

**KWAME NKRUMAH UNIVERSITY OF SCIENCE AND
TECHNOLOGY, KUMASI, GHANA**

KNUST

**Compliance with Post Contract Procurement Procedures at Kumasi Metropolitan
Assembly**

by

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**A Thesis submitted to the Department of Building Technology,
College of Art and Built Environment
in partial fulfillment of the requirements for the degree of**

MASTER OF PHILOSOPHY

JUNE 2016

KNUST



DECLARATION

I hereby declare that this submission is my own work towards MPhil Procurement Management and that, to the best of my knowledge, it contains no material previously published by another person, nor material which has been accepted for the award of any other degree of the University, except where due acknowledgment has been made in the text.

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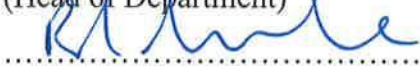
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ABSTRACT

The Public Procurement Act, 2003 (Act 663) was introduced in Ghana to ensure the harmonization of public procurement processes and procedures in the Public Sector, secure judicious, economic and efficient use of state resources. However, compliance by Public Entities has been the greatest challenge in the attainment of the objectives of the Act. The research assessed the level to which the Works Department at Kumasi Metropolitan Assembly complies with the provisions of the Act in regard to Post Contract Procurement Processes and Procedures. The study adopted Organization for Economic Co-operation and Development (OECD) of the World Bank/ Development Assistance Committee methodology for the assessment of national procurement systems. Post Contract Processes and Procedures was the compliance area penciled out for the assessment under four sub divisions i.e. Project Planning and Mobilization, Project Implementation and Supervision, Project Completion and Handing Over as the variables. In all 15 respondents made up of Engineers, Quantity Surveyors, Architects, Budget Officers, Planning Officers and Site Supervisors were interviewed face to face with semi structured questionnaires to obtain data for this study. The result from the study was analyzed using Content Analysis. It revealed high compliance level with processes and procedures under Project Planning and Mobilization due to high level of knowledge in this area. However, procurement processes and procedures under Project Implementation and Supervision, Project Completion and Handing Over had low compliance level. In pursuit to improve compliance in the area of post contract procurement procedures which is the drive to fully achieve value for money on public projects but mostly ignored as soon as contract is awarded and signed, the study recommends that professionals in the works department should undergo regular and intensive training in areas identified as lowly complied. Also the Government must be able to allocate enough financial resources and logistics to complete projects successfully under Project Implementation and Supervision in the Assembly. It is further recommended that the Public Procurement Act, 2003 (Act 663) must be reviewed to include detailed provision in the area of post contract processes and procedures.

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LIST OF ABBREVIATIONS

BLIs	Baseline Indicators
CPIs	Compliance Indicators
CF	Compliance Factor
CPAR	Country's Procurement Assessment Report
DAC	Development Assistants Committee



DACF	District Assemblies Common Fund
GDP	Gross Domestic Product
FOAT	Functional Organizational Assessment Tool
IFAD	International Fund Agricultural Development
KPC	Key Performance Criteria
MDA	Ministries, Departments and Agencies
MMDAs	Metropolitan, Municipal and District Assemblies
KMA	Kumasi Meteropolitan Assembly
OECD	Organization for Economic Cooperation and Development
PE	Procurement Entity
PPME	Public Procurement Model of Excellence
PPA	Public Procurement Authority
PU	Procurement Unit
PUFMARF	Public Financial Management Reform Program
PMBOK	Project Management Book of Knowledge
PPOG	Public Procurement Oversight Group
PPB	Public Procurement Board
PPME	Public Procurement Model of Excellence
TRB	Tender Review Board
WTO	World Trade Organization

ACKNOWLEDGEMENTS

My first and foremost thanks go to the Almighty God, who has graciously granted me the strength and the wisdom to embark on this academic endeavor successfully. Special thanks to my supervisor Prof. Joshua Ayarkwa, for his tremendous supervision, advice and guidance throughout this research.

To my family, especially my parents, Mr. Ernest Osei-Tutu and Mrs. Rosemary Osei-Tutu I say big thanks for all the help and support offered for this study.

Special thanks to my dear husband, Mr. Ernest Osei-Owusu for his help, support and encouragement.



DEDICATION

I dedicate this work, with much admiration, to my lovely son, Nana Kwadwo Osei-Owusu.

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CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

Providing goods, physical infrastructure and consultancy services for citizens in a particular country is a necessity, hence the need to regulate the processes used in procuring these goods, physical infrastructure and consultancy services in the public sector. In this regard the Public Procurement Act, 2003 (Act 663) of the Republic of Ghana, was enacted to coordinate the practices of procurement in the public service to obtain a sagacious, cost-effective and wellorganized usage of assets in public procurement and also guarantee that public procurement is done in an unbiased and non-discriminatory way. It is the function of this act to supervise and organize public procurement and also ensure there is complete compliance with statutory requirement (PPA, 2003).

The Public Procurement Act stipulates roles, guidelines, procedures as well as processes in public sector procurement. The Act also provides structures that govern public procurement activities. It also outlines the procedure for the award of contract and it management.

Procurement is well-defined as the means of obtaining works, goods and facilities from an outside body (Acquaye, 2011). Procurement in the world of infrastructure could be well-defined as the means of obtaining a whole range of materials, goods, plant and services to aid in designing, building and commissioning a building that helps in achieving value for money for the consumer over the lifespan cycle (Cartilage, 2009).

Public Procurement is also defined as the attainment of goods, works and services by public bodies such as government, departments and municipalities for various that are needed for their events, by creating a contract with another entity either private or public(Acquaye, 2011).

In order to achieve good public procurement practice, it is essential to comprehend and comply with the processes, procedures and time frames involved in procurement (Acquaye, 2011). It is worth noting that the enactment of the Public Procurement Act, Act 663(2003) will not yield any good result unless it is related to a full compliance by the various procurement entities where public funds are used for the benefit of the tax payer. Ever since the application of Act 663(2003), compliance has been a concern with the struggle of abiding by processes and procedures. Furthermore, the overall objective of the Act, which is attainment of value for money on public project, can be achieved when these processes are adhered to especially during the contract management stage (post contract stage) which is often ignored once contract is awarded and signed.

It is against this background that the study looked at the compliance level regarding post contract procedures with the enacted Act 663(2003) in Kumasi Metropolitan Assembly as well as identified reasons for non-compliance.

1.2 PROBLEM STATEMENT

The Public Procurement Act, 2003 (Act 663) aims at ensuring that procurement processes in the public service are harmonized to obtain a sagacious, cost-effective and well-organized usage of resources belonging to the state and also to guarantee that work is done in an unbiased, apparent and non-discriminatory way to the satisfaction of all (Ministry of Finance, 2011).

The Act was publicized to familiarize with the management of the procurement process in order to attain the ultimate aim of ensuring value for money. Since the introduction of the Act in 2003,

there have been several evaluation reports with a number of policies to ensure that compliance is fully attained.

Non-compliance to these processes and procedures is a major interference to the efficiency of the law (Gelderman et al, 2006). There is always huge loss of money when there is noncompliance with Public Procurement in Ghana and that adequate value for money in return to public expenditure cannot be obtained. There are also numerous Government agencies that undertake procurement without complying with the stipulated guidelines and procedures in Public Procurement. Public Procurement is branded by irregularities such as contract variations, poor contract management, failure to adhere to the Act and undue delay in payment for work done (Lamly, 2003).

Strict adherence to contract procedure during post contract award implementation stage of the procurement process at the Metropolitan/Municipal/District Assembly level has been quite problematic characterized by irregularities in the post contract processes (Awagah, 2014). A study by Kissi et al., 2014 revealed an average level of compliance of 42.42 percent in some selected district education offices in Eastern Region. The study identified contract management (post contract processes), absence of procurement units, insufficient use of standard tender documents and nonexistence of procurement plans as weakness areas. Also research conducted by PPA revealed there was low tender advertisement opportunity and low level of awareness of publication of contract award (Adjei, 2006).

Another study by Sualah, 2014 showed low compliance in the area of contract management (post contract processes) and an overall average of 27.33 percent of compliance of Ashaiman Municipal Assembly with the Act. There have also been a number of contract failures that have arisen due to

poor procurement practices and ignorance of the requisite procurement procedures to be followed (Acquaye, 2011).

The need to critically manage these large sums of money is relevant and this can greatly be achieved when proper procurement procedures in the Assemblies are followed, due to the fact that, the country's decentralization makes the District, Municipal and Metropolitan Assemblies focal agents for huge capital outflows (Ministry of Finance, 2011). It is important therefore, to periodically monitor and assess compliance of procurement entities with the legal and regulatory framework, at the local level where most of the Metropolitan, Municipal and District Assemblies (MMDAs) staff are responsible for procurement (Ghana Country's Assessment Procurement Report-CAPR, 2003). Compliance with Act 663 by public entities remains the major task in attainment of the objectives of transparency, accountability, equality and competition.

This study endeavors to explore compliance with post contract procedures in Kumasi Meteropolitan Assembly (KMA) which is often than not ignored once contract is awarded and signed in most public projects.

1.3 RESEARCH QUESTIONS

The research intends finding answers to the following questions:

- 1) What is the level of knowledge of staff at KMA on post contract procurement processes?
- 2) What post contract procurement procedures are used in KMA?
- 3) What is the extent of compliance with post contract procurement procedures?
- 4) What are the reasons for non-compliance with post contract procurement procedures?

1.4 Aim and Objectives

1.4.1 The aim of the study

The aim of this research is to identify the level of compliance with post contract procurement procedures at Kumasi Metropolitan Assembly (KMA).

1.4.2 Objectives

To attain the aim, the following objectives were set:

- 1) To assess the level of knowledge of staff and identify post contract procurement procedures in use at KMA;
- 2) To assess the extent of compliance with post contract procurement procedures; and
- 3) To identify reasons for non-compliance with post contract procurement procedures.

1.5 SCOPE OF THE STUDY

The study scope covered areas of post-contract procedures and time frames of public procurement in the Kumasi Metropolitan Assembly (KMA). In order to fully achieve value for money on public projects there is the need consider Post Contract Procurement Procedures as the area of study. These areas cover issues relating to Project Planning and Mobilization, Project Implementation and Supervision, Project Completion and Handing Over. The geographical scope of the study is Kumasi.

1.6 RESEARCH METHODOLOGY

The study targeted professionals involved in procurement activities at KMA. The research employed a case study survey approach where the methodology used for the assessment was that of the national procurement systems developed by Organization for Economic Co-operation and Development (OECD)/Development Assistance Committee and World Bank. The study consisted of both primary and secondary data. Structured interview questions based on OECD Contract Management issues were used as a guide for face to face interview with respondents in the KMA. This face to face interview helped in finding out the knowledge level of the targeted professionals on post contract procedures, compliance with these procedures as well as reasons for non-compliance. Content analysis was employed in discussing and analyzing the results obtained from the respondents.

1.7 SIGNIFICANCE OF THE STUDY

The direct impact of public procurement are comprehensive public financial management by achieving value for money, effective delivery of government projects and public services, corruption reduction and encouraging private sector growth and investment (Organization for Economic and Compliance Development OECD, 2003). Public Procurement in Ghana represents 24% of national imports and account for between 50-70% of the state budget, excluding personal emoluments. The impact of procurement should not be under estimated because in Ghana, Public Procurement represents 14% of national Gross Domestic Product (GDP) (Awagah, 2014). In 2003, CAPR discovered 53% out of 291 contracts for goods; physical infrastructure and services experienced the following: delay in project completion, poor performance due to bad procurement choices, insufficient contractor qualification, insufficient supervision and specification by public organizations between the years 1997 to 2002.

Similarly, there has been poor performance on post contract compliance levels of Metropolitan Municipal District Assembly's in the management of physical infrastructural projects funded by both donor and Internally Generated Fund (IGF) of the Assemblies as evidence by the yearly Functional Organizational Assessment Tool (FOAT) assessment report released by the Local Government Ministries.

Complying with post contract procedures is the drive to fully achieving value for money on most public projects but sadly is ignored once contract is signed and awarded. Most public project focus more on pre contract procedures but ignore issues on post contract processes (contract management). Compliance with post contract procedures is generally lacking in most Metropolitan, Municipal and District Assemblies, but is necessary to ensure that public funds are used in the maximum effective and efficient way especially in these institutions where there is huge capital outflow to help obtain value for money. This could only be actualized when extra effort is made to follow proper procurement processes and procedures. There will be a direct and substantial impact on the economic situation of the country when there is an improvement in the procurement systems. This will result in economic reserves and effectiveness in expenditures by Government (Anvuur and Kumaraswamy, 2006). The results obtained from the study objectives will be used as a guide to monitor compliance in post contract processes and procedures used at the various Assemblies.

The recommendations will be used by Public Procurement professionals as strategies that will improve compliance level in areas of contract procedures as enshrined in the Public Procurement Act, Act 663(2003) and more importantly for proper management and administration of physical projects.

