge for the Colleges in respect of holding proceedings in public.

4.4.1.6 Summary of Challenges

The list of challenges with the number of respondents who cited those challenges and the percentage of each response are presented in table 4.15 below.

Table 4.15: Factors affecting Compliance with the Transparency Provisions of Act

663

Challenges	No. of Respondents	% of Responds
Record of Proceedings		
Items are not taken through procurement planning	18	34.0
Forwarding procurement planning delays proceedings	20	37.7
Delays in budget preparation	20	37.7
Giving of Notice on Records		
Letter writing is time consuming	20	37.7
Ordinary mailing delays proceedings	38	71.7
Publicizing Procurement Activities		
Publicity comes with extra cost	18	34.0
Delays by PPA in approving single-source procurement	46	86.8
Uncertainty as to who publishes in PP Bulletin	42	79.3
Advertising Procurement		
Advertisement is expensive	53	100
Advertisement used as formality	15	28.3
Low patronage due to unattractive packages	46	86.8
Holding Proceedings in Public		
Tenderers not obliged to attend tender opening	50	94.3

Source: Researcher's Construct (2014)

Table 4.15 shows that the greater majority of respondents agreed that tenderers not being under any obligation to attend tender opening (94.3%), delays in the PPA in approving single-source procurement and low patronage of tender due to unattractive packages (each recording 86.8%), uncertainty as to who publishes in Public Procurement Bulletin, as well as procurement proceedings being delayed through ordinary mailing of correspondence (71.7%) were the major challenges next to cost of advertisement being expensive which recorded a 100%. The other challenges were challenges accepted by just some few respondents.

4.4.2 Proffered Recommendations to Challenges

The study elicited from the Colleges what they recommend to help solve the challenges identified within each main compliance area. The following were some of the responses given by the respondents:

4.4.2.1 Record of Proceedings

In respect of record of proceedings the following responses were received: that all procurement within the Colleges must be channeled through the procurement entity; and that the Act should stipulate a deadline for the units within the Colleges to submit the plans to their respective procurement entities. This is to prevent delays in submitting procurement plans to the PPA for publication. As Ayitey (2012) puts it, procurement practitioners must take cognizance of the amount of time and resources required so they can begin early enough and allow sufficient time to complete the procurement process.

4.4.2.2 Giving of Notice on Records

Regarding the giving of notice on records, responses given were that posting of procurement contracts to the PPA website should be enough instead of letter writing; and that electronic mailing should be used in place of ordinary mailing since that is faster and less expensive. This corroborates the assertions that electronic procurement can be used to enhance transparency and procedural efficiency in the procurement process (Hill, 2005; Shadrach & Ekeanyamwu, 2003) and that the benefits of electronic procurement include increase in contract compliance, transparency and lower processing cost (Staatscourant, 2008; Almeida, 2004).

4.4.2.3 Publicizing Procurement Activities

Under publicizing procurement activities, it was recommended that publishing procurement activities on entity's notice board (as recommended by the PPA) should be enough. This does not sit well with the point that electronic procurement should be encouraged because it enhances transparency in, and compliance with, procurement (PPA E-Bulletin, 2013).

It was also recommended that approvals of single-source procurement should be expedited by the PPA (as in GYEEDA Report, 2013) to enhance productivity or in the alternative, that approvals of single-source procurement should be facilitated by decentralizing approvals to the zonal PPA offices.

Another recommendation was that Act 663 should indicate whether the PPA or the procurement entities is/are to publish single-source procurement and that the thresholds stipulated in the Act have to be reviewed upwards.

4.4.2.4 Advertising Procurement

In respect of advertising procurement, it was recommended that some cost of advertisement should be waived for state and government institutions and that the public media should reduce their fees for advertising. It was also recommended that depending on the quantum of the proposed contract sum, one advert should be enough. However, they could not suggest the amount that should attract only one advert. Cluster procurement, as the PPA has already recommended for the educational institutions, was also to be encouraged.

4.4.2.5 Holding Proceedings in Public

It was recommended that public holding of procurement proceedings must be continued and encouraged because of its transparency; people turn to agree with the results and that it avoids complaints. It should also be mandatory for all suppliers who submit tenders to attend tender openings.

4.4.2.6 Summary of Recommendations

The list of recommended solutions with the number of respondents who cited those recommendations and the percentage of each response are presented in table 4.16 below.

