

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY
(KNUST), KUMASI
COLLEGE OF ARCHITECTURE AND PLANNING
DEPARTMENT OF BUILDING TECHNOLOGY

**THE CHALLENGES OF CONTRACT MANAGEMENT IN THE
PROCUREMENT PROCESSES IN GHANA**

BY

**MR ABDUL – JAMIL ISSAKA B A (HON), M A (Port and Shipping
Administration)**

THESIS SUBMITTED TO THE DEPARTMENT OF BUILDING TECHNOLOGY,
KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY
(KNUST), KUMASI IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE DEGREE OF

MASTER OF SCIENCE

IN

PROCUREMENT MANAGEMENT

JUNE, 2014

DECLARATION

I hereby declare that, this submission is my own work towards the Master of Science (MSc) 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 acknowledgement has been made in the text.

Abdul-Jamil Issaka

ID 20294986

(STUDENT)

.....

.....

Signature

Date

Certify by:

Mr. Peter Amoah

(Supervisor)

.....

.....

Signature

Date

Prof. Joshua Ayarkwa

(Head of Department)

.....

.....

Signature

Date

ABSTRACT

Effective and efficiency in the procurement process is very important in all the sectors of the economy, much more, in the public sector where numerous inefficiency and ineffectiveness are recorded. The Public Procurement Act, 2003 (Act 663) of Ghana, which became effective in August, 2004 requires that public entities and organisations undertake procurement of works, goods and services in accordance with the Law. The Public Procurement Act, 2003 (Act 663), provides guidelines for contract management. However, even though indicated as a problem, contract management has received very little research attentions both by the PPA and researchers who are interested in procurement issues. The limited research has created limited knowledge on the importance of contract management to the public sector. This study unravels and put into context the effects of breaches of contract in the public sector and the importance of contract management. The aim of the study is to examine the challenges of contract management in the procurement processes in Ghana. This study was more issue-oriented and focused more on case study on the effects and consequences rather than hypothesis testing, based on existing theories using inductive research arguments. A case study approach was chosen since such an approach enables in-depth analysis of a defined phenomenon such as the challenges of procurement. A sample size of 90 respondents was purposively selected for this project work. The number selected was because there are fewer persons employed in the MDAs solely for procurement processes whilst simple random sampling technique was used for the study. The study made use of both primary sources of data and secondary source of data whilst the questionnaires were the main research instrument used for the study and the Statistical Package for Social Science (SPSS) was used for analysis. The findings of the study

show that all respondent had acquired some level of education in procurement management and actively participated in the Public

Procurement processes in their MDAs under the Public Procurement Act, 2003 (Act 663). In addition most MDAs have contract managers in-charge of their contract management processes. 81% of respondent confirmed their MDAs encountered breach of contract, that, this had happened between 5 and 10 times in the last five (5) years. This has made most MDAs go through several litigations, the reason being due to the poor performance of the parties. It also resulted in increased cost of contract. The poor performance had affected operation of all the MDAs, the reasons being that it raised the cost of the contract as well as lead to the series of court cases which affects their operations as MDAs.

Consequently, MDAs would have to engage competent personnel and develop interest in contract management processes in order to avoid the obvious negative implications of poor contract management in the procurement process.

DEDICATION

To my Wife Biibii Akati and my children Arshad Webadua, Fatdiya Nanu and Faazi Weseh for their Priceless concern and support.

KNUST



ACKNOWLEDGEMENTS

A dissertation of this kind naturally derives support from many people. To this end, I welcome the opportunity to acknowledge the generous assistance that I received in the course of completing this work.

Firstly I would like to express my profound gratitude to my supervisors Mr. Peter Amoah and all the Professors and lecturers of the Department of Building Technology of Kwame Nkrumah University Science and Technology for their immense contribution in guiding me throughout the programme and this work. Their invaluable criticisms, suggestions and streamlining of thoughts and ideas have greatly shaped this work.

My deep sense of appreciation also goes to Mr. Marcel Domayeale for his immense contribution in this project.

Finally I say “thank you” to all those who contributed in diverse ways to make this work possible but whose names cannot be listed because of the constraints of time and space.