1.8 ORGANISATION OF THE STUDY

This research study is in five interdependent chapters. Chapter one titled “Introduction” highlights the background of the study, the problem statement, the aim and objectives of the study, the scope, and research methodology, justification of the study and organization of the study. Chapter two delivers an outline of existing literature. This chapter offers a review of already existing literature on the topic, the definition of public procurement, compliance, contract procedures, the methodology used for the assessment of national procurement systems jointly developed by Organization for Economic Co-operation and Development (OECD) Compliance tools. Also, this chapter considers procurement in terms of procedures in a contract of Act 663 and Legal framework of PPA Act 663, Methods, Procedures, Timelines, and Thresholds in the Act. It also considers the two main theoretical underpinnings of this research i.e. Post Contract Procedures as well as level of compliance with procedures in general. Chapter three is the research methodology. It defines the data which is the source for the research that are described in this research and offers a summary on the methods used in the research. Chapter four reports the discussions and analysis of results. This deals with presenting, analyzing and discussing of the data obtained from KMA. Chapter five captures the findings obtained in data collected, draws conclusion as well as recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION

Chapter two of this study focuses on the literature review of the subject under discussion. This chapter provides an outline of the existing literature, the definition of public procurement, compliance, contract procedures the methodology used for the assessment of national procurement systems and compliance tools. Also, this chapter considers procurement in terms of procedures in a contract of Public Procurement Act 2003, Act 663, and Legal framework of PPA Act 663, Methods, Procedures, Timelines, and Thresholds. It also considers the two main theoretical underpinnings of this research i.e. Post Contract Procedures as well as level of compliance with procedures in public procurement. The rationale behind this section is to identify all the variables within the subject area to pave way for the analysis and discussion.

2.2 PUBLIC PROCUREMENT AS AN EMERGING ISSUE

2.2.1 Definition of Procurement

Procurement is defined as the process of identifying, defining, gaining or finding professionals, services, works and materials needed by means authorized in pertinent directives (PPA, 2003). Acquaye (2011) explains procurement as the practice of obtaining goods, services or works from an outside source.

Similarly, Project Management Body of Knowledge, PMBOK, (2004) defines procurement as processes required for acquiring goods, works and services by an organization. World Bank (1995)

explains procurement as the means of purchasing goods, services and infrastructure using public funds by a procurement unit.

From the above discussion, the concept of procurement has to do with the means of obtaining goods, works or services. This indicates that for procurement to take place there must be the need for a product or service as well as processes to be followed in order for the need to be attained.

2.2.2 Public Procurement

Procurement in the public sector is defined as the process of obtaining goods, works as well as services from different source. It is also defined as the complete method of obtaining goods, infrastructure works and consultancy services. This involves all processes from identifying a need, soliciting sources, preparing and awarding of contract. It also involves all stages of administering contract to the end of a contract or the valuable life of goods (United Nations Development Programme, 2007).

Amemba et al. (2013) also defines procurement in the public sector as the procedure of acquiring infrastructure works, services, and goods. Public Procurement process commences when a department identifies the need and decides on the necessary procurement requirement of obtaining the need. Authorities in the public sector be it government, departments or agencies procure infrastructure work, goods or services from outside source who have been selected for this purpose. The success of every good procurement process depends solely on the following comprehensive activities: effective procurement planning, allocation of budget, invitation of bids, evaluation of

bids, awarding contracts, management of contracts, performance measurement, monitoring and auditing to acquire that need (PPA, 2003).

It is seen that the process of procurement should cover a life cycle of product to be procured. This should span from identifying the need to selecting suppliers and finally the management of contract stage. The ability of various agencies in Central Government to ensure the practice of fundamental ethics of public procurement will aid in achieving value for money (VFM) and value to meet public wants (Osei-Tutu et al., 2011).

2.2.3 Overview of Public Procurement

Public procurement has a long history, “the earliest procurement order dates from between 2400 and 2800 B.C. The order made was for 50 jars of fragrant smooth oil for 600 small weights in grain” (Coe, 1989; Thai, 2001). Evidence of other historical procurement includes the development of the silk trade between China and a Greek colony in 800 B.C. Public Procurement importance cannot be under estimated because of the enormous monetary expenses that are involved. Public Procurement witnessed the need to development during the last decade of the twentieth (Evenett and Hoekman, 2005). Countries all over the globe spend a lot of money through procurement and must be considered very important for the growth of nations (Eyaa, 2011).

For domestic and international stages, Government procurement is a considerable economic significance and accounts for a substantial percentage of national Gross Domestic Product (PPA, 2003). The procurement of works, services and goods by government organizations at the domestic level makes provision for governments to effectively provide public facilities and accomplish other

important responsibilities. Procurement methods have great effect on the use of community resources and largely on the confidence in the public sector and on upright authority (PPA, 2003).

The requirements of an efficient government procurement system include attaining value for money as well as equal but non-discriminatory opportunities for suppliers during competition for government contracts (World Trade Organization, 2014).

Pegnato (2003) affirmed that estimated United States of America procurement figure in the Federal Government is around US\$200 billion per year indicating huge capital outflow in the area of procurement. Similarly, Schnapper et al. (2006) cited “the collective government’s purchasing was around 20% of the Gross Domestic Product for developing countries”.

The World Bank in 2003 stated that estimated yearly rate of procurement for goods, works and services in the public sector is US\$600 million representing about 15% of the developed country’s GDP and even more in developing African countries. It is to be noted that most programmes on expenditure of Ministries, Departments, Agencies (MDAs) and District Assemblies (DAs) involves huge investment in procuring infrastructure (Ameyaw et al., 2011).

Apparently, Public Procurement Act, 2003 (Act 663) accounts for 50-70% of importations, which represents 18.2% to 25.48% of the country’s GDP (Osei-Tutu et al., 2011). About 80% Government expenditure pass through the procurement process. The World Bank (2003) has indicated that the annual worth of procuring infrastructure, goods and services is estimated to be around 600 million US dollars; this represents 10% of the Ghana’s GDP. Moreover, Public entities spend huge amount of money on public procurement processes. On account of increasing budgetary constrictions, it is long overdue for Administration to monitor and assess procurement procedures and systems. The ultimate intention is to ensure that the scarce resources of the government do not go down the drain (Osei-Tutu et al., 2011).

Public procurement is said to play an imperative role of administration since its massive amounts exerts a countless effect on any country and therefore requires to be managed efficiently (Thai, 2001). It is therefore recommended that administration and organizational units, policy makers and professionals on procurement devote themselves to procurement improvement or modifications due to the fact that inefficient procurement may have serious consequences such as non-attainment of expected projects results, delays in project implementation and higher cost of implementation (International Fund for Agricultural Development, IFAD, 2010).

2.3 PUBLIC PROCUREMENT REFORMS: THE HISTORICAL ANTECEDENTS OF ACT 663(2003)

Formerly, Government Officials were steered by different guidelines until the Public Financial Management Reform Programmes was inaugurated in 1996. These officials struggled to identify with these rules as a result of deficiencies in the current policy structure for public procurement, insufficient institutional procedure and absence of Central Body for Procurement (Gnanih, 2012). Basheka (2009) affirmed that the nature of public procurement systems in developing countries gives the need for a reform to be made due to the weaknesses in our procurement systems such as non-existence of responsibility, unsuitable institutional and governmental arrangements and measures and insufficient personnel management. The overall effect of all these flaws is unmanageable public procurement corruption that leads to a situation where the cost of public works, goods or services can be exaggerated beyond normal. Countries all over the globe have been apprehensive about ways to improve, streamline and modernize procurement activities using

public strategy and legal restructurings in order to ensure that the objective of procurement is attained successfully (Schooner et al., 2008).

The Country Procurement Assessment Report (CPAR) carried out by the World Bank (1996) identified very serious deficiencies in Ghana's public procurement structure which included "loose legitimate structure, deficiency in organized measures and procedures, incompetent procurement team, and vague government measures for handling procurement and policy making in award of contracts" (World Bank 2003a; PPA, 2003). It was therefore pertinent for a reform to be made by the Government to control or eliminate all these weaknesses of procurement activities in Ghana. The need for reforms was particularly noticed in the 1990's in developed and developing countries (Osei-Afoakwa, 2013). A reform of the public procurement activities will help reduce all the shortcomings of procurement activities if not eliminate in developed and developing countries such as Ghana. This will aim at strategically restructuring and reorganizing institutional and managerial practices to assist in obtaining physical infrastructure, goods and consultancy services (Osei-Afoakwa, 2013).

The Ministry of Finance (MOF) of Ghana in January 2000 developed a Public Procurement Oversight Group (PPOG), with directive to access and bring up strong suggestions for the fragmented public procurement system and reorganizes the process in its entirety. MOF acting through the PPOG commissioned a Team of Consultants who undertook trainings, on the present state of public procurement in Ghana. Despite the fact that the restructuring action was in process, numerous inadequacies and organizational weakness in the Ghana's procurement structure was identified. The following were deficiencies in the current system:

1. Lack of a wide-ranging and articulated public procurement procedure;
2. Absence of all-inclusive legal rule to defend the uprightness of the public procurement systems; and
3. Lack of a principal frame which possesses the required competence, practical know-how and capability to establish a comprehensible public procurement procedure, guidelines and procedures to monitor and ensure trained manpower and sufficiently screen public procurement (Osei-Afoakwa, 2013).

The Proposals of the Public Procurement Reform covered the following: Policy, Legal Framework (i.e. Draft procurement Bill was produced which has stakeholders' inputs and subsequent legal drafting), institutional structures, procurement procedures and arrangements for capacity building. This proposal formed the basis for the Draft Public Procurement Bill which subsequently was approved in Parliament in 2003 for enactment (Osei-Afoakwa, 2013).

2.4 PUBLIC PROCUREMENT ACT, 2003 (ACT 663): A PRODUCT OF THE PUBLIC PROCUREMENT REFORM IN GHANA

In 2003, the draft bill was accepted into a law known as the Public Procurement Act, 2003 (Act 663). Public Procurement Act makes available the legal structure for procurement for goods, physical infrastructure and consultancy services using public money (Acquaye, 2011). The Law brings together all existing but isolated public procurement guidelines, into an overall set of World standard procurement rules, regulations and procedures to be adhered to in an attempt to resolve all the challenges identified by the Public Procurement Oversight Group (PPOG).

Organization for Economic Co-operation and Development in a report on Ghana recognized the implementation of the law as a good step to fight deficiencies within public procurement activities in Ghana. Public Procurement Act, 2003 (Act 663) is a law that oversees all procurement in the public sector in Ghana. It provides a legal framework by which public procurement should take place. The Public Procurement Act, 2003 (Act 663) gives guideline to procuring goods, works and services, funded in total or in measure from public resources which may be raised by the State and foreign support funds, disposal of stores and equipment, comprehensive legal provision on the institutional Arrangements.

The law provides basically for two broad categories of Boards:

1. The Public Procurement Authority(PPA)- as the main policy and regulatory machinery to ensure proper degree of oversight and monitoring; and
2. The Tender Review Boards (TRB)-consisting of Central, Regional and District, Ministerial Headquarters.

Functions of the Public Procurement Authority: The Authority is accountable for the development of public procurement policy, the process of laying down standards and further governing implementation on public procurement, compliance checking with necessities recognized by regulation, guaranteeing spreading of statistics in relation to public procurement, setting ethical standards for all stakeholders, ensuring adequate capacity building in public procurement at various levels (Public Procurement Act, 2003 (Act 663).

Also functions of the Tender Review Boards (TRB) are to review the processes and procedures followed by MDAs to give concurrent approval for award of Procurement Contract by the Procurement entity. Provision of rules for good, works and services in procurement, securing value for money in Public Procurement, sustaining the reliability and transparency of the procurement

method, recommending suitable authorizations for Acts of mis-procurement are what the Act 663 (2003) seeks to achieve. The objective of the Act is to make provision for public procurement; the establishment of a Public Procurement Board; putting in place effective governmental and organized measures for procurement; and to specify bidding processes. Public Procurement Act, 2003(Act 663) make available legitimate framework for instituting the Procurement Authority, procurement structures, procurement procedures, procurement methods, tendering processes, systems and measures to involve or attract consultants services, reviews, discarding of stores, plant and equipment and miscellaneous provisions. Despite comprehensive nature of the Public Procurement Act, 2003 (Act 663) and its glowing tribute to the capabilities of the Act, and what it sought to achieve, there are still challenges encountered in procurement activities in Ghana. Non compliance with the processes and procedures, corruption in tender processes are some of the problems being encountered in Ghana as well as developed and developing countries in the world.

2.5 PROCUREMENT PROCEDURES OF THE PUBLIC PROCUREMENT ACT 663, (2003)

Procurement process contributes greatly to procurement structures that are comprehensive.

According to Harink (1999), Public Procurement goes beyond the mere processes but also significant constituents such as policy and rule of organization, systems and techniques, employees, the establishment and finally information.

Ensuring effective compliance level with the rules and regulations in Public Procurement Act, 2003(Act 663) enhances improvement in the public sector. This is why more than a few states have established efficient changes in public procurement procedures with the aim of reassuring

transparency, effectiveness, competition and culpability (Hunja, 2003). Kakwezi and Nyeko (2010) states that in order to ensure compliance there should be the creation of clear procurement processes and performance principles.