Table 4.16 shows that expediting approval of single-source procurement (75.5%), mandatory attendance by tenderers to tender opening (71.7%) and encouraging cluster procurement (56.6%) were the major recommended solutions by the Colleges to the challenges identified. Publication of procurement activities on entity's notice boards, Act

663 to expressly indicate whether the PPA or the procurement entities were to publish single-source procurement in the Procurement Bulletin, advertising invitation to tender only once, and encouraging proceedings to be held in public, each recording 47.2%, were the other recommended solutions proffered by the Colleges. The other recommendations were proffered by only a few respondents.

Table 4.16: Suggested Solutions to Challenges in complying with Transparency in Act 663

Suggested Solutions	No. of Respondents	% of Responds
Record of Proceedings		
Procurement must be channeled through the Entity	18	34.0
Units submission of plans to Entity be captured by Act	20	37.7
Giving of Notice on Records		
Use of PPA website alone	18	34.0
Use of e-mail	20	37.7
Publicizing Procurement Activities		
Decentralize approvals to Zonal PPA offices	18	34.0
Publication on Entity's notice board	25	47.2
Act to expressly indicate who publishes in PP Bulletin	25	47.2
Thresholds should be reviewed upwards	20	37.7
Expedite approval of single-source procurement	40	75.5
Advertising Procurement		
One advert should be enough	25	47.2
Reduction in cost of advertisement	15	28.3
Encouraging cluster procurement	30	56.6
Holding Proceedings in Public		
Mandatory attendance to tender opening by tenderers	38	71.7
Encourage proceedings held in public	25	47.2

Source: Researcher's Construct (2014)

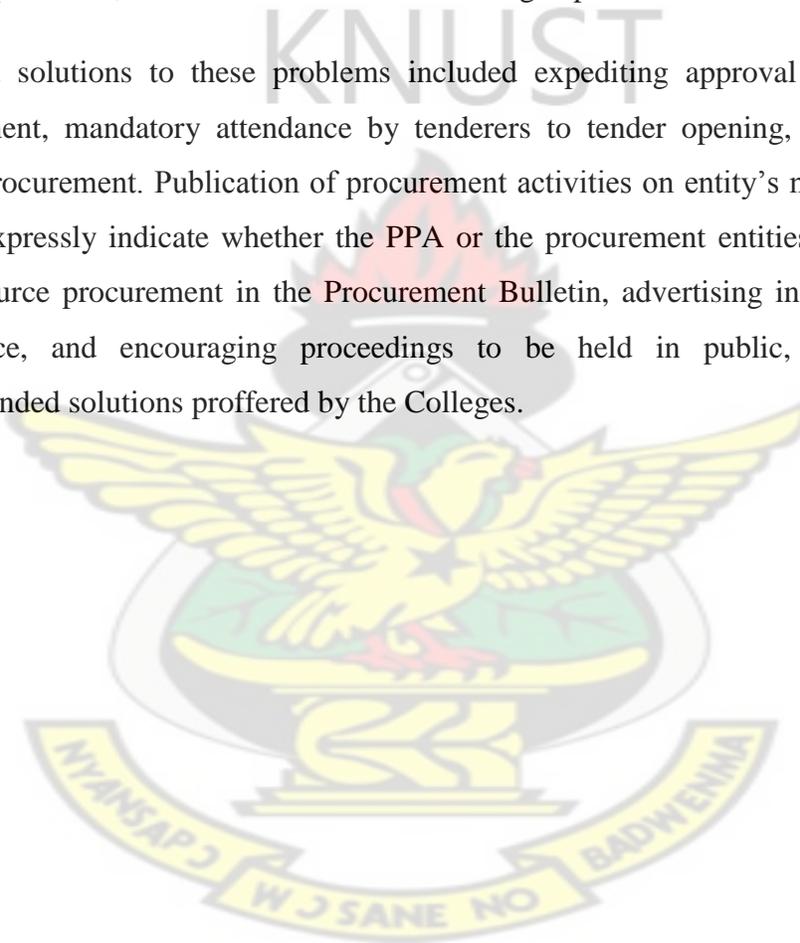
4.5 Summary of Chapter

In general the results indicate that out of the 99 sections in Act 663, 27 of them contain transparency provisions. Thus, the transparency provisions constitute about 27.3% of the total provisions in Act 663. The transparency provisions as identified can be grouped into emerging themes for easy assessment of the transparency provisions in Act 663. These themes are record of proceedings, giving of notice on records, publicizing procurement activities, advertising procurement, and holding proceedings in public. The results

revealed that 77.4% of the procurement activities in respect of transparency by procurement entities in the Colleges were carried out in compliance with Act 663.

Challenges faced by the Colleges in complying with the transparency provisions in Act 663 included tenderers not being under any obligation to attend tender opening, delays in the PPA in approving single-source procurement, low patronage of tender due to unattractive packages, procurement proceedings being delayed through ordinary mailing of correspondence, and cost of advertisement being expensive.