TABLE OF CONTENTS

DECLARATION	ii
ABSTRACT	iii
DEDICATION	iv
ACKNOWLEDGEMENTS	v
TABLE OF CONTENTS	vi
ABBREVIATIONS AND ACRONYMS	xi
LIST OF TABLES	xi
LIST OF FIGURES	xii

CHAPTER ONE	
1	
INTRODUCTION.....	
1	
1.1 Background to the study	1
1.2 Problem Statement	3
1.3 Aim of the study.....	4
1.4 Objective of the study	4
1.5 Research Question	4
1.6 Significance of the study	5
1.7 Organisation of the study	5
CHAPTER TWO	
7 LITERATURE REVIEW	
..... 7	
2.1 Introduction	7
2.2 The Nature of Public Procurement	7
2.2.1 Public Procurement Overview	8
2.3 Definition of Public Procurement	9
2.3.1 Importance of Public Procurement and Policies	10
2.4 Public Procurement Systems before the Reforms	11
2.5 Public Procurement Reforms in Ghana.....	13
2.5.1 The Public Procurement Act, 2003 (Act 663)	13
2.5.2 Objectives of the Act 663 of 2003	13
2.5.3 Scope of Act 663	14
2.5.4 Institutions the Act 663 apply to	14
2.5.5 Procurement Structures	14
2.6 Public Procurement Authority (PPA)	15
2.6.1 Procurement Entity	16
2.6.2 Head of Entity	16
2.6.3 Procurement Unit	17

2.6.4 Functions of Procurement Unit	17
2.6.5 Entity Tender Committee	18
2.6.6 Establishment of Entity Tender Committee	18
2.6.7 Metropolitan/Municipal/District Tender Committee	19
2.6.8.1 Functions	19
2.6.8.2 Tender Evaluation Panel	20
2.6.8.3 District Review Board.....	20
2.6.8.4 The Regional Tender Committee	20
2.6.8.5 Regional Review Board	21
2.7 Performance Assessment System (PAS)	21
2.7.1 Management system.....	21
2.7.2 Information and communication	22
2.7.3 Procurement Process	22
2.7.4 Contracts Management	22
2.8 Threshold for Procurement Methods	24
2.8.1 Pre-qualification	24
2.8.2 International Competitive Tender	24
2.8.3 Restricted Tendering	24
2.8.4 Selection of Consultant Tendering.....	24
2.9 Empirical literature	25
CHAPTER THREE	
26 RESEARCH METHODOLOGY	26
3.1 Introduction	26
3.2 Research approach	26
3.3 Research Design.....	26
3.4 Sample Size	27
3.5 Sampling Techniques	28
3.6 Sources of Data	28

3.7 Data Collection Instrument	28
3.8 Data Analysis	29
3.9 Ethical consideration	29

CHAPTER FOUR

30 RESULTS, ANALYSIS AND DISCUSSION

30

4.1 Introduction	30
4.2 Background of Respondents	31
4.3 Identify the importance of contract management to the MDA's in Ghana	33
4.4 Impact of Poor Contract Management on MDA's	38
4.5 Challenges MDAs encounter during contract management	42
4.6 Discussion of the findings of the study	44

CHAPTER FIVE

45 SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATION

45

5.1 Introduction	45
5.2 Summary of Major Findings	45
5.2.1 The importance of contract management to the MDA's in Ghana	45
5.2.2 Impact of poor contract management on MDAs	46
5.3 Conclusion	46
5.4 Recommendations	46

REFERENCES	48
------------------	----

APPENDIX A: QUESTIONNAIRE.....	51
--------------------------------	----

KNUST



ABBREVIATIONS AND ACRONYMS

AESL	Architectural and Engineering Services Limited
ETCs	Entity Tender Committees
GNPA	Ghana National Procurement Agency
GSCL	Ghana Supply Company Limited
MDAs	Ministries, Departments and Agencies
MMDA	Metropolitan, Municipal and District Assemblies
MoFEP	Ministry of Finance and Economic Planning
MOH	Ministry of Health
NPA	National Procurement Agency
PAS	Performance Assessment System
PPA	Public Procurement Act
PPB	Public Procurement Board
PURFMARP	Public Financial Management Reform Programme
SPSS	Statistical Package for Social Science
STDs	Standard Tender Document TRBs
TRBs	Tender Review Boards