Most countries all over the world have laid down processes and techniques which are required to be followed during the procurement of goods infrastructure and consultancy services to ensure effectiveness in the procurement structure. Procurement processes in the U.S consist of the subsequent stages: Purchasing endorsement and appropriation, Procurement Preparation, Contract Preparation, Contract Management, Evaluation and Criticism (Robinson, 2009). In Germany, Public Procurement starts with identifying and specifying payment needs. This is made up of four sub-processes: demand management, market investigation, giving contracts and performance (Essig et al., 2009). These phases of Public Procurement are similar to most procurement phases across the globe with their various sub- divisions all aimed at ensuring public resource utilization, to guard against misappropriation and fraud, ensure efficiency, competition and transparency etc. Generally, procurement of works follows certain common steps. Countries all over the world have similar steps for procurement to be attained. Most of these steps may include feasibility studies, architectural designs and preparation of detailed design drawings, preparation of tender documents, and invitation for tenders (advertisement), opening and evaluation of award of contract, signing of contract agreement, execution of works, completion of works, handing over of works (Acquaye, 2011).

In Ghana, public procurement steps can be seen in the Public Procurement Act, 2003 (Act 663). The aim is to communicate basic values for procurement by the establishments, to monitor procurement doings and to enable coordination of procurement methods between the various

public entities. These steps give guidelines and the common basic procurement procedures that in the end help in ensuring those parties get unbiased action in the procurement practice. The Public Procurement Board (2003) spells out specific post contract procedures that are to be followed. In the public procurement of works, most of these contract procedures are spelt out in the Conditions of Contract Document by the procuring agency. Post Contract Procedures also known as Contract Management and administration of the project are part of the Conditions of Contract Documents (Acquaye, 2011). Contract Administration focuses on building correlation between the purchaser and the seller from contract award to contract close out, safe guarding that the seller supplies the product and/or service in accordance with the purchase certificate requirements (Awagah, 2014).

The Public Procurement Board of Ghana (2007), Section 5.18, spells out twelve (12) stages of Post Contract Issues under Contract Management is as follows:

- Effectiveness of contracts;
- The process leading to Project Manager appointment;
- Valuing completed works;
- Interim/final payment certificate preparation;
- Retention deduction/payments to contractor;
- Contractual dispute;
- Performance related delays;
- Damages to cover claims;
- Claims as a result of insurance;
- The initial/absolute approval of the works; □ Issue of retentions and performance bonds; and
□ Closure of contract.

According to Acquaye (2011) contract management can further be re-classified in two parts:

- Purchasing side of procurement(Pre Contract Procedures);
- Supply side of procurement (Post Contract Procedures); and

Under each of these parts are sub divisions as seen in the Fig 2.1 and Fig 2.2

Pre Contract Procedures steps:

PRE CONTRACT PROCEDURES



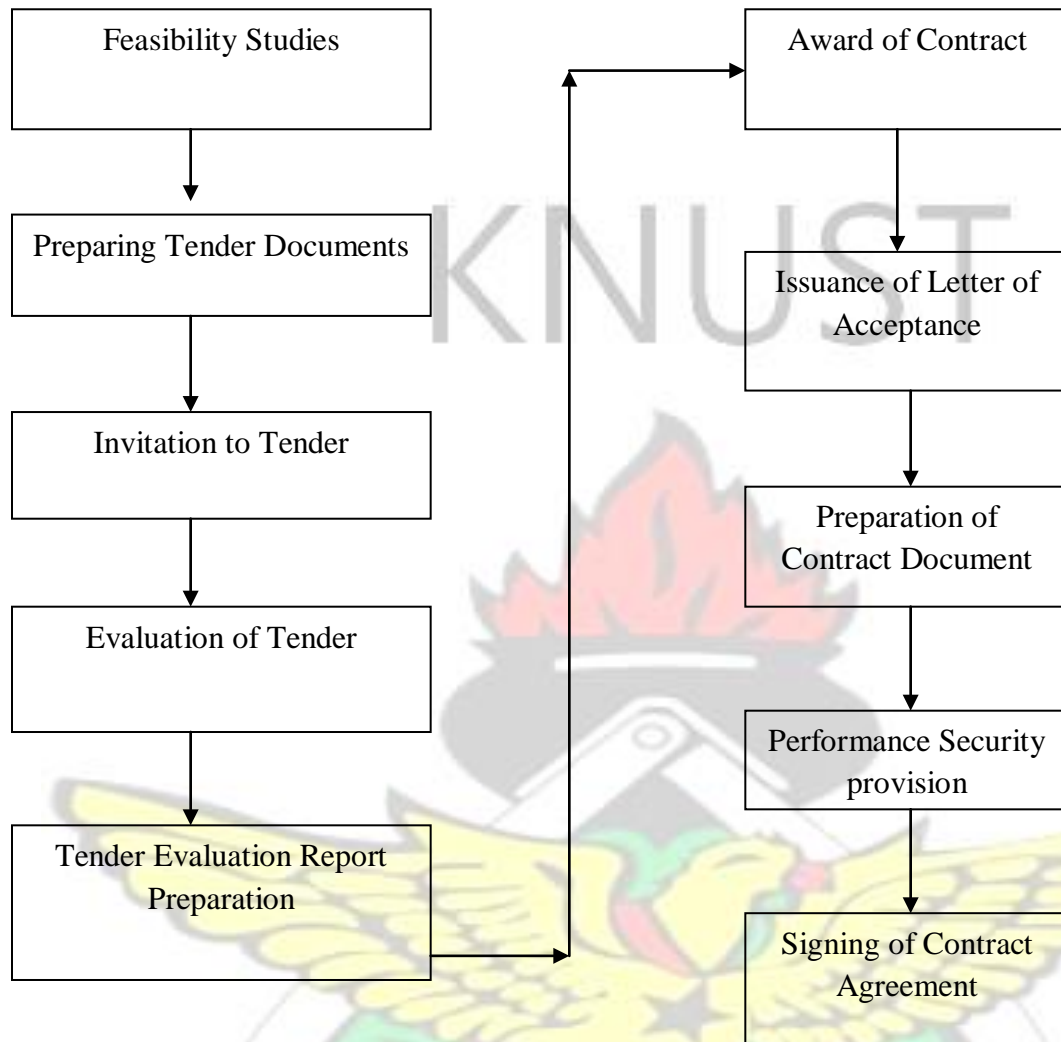


Fig 2.1 Pre Contract Procedures

Post Contract Procedures steps

Post contract stage is when the related activities are geared towards the successful management and administration of awarded projects/contracts with its related and conceptual realization of

detailed designs and specifications at the most cost effective price and at an economic time period (Public Procurement Act, 2003(Act 663) (Section 65).

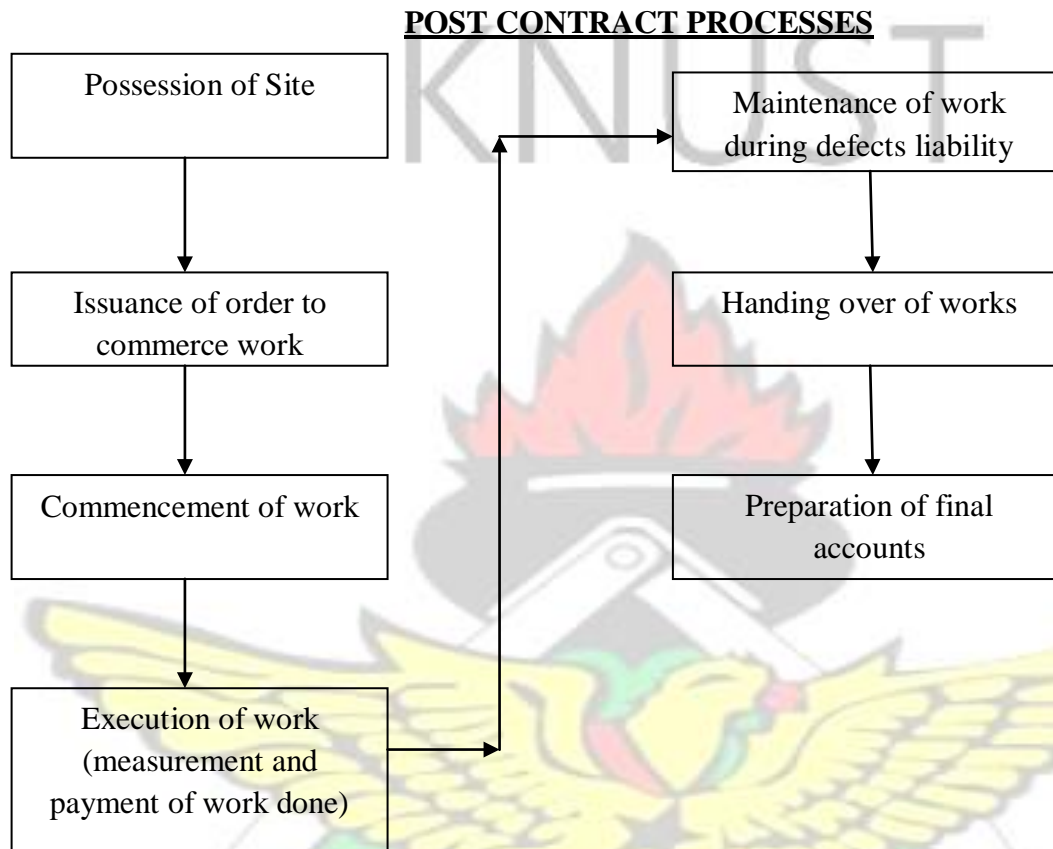


Fig 2.2 Post Contract Procedures steps

Assessment of Compliance Level

Organization for Economic Compliance and Development (OECD, 2006) provides internationally recognized ways of identifying the level of compliance with contract procedures (Assessment Methodology for National Procurement Systems, 2006). Management Systems, Communication, Procurement Method and Information and Contract Management are the main

compliance areas that are assessed by OECD/Development Assistants Committee (DAC). Thus, Contract Management is considered as one of the most important compliance area needed to be assessed under a particular contract. Effective contract management is vital if the procurement function in Ghana is to be effective and meet wider objectives including the attainment of value for money. Post Contract Procedures classified as Contract Management under OECD/DAC considers the following as key compliance areas:

□ **PROJECT PLANNING AND MOBILIZATION**

- **Site Possession:** The effectiveness of a contract is dependent on mobilization and the Contractor control of site. Procurement Heads should make sure that the contractor honours the agreed dates for the site to be possessed. This date is normally between 1-4 weeks (Public Procurement Manual, 2004). Site possession date must be entered in the contract documents. This is because as soon as the contractor takes custody of the site and work is commences, contract is considered to be in existence.
- **Advance Payment Security and Advance Payment:** The legal effectiveness of a contract happens when the Procurement Entity receives payment security and also when the contractor receives advance payment.
- **Issuance of order to Commerce Works:** This is normally based on the conditions of contract. For most contract generally, there is a minimum period of 7 days (1 week) after given Possession of Site to issue order to commerce works (Acquaye, 2011).

□ **PROJECT IMPLEMENTATION AND SUPERVISION**

- **Work Programme:** This is a programme that comprises of all the activities which involve the construction of a project. The principles which underline programming includes

illustrating when activities begin and end, what events must be finished before a new event can begin, what events can be carried out concurrently, what events cannot start until another is over (Cartilage, 2009). Work programme must be consulted on a daily basis, updated weekly and reviewed on a monthly basis.

- **Project Monitoring Reports:** This report is very important in project planning and implementation. It is a report that monitors and records all tasks to be performed in a project. It is also a practice of regularly collecting information on the project. A typical project monitoring report format must highlight the Project Title, Client Address, Contractor's Address, Project Manager's Address, General Introduction, Contract Details and Amounts, Site Meetings and Inspection Information, Information on Contractor's Mobilization, Progress of work and all other information including Material Test, Site Instruction or Variation, Payments etc.
- **Site Meetings:** Generally, site meetings are organized by the project manager who is normally an architect on a monthly basis although some contracts may hold meetings more than once in a month. This meeting is often used to formalize decisions made, and things observed, during the architect's inspections.
- **Progress of Work:** One of the most important functions of meetings is to monitor progress once work commences on site. It is therefore essential that these site meetings are held more than once in a month.
- **Interim and Final Payment Certificates:** Duration for payment for work done depends on the provisions in the conditions of contract of the Contract Document of the project. This period is normally 28 days after the certificate is submitted to the Procurement Entity.

- **Defect Liability Period:** This is a period of 6 months to 12 months depending on the type of works executed after the work completion and given over to the consumer. The contractor is obliged to rectify any defective work at his or her own cost after this period. However, if the identified shortcoming is proven beyond any reasonable doubt to have occurred due to inefficiency during the design stage, when the Contractor is not exclusively or partially included in the proposal of design stage, then the Procurement Entity will sustain the cost of modification. Normally the contractor has a minimum period of 2 weeks to rectify this defect (Public Procurement Manual, 2007).
- **Payment Certificates:** In reference to interim/final certificates for payments prepared by the manager of the Project, the Procurement Entity is expected to:
- ❖ Finalize a Payment Certificate which caters for the deduction of any advance payment which was made prior to the certificate, retention of appropriate ratios,
 - ❖ Include attachment of the:
 - Original assessment submitted by the Contractor and the Payment Certificates dispensed by the director of the Project;
 - Original copy of any provisional/complete review account carried out;
 - Results of any analytical surveys;
 - Estimation consequences under liquidated and ascertained damages if is stated in the contract;
 - Important duplicates of facts obtained from the original contract document and accounts which detail endorsement and financial authorizations;
 - ❖ Recording expense in the Contract Register; and
 - ❖ Forwarding of the Fee Receipt to the Account Sector for Dispensation.
- **Variation and Amendment:**

According to Thompson (1990) variations are instructions given out throughout the progress of the contract, to alter the initially stated work. The following are reasons that cause variation:

- ❖ Alteration due to statutory requirements;
- ❖ Alteration, additions and omissions due to either the architect or owner changing their minds;
- ❖ Blunders or lapses in the bill of quantities. Variation is an architect's instruction and can only issue a variation inside the terms of the contract.