Proffered solutions to these problems included expediting approval of single-source procurement, mandatory attendance by tenderers to tender opening, and encouraging cluster procurement. Publication of procurement activities on entity's notice boards, Act 663 to expressly indicate whether the PPA or the procurement entities were to publish single-source procurement in the Procurement Bulletin, advertising invitation to tender only once, and encouraging proceedings to be held in public, were the other recommended solutions proffered by the Colleges.



CHAPTER FIVE

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

This study was focused on the level of compliance with the transparency provisions in the *Public Procurement Act, 2003 (Act 663)*. It was divided into five (5) chapters. Chapter one addressed, *inter alia*, the research problem, aims and objectives of the study. In chapter two literatures relevant to the study were reviewed. The methodology adopted for the study including the philosophical positions, research design and research strategy were discussed in chapter three, and chapter four provided a detailed discussions on the results of the data collected. This chapter gives an overview of research problem and methodology, summary of findings, conclusions and recommendations. These were done in accordance with the objectives set out for this study and contribution of this study to already existing knowledge.

5.1 Overview of Research Problem and Methodology

The objectives of Act 663 aim at improving financial management and judicious use of state resources. It is expected that the various sectors that benefit from a well developed economy of the country, especially the education sector, will do well to ensure that the objectives of Act 663 are achieved.

This study was, therefore, intended to assess the level of compliance with the transparency provisions in the *Public Procurement Act, 2003 (Act 663)* by the Colleges of Education in the Ashanti Region of Ghana. To achieve this aim, four (4) objectives were set at section 1.3: objective one identified the transparency provisions in Act 663; objective two developed tools for assessing transparency in accordance with Act 663; objective three assessed the level of compliance with the transparency provisions in Act 663 by the Colleges of Education in the Ashanti Region of Ghana; and objective four identified factors affecting compliance with the transparency provisions of Act 663.

The study used Tender Committees in the Colleges of Education in the Ashanti Region as its target respondents. Interviews and questionnaires were the research instruments

employed for the collection of data. The data collected were analysed through descriptive statistics, statistically significant tests and factor analysis. The study also used the SPSS and Microsoft Excel in the analysis.

5.2 Summary of Findings

In accordance with the research objectives, the following findings were revealed by the study:

5.2.1 Transparency Provision in Act 663

One of the objectives of Act 663 is to ensure that public procurement is carried out in a transparent manner (Section 2 of Act 663). The Act comprises 99 sections divided into nine (9) parts. The first two parts: Establishment of the Board (13 Sections) and Procurement Structures (7 sections), and Part VIII: Disposal of Stores, Plant and Equipment (2 Sections) do not contain any transparency provisions.

Part III: Procurement Rules have fourteen (14) sections. Five (5) out of the fourteen sections were identified as containing transparency provisions. Thus, the transparency provisions constitute about 35.7% of the total procurement provisions in this part. Part IV: Methods of Procurement consists of nine (9) sections. This part identified three (3) out of the nine sections as containing transparency provisions. This constitutes about 33.3% of the total procurement provisions in this part. Part V: Tendering Procedures contains twenty-two (22) sections. Four (4) out of the twenty-two sections in this part contain transparency provisions. This is about 18.2% of the total procurement provisions in this part.

There are twelve (12) sections in Part VI: Methods and Procedures to engage the services of Consultants. Seven (7) of these sections, constituting about 58.3% of the total procurement provisions in this part, contain transparency provisions. Part VII: Review is made up of five (5) sections. Four (4) of these sections, constituting 80% of the total provisions in this part, contain transparency provisions. Part IX: Miscellaneous Provisions comprises fifteen (15) sections. Out of these sections, four (4) contain

transparency provisions. This constitutes about 26.7% of the total procurement provisions in this part.

From the identified provisions supra it can be seen that out of the 99 sections in Act 663, 27 of them contain transparency provisions. Thus, the transparency provisions constitute about 27.3% of the total provisions in Act 663.

5.2.2 Tools for Assessing Transparency in accordance with Act 663

Transparency may be assessed in the first place by the identification of certain main compliance areas and then by breaking those main compliance areas into sub-units referred to as key compliance indicators. Two criteria may be identified as tools for assessing the transparency provisions in accordance with Act 663: by the use of parts provided for in Act 663 and by the use of themes identified across the various parts of the Act.

In the first instance, the divisions or various parts of the Act may be employed as the main compliance areas and then sections under each part relating to transparency may then be used as key compliance indicators. In the second instance, themes may be identified across the various parts of the Act as the main compliance areas and the sections and sub-sections of the Act that deal with the themes may be employed as the key compliance indicators.