LIST OF TABLES

Table 2.1: Compliance level of Public Entities in Ghana	23
Table 4.1 Response rate to the questionnaire administered	31
Table 4.2: Gender and Age Group of Respondents	32

Table 4.3 Number of training on Public Procurement Act, Act 663	34
Table 4.4 Do your Organisation has a Contract Manager	36
Table 4.5: Adherence to contract delivery period	38
Table 4.6: Breach of Contract	39
Table 4.7: Number of times contract has been Breached	39
Table 4.8: Have your organisation gone for Litigation.....	41
Table 4.9: Parties which brought about these challenges	43
Table 4.10: Challenges in Contract Management Associated with Procurement Methods.....	44

LIST OF FIGURES

Figure 4.1: Educational Background of Respondents	33
Figure 4.2 Experience in the procurement practice	35
Figure 4.3: Are the contribution of expert relevant	37
Figure 4.4 Frequency of contract over run delivery period	40
Figure 4.5 Challenges in the contract management processes	42

KNUST



CHAPTER ONE

INTRODUCTION

1.1 Background to the study

An effective and efficient procurement system is defined as a system offering high level of transparency, accountability and value for money in the application of a procurement budget. Effective and efficiency in the procurement process is very important in all the sectors of the economy, much more, in the public sector where numerous inefficiency and ineffectiveness are recorded. In Ghana, the public sector can be viewed from three points of view, that is, from the national, the regional level and the local level. The national level is made up of the Ministries, Departments and Agencies (MDAs) whilst the regional level is made up of the Metropolitan, Municipal and District Assemblies (MMDAs). The local level on the contrary is made up of the Unit committee.

The public procurement operates in an environment of increasingly intense scrutiny driven by technology, programme reviews, and public and political expectations for service improvements (Eyaa and Oluka, 2011). Public procurement has increasingly become a global concern and in Ghana, each department, agency and department was in-charge of its own procurement until the enactment of the Public Procurement Act (Act 663) in 2003. The enactment of the Public Procurement Act (Act 663), according to the Ministry of Finance, was to secure judicious, economic and efficient use of state resources, merge public procurement processes in the public service and, ensure that public procurement is fair, transparent and non-discriminatory (Ministry of Finance, 2001). A study by the World Bank (2003) also reported that about 50-70% of the national budget (after personal emoluments) is procurement related. Therefore an efficient public procurement system could ensure value for money in government expenditure.

The Public Procurement Act, 2003 (Act 663) of Ghana, which became effective in August, 2004 requires that public entities and organisations undertake procurement of works, goods and services in accordance with the Law. These requirements although laudable is bedeviled with numerous challenges and according to Arrowsmith and Trybus (2003) public procurement practitioners have and will face many challenges. These challenges have been classified by these authors as either external or internal factors. Added to the above, each country has its own unique social, cultural, economic, and political environment hence public procurement challenges differ at different country.

In Ghana, the major challenge in the public procurement process has to do with the management of the contract. This is because traditionally procurement has focused on value for money considerations only whilst public procurement contract management which helps in achieving value for money has received very little attention. In Ghana, the huge judgment debts, in most cases are attributed to the lack of proper contract management. A case in point is the importation of land cruiser into the country which had been parked at the Institute of Local Government Studies without being used. If proper contract procedure was followed in the procurement process, the country will not have to be sent to the court to incur huge debts.

As acknowledged, in a developing country like Ghana, the public procurement system will always face many challenges, especially those that have to do with contract. In addition, almost all large scale procurements take place at the national level hence this study examines the challenges of contract management in the procurement processes under Public Procurement Act of Ghana, using the Ministries, Departments and Agencies (MDAs).

1.2 Problem Statement

In most countries, the contract management is only known by the contracting agency and the contractor (OECD, 2007). The Public procurement process is gradually being recognized as an instrument of government policy and a lever for wider economic, social and environmental change (OECD, 2007). The Ghana's Public Procurement Act, Act 663, seems to address only a few issues on contract management.