The Public Procurement Act, 2003 (Act 663) Section 87 indicated that should in any case these changes contribute to 10% increment in contract value the following should be done:

1. A procurement body will make known to the suitable Tender Review Boards of planned addition and amendment with justifications. This excludes cases of extreme urgency in which there is a likelihood of an increase in aggregate of the significant volume of the contract by more than 10% of the rate; and
2. In the instance where a contract is not initially subject to evaluation by a Tender Review Board, all planned variation of the contract that will effectively revise the rate in the contract to more than the procurement process limit will be unfilled with the proper Tender Review Board.

Amendment of a contract is likely to become necessary during the inclusion of bill variation identified as stipulated in the contract, measuring works again, dayworks as they become necessary, variation orders to cater for changes in the scope of work, compensation events as and when they occur, the resolution of disputes if need be and so on. There is the possibility of the contract allowing the Procurement Entity to offer any form of modification to the values of contract

by a percentage which is pre-determined to be of interest to the public. The Tender committee must approve and confirm in a formal contract amendment or addendum all other changes that are applied to cost, amounts, and periods of time and contract conditions.

The Procurement Entity is required to:

- ❖ Ensure that the specific clauses as stated in the contract but requires amendments, and conditions required to be applied are identified and agreed with the Contractor;
- ❖ Undertake the preparation of a draft contract revision certificate subject to endorsement by the Committee. This must be accompanied with explanations vindicating the motives behind the change,
- ❖ The Entity Tender Committee approval requires to:
 - Take records any changes that may arise in contract price in the contract;
 - Take records of other contractual amendments in the contract record;
 - Acquire required accumulation to the performance security from the Contractor;
 - Make arrangements for the acquisition of autograph of the contract revision in four copies which will be distributed.

➤ **Thresholds:**

Public Procurement Act, 2003 (Act 663) Schedule 3.2 B1 highlight the stipulated Thresholds and Review Authority for works. The amount is in the new Ghana cedis.

Table 2.1 Procurement Thresholds and Approving Authority

Approving Authority	Works(GHc)
Head of Entity	Up to 10,000
Entity Tender Committee	>10,000-50,000
District Tender Review Board	>50,000-200,000
Ministerial and Regional Tender Review Board	>200,000-15,000,000
Central Tender Review Board	Above 15,000,000

Source: Public Procurement Act, 2003 (Act 663) Schedule 3.2 B1 ➤

Contract Disputes:

Public Procurement Manual, 2004 Section 5.23 gives procedures for resolving dispute between the contractor and the client. The manual spells out those slight arguments could be resolved through detailed discussions and contract between the Project Manager and the Contractor. Written complaints submitted by the Contractor must be duly looked into and forwarded to the Head of the Procurement Body Head to authorize communication. In an instance when an arbitrator is employed as per the agreement, such resolution could end up not in favor of the Contractor and must be preserved as a last option when other options for the contract are finished. The procedure to be adhered to is as follows:

The Project Manager must do well to:

- ❖ Ensure that conditions of the Contract relating to the Dispute Resolutions of are carefully examined;
- ❖ Establish whether the Procurement Entity is at fault either fully or partially, and take appropriate actions if need be;

- ❖ Invite the Contractor to discuss issues and come to an agreement which satisfies both parties at a formal meeting. In so doing there is the need to ensure that minutes are accurately written at such meetings and kept well. Any concluded agreement that alters any part of the settings of the Contract, the Entity Tender Committee or the Head of the Procurement Body is expected to give an approval to enable the agreement to be implemented;
- ❖ The use of any form of conflict resolution methods as detailed in the contract may be employed in the absence of any initial agreement and failure of negotiations carried out by the Procurement Body Head; and
- ❖ Carry out the preparation of any required addition to the contract for signature.

➤ **Cessation of Contract**

Manuals-Public Procurement Act, 2003 (Act 663) Section 6.14.4 gives the processes involved in terminating a contract. Parties to any agreement in most cases are entitled to carry out the termination of the contract, to defend the Procurement Entity; instruction of the Legal Department must be searched for. It must be ensured that contracts are not concluded incorrectly there must be the need to consider probable options that can be undertaken.

The Procurement Entity must ensure to:

- ❖ Carefully examine the Contract to be conversant with all conditions of contract and penalties relating to contract termination; and
- ❖ Heed to the advice of the Legal Officer in correspondence preparation.

□ INSPECTION AND INVENTORY

- **Handing Over Site:** This is the stage in a building project when the employer takes over the responsibility of the building from the contractor. Based on most Conditions of Contract the period it takes to hand over of works is 1day (Acquaye, 2011).
- **Certification of work by Inspection Team:** The inspection and acceptance team which is made up of the Manager for the Project and appointed evocative from the Procurement Entity and the Technical Department respectively shall be responsible for the certification of initial and final takeover of works.
 - ❖ Retention detained will be remunerated to the contractor if stated in the agreement upon concern of an initial record by the Inspection and Acceptance Committee.
 - ❖ The review and approval players will carry out the certification of the concluding takeover task and ensure that completion certificate which proceeds the defects liability period and theme to the rectification of all defects is duly signed.
 - ❖ The raising of a final Certificate to authorize balance of duties retained which is for the contractor upon the issuance of the concluding takeover certificate by the Inspection and Acceptance team.
- **Project Completion Report:** these detailed out information of the project from inception to completion. A typical report should cover the following:
 - ❖ Project Title;
 - ❖ Project Overview;
 - ❖ Project Objective ;
 - ❖ Project Outcomes ;

- ❖ Problems and Possibilities Summary;
- ❖ Lessons Learned ; and
- ❖ Suggested Developments.

□ HANDING OVER(DISPOSAL)

- **Handing Over Certificates:** These certificates are issued by an architect either authorizing payment to the contractor at the practical completion stage or handing over stage. Certificate for Handing over a project as well as Practical Completion Certificate should highlight the following:

- ❖ Name and Signature of the Project Manager who certifies completion;
- ❖ Date;
- ❖ Supervisor's Name and signature after checking rectified defects;
- ❖ Completion dates;
- ❖ Project Title; and
- ❖ Project completion cost.

- **Final Account:** This account is prepared after all building work is completed. It takes into consideration all variations, measurement, fluctuations in labour rates and material prices and all other factors affecting the total cost of the project. It gives client what the total cost of the building project is and how much remains to be paid to the contractor. The different sections of the final account are as follows:

- ❖ The summary of the final account;
- ❖ Variation accounts;
- ❖ Altering Prime Cost Sums;
- ❖ Altering Provisional Sums;
- ❖ Altering provisional or approximate components;

- ❖ Claims;
 - ❖ Statutory contributions, levies; and
 - ❖ Fluctuations in labor and materials.
- **Contract Close Out:** This is the absolute conclusion of all contractual concerns with project procurements, reimbursement of all unresolved claims. The documentation needed to close out a contract should include the following:
- ❖ Details of project office and project team organization;
 - ❖ Details of instructions and procedures to be employed;
 - ❖ Details of financial capacity to organization;
 - ❖ Concise explanation of project;
 - ❖ Plans, budgets and schedules of project;
 - ❖ Details of personnels responsible for authorization and monitoring of work;
 - ❖ Proper evaluation report;
 - ❖ Details on management and contract administration style;
 - ❖ Details on project records;
 - ❖ Details on subcontracting liaison and policies; and ❖ Recording all activities on site.

Effective adherence to these step/procedures and timelines will ensure meeting the agreed objective of the Act. This will seek to harmonize the entire processes of Public Procurement

2.6 ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD) COMPLIANCE IN ASSESSING PUBLIC ENTITIES USING BASELINE INDICATORS (BLIS) AND COMPLIANCE AND PERFORMANCE INDICATORS (CPI) TOOL

Organization for Economic Co-Operation and Development (OECD) came into existence in 1948 to serve as a drive for US-financed Marshall Plan for rebuilding of a continent shrunk by war. It is a worldwide organization consisting of 34 nations officially founded on the 30th of September 1961 to encourage financial development. It ensures that their broad knowledge on a number of topics helps in prospering and fighting poverty for most governments. OECD ensures that the environmental consequences of economic and social development are considered. With time OECD's application has developed to comprise of widespread contacts with non-member economies. From 2003-2004 under the supports of the World Bank/OECD Development Assistance Committee(DAC) Procurement Round Table initiative bilateral, multilateral donors developing countries developed tools and principles that provided assistance for improving systems of procurement. These principles and tools developed into the Methodology for assessment of procurement systems (MAPS) in 2008 used by donors and developing countries in the assessment of the quality and effectiveness of the systems.

MAPS established two sets of indicators. These are Qualitative/baseline indicators (BLI) and Compliance and Performance Indicators (CPI).

BLI covers the official and practical features of the existing system and evaluate the actual system against the worldwide principles that these indicators represent. CPI deals with observing performance data to control the level of compliance with the official system and also how CPI functions. CPIs detect actual procurement practice and transactions in a real life setting (CPI Indonesia, 2011). For effective assessment exceptional preparation is required to organize

collection of information needed and to find interested parties to be interviewed. This is significant if the valuation will be funded by both government and interested contributors to aid work organization and agreement to be reached on serious characteristics of the assessment such as the degree to which explicit data for CPIs will be collected and if surveys and interviews will be employed (Sualah, 2014). This study therefore adopted CPIs. This concurs with the objective of the study. CPI indicators can be used as performance monitoring tools to observe and assess the effectiveness of public procurement management systems and in the light of procurement law (Forum on Aid Effectiveness, Korea, 2011).

2.7 GHANA'S EXPERIENCE WITH OECD/DAC COMPLIANCE TOOL

Ghana has been actively involved in the effort of OECD/DAC –World Bank Roundtable on strengthening capacities in developed countries and collaboration on procurement since 2003. An assessment methodology known as Public Procurement Model of Excellence (PPME) was developed in Ghana with the Swiss Government for assessment of Compliance and Performance of Procurement Entities.

However, in 2007 as part of the wider valuation of the Ghana Public Financial Management System, the Government and Development partners with the support of consultants worked out valuation of the Ghana public procurement system using OECD/DAC Assessment methodology (Forum on Aid effectiveness, Korea, 2011). It was concluded that a substantial level of inefficiency exists within procurement in the public sector and further determines the standard of „value for money“ is not accomplished. In assessing or investigating the level of compliance with the PPA, Act 663 (2003), most researchers adopted OECD/DAC assessment tools. Specifically

CPI's were employed in monitoring performance of a system to determine the level of compliance. This is seen in the works of Awagah,2014; Kissi et al.,2012; Agbesi,2009; Addo,2014; Osei-Tutu et al., 2011. In the works of these researchers they considered the four main compliance areas under CPI's i.e. Management Systems, Information and Communication, Procurement Process and Contract Management. Although they considered these four areas, there was lack of in-depth research in the area of Contract Management. Most of their works tackled issues relating to Pre Contract Procedures. It is against this background that this research considered the level of compliance with Post Contract Procedures in public procurement.

2.8 COMPLIANCE LEVELS IN DEVELOPED AND DEVELOPING COUNTRIES

2.8.1 Compliance

Compliance means adhering to the law, regulations and standards that apply in a given procurement setting. It is also the capacity to act according to a set of rules.

Compliance is where someone or something is in accord with well-known procedures, provisions or legislation. The Public Procurement Act, 2003 (Act 663), is a regulation meant to guide public procurement entities and practitioners to uphold ethical and professional values to ensure value for money.

Complying with procurement rules and arrangements is critical in enhancing the benefits of sourcing work to the end in attaining year over year development goals. Similarly, Acquaye (2011) indicated that in order to achieve the overall objective of these laws and regulations there must be total emphasis on compliance with processes, procedures of laws and legislation. Although, compliance is good for the success of an organization, achieving it is very difficult due to certain

factors. Eyaa (2011) states that the level of knowledge is one of the factors that bring about non-compliance with procurement rules as well as the level of competence of individuals involved in procurement activities.

2.8.2 Compliance levels in Developed Countries

Non-compliance over the years has been considered to be a major barrier to the effectiveness of the regulations (Gelderman et al., 2006). De Boer and Telgen (1998) specified that the level of agreement with European Union Directives is „highly insufficient“. In the Netherlands the assessment of non-compliance by towns is between 77%-83% (Gelderman et al., 2006). Further study done by Netherlands Ministry of Economic Affairs (2004) concluded that the overall agreement to the directives of procurement is quite limited.

Rules governing procurement are not properly enforced and are frequently ignored by contracting establishments who take advantage of the freedom they enjoy in following their own practices (IMF, 2006b). It is therefore not surprising that non-compliance is obvious in infrastructures that are donor funded. In such instance procurement procedures and rules of the donor association have been repeatedly ignored as discovered (World Bank, 2005).