Where assessment of transparency is done by the use of parts provided for in Act 663, six (6) main compliance areas and twenty-six (26) key compliance indicators (KCI) may be identified as follows: Procurement Rules (5 KCI), Methods of Procurement (2 KCI), Tendering Procedures (4 KCI), Methods and Procedures to engage the services of Consultants (7 KCI), Review (4 KCI) and Miscellaneous Provisions (4 KCI). Points that are based on the number of key compliance indicators under each main compliance area may be assigned to the main compliance areas as scoring key or marking scheme. In this sense, the following suggested points may be assigned in percentages: Procurement Rules (20%), Methods of Procurement (8%), Tendering Procedures (15%), Methods and Procedures to engage the services of Consultants (27%), Review (15%) and Miscellaneous Provisions (15%) making a total of 100%.

Where assessment of transparency is done by the use of themes identified across the various parts of the Act, five (5) thematic areas may be identified as main compliance areas with forty (40) key compliance indicators (KCI) as follows: Record of Proceedings (13 KCI), Giving of Notice on Records (14 KCI), Publicizing Procurement Activities (5 KCI), Advertising (3 KCI) and Holding Proceedings in Public (5 KCI). Suggested points assigned to the main compliance areas as scoring key may be based on the number of key compliance indicators under each main compliance area and weights awarded each main compliance area. In this sense, the suggested points to be assigned in percentages may be: Record of Proceedings (40%), Giving of Notice on Records (21%), Publicizing Procurement Activities (15%), Advertising (9%) and Holding Proceedings in Public (15%). Giving of Notice on Records would not receive the same weight as the other main compliance areas because compliance to the key indicators mostly depends on whether or not the information is requested for or a complaint is made.

The study also revealed that there are many ways of measuring that may be in use; and that there is no one way of standardizing the measurements (Kakwezi & Nyeko, 2010).

5.2.3 Level of Compliance with the Transparency Provisions in Act 663

The study indicated that, under record of proceedings, the procurement entities within the Colleges of Education always prepared procurement plans to support their approved programmes, and that all the Colleges communicated formally in writing between their entities and the tenderers and maintained records of both procurement proceedings and tendering proceedings. Other forms of communication and procurement contracts were almost always confirmed in writing. However, only a very less minority (of 4%) of the Colleges had ever encountered any complaints and, therefore, not much record of decisions on complaints was available. In all, about 88% compliance level was achieved under this main compliance area.

In respect of giving of notice on records, the study revealed a significantly low level of compliance. The release of information, upon request, of names and addresses of suppliers pertaining to the description of goods, individual tenders submitted, qualifications and lack of qualification of suppliers, among others, were factors which

most of the Colleges either sometimes experienced or did not experience at all. These factors contributed to the low compliance level of transparency (61%) with regard to giving notice on records together with the inclusion of non-availability of statements on single-source procurements and request for quotations. Other key contributors to the low indication of this main compliance area were the fact that the heads of entities had no decisions on complaints to notifying participating suppliers and the general public about. The results, however, revealed that majority of the Colleges sent notices of procurement plans to the PPA for publication.

Regarding publicizing procurement activities, the study brought to the fore that the compliance level was also significantly low (68%). Procurement plans were found not to be sometimes or never published in the Public Procurement Bulletin. Other significant factors such as contracts awards publication, contracts above thresholds publication and engagement in single-source procurement with approval of the Board were not applicable in most of the Colleges.

In the case of advertising procurement, the study revealed that the Colleges always published their invitations to tender in the Procurement Bulletin and also published the tender invitations in at least one newspaper of wide national circulation. The study also revealed that tender invitations were rarely published in at least two newspapers of wide national circulation. A compliance level of 84% was attained by this main compliance area.

Results pertaining to holding proceedings in public revealed that the Colleges only on very few occasions engaged in single-source procurement with the approval of the Board after public comments. Other results show that tenders were always opened publicly in the presence of tenderers or their representatives and also that the entities always announced the names and addresses of each supplier whose tender was opened and the tender price to those present at the opening of tenders. The compliance level achieved by this main compliance area was 86%.

The study, in general, revealed that the average percentage level of compliance with the transparency provisions in Act 663 was 77.4%. This indicates that most of the

procurement activities in respect of transparency by procurement entities in the Colleges are carried out in compliance with Act 663. The study indicated an improvement in the level of compliance in respect of the transparency provisions in Act 663 by the Colleges of Education in the Ashanti Region of Ghana.