Additionally, according to Mensah and Ameyaw (2011), the Public Procurement Authority (PPA) in its review in 2006 identified the weakness in the public institutions that need urgent attention. These weakness are: Lack of qualified procurement personnel, incorrect interpretation and application of some provisions of the procurement Act, slow pace in regularizing the Draft Regulations, lack of clear procedures for Emergency Procurement, lack of Training Avenues or Institutions, poor Record Management (scattered files), poor handling of Suppliers' Complaints, poor Procurement Planning, Mobilization and Implementation, poor Contract Management and high cost of Advertisement (PPA, 2007).

Though indicated as a problem, contract management has received very little research attentions both by the PPA and researchers who are interested in procurement issues. The limited research in this area of contract management can be attributed to the very little interest on the subject as well as the legality associated with contracts. This is added to the limited knowledge on the importance of contract management to the public sector.

Additionally, the delay in the implementation of the procurement plans, in most cases has led to overrun of contract period. A particular concern is that in some cases the public sector lacks the qualified staff to monitor the contract management phase. This has led to situations where most public contracts have been breached. Again, there is

not enough documented knowledge on the effects of these breaches or contract overruns in the public sector. This study therefore assesses the challenges of contract management in the public sector by focusing on the Ministries, Departments and Agencies in the Greater Accra region. Specifically the study seeks to unravel and put in proper context the effects of breaches of contract in the public sector and the importance of contract management.

1.3 Aim of the study

The aim of the study is to examine the challenges of contract management in the procurement processes in Ghana. In order to understand these challenges, the study further aims at understanding the contract management processes as well as the Public procurement processes in Ghana.

1.4 Objective of the study

The specific objectives are:

- To find out the kind of challenges MDAs encounter during contract management.
- To find out the importance of contract management to the MDAs in Ghana.
- To analyse the impact of poor contract management on MDAs.

1.5 Research Question

Base on the research objective outlined above, the following research questions are worth considering:

1. What kind of challenges do MDAs encounter during contract management?
2. What is the importance of contract management to the MDA's in Ghana?
3. How does poor contract management affect MDA's?

1.6 Significance of the study

There are numerous researches on the Public Procurement Act, 2003 (Act 663) in Ghana. This is because of the monetary gain and the fairness associated with it. Notwithstanding the above, there are very limited published literary work on the challenges of Public Procurement Act, 2003 (Act 663) in Ghana. Most especially studies in the area of contract management among MDA's in Ghana. This study therefore seeks to fill this gap by empirically investigating the challenges of contract management in the public procurement processes.

The research would help identify the bottlenecks in the procurement planning and contract management in the public sector. Specifically it would help the Ministry of Finance and Economic Planning (MoFEP) who is the main actor in public sector budgeting and stakeholders address the challenges that arise between the budget and procurement process.

Another relevance of this study is the provision of empirical literature to the future researchers who are also interested in conducting researches in the area of contract management in the procurement processes among the MDA's. It would also serve as stock of knowledge for practitioners and students to gather experience in the area of contract management. This study is therefore meant to provide empirical bases for such researchers.

1.7 Organisation of the study

This study is organised in five chapters. The first chapter presents the research problem, the research objectives and questions and the relevance or significance of the study. Chapter two reviews both theoretical and empirical literature relating to challenges of contract management under the Public Procurement Act. Chapter two also examines

the history of procurement in Ghana, the theoretical literature behind the Public Procurement in Ghana as well as the empirical literature in the area of contract management in Ghana. Chapter three provides the research methodology adopted or used for this study. The chapter looks at the research design and approaches, the sampling techniques as well as the research instrument and the mode of data analysis used for the study. The ethical consideration adopted to this study will also be examined and presented in this same chapter. Chapter four presents the analysis of the questionnaires administered and a discussion of the results with the findings of the study. Finally, the last chapter, chapter five, summarises the findings of the study, conclusion of the findings of the study, and make recommendations based on the conclusion drawn.

The logo of Kwame Nkrumah University of Science and Technology (KNUST) is centered in the background. It features a yellow eagle with spread wings perched on a green shield. Above the eagle is a red torch. The shield has a yellow border with the text 'KNUST' at the top and 'Kwame Nkrumah University of Science and Technology' at the bottom. The eagle's wings are yellow with black outlines, and the shield is green with a yellow border.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter reviews theoretical and empirical work on Public procurement. The review aims at discussing the overview of Public reforms in Ghana. The chapter begins by discussing the overview of public procurement in general. This is followed by the definition of public procurement and the nature of public procurement systems before the reforms as well as a detail analysis of the reforms.