2.8.3 Compliance in Developing Countries

Eyaa (2011) concluded that many state owned companies in developing countries have inadequate knowledge of their duties as professionals and in some cases become exposed to manipulation by executives, chairmen etc. leading to non-compliance with these rules. Low level of compliance

with procurement rules is found in most developing countries. World Bank estimates that the Ugandan government channels an estimate of about 10-15% (US\$ 100million) of the country's GDP through the public procurement systems which gets wasted due to failure to impose sanctions for violations of the procurement rules (Tadeo et al., 2006). This indicates low level of compliance with procurement regulations. Osei-Tutu et al. (2009) in their research reviewed that the overall compliance levels with the requirements in the Public Procurement Act, 2003 (Act 663) in Ashanti and Brong-Ahafo regions in Ghana lie at 19.58% and 17.80% respectively. This results revealed little agreement with the Public Procurement Act, 2003 (Act 663) in some public entities in the country. Public Procurement in Ghana has been described by Affotey (2007) in the past by:

1. Lack of transparency in contract award;
2. Manipulation of contract process by unfair means;
3. Absence of competition;
4. Under and over –invoicing ; and
5. One-man showmanship.

World Bank (1996) in their Country Procurement Assessment Report (CPAR) revealed substantial inefficiency in public procurement processes which does not help in achieving value for money. Their findings revealed sluggish project execution and expenditure due to poor procurement preparation, non-transparent procurement processes and poor contract management. These discoveries could also be seen in the 1996 Country Procurement Assessment Report as weaknesses in procurement (World Bank, 1996).

The Public Procurement Authority in its review in 1996 recognized weaknesses in public organizations which required much consideration. Shortfalls such as inadequate qualified

procurement staffs, lack of procurement preparation, poor contract management and huge cost of advertisement, inadequate training avenues, poor accounts management, high cost advertisement, unclear processes and procedures in procurement (PPA, 2007).

The above information gives an indication that all over the globe there is relatively low compliance with regulations. This affirms the results of the Public Procurement Authority in 2006, Osei Tutu et al. (2011) and Kissi et al. (2013), hence the need to continuously monitor the level of compliance of public entities is very essential to ensure that the objective of the Public Procurement Act, 2003 (Act 663) is achieved. To prevent missing in-depth details for noncompliance with contract procedures of Act 663 the study singles out Kumasi Metropolitan Assembly for an in-depth scrutiny using CPI tools of OECD/DAC. OECD tools were employed because of its international recognition. This will help identify the various compliance rate of the assembly, compare and contrast various reasons for non-compliance with contract procedures among the staffs, identify post contract procedures used in the assembly.

2.9 SUMMARY

The assessment of various studies revealed the following key issues: Most works in relationship to compliance with public procurement made use of OECD/DAC MAPS. This is because it gives a common background which aids in measuring good public procurement systems across the world and also of its widespread nature. Lack of transparency in contract award, manipulation of contract process by unfair means, absence of competition, under and over-invoicing and oneman showmanship as observed by Affotey (2007) as effects of non-compliance. This is also confirmed by other studies are the effect of non-compliance with public procurement processes and procedures. Most works done in this area considered issues of pre contract procedures as identified

above. Very little is known on compliance with post contract processes and processes although it is the main drive in attaining value for money for public projects. The study seeks to add-onto the existing knowledge by determining the level of compliance with the Public Procurement in KMA.

KNUST



CHAPTER THREE

RESEARCH METHODOLOGY

3.1 INTRODUCTION

Collis and Hussey (2003) define research procedure as the general methodology to the design procedure starting from the hypothetical foundations and ending at the collection of data and analysis which is adapted for any study. This chapter throws more light on the methodology section of the research. To achieve the research aim and objectives as already set out, this chapter discussed research methods with the intention of singling out the most suitable methodology which assisted in answering the research questions identified. The chapter laid much emphasis on approach to the research, design and methods including collection of data, investigation and arrangement of primary data collected purposely for the aim and objectives. Moreover, it describes the method used in examining data and population size. In conclusion, it offers a description of the entire approach used to address the aim of the research, the outlined objectives and questions raised.

3.2 PHILOSOPHICAL PARADIGM

Guba (1990) describes a pattern as a group of basic set principles that monitor an action. Research paradigms have been categorized into four main sections (Guba & Lincoln, 2004) namely: post positivism; positivism; constructivism and critical theory. Analyzing this research within the philosophical tradition requires detailed discussions on the diversity of available philosophical continuum as a backdrop to this research. Denzin and Lincoln (1998) argued that a paradigm is made up of three main elements which are: epistemology, methodology and ontology.

Epistemology consideration focuses on the possible ways of getting to know and learn about the social world. It focuses on questions which include: the possible way of knowing about what reality entails and the source of knowledge (Streubert and Carpenter, 1999). It is troubled with the key problem of understanding which is worthy of being accepted in any identified discipline. According to the author's debate on this subject revolves round three concerns i.e. the connection among the investigator and the topic under research, the existing theories covering truth and the means of acquiring knowledge.

Epistemologically, this study adopted positivist tradition. Positivist tradition is of confidence that the world follows regulations and that difficult issues can be embark upon using basic methodology. The situation stresses on impartiality, measurement and repeatability. It is, imperative for the researcher to be impartial in such research circumstances (Bryman, 2004). This research was of the belief that the complex interactions of contract procedures specified in the Public Procurement Act, 2003 (Act 663) on public project could be explored through systematic but simplified steady approach.

3.3 RESEARCH STRATEGY AND APPROACH

3.3.1 Qualitative Approach

Qualitative research examines the daily life of divergent team of individuals and populations living in their natural habitat. A qualitative study includes an informative, realistic style to its focus and it endeavours to interpret a phenomenon in relations to the understanding the general public have on them (Denzin and Lincoln, 2003). Meaning for qualitative studies, researcher learns things in their natural sceneries, endeavouring to infer phenomena in terms of the significance people

convey to them. As cited by Jean (1992) qualitative research is “a form of social interaction in which the researcher converses with, and learns about the phenomenon being studied”. It is worth noting that in qualitative research the investigator is part of the process and is keenly involved in creating the meaning of reality (Crotty, 1998).

Drawing extensively from the above, this research took qualitative approach since the level of knowledge in Ghana on compliance with Post Contract Procedures in public procurement is relatively little and as such, this method of approach enabled in depth knowledge on the level of compliance with post contract procedures. It provided the opportunity for the research objectives to be met. Content Analysis a qualitative approach was employed. It is a methodical, replicable practice for reducing lots of words of text into less content classifications centered on clear rules of coding (Berelson, 1952).

Furthermore, the choice of approach was based on the following issues:

- Overall aim: Understanding and explanation of social phenomena;
- Terms used for the quality of research: Trustworthiness was an issue in considering qualitative approach. This helped in finding out the various compliance procedures as well as reasons for non-compliance;
- Relationship with respondent: the research sought to achieve one on one contact with respondents;
- Sample Size: The study hoping to obtain in-depth understanding of reasons of non-compliance with post contract procedures made use of purposive sampling method. A small sample size helped in obtaining in depth response from respondents during the face to face interview;

- Research Process and Data Quality: Meticulous record keeping tends to add value to the quality of process and data; and
- Frequently used data collection method: Semi-structured interviews and flexibility in administering interviews.

3.4 RESEARCH DESIGN

Saunders et al. (2009) clarify that the purpose of a research could be descriptive, exploratory or explanatory but it is highly dependent on the nature of enquiries. It is possible to use exploratory study in instances where the research aims at discovering real life situations to demand answers questions regarding it (Gray, 2009). Hedrick et al. (1993) explains that the motive of a descriptive study is to deliver a vivid description of an occurrence in the natural state. Explanatory study main objective is to offer explanation and an in-depth explanation for the data (Gray, 2009). Whilst descriptive research probe questions related to „what“, explanatory research ask „why“ and „how“ questions.

In selecting the best research approach in collecting data, issues such as information required and the method of analysis is needed (Naoum, 2007). Field work, a primary source of data collection will help in obtaining the information required. Saunders et al. (2009) indicates that Case Study, Action Research, Survey, Experiment, Ethnography research and Grounded theory are examples of research strategies that can be used in gathering data. Gray, (2009) explains that Action Research involves close relationship between investigator and practitioners. Such collaboration emphasizes on supporting change organizations such as offices, hospitals etc. by looking for data on the viewpoints of experts. Case study or multiple case studies are the main action research medium. Case-Study technique was used since it is a widely accepted approach for model building research

that builds on the rich empirical reality of the case data (Twumasi-Ampofo et al., 2014). Yin (2009) explains that „how“ and „why“ questions are more descriptive and likely to influence the use of Case Study and the data collected using interview, questionnaire or observation methods.

3.5 POPULATION

A research population normally deals with a definite number of individuals with mutual, requisite physical characteristics. Population refers to the complete set of characters (subject or events) having similar representative. The population for this study comprised mainly of procurement professionals involved in public procurement activities within the Kumasi Metropolitan Assembly in Kumasi. The study employed purposive sampling method. In all there were 18 professionals who are directly involved in procurement in the Assembly. These professionals included engineers, architects, quantity surveyors, planning officers, budget officers, site supervisors etc. These are workers who contribute professionally to construction development in the Assembly by applying their knowledge, skills, techniques which is peculiar to every project the Assembly undertakes with the goal of achieving time, cost and quality expectancies. Interviewing them helped achieve the needed respond in relation to compliance with post contract procurement procedures used in the Assembly.

3.6 RESEARCH SCOPE

The research scope covers post contract procurement procedures and time frames. The geographical scope is Kumasi in the Ashanti Region.

3.7 SAMPLING TECHNIQUE AND SAMPLE SIZE DETERMINATION

3.7.1 Sample Size

The term “sample” can be explained as a portion of an entire (population) which is taken to represent the remaining (Naoum, 1998). A sample contains unit that make up the population (Polit and Hungler, 1999) and are usually used in large-scale study research for the sake of economy and accuracy (Weisberg and Bowen, 1977). A small section of the population is known as a sample. This is useful and cost less in comparison with gathering data from an entire population. In all a total of 15 people out of the 18 professionals who had technical knowledge in the research area were available to be interviewed face to face. This number was interviewed due to in-depth knowledge of these professionals in relation to the research topic and the because of purposive sampling technique employed. This interview was guided by a structured questionnaire.

3.7.2 Sampling Technique

Small sample size can yield in-depth significance a study subject to comprehensive research questions and the manner in which the investigator directed the study and undertook the research analysis. Purposive sampling was the sampling technique chosen for this study and it is normally based on the purpose, design, and practical implication of the research topic (Bernard, 2002).

Purposive sampling was the research technique adopted in the administration of the semi structured interview questionnaires to help provide the best viewpoint on the topic. They respondents from the interview included: Engineers; Architects; Planning Officers; Budget Officers; Quantity surveyors; Metro Engineer; Site Supervisors.

As indicated by Baum (2002) the reason for choosing a sample size for qualitative research must be viewed as practical, revisable and must be able to subject it for assessment. The principles and conditions to assess the effort and situations under which justification is attained for the sample size must also reflect the above.

When asked how many interviews is enough for qualitative data the answer from most researchers is „it depends“. The number of interviews to be conducted for qualitative research depends on the purpose of the research, availability and accessibility of potential interviewers and whether or not we have „saturated“ the possible epistemological response. Qualitative research generally depends on small numbers with the goal of comprehensive study of a phenomenon. Baum (2002) indicates that, a range of 12-20 data sources is good for attaining maximum disparity.

3.7.3 Reliability and Validity

In order to test the reliability of the research work, after the first interview with the professionals from KMA, there were several encounters with these professionals to ask them similar question again. The new results obtained correlated with the previous results.

Validity in the area of content ensures that the measure covers the broad range of areas with the concept under study. Questions asked during the face to face interview covered all aspect of post contract procurement processes and procedures. In order to improve validity the aim and objectives were clearly defined and operationalised. Construct Validity a form of measuring validity of research work was employed. This ensures that the validity measures what it actually intend to measure by employing experts in the field during data collection (Phelan and Wren, 2005). The use of professionals from the Assembly helped achieve this and hence validity could be assessed.

These professionals with their level of knowledge were able to answer the face to face interview questions on post contract processes and procedures.

3.8 DATA COLLECTION METHODS

The method chosen for collection of data must offer high precision and suitability of attaining data from the interviewees (Clarke et al., 2001). In achieving the required objectives of the study primary and secondary data sources was used. Questionnaires and interviews were collected as the primary data and analysis of the research was centered on this data. Secondary data were collected from published documentations such as publications, guidebooks, textbooks, newsletters, internet and reports obtained from libraries etc.

3.8.1 Development of Semi-Structured Interview

As a means of gathering data for this research, semi-structured interview was chosen. It presented the opportunity of asking open and closed ended questions during the interview. The research required the acquisition of detailed information from interviewees by means of semistructured face to face interview (Saunders, 2009). Face to face interviews was undertaken and the identified participants were required to provide answers to questions that were specially designed to provide solutions to the research questions. Naoum (2007) indicates that one of the main advantages of this research technique is the provision of freedom to investigate several areas that are pertinent to the study during the interview.