5.2.4 Procurement Challenges

The study elicited from the Colleges problems they encountered in their attempt to comply with the record of proceedings, giving of notice on records, publicizing procurement activities, advertising procurement and holding proceedings in public. The study revealed that not all items were taken through the process of procurement planning since previously the units within the Colleges purchased the items themselves; that College budget were not prepared in time hence inability to meet deadline on 30th November of the fiscal year; and that sending procurement plans above the threshold stipulated in the schedule of the Act delayed proceedings.

In connection with giving of notice on records, the study revealed that correspondence by letter writing was time consuming and that ordinary mailing took longer time to get to their destinations and, therefore, delayed proceedings.

Giving notice of procurement contracts award by publication in the dailies came with extra cost and delays in the approval of single-source procurement by the PPA were some of the challenges revealed by the study under publicizing procurement. It was also not clear whether the PPA or the entity was to publish single-source procurement.

Many of the Colleges advertised procurement only once due to the fact that advertisement was expensive making two or more adverts difficult. The items procured were also not attractive and patronage was low creating loss or rescheduling of date for tender opening. Some entities, therefore, procured the goods before advertising just to formalize the procurement.

The greatest challenge in respect of holding proceedings in public was the fact that the Act did not put any obligation on tenderers or their representatives to attend tender opening.

In general, the study revealed that all the members of the Entity Tender Committees in the Colleges of Education agreed that advertising procurement was expensive; and that the greater majority of respondents agreed that tenderers not under any obligation to attend tender opening, delays by the PPA in approving single-source procurement, low patronage of tender due to unattractive packages and procurement proceedings being delayed through ordinary mailing of correspondence were the major challenges identified. The other challenges were challenges accepted by just some few respondents. These included items not taken through procurement planning, delays in budget preparation, forwarding plans being a delay to procurement proceedings, letter writing being time consuming, publicity of procurement activities being expensive and advertisement used to only formalize procurement of unlawfully procured items.

The following recommendations were made: that all procurements within the Colleges must be channeled through the procurement entity and that the Act should capture a deadline for the units within the Colleges to submit the plans to the procurement entity. Posting of procurement contracts to the PPA website should be enough instead of letter writing and that electronic mailing should be used in place of ordinary mailing since that is faster and less expensive.

The study revealed that it was enough to publish procurement activities on entity's notice board and that approvals of single-source procurement should be expedited by the PPA to enhance productivity or in the alternative, approvals of single-source procurement should be facilitated by decentralizing approvals to the zonal PPA offices as recommendations proffered by the Colleges. It was also recommended that Act 663 should indicate whether the PPA or the procurement entities should publish single-source procurement and that the thresholds stipulated in the Act needed to be reviewed upwards.

Other solutions to curb the challenges identified were that some cost of advertisement should be waived for state and government institutions and that the public media should reduce their fees for advertising. Recommendations of only one advert for tender invitation, cluster procurement, mandatory attendance of tenderers to tender openings,

and encouraging the holding of procurement proceedings in public also came out from the study.

The study finally revealed that expediting approval of single-source procurement, mandatorily attendance by tenderers to tender opening and encouraging cluster procurement were the major recommended solutions by the Colleges to the challenges identified. Publication of procurement activities on entity's notice boards, Act 663 to expressly indicate whether the PPA or the procurement entities were to publish single-source procurement in the Procurement Bulletin, advertising invitation to tender only once, and encouraging proceedings to be held in public, were the other recommended solutions proffered by the Colleges. The other recommendations were accepted by only a few respondents. These were that the units within the Colleges should channel their procurement through their procurement entities, the Act should capture deadline for submission of plans by the units to the entities, using electronic mail and PPA website to post or communicate procurement proceedings, decentralizing approvals of single-source procurement to the zonal PPA offices, reviewing procurement thresholds upwards, and reducing cost of advertisement by the public media through whom tenders are advertised.

5.3 Contribution to Knowledge

The literature reviewed in chapter two gave information about what transparency is and the indicators of transparency. However, none of the literature was able to come out with provisions in Act 663 which dealt with the objective of transparency in the Act. Act 663 by itself does not expressly indicate the transparency provisions therein. This study has identified the transparency provision in the Act and, thereby, added knowledge to that effect.

Transparency is used as an indicator for assessing public procurement in various assessment methods. However, none of the tools specifically deals with the measurement or assessment of transparency in itself. Again, almost all the literature reviewed combined the legal and regulatory frameworks in their assessment of public procurement but not specifically the Procurement Act itself. This study provides tools to specifically assess transparency in accordance with Act 663.