2.2 The Nature of Public Procurement

Public procurement has its origins in the fiduciary commitment of government administrations to deliver goods and infrastructure to the population of a country or a

specific geographic region, city or town (Odhiambo and Kamau, 2003). Public procurement denotes the government activity of purchasing the goods and services necessary to perform its functions (Arrowsmith, 2010). According to Odhiambo and Kamau (2003), public procurement is comprehensively defined as the purchasing, hiring or obtaining by any contractual means, goods, construction works and services by the public sector. It comprises the purchase of commodities and contracting of construction works and services if such acquisition is effected with resources from state budgets, local authority budgets, state foundation funds, domestic loans or foreign loans guaranteed by the state, foreign aid and revenue received from the economic activity of state. According to Hommen and Rolfstam (2009), public procurement is “the acquisition (through buying or purchasing) of goods and services by government or public organizations”. Arrowsmith (2010) posit that the concept of public procurement can be referred to as procurement planning, contract placement and contract administration. Based on the above, public procurement can be defined as “the function whereby public sector organisations acquire goods, services and development and construction projects from suppliers in the local and international market, subject to the general principles of fairness, equitability, transparency, competitiveness and cost-effectiveness”. It includes many activities that support the service delivery of government entities, ranging from routine items to complex development and construction projects. It also directly or indirectly supports government’s social and political aims. Public procurement addresses a wide range of objectives (Uyarra & Flanagan, 2009). It has been used by governments to achieve socio-economic objectives such as stimulating economic activity; protecting national industries from foreign competition; improving the competitiveness of certain industrial sectors; and remedying national disparities (Bolton, 2006; Thai, 2006). The objectives of public

procurement are achieved through various means, and legal and regulatory rules on conducting public procurement (Arrowsmith, 2010: 4). Public procurement is the sheer volume of funds channelled through government procurement and is the largest single buyer in most countries (OECD, 2007).

2.2.1 Public Procurement Overview

History of public procurement dates between 2400 and 2800 B.C. (Thai, 2001). This was with a procurement order of fifty (50) containers of oil (McCue, & Pitzer (2000). Contrarily to McCue, & Pitzer (2000), Thai (2001), indicated that procurement activities developed with silk trades that involved China and Greece in 800 B.C. The importance of public procurement cannot be exaggerated bearing in mind the huge financial obligation that is usually involved in the procurement process. The World Bank (2003) in its report predicts that the yearly value of public procurement for goods, works, and consultancy services at 600 million US dollars representing about 10% of the country's GDP. Public procurement is therefore an integral part of the governments in both developed and developing countries due to its mammoth financial outflows which has an impact on the requirements for judicious management (Thai, 2001). The importance of proper handling of public procurement is basic for achieving economic, socio-political and other objectives of government. The World Bank stipulates four (4) thematic parts of public procurement for all funded projects. This is to safeguard fair competition among bidders, promoting transparency in awarding and execution of its contracts and finally, encouraging the development of indigenous contractors and suppliers (Thai, 2001; Tucker, 1998).

2.3 Definition of Public Procurement

In the words of Lyson, (1996) procurement can be defined as “the function responsible for obtaining by purchase, lease or other legal means, equipment, materials, supplies and services required by an undertaking for use in satisfying wants”. Thus by definition, the overall purchasing task is “to obtain materials, goods and services at the right quality, in the right quantity from the right source delivered to the right place at the right time at the right price, to achieve an organizational objective”. Public Procurement, according to the Public Procurement Act, 2003 (Act 663), is “the acquisition of goods, works and services at the best possible total cost of ownership, in the right quantity and quality, at the right time, in the right place for the direct benefit or use of governments, corporations, or individuals, generally via a contract” (PPA Module, 2007). Put in another way, Public Procurement is the process by which organizations acquire goods, works and services using public funds. In its comprehensive nature it involves the running of proper procurement planning, budget allocation, bids invitation, bids evaluation, award of contract, contract management, performance measurement, monitoring, auditing and reporting.