3.8.2 Justification of interview questions/study variables

This research used Compliance and Performance Indicators for assessing the compliance level of post contract procedures of public procurement. For international recognition OECD/DAC indicators was employed in identifying the level of compliance with post contract procedures.

The indicators used are seen below.

Table 3.1 OECD Indicators

MAIN COMPLIANCE AREA	KEY COMPLIANCE INDICATORS
Contract Management	<ul style="list-style-type: none">• Project Planning and Mobilization• Project implementation and Supervision• Project Completion (Inspection and Inventory)• Handing Over (Disposal)

Source: Adopted from World Bank/OECD/DAC 2004

Interview questions were grouped into two main parts i.e. Part B and Part C:

- 1) To assess the level of knowledge of staff and identify post contract procurement procedures in use at KMA;
- 2) To assess the extent of compliance with post contract procurement procedures; and
- 3) To identify reasons for non-compliance with post contract procurement procedures.

Part B of the interview questions helped in addressing Objective numbers 1 and 3 of this research.

Part C of the interview questions employed OECD indicators as shown above i.e. Project

Planning and Mobilization, Project Implementation and Supervision, Project Completion and Handing over. Questions under this section was to find out from the participants how post contract procedures are undertaken under planning and mobilization of a construction project and also to

find out if these procedures are in line with Public Procurement regulations in the country. Interview question in this area helped in addressing Objective 2.

3.9 DATA ANALYSIS METHODS

Data that were generated from the case study were of non-numerical form and as such was analyzed qualitatively. Generally qualitative methods aim to apprehend the attitudes of a patient or employee. This method aimed to find answers to questions about the „what“, „how“ or „why“ of an occurrence happens than „how many“ and „how much“, questions usually sought after by quantitative methods. Content Analysis was employed for this study because of the nature of data to be attained. Using content analysis called for processing the data through the following steps:

3.9.1 Classification of data into categories

Based on similarities of response from the respondents, data was classified into categories. Also replies with similar explanation were grouped in the same class which aided in classifying differences and similarities of data gathered (Gray, 2009).

3.9.2 Connecting similar data

Connecting data with comparable concepts was preceded by the categorizing the data obtained. This highlighted the dissimilarities in data gathered during the interview (Gray, 2009)

3.9.3 Description of results in details

Data with the same concepts was deliberated on exclusively while less pertinent ideas were rejected. In summary, the data were described, inferred and explicated in providing impeccable understanding.

3.10 Summary

Eyaa (2011) in her research identified the following as major challenges faced by public institutions in the procurement activities:

- low level of knowledge with the procurement regulations,
- professionalism of individuals involved in procurement activities as low □ Undue advantages taken due to the loopholes in the Act.

Inadequate funds, lack of logistics and equipment are some of the challenges facing most public entities as reported in the Local Government Service 2013 annual report.

Also, absence of transparency in the contract award, unfair practices, inadequate competition, one-man showmanship are also some challenges facing the procurement system as cited by Affottey (2007). Moreover, PPA in 2007 added that inadequate procurement preparation, poor management of contract, huge cost of advertisement, absence of training avenues, bad record management, lack of clear procedures for emergency procurement are some areas experiencing low compliance level in Ghana. Osei-Tutu et al. (2011) summed it up by identifying lack of transparency, low level of compliance of the procurement Act, and inadequate procurement expertise, inclination to use of competitive methods as some factors affecting the modernization of the public procurement system which is dynamic in nature and needs constant improvement.

The study makes use of OECD/DAC MAPS variables because of its internationally recognized nature and its widespread usage in the few years by various countries. This research hopes to improve upon the existing knowledge level by identifying the various non-compliance areas in the Metropolitan Assembly.



CHAPTER FOUR

RESULTS AND DISCUSSION

4.0 Introduction

In this chapter the results of the study is presented and discussed. An analysis of data obtained from the interview was done using Content Analysis. The presentation and discussion of data were done in accordance with the arrangement of objectives of the study.

The results obtained from the professionals at the works department of the Kumasi Metropolitan Assembly covered the following objectives:

- 1) To assess the level of knowledge of staff and identify post contract procurement procedures in use at KMA;
- 2) To assess the extent of compliance with post contract procurement procedures; and
- 3) To identify reasons for non-compliance with post contract procurement procedures.

4.1 RESULTS

4.1.1 Knowledge on Post Contract Procedures

In public procurement, processes and procedures undertaken to ensure cost effectiveness of public projects are indicated in the Public Procurement Act, 2003 (Act 663). These procedures serve as a guide for judicious use of public resources. It is therefore imperative that professionals practicing procurement in the various public sectors have knowledge of these processes and procedures.

Respondents interviewed had different opinions and view points on definition of post contract procedures. The term “post contract procedure” is a term frequently used by construction

professionals in the building industry. Eighty percent of respondents explained Post Contract Procedures as follows:

“Post Contract Procedures are activities undertaken on a project from the time contract is awarded to a contractor to the time project ends and given to the client” (informants’ view).

This definition is in concurrence with the words of Acquaye (2011). In addition, 20% of the respondents were of the view that the definition post contract procedures should include signing of a contract as stated below:

Post contract procedures are activities undertaken after signing of a contract to the period of completion of project (informants’ view).

Post contract procedures are processes related to activities geared towards the successful management and administration of awarded projects and conceptual realization of detailed designs and specifications at the most cost effective value. Post contract phase of any project is crucial for the successful delivery in terms of time and cost. Although the respondent gave these as the definition of post contract procedures there is the need to establish the fact that the process of post contract procedures commences after contract is awarded and signed by the contractor to the final completion of project.

Responses from respondents indicate that knowledge in regard to what post contract procedures are is relatively high in KMA. This is in accordance with the works of Lamily (2013) which concluded that the knowledge on post contract procedures is high. Also in 2011, Osei Tutu et al., indicated that most staff members under local government sector in Ashanti and Brong-Ahafo were familiar with post contract processes/contract management process which resulted in better compliance level.

Post Contract Procedures in use.

For successful completion of a project there is the need to abide by the requisite post contract procedures. Examples of these procedures as identified in the literature review include monitoring and control, record keeping, site meetings, progress reports and inspection, preparation of certificates and evaluation. Eighty percent of the respondents gave the following as examples of post contract procedures:

“Site possession, site meetings, site inspection, progress reports are the most common procedures known and used in the Assembly” (informants’ view).

This corresponds with the claim by Awagah (2014) and Osei-Tutu et al. (2011) that there is appreciable positive level of adherence to contract management in the areas of site possession, site meeting and contract reports. However, upon probing further the interviewees were asked questions as to format for certificates preparation and awareness to close out contract. Responses from them showed lack of knowledge in such areas. This conclusively indicates that knowledge of post contract in such areas is low

4.1.2 Reasons for non-compliance with post contract procedures.

Non-compliance over the years is a main deterrent to the efficiency of the regulations (Gelderman et al., 2006). However in the study eighty percent of the respondents were of the view that the reasons for non-compliance were as follows:

“Lack of logistics, financial constraints, low level of knowledge on some post contract procedures are the reasons for not complying with these procedures” (informants’ view).

Eyaa (2011) concluded that many state owned companies in Africa, especially have limited understanding of the processes involved in procurement which indicates that the knowledge level of post contract procedures is low in Africa. Lack of logistics and financial constraints indicated by the respondents were identified as new reasons for non-compliance with post contract procedures. The other twenty percent did indicate that the reason for non-compliance with post contract procedures was because they lacked logistics only. This indicates that lack of logistics is the major reason for non-compliance with post contract procedures. From the above it can be concluded that when logistics are provided for monitoring and control of projects, provision of enough money and training of staff in procurement areas will not only help improve the compliance level with public procurement but will also ensure effective and efficient delivery of project.

4.2 MAIN COMPLIANCE AREAS

4.2.1 Project Planning and Mobilization

4.2.1.1. Site Possession

Timely accomplishment of works infrastructure is influenced by many factors. The period it takes for site to be handed to the contractor is one utmost importance factor. It was therefore imperative to enquire about the duration it takes for site to be given to a contractor after contract is awarded and signed. The results of the interview indicated that sixty percent of the respondents were of the view that:

“The minimum period for giving site to the contractor after contract is awarded and signed by both parties is 7 day s (1 week) and maximum 30 days (4 weeks)”(informants view).

This finding is in concurrence with provision in the Public Procurement Act, 2003 (Act 663) which state that giving of site to the contractor should be between 1- 4 weeks once contract is awarded and signed. Conversely, 40% were of the view that site should be handed over to the awarded contractor during contract signing. The minimum time for giving of site to the contractor should proceed as soon as contract is signed to aid in completion of project as scheduled and avoid delays in construction works as seen in most public projects in Ghana.

4.2.1.2. Advance Payment Security

For most construction works in the public sector, before a contractor starts work he is given advance payments and this depends on a security to be produced by the contractor known as Advance Payment Security. All the respondents were of the view that:

“Advance Payment Security should be requested once Advance Payment is given to the contractor as a surety” (informants’ view).

This finding is in concurrence with the requirements Public Procurement Act, 2003 (Act 663). It states that the legal effectiveness of a contract depends on receipt of the Procurement body of Payment Security and the acceptance by the contractor of the Advance Payment

This security requested by the public sector serves as a comfort, being given by issuing bank, to the public sector of damages if the contractor fails to conform to the terms of agreement. This is a fast and simple act of providing coverage for great amount of risk and hence must be requested once advance payment is made.

4.2.1.3. Duration on Issuance to Commerce Works

In the construction industry there is the need to issue order to commerce work in a timely manner. The results of the interview indicated that eighty percent of the respondents were of the view that:

“Issue of order to commerce works is between 1-2 weeks” (informants view).

This finding is in concurrence with the requirements of Public Procurement Act, 2003 (Act 663) which states that order to commerce work should be between 1-2 weeks. However, twenty percent of the respondents were of the view that the duration it takes to issue order to commerce work could be concluded in initial pre-contract meetings. An order to commence work must be made as soon as contract is awarded and signed. This will help speed up works and prevents delays on project completions as seen in most public works.

4.2.1.4. Attachment of condition to Advance Payment

Attaching a condition to any advance payment to the contract serves as a surety in case the contractor defaults. This will prevent the delay in progress of work in case the contractor defaults. It was therefore imperative to enquire whether the Assembly attaches any condition to any Advance Payment made to the contractor. The results of the interview indicated that hundred percent of the respondents were of the view that:

“For any Advance Payment made to a contractor there is always a condition attached to it. This condition is always in the Conditions of Contract in the Contract document” (Informants view).

This finding is in concurrence with the requirements in Public Procurement Act, 2003 (Act 663). Attaching conditions to advance payment is necessary to ensure that both parties in the contract are insured in case of uncertainty.

4.2.2 Project Implementation and Supervision

4.2.2.1. Work Programme

Demand for work programme is critical for the successful delivery of a project. It is therefore imperative to examine whether the Assembly demand work programme and the format of the work programme. The results of the interview indicated that hundred percent of the respondents were of the view that

“The Assembly demand work programme and this is done during tendering stage and also revised monthly programme during the construction stage” (informants view).

This concurs with the works of Osei-Tutu et al., 2011 which concluded that compliance with procedure is relatively high as compared to other procedures. However, upon careful examination of some of the work programmes it was realized that it lacked certain details such as duration for each work item as well as percentage completion for various items. This discovery makes it difficult for professionals to monitor work as against the planned programme ultimately hindering the successful delivery of the process.

4.2.2.2. Project Monitoring Reports

For every project there is the need to have progress report that helps make informed decisions on the various stages of work as well as monitor the rate of work. Demand for this report is a requirement for the successful monitoring of any project. It is necessary to enquire if the Assembly prepares these reports. According to all the respondents:

“Project monitoring report is demanded monthly from the contractor” (informants view)

Although the Assembly demand work monitoring reports monthly it is not enough to track progress of work. Project report should be done twice every month at least to ensure successful tracking of work progress. However upon careful examination of these report it lacked details such as material test done on the work as well as inspection information. These details are critical for the overall success of the project in relation to its life span.

4.2.2.3. Organization of Site Meetings

Organizing site meetings for projects undertaken help monitor work on site and also clarify all issues arising in the course of construction. It was therefore necessary to enquire about number of times site meetings were held on projects undertaken by the Assembly. The results of the interview indicated that all the respondents were of the view that:

“Site meetings are organized once every month to track work progress. However there are times emergency meetings are organized if there is a need for it” (informants’ view)

Monitoring construction projects through site meeting is helpful for both parties. This helps to keep the contractor on track to ensure that project is completed on time as specified.

Organization of meeting once in a month as well as emergency meeting when need be is apt for the successful delivery of a project.

4.2.2.4. Tracking of Work Progress

Frequent site visit to construction site, organization of site meetings helps in tracking progress of work for most projects. All the respondents indicated that:

“Monthly site meetings organized is the only means the Assembly adapts in tracking progress of work” (informants’ view).

Although this is a means of tracking work progress it is not enough for a successful project implementation. Frequent visit to the site should be considered to track work progress. Also, there should be Clerk of Works from KMA who will be stationed on site for each project. This will aid in effective tracking of work progress.