5.4 Conclusion

Act 663 comprises ninety-nine (99) sections divided into nine (9) parts. Three of the parts (Parts I, II and VIII) comprising twenty-two (22) sections do not contain any transparency provisions. Parts III, IV, V, VI, VII and IX have provisions ranging from three (3) to twenty-two (22); five (5), three (3), four (4), seven (7), four (4) and four (4) of the sections respectively constituting 35.7%, 33.3%, 18.2%, 58.3%, 80% and 26.7% respectively were identified as containing transparency provisions. It is, therefore, concluded that out of the 99 sections in Act 663, 27 of them contain transparency provisions. Thus, the transparency provisions constitute about 27.3% of the total provisions in Act 663.

There are many ways of measurement that may be in use and, there is no one way of standardizing the measurements. Two criteria are, however, identified as tools that may be adopted to assess the transparency provisions in accordance with Act 663. These are by the use of parts provided for in Act 663 and by the use of themes identified across the various parts of the Act. In the first instance, six (6) main compliance areas and twenty-six (26) key compliance indicators may be identified. Suggested points may be assigned in percentages to the main compliance areas as: Procurement Rules (20%), Methods of Procurement (8%), Tendering Procedures (15%), Methods and Procedures to engage the services of Consultants (27%), Review (15%) and Miscellaneous Provisions (15%) making a total of 100%. In the second instance, five (5) thematic areas with forty (40) key compliance indicators may be identified. Suggested points to be assigned in percentages may be: Record of Proceedings (40%), Publicizing Procurement Activities (15%), Advertising (9%) and Holding Proceedings in Public (15%). Giving of Notice on Records is approximated at 21%, however, the point to be assigned would depend on whether or not the information is requested for or a complaint is made.

Under record of proceedings, the procurement entities within the Colleges of Education have a compliance level of about 88%. In respect of giving of notice on records, a low compliance level of transparency (61%) was achieved. Regarding publicizing procurement activities, the study brought to the fore that the compliance level was also significantly low (68%). In the case of advertising procurement, a compliance level of

84% was attained by the Colleges. Results pertaining to holding proceedings in public gave a compliance level of 86%. In general, the average percentage level of compliance with the transparency provisions in Act 663 among the Colleges of Education in the Ashanti Region of Ghana was 77.4%. This indicates that most of the procurement activities in respect of transparency by procurement entities in the Colleges are carried out in compliance with the Act. This shows an improvement in the level of compliance in respect of the transparency provisions in Act 663 by the Colleges of Education.

Major challenges identified in complying with the transparency provisions by the Colleges of Education are that: advertising procurement is expensive; tenderers are not under any obligation to attend tender opening; there are delays by the PPA in approving single-source procurement; there is low patronage of tender due to unattractive packages; and procurement proceedings are delayed through ordinary mailing of correspondence. Other challenges include items not taken through procurement planning, delays in budget preparation, forwarding plans being a delay to procurement proceedings, letter writing being time consuming, publicity of procurement activities being expensive and advertisement used to only formalize procurement of unlawfully procured items.

5.5 Recommendations

The recommendations under this section are grouped into two: firstly, recommendations arising from the study (section 5.5.1); and secondly, recommendations for future research (section 5.5.2).

5.5.1 Recommendations arising from the Study

Recommendations have been suggested to help resolve the identified challenges to make easy to comply with the transparency provisions in Act 663. The following are the major recommendations: it is necessary for the PPA to expedite approval of single-source procurement; the Act should impose mandatory attendance to tender openings by tenderers; and there should be the encouragement of cluster procurement by the Colleges of Education.

These minor recommendations were also proffered: it should be enough to publicize procurement activities on entity's notice boards; Act 663 should expressly indicate whether the PPA or the procurement entities is/are to publish single-source procurement in the Public Procurement Bulletin; tender invitations should be advertized only once in a public media; and that procurement entities should be encouraged to hold proceedings in public.

5.5.2 Recommendations for Future Research

It is recommended that further research be conducted to ascertain the level of compliance with each objective of Act 663 in accordance with the Act. In this way, various provisions that deal with specific objectives in the Act, and the necessary tools to assess same, would be identified.

Further research may also be conducted into the level of compliance with transparency, or with any other objective of procurement, by the use of both Act 633 and the regulatory framework that complements the Act.



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APPENDIX A

INTERVIEW GUIDE

TRANSPARENCY PROVISIONS IN THE PUBLIC PROCUREMENT ACT, 2003

(ACT 663)

Introduction

This study is being conducted to help bring an understanding in the practice of current processes in the procurement of goods in the Colleges of Education. The purpose of this interview is to identify the challenges in complying with the transparency provisions in the Public Procurement Act, 2003 (Act 663) by the Colleges of Education in the Ashanti Region and to find recommendations to improve compliance with same.