2.3.1 Importance of Public Procurement and Policies

Public procurement has a direct impact on the following:

- ❖ The successful delivery of projects and public services;
- ❖ Sound public financial management by achieving value for money in government expenditure;
- ❖ Reducing corruption; and
- ❖ Encouraging private sector growth and investment;
- ❖ Statistics show that public procurement accounts for:
- ❖ 50-70% of the national budget (after personal emolument);

- ❖ 14% of GDP; and
- ❖ 24% of total imports (Adjei, 2006)

Procurement policies are vital from a development perspective. An efficient public procurement practices contribute towards the sound management of public expenditures more generally (Hunja, 2003). Procurement planning enables the identification of major investment expenditures, which in turn facilitates budgetary decision-making. In addition, the effective provision of public services often requires the coordinated delivery of materials and the like, which the state purchasing apparatus must accomplish.

There is also a growing appreciation of the linkages between specific national objectives and public procurement practices. For instance, state contracting is often a central focus of campaigns to tackle corruption and to ensure that appropriate distance is kept between government officials and the private sector. Procurement policies may be part of an industrial policy or an instrument to attain social objectives (e.g., support for small and medium sized enterprises, minority-owned businesses, disadvantaged ethnic groups, or certain geographic regions) through set-asides and preference policies. The manner in which a state implements its public procurement policies has implications for the achievement of such objectives, and for the cost of doing so. Indeed, these policies may speak volumes about numerous other national priorities, practices, and concerns (McCrudden 2004).

2.4 Public Procurement Systems before the Reforms

Before the enactment of the Public Procurement Act, 2003 (Act 663), Ghana National Procurement Agency (GNPA) and Ghana Supply Company Limited (GSCL) were the primarily organisations in-charge of all public goods purchases for the government.

This was because there was no broad guidance for the public sector procurement

(Verhage, Gronden, Awanyo and Boateng, 2002 and Anvuur and Kumaraswamy, 2006). Contrarily, to the reformed, the exiting bodies did not regulate procurement but rather purchase goods and services on behalf of public entities. The Public Financial Management Reform Programme (PURFMARP, 1996) document cited shows that the procurement system in the country before the reforms was characterised as:

- ❖ No comprehensive public procurement policy;
- ❖ There was no central body with technical expertise to oversee/regulate sound procurement practice;
- ❖ There was no comprehensive legal regime to safeguard public procurement;
- ❖ Absence of clearly defined roles, responsibilities and authority for procurement entities;
- ❖ No rules and regulations to guide, direct, train and monitor public procurement;
- ❖ National Procurement Agency (NPA) and Supply Company Ltd procure on behalf of government for PEs;
- ❖ No independent appeals process to address complaints from aggrieved tenderers;
- ❖ No authority to dispose of public assets, and
- ❖ No independent procurement auditing and monitoring function.

Since there was no broad and general legal regime in-charge of harmonizing procurement process in the country, different and diverse sector ministries such as the Ministry of Health (MOH) decided to implement their own procurement system.

World Bank Procurement Guidelines were also used for World Bank projects (World Bank, 1995/1997). Traditional procurement methods were also used for public works with provisions for compulsory registration and classification of suppliers and contractors administered by the Ministry of Water Resources, Works and Housing.

Since 1999, the Ministry of Finance has been working on the development of a national Procurement Code using the achievements in procurement at the Ministry of Health as an example to largely regulate procurement through the issuance of circulars. This complements a set of procedures that evolves from conventions that are connected with procurement control by the Ministry. Major or complex contracts that were financed by the government through architectural consultancy services and project supervision were assigned to the Architectural and Engineering Services Limited (AESL) on single basis without recourse to fair competition (World Bank 1996). These uncoordinated and unregulated systems of procurement were the consequences of poor procurement situation leading to the much acclaimed reform of public procurement practices to instill trust and confidence in the public and the donor community.