4.2.2.5. Duration for Honoring Interim and Final Payment Certificates

The time frame for honoring payment certificated is stated in the conditions of contract for construction projects .For most project the Public Procurement Authority suggests 28 days given after the certificate is submitted to honor payments. As indicated by all the respondents:

“The time frame it takes for honoring interim and final certificates by the Assembly depends on the availability of money from the Government at the period the certificate is submitted” (informants’ view).

This is wrong and does not aid in the successful delivery of project. Also, when such payments are delayed as recounted by the respondents, there is the need for the Assembly to also pay interest on delay payments made. The response from respondents shows that there is low level of compliance with this provision by the Public Procurement Authority. It is therefore important to ensure that this provision is adhered to by the Assembly to prevent monies going down the drain due to the interest payment.

4.2.2.6. Defect Liability Period

Defect Liability Period is a critical area for most construction projects in Ghana. It is the time frame it takes for the contractor to rectify any defects that emerges six to twelve months after project is completed and it is in use by the client. As recounted by all the respondents:

“There is a minimum 2 weeks period given for the contractor to rectify any defects after Defect Liability Period” (informants’ view)

This is according to the provision specified in the Public Procurement Act, 2003 (Act 663). However, the respondents indicated that the Assembly allowed contractors to provide a form of guarantee as a security from Bank of Ghana. This aids in the contractor getting their retention even before the Defect Liability Period. Although this is an ongoing practice in the Assembly, it is not appropriate and against the provisions of public procurement regulations. Such practice must stop as soon as possible.

4.2.2.7. Preparation of Payment Certificates

For any given projects, certificates are raised and submitted by contractor to be honored by the consultant. The results of the interview indicated that all the respondents were of the view that:

“The Assembly completes all payment certificates ensuring that deductions of advance payment are made as well as retention and any contractual fines suffered by the employee” (informants’ view).

This is according to the provisions of the Public Procurement Act, 2003 (Act 663). The format for preparing the certificate was correct after observing critically a typical certificate prepared. This indicates that the level of compliance in area of preparation of detailed payment certificates is high. This will not only help in proper record keeping of all necessary expenses incurred on any project but also aid in successful close out of contract of construction works in KMA.

4.2.2.8. Record of Payment Certificates

In procurement there is the need to keep a register that will record all payment made by the organization. This is important for tracking all the payment made on a particular project. 80% of the respondents were of the view that:

“For every project the Assembly undertakes, the payment certificates are recorded in a contract register” (informants’ view).

This is according to the stipulations in Public Procurement Manual, Section 5.21.

However, the other 20% were not aware of the need to record all payments in a contract register.

Ensuring that all payments are recorded in a contract register has the following advantages:

- Ability to prepare adequate audit trail;
- It ensures that work can be executed promptly and accurately to achieve value for money;
- In the event of accusations or error, fraud and impropriety it serves as evidence; and □
Evidence of what has occurred in the event of further development of similar projects.

It is therefore imperative that all professionals in the works department adhere to this provision.

4.2.2.9. Payment Voucher to Accounts Department

In every procurement unit there is an account department that process all payment made by the unit. All the respondents interviewed explained that:

“Payment vouchers are forwarded to the account department for processing” (informants’ view).

This concurs with the requirements of the Public Procurement Act, 2003 (Act 663) and as such much be encouraged in the Assembly.

This is important because forwarding all payment vouchers will not only ensure that the Account department makes payment but also a copy of the voucher which is stamped as paid will be filed to prevent duplicate payment.

4.2.2.10. Issues of Variation and Amendment

Most construction professionals have various definitions for variation and amendments. These terms have been used interchangeably by many professionals in the construction industry. It was imperative to ask respondents to explain the terms. Sixty percent of the respondents explained variation and amendments as follows.

“Variation is the change in scope of the project e.g. changes in requirement due to site conditions” (informants’ view).

“Amendment is any change in requirements of the projects by the user department in the course of construction” (informants’ view).

However, the other forty percent could not explain the various terms. The definitions given by the respondents indicate that variation and amendment are interchangeable. This is a wrong assertion. Amendments are changes made to the terms and conditions of contract whilst variation are the changes made in requirements in the contract due to unanticipated events in works contract. Also respondents were unable to give the conditions, processes and procedures involved in amendment and variation of contract.

4.2.2.11. Review Authority and Thresholds

Public Procurement Act, Act 663 2003 stipulates the various Approving Authority and Thresholds for public projects. It is imperative to enquire about the knowledge of respondents on the various Review Authority and their corresponding thresholds. As indicated by eighty percent of the respondents:

“They were aware of this Review Authority and Thresholds in the Public Procurement Act, 2003 (Act 663). However they indicated that they could not mention the specific amount that has to be approved by the various review authority. Three of the respondents interviewed were not aware of such review authority and thresholds” (informants’ view).

This corresponds with the statement by Osei-Tutu et al. (2011) when it concluded that the level of compliance in this area was observed to be very low. Lack of knowledge of review authority and thresholds will prevent the Assembly from using the appropriate authority in approving contract of works in each stage of procurement process leading to poor procurement practice.

4.2.2.12. Contractual Dispute

During construction minor dispute could occur between the contractor and the client due to misunderstanding between both parties. These disputes are solved most of time amicably by the parties themselves or by an adjudicator who is appointed under the contract. Delays in payment, substandard work by the contractor are some causes of the dispute. Respondent were asked if they have experienced contractual on the project the Assembly undertakes. All the respondents lamented as follows:

“There have been contractual dispute arising between the contractor and the Assembly but most of these disputes are solved amicably by both parties and also with the help of the adjudicator. However, there have been instances where the adjudicator could not solve the dispute and hence the issue was sent to court to be settled .Issue such as delay payment by the Assembly of which the contractor sent the matter to court” (informants’ view).

The research probed further to enquire about the knowledge level of the respondents regarding the processes and procedures involved in settling disputes. As recounted by respondents:

“They were not aware of the steps involved in settling disputes as according to the Public Procurement Act, Act 663 2003” (informants’ view).

Getting to know the procedures and varying options involved in solving disputes among parties in works contract as proposed in the manual does not only ensure compliance with Public Procurement but also help save the Assembly a whole lot of money and time. This is because the parties to the contract will prefer utilizing all the appropriate options in public procurement before heading for the court as their last option in settling disputes.

4.2.2.13. Termination of Contract

Termination of contract is a constructional issue that lacks technical knowledge. It was therefore imperative to enquire about the processes involved in termination of contract for public projects from the respondents. The respondents lamented as follow:

“There have been several instances where contract has been terminated by the Assembly by a written letter to the contractor stating the reason for termination. Three of the respondents had not witnessed termination of contract before” (informants’ view).

The research probed further to enquire about the processes involved in terminating a contract. As indicated by eighty percent of the respondents:

“They were not aware of the processes and procedures involved in terminating a contract as according to the Public Procurement Act, Act 663 2003” (informants’ view).

The importance of getting to know all the necessary steps in terminating a contract will not only ensure full compliance with public procurement regulations but also saves the Assembly from incurring any unnecessary penalty due to lack of knowledge. The party which feels it has been treated unfairly can send the case to court. After court decision which normally favours one party, the other party suffers loss for not using the appropriate processes and procedures.

4.2.3 Project Completion (Inspection and Inventory)

4.2.3.1. Handing over of site

Construction site should be handed over to the client formerly after final inspection has been performed by the inspection team. It was therefore necessary to enquire about the duration it took for the contractor to hand over site to the client for public projects. The results from the interview indicated that all the respondents were of the view that:

“It normally takes 1-2 weeks for the contractor to hand over site to the client after final inspection has been completed” (informants’ view).

This finding is in accordance with the Public Procurement Act, 2003 (Act 663) which stipulates that site should be handed over to the client between the period of 1-2 weeks after final inspection. This in my opinion is enough time for the contractor to rectify minor defects indicated by the inspection team if any.

4.2.3.2. Certification of work by Inspection Team

Initial and final takeover of work can only take place when the Inspection Team certifies work. The team normally comprises of all stakeholders and representatives from the various departments in the Assembly. Most of the respondents explained that:

“The inspection team made up of the engineer, architect, quantity surveyor, clerk of works, account department representative as well as the client certifies work before initial and final takeover of project is allowed”(informants’ view).

This concurs with the provisions stipulated by Public Procurement Authority (2003). Such process will not only ensure mere compliance with public procurement but also serves as evidence that the work has been inspected and approved by the consultant before the client takes over.

4.2.3.3. Project Completion Report

Project completion report is important and must be performed on every single project undertaken. It gives a summary of all the necessary details involved in the project. It is therefore imperative to enquire whether the Assembly writes this report and also probe further to examine the format for these reports. The results of the interview indicated that all the respondents were of the view that:

“For every project the Assembly undertakes, a completion report is written on it” (informants’ view).

However upon careful examination of these report, it lacked details such “lessons learned and recommendations for future works”. The assembly must be encouraged to include these details. It is important to document such details such as lessons learnt and openly discuss with the intent of eliminating the occurrence of avoidable issues on future projects.

4.2.4 Handing Over

4.2.4.1. Certificates

For successful completion of a project it is important to prepare handing over certificates and practical completion certificates. It is therefore imperative to enquire whether the Assembly prepares these reports and also probe further to examine the format for these reports. The results of the interview indicated that all the respondents were of the view that:

“The Assembly prepares handing over certificates and practical completion certificates for some of the projects it undertakes” (informants’ view).

However, upon careful examination of some of the reports, it lacked critical details such as „supervisors name and signature“. Although on some projects handing over certificates are prepared but others are left unattended to. This indicates low level of compliance. Upon probing further responses from respondents indicated that there is no urgency as to the need to prepare these certificates by the professionals. This does not contribute to the success of a project.

4.2.4.2. Final Account

Final account is defined simply as the confirmed amount of money to be remunerated to the employee at the end of a project completion by the employer. Once construction work has been inspected and handed over and all financial commitment has been honoured, there is the need to prepare a final account on that project. Respondents at the Assembly were asked whether final account is prepared on all projects the assembly undertakes. As recounted by all the respondents:

“We do have a fair idea of what final account is however, KMA does not prepare final account of completed projects” (informants’ view).

This concludes that knowledge on final account is very low as well as its compliance level. There must be serious training of the professionals in this area to guard against non-compliance in the area of preparation of final account. This is because the provision of final account establishes conclusiveness to discussions settling on the absolute amount of the contract.

4.2.4.3. Contract Close Out

Close out of contract should be done in a systematic order to protect parties involved in a project. This is a new area in academia and therefore imperative to enquire about the knowledge level of respondents on it. The results from the interview indicate that all the respondents were of the view that:

“We do not know contract close out is” (informants’ view).

This concludes that knowledge on contract close out is very low as well as its compliance level. The results from the respondents corresponds to the assertion made by Dee (2014) who states that contract closed is often an overlooked aspect of contract administration.

4.3 Summary

Discussions of results helped in achieving the objectives set. It helped address the issue in relation to reasons for non-compliance with post contract procedures, knowledge of post contract procedures, post contract procedures used in KMA as well as level of compliance with post contract procedures.



CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

Compliance with post contract procedures in Public Project has huge potential in contributing to the success of most construction projects in Ghana. These benefits can be retained in the Ghanaian Construction Industry if proper processes and procedures are adhered to during construction. In order to achieve full benefits in compliance with post contract procedures there was the need to:

- To assess the level of knowledge of staff and identify post contract procurement procedures in use at KMA;
- Assess the extent of compliance with post contract procedures; and
- Identify reasons for non-compliance with post contract procedures.

5.1 IDENTIFICATION OF THE LEVEL OF KNOWLEDGE OF STAFF OF THE WORKS DEPARTMENT ON REQUISITE POST CONTRACT PROCEDURES OF PUBLIC PROCUREMENT.

From the research, it could be clearly depicted that the extent of knowledge was done through literature review which was supported by the qualitative review.

In fulfillment of this objective meant asking respondents of the works department what post contract procedures as well as examples of post contract procedures.

The response from the respondents indicated a very high knowledge in the area of Project

Planning and Mobilization of post contract procedures by staff in the works department of Kumasi Meteropolitan Assembly (KMA).

Identification of post contract procedures in use at the Assembly

From literature post contract procedures were identified. Out of the examples of post contract procedures given by the respondents during the interview, there were some post contract procedures being used in the Assembly. Based on this the following were found to be the most common post contract procedures used in the Assembly:

- Organizing site meetings;
- Site inspection of ongoing works;
- Writing of progress reports; and
- Preparation of certificates and evaluation.

This shows that there is the need to sensitize the staff of works department the need to abide by all post contract procedures as stipulated by the Public Procurement Authority (2003).

5.2 ASSESSING THE EXTENT OF COMPLIANCE WITH POST CONTRACT PROCUREMENT PROCEDURES

In assessing the extent of compliance with post contract procedures there were four areas identified under the OECD directives. These areas were

- Project Planning and Mobilization;
- Project Implementation and Supervision;
- Project Completion; and ➤ Handing Over.