General Issues

1. Do you engage in procurement activities?
2. What is the composition of the Entity Tender Committee?
3. What types of procurement activities do you engage in (e.g. of goods, works, service)?
4. How many procurement of goods have you engaged in since July, 2012 to December, 2013?
5. What are the types of goods you procured within the given period (as in question 4)?
6. How many of the goods procured were financed wholly or partly by public funds?
7. What amount of public funds was involved in the procurement of goods financed wholly or partly by public funds?
8. Which procurement methods did you use in procuring these goods finance wholly or partly by public funds (e.g. prequalification, international competitive tendering, national competitive tendering, restricted tendering, single-source procurement and request for quotations)?

Record of Proceedings

9. Preparation of Procurement Plan (Section 21(1)).
10. Communication to be in writing (Section 26).
11. Record of Procurement Proceedings (Section 28(1)).
12. Record of Tendering Proceedings (Section 56 (5)).
13. Procurement Contract to be in writing (Section 65(9)).
14. Decision on Complaints to be in writing (Section 81(4)).

Giving of Notice on Records

15. Notification to Supplier on Prequalification (Section 24(2) and (7)).
16. Making available Records of Procurement Proceedings (Section 28(2), (3) and (6)).
17. Communicating tender opening proceedings to Suppliers (Section 56(4)).
18. Notice of acceptance of successful tender (Section 65(1) and (9)).
19. Notice of Complaints and Decision (Section 81(1), (4) and (5)).

Publicizing Procurement Activities

20. Procurement Plan (Section 21(4)).
21. Notice of Procurement Contract Award (Section 31(1)).
22. Notice of Selective-Tendering Award (Section 39(2)).
23. Single-Source Procurement (Section 40(2)).
24. Contracts above Threshold in Schedule 3 (Section 65(9)(c)).

Advertising Procurement

25. Invitation to Tender in International Competitive Tendering (Section 45(2)(b)).
26. Invitation to Tender or Application to Prequalify in National Competitive Tendering (Section 47).

Holding Proceedings in Public

27. Opening of Tenders (Section 56(3) and (4)).

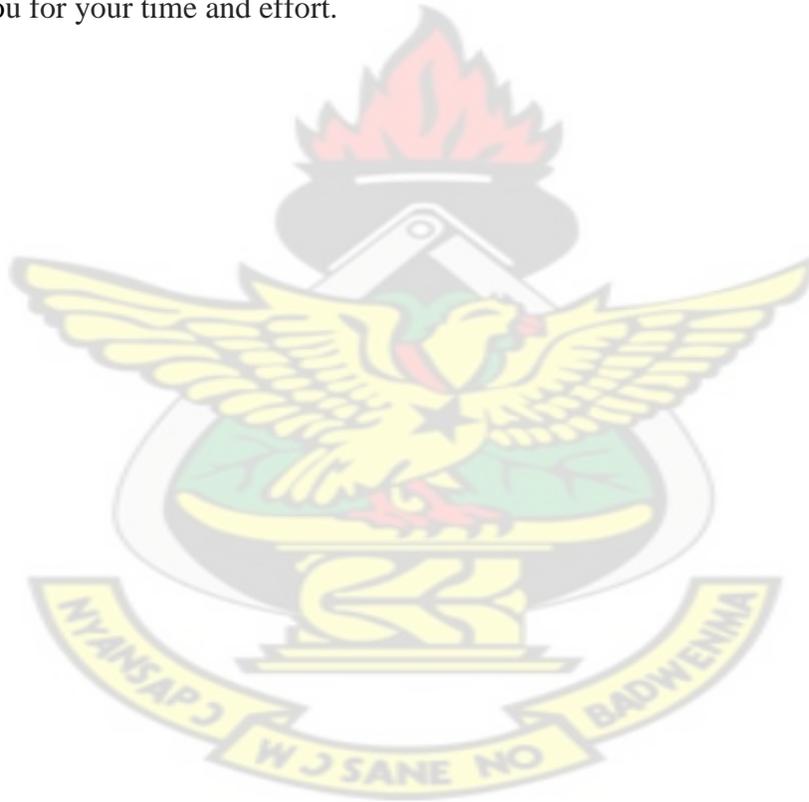
Challenges and Recommendations

28. What problems do you encounter in your attempt to comply with the following?

- a) Record of Proceedings.
- b) Giving of Notice on Records.
- c) Publicizing Procurement Activities.
- d) Advertising Procurement.
- e) Holding Proceedings in Public.

29. What do you recommend to help solve the problems in question 28?

Thank you for your time and effort.