The respondents were asked questions in relation to the extent of compliances with post contract procedures under the four areas shown above. The study adopted two parameters: high and low level in assessing compliance in this area. The extent of compliance is high when all the interview questions asked under the area were complied with and low when there was no compliance with the interview questions asked. Analysis of results showed that post contract issues under Project Planning and Mobilization had a high compliance level however; there were low compliance level under the other three areas:

- Project Implementation and Supervision
- Project Completion
- Handing Over

5.3 IDENTIFYING REASONS FOR NON-COMPLIANCE

In order to devise ways and means of improving the rate of compliance with post contract procedures, the interviewees were asked for reasons for non-compliance. The following were given as major reasons for non-compliance:

- Lack of knowledge of some post contract procedures such as contract close out, getting approvals for contract revisions arising from variations from authorizing bodies e.g. Regional and National Tender Review Board depending on thresholds.
- Lack of logistics; and
- Financial Constraints i.e. non-availability of resources.
- Lack of training and participation of continuous development training of institutions e.g. Ghana Institute of Surveyors, Ghana Institute of Architects.

These findings concur with the provisions in the annual FOAT assessment report in 2013 by the Local Government Service, Lamby, 2013 as well as Awagah, 2014.

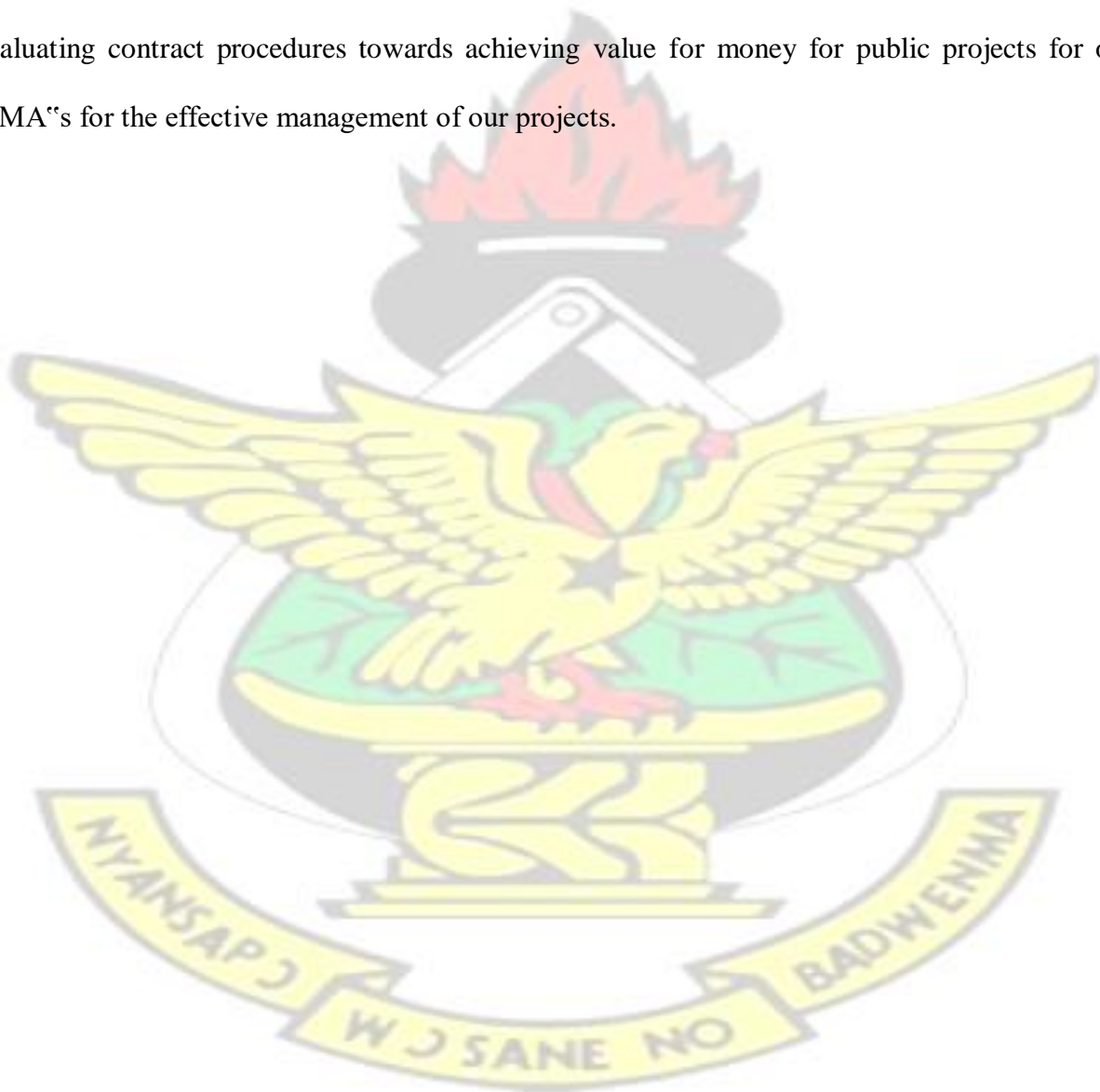
5.4 RECOMMENDATIONS

The following are the recommendations proposed to help improve the compliance level in KMA and other assemblies.

1. Seminars should be held for these professionals at KMA to make them well-versed in areas identified as having low level knowledge. This could be done every 6months by recruiting procurement professionals from our various university or Public Procurement Authority who will organize regular and progressive training programmes.
2. Post contract management of contract must be given the priority it deserves as it is at this stage that value for money can be obtained since client most often concentrate on pre contract issues e.g. Tendering stage.
3. The Government should allocate financial resources that will be able to complete the construction works once it commences. This can be achieved by ensuring realistic budget estimate are provided for in the budget for works. Also, the Assembly should devise ways of improving their Internally Generated Funds to supplement the central governments statutory funding sources.
4. Adequate logistics must be provided by Government to aid in frequent monitoring of project.
5. The Public Procurement Act, 2003 (Act 663) must be reviewed to include provisions of contract management (post contract procedures and processes) issues and enhanced in areas of

5.5 FURTHER STUDY AREA

1. It is recommended that in the near future research should be conducted in the other Metropolitan Assemblies to assess the level of compliance with post contract procurement procedures on public projects. This will help to formally develop a framework for auditing, assessing, monitoring and evaluating contract procedures towards achieving value for money for public projects for our MMA's for the effective management of our projects.



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APPENDIX QUESTIONNAIRE

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY COLLEGE OF ARCHITECTURE AND PLANNING DEPARTMENT OF BUILDING TECHNOLOGY

Dear Sir/Madame,

CASE STUDY INTERVIEW- COMPLIANCE WITH POST CONTRACT PROCEDURES IN PUBLIC PROCUREMENT

My name is Safowaa Osei-Tutu an MPhil student at Kwame Nkrumah University of Science and Technology, Department of Building Technology. I write to kindly reserve an appointment with you for an interview on the above research topic. It is the aim of every project to be successfully completed within cost time and quality as anticipated however, a number of contracts have failed due to poor procurement procedures and practices. However, there are few studies among practitioners and researchers on compliance with post contract procedures in Ghana’s Public Procurement.

This research intent to identify the level of compliance with post contract procedures in Public Procurement based on the staffs knowledge of post contract procedures, extent of compliance with these post contract procedures and identify reasons for not complying with post contract procedures in Public Procurement. The implication of the findings is to alert procurement officials of the existence of these post contract procedures and its importance to the success of public projects. I appreciate that the interview is going to take some of your valuable time, however, I

urge you to try and participate, as your contribution is very important towards the success of this research. On this note, I wish to take this opportunity to thank you in advance for your cooperation.

Yours Sincerely,

Safowaa Osei-Tutu

MPhil. Student

Mobile: 0245863133

E-mail:osafowaa@yahoo.com

KNUST-Kumasi

Supervisor

Prof. Joshua Ayarkwa

Department of Building Technology

INTERVIEW GUIDE



INTERVIEW DURATION: 90mins

This semi-structured interview guide consists of detailed but not restricted to the following questions that will be discussed during the interviews with targeted respondents aimed at identifying the level of knowledge of post contract procedures being used in the Assembly..

KNUST

CASE STUDY INTERVIEW- COMPLIANCE WITH POST CONTRACT PROCEDURES IN PUBLIC PROCUREMENT

Part A: Background Information

Name of Interviewee:.....

Assembly:.....

Position in the organization:.....

Date of the interview:.....

E-mail/ Contact No:.....

Part B: Interview Guide on Post Contract Procedures

1. What is post contract procedure?
2. What are some examples of post contract procedures used in construction of Public Projects?
3. What are the post contract procedures being used in this Assembly?
4. Which of these post contract procedures does the assembly comply with the most?
5. What are the factors that influence the use of these post contract procedures?

6. Which of these post contract procedures does the assembly find it difficult to comply with and why?

KNUST

Part C: COMPLIANCE LEVEL WITH POST CONTRACT PROCEDURES IN PUBLIC PROCUREMENT

This part studies the four compliance areas under Organization for Economic Compliance and Development measurable sub indicators. All these measurable indicators fall under Contract Management.

COMPLIANCE AREA: Contract Management

Indicators: Project Planning and Mobilization

Project Implementation and Supervision

Project Completion (Inspection and Inventory)

Handing Over (Disposal)

PROJECT PLANNING AND MOBILISATION

1. How long does it take to give possession of site after signing of contract agreement with contractor?

.....
.....

2. Is given of possession of site dependant on receipt of Advance Payment Security?

.....
.....

3. How long does it take to issue order to commerce works?

.....
.....

4. Do you attach conditions to advance payments?

Yes [☐] No [☐]

If „Yes“ what are the conditions?

.....
.....
.....
.....

PROJECT IMPLEMENTATION AND SUPERVISION

5. Do you demand work programme from the contractor?

Yes [☐] No [☐]

If „Yes“ at what stage do you demand work programme from the contractor?

What is the format of the work programme?

.....
.....
.....
.....
.....

If „No“ please give reason why you do not demand work programme from the contractor?

.....

.....

6. Do you have project monitoring reports?

If „Yes“ how often do you write project monitoring reports?

.....

What is format of the project monitoring reports?.....

.....

If „No“ please give reasons why you do not have project monitoring reports?

.....

7. Do you organize site meetings to track progress of projects? Yes [☐] No [☐]

If „Yes“ how often is site meetings held on a particular project?

.....

If „No“ please give reason why you do not hold site meetings?

.....

8. How do you track the progress of your projects?

9. How long does it take to honour interim certificates?

.....

10. How long does it take to honour final certificates?

.....

11. How long does it take the contractor to maintain works after defects liability period?

.....

12. How does the Procurement Unit prepare payment certificates?

.....

.....

.....

13. Does the Procurement Unit record each payment in the Contract Register?

.....

14. Do the Procurement Unit forward all payments voucher to the Accounts Department for processing?

15. Are works varied or modified during construction? Yes [☐] No [☐]

If „Yes“ how often are works varied on a particular project?

.....

.....

16. What are some of the causes that result in variations of contract by the procurement parties?

.....

.....

.....

.....
17. How does the Assembly go about variations or modifications of work?

.....
.....
.....
.....
.....

18. Are contract amended during project construction?

Yes [☐] No [☐]

19. What are some of the factors that influence amendments of contracts?

.....
.....
.....
.....

20. What is the percentage change from initial contract that influence contract to be amended?.....

21. What procedures does the assembly go through before a revised contract is affected?

.....
.....
.....
.....

22. Which Tender Committee approves amendment of the contract?

.....

23. Which Regulatory body gives final approval for contract to be amended?
.....

24. Has the Assembly experienced any contractual disputes?

Yes [] No []

If „Yes“ how does the Assembly resolve these contractual disputes?

.....
.....
.....
.....

25. Has the Procurement Unit terminated any contract before?

Yes [] No []

If „Yes“ how was the contract terminated?

.....
.....
.....
.....
.....

PROJECT COMPLETION (INSPECTION AND INVENTORY)

26. How long does it take for the contractor to hand over the site after final inspection has been performed?.....

27. Are initial and final takeover of works certified by an Inspection and Acceptance team?

Yes [] No []

If „Yes“ who are the members of this

team?.....
.....
.

If No why isn't work certified by an Inspection and Acceptance team?

.....
.....

28. Does the Inspection Team Certify again when defects have been rectified following end of defects liability period?

Yes [] No []

29. Do you have project completion reports?

Yes [] No []

If „Yes“ when do you write project completion report?

.....

What is format of the project completion report?

.....

.....

.....

.....

.....

If „No“ please give reasons why you do not write project completion reports?

.....

.....

HANDING OVER

30. Does the Assembly prepare handing over certificate?

Yes [] No []

If „Yes“ how does the Assembly prepare it?

.....

.....

.....

.....

.....

If No what are the reasons for not preparing handing over certificate?

.....

.....

31. Does the Assembly prepare practical completion certificate? Yes [] No []

If „Yes“ how does the Assembly prepare it?

.....

.....

.....

.....

.....

If No what are the reasons for not preparing practical completion certificate?

.....

.....

32. Is final account prepared for all projects? Yes [] No []

If „Yes“ at what period of the project is final account prepared?

.....

If No what are the reasons for not preparing final account for all projects?

.....

KNULIST

.....



.....

END OF INTERVIEW

THANK YOU FOR YOUR PARTICIPATION

Please take a minute to ensure you have answered each question

Thank you very much for your time and effort

Comments (If you have any comments about this interview please indicate these here)