APPENDIX B

**QUESTIONNAIRE FOR MEMBERS OF THE TENDER COMMITTEES IN
THE COLLEGES OF EDUCATION IN THE ASHANTI REGION OF GHANA**

**TRANSPARENCY PROVISIONS IN THE PUBLIC PROCUREMENT ACT, 2003
(ACT 663)**

Introduction

This study is being conducted to help bring an understanding in the practice of current processes in the procurement of goods in the Colleges of Education. The purpose of this questionnaire is to identify the challenges in complying with the transparency provisions in the Public Procurement Act, 2003 (Act 663) by the Colleges of Education in the Ashanti Region and to find recommendations to improve compliance with same.

Part I: Particulars of Respondents

1. Name of College of Education (i.e. the procurement entity):.....
2. Role on the Entity Tender Committee (*e.g. Council Chairman, Principal, College Secretary, Lawyer, Finance Officer, NCTE, MOE, SRC, Development Committee, Association of University Teachers, Procurement Officer*):.....

Part II: Level of Compliance with the Transparency Provisions in Act 663

The following are themes on transparency in Act 663. Indicate your reaction to each statement by ticking [√] the appropriate cell on the following likert scale:

1	2	3	4
Always	Sometimes	Never	Not Applicable

1 means that all the goods procured complied with the key indicator (i.e. the provision in the Act under the theme); 2 means that not all the goods procured complied with the key indicator; 3 means that none of the goods procured complied with the key indicator; 4 means that the entity has not encountered the situation before.

No.	Key Indicators	Ranking			
		1	2	3	4
	RECORD OF PROCEEDINGS				
3	Prepares procurement plan to support approved programme				
4	Communication between entity and tenderers are in writing				
5	Communication in any other form are referred to and confirmed in writing				
6	Maintains record of procurement proceedings				
7	Maintains record of tendering proceedings				
8	Procurement contracts are put into writing				
9	Decision on complaints are in writing				
	GIVING OF NOTICE ON RECORDS				
10	Sending notices of procurement plans for publication				
11	Information about a brief description of the goods to be procured are made available upon request to any person				
12	Information about the names and addresses of suppliers that submitted tenders are made available upon request to any person				
13	Information about the name and address of the supplier with whom the procurement contract is entered are made available upon request to any person				
14	Information relating to the qualifications or lack of qualifications of suppliers that submitted tenders are made available on request to suppliers that submitted tenders				
15	The price or the basis for determining the price and summary of other principal terms and conditions are made available on request to suppliers that submitted tenders				
16	Summary of the evaluation and comparison of tenders including application of any margin of preference are made available on request to suppliers that submitted tenders				
17	Statement about tenders that were rejected and grounds for the rejection are made available on request to suppliers that submitted tenders				
18	Statements about single-source procurement and request for quotations that did not result in tendering are made available on request to suppliers that submitted tenders				
19	Records and documents your entity has maintained on procurement are made available for inspection by the Public Procurement Board, an investigator appointed by the Board and/or the Auditor-General upon request				
20	Where donor funds have been used for the procurement, relevant procurement files are made available to donor officials upon request to the Minister of Finance for verification and review				
21	The names and addresses of each supplier whose tender is opened and the tender price are communicated on request to a supplier who has submitted a tender but is not present or represented at the opening of the tenders				
22	Gives notice of procurement contract in writing to the successful				

	supplier				
23	Gives notice of procurement contract in writing to unsuccessful suppliers				
24	The head of your entity notifies the suppliers participating in procurement proceedings about the submission of complaints and its substance				
25	A copy of the decision of the head of your entity is furnished to the supplier submitting the complaint				
26	A copy of the decision of the head of your entity is furnished to any other supplier or government authority that participated in the review proceedings				
27	The complaint and the decision are promptly made available for inspection by the general public				
	PUBLICIZING PROCUREMENT ACTIVITIES				
28	Procurement plans are published in the Public Procurement Bulletin				
29	Promptly publishes notice of procurement contract award				
30	Engages in Single-source procurement with approval of the Board after public notice				
31	Contracts above thresholds stipulated in Schedule 3 of Act 663 are published in the Public Procurement Bulletin				
	ADVERTISING PROCUREMENT				
32	Invites tenders by causing an invitation to tender to be published in the Procurement Bulletin				
33	Invites tenders by causing an invitation to tender to be published in at least two newspapers of wide national circulation				
34	Invites tenders by causing an invitation to tender to be published in at least one newspaper of wide national circulation				
	HOLDING PROCEEDINGS IN PUBLIC				
35	Engages in Single-source procurement with approval of the Board after public comments				
36	Tenders are opened publicly in the presence of tenderers or their representatives				
37	The names and addresses of each supplier whose tender is opened and the tender price are announced to those present at the opening of tenders				

THANK YOU VERY MUCH