2.5 Public Procurement Reforms in Ghana

The Public Financial Management Reform Program (PUFMARP) was introduced in 1996 by the Government of Ghana with the objective of achieving better overall public financial management in Ghana. By 1999, the Government of Ghana established the Public Procurement Oversight Group to handle the development of a broader public procurement reform program. The Public Procurement Act, 2003, (Act 663) has established Public Procurement Authority (PPA) as the sole corporate body in-charge of the effective implementation of the Act. The objective of the PPA is to secure a judicious, economic, and efficient use of public funds in a fair, transparent and non-discriminatory manner while promoting a competitive Local industry.

2.5.1 The Public Procurement Act, 2003 (Act 663)

The Public Procurement Act, 2003 (Act 663) set out the legal, institutional and regulatory framework to secure fiscal transparent and public accountability in Ghana's

procurement system. The Act establishes five basic principles upon which the public procurement is based (World Bank, 2003). These pillars are: the legal and institutional framework; standardized procurement procedures and tender documents; independent control system; proficient procurement staff; and anti-corruption measures.

2.5.2 Objectives of the Act 663 of 2003

The main objectives of Act 663 are to harmonize public procurement processes in the public sector to ensure judicious, economic and efficient use of public resources and to ensure that public procurement functions undertaken within the public sector are fair, transparent and non-discriminatory.

2.5.3 Scope of Act 663

The Act applies to procurement financed wholly or partly from public funds for the procurement of goods, works, services and procurement financed by loans contracted by the government of Ghana, including foreign aid and donor funds. The Public Procurement Act 663 establishes the Public Procurement Board (PPB) now Public Procurement Authority (PPA), Entity Tender Committees (ETCs) and Tender Review Boards (TRBs). It specifies in clear terms the laws for procurement methods and thresholds, procedures, appeals and complaints resolution procedures and disposal of stores. It authorizes the issuance of enforceable regulations, Guidelines, Standard Tender Documents (STDs) and Manual under the Act.

2.5.4 Institutions the Act 663 apply to

The Public Procurement Act 2003, Act 663 (Section 14(2)) indicates that the following institutions come under the domain: Central Management Agencies; Ministries, Departments and Agencies; Sub-vented Agencies; Governance Institutions; State-owned enterprises (when using public funds); Public universities, schools,

colleges and hospitals; The Bank of Ghana and financial institution owned or majority-owned by Government; and Institutions established by Government for the general welfare of the public.

2.5.5 Procurement Structures

Part II of Act 663 gives a vivid picture of the structures which are to be set up to carry out procurement in the Public Service. Each of these structures is set up in accordance with the appropriate composition outlined in Schedule 1 and 2 of Act 663. The main structures as outlined in Part II and which fall within the scope of this work are:

- i. Public Procurement Authority;
- ii. Procurement Entity; iii. Head of Procurement Entity; iv. Procurement Unit;
- v. Entity Tender Committees;
- vi. Entity Review Boards; and vii. Tender Evaluation Panel.

2.6 Public Procurement Authority (PPA)

The Public Procurement Authority acts as the statutory advisory and co-ordinating body on procurement (Part 1 of Act 663). All Procurement Entities, Tender Committees and Tender Review Boards are required to abide by the technical guidelines and regulatory instructions issued by the PPA. The PPA has responsibility for the overall co-ordination, direction and development of Government procurement practices and procedures. The Authority is entrusted with 21 functions under Section 3 of the Act which are summarised as follows:

- ❖ Formulation/Development of public procurement policy, setting standards, rules, instructions and other regulatory instruments on public procurement;
- ❖ Monitoring compliance with requirements established by legislation;

- ❖ Obtaining and ensuring dissemination of information relating to public Procurement;
- ❖ Facilitating and supporting capacity building in public procurement;
- ❖ Organising and participating in administrative review of complaints and appeals on public procurement;
- ❖ Maintaining registers of procurement entities, members and secretaries of tender committees, and of suppliers, contractors, consultants, and records of prices;
- ❖ Investigating and debarring from public procurement suppliers, contractors and consultants who have contravened the provisions of the Act and Regulations, and communicating a list of debarred firms to procurement entities;
- ❖ Through an annual procurement forum, providing a platform for discussion of issues relating to public procurement; and
- ❖ Assisting the local business community to become competitive and efficient suppliers to the public sector.

2.6.1 Procurement Entity

A Procurement Entity is an organization or person that has legal/administrative mandate for procurement purposes (Chapter 2.2, Procurement Manuel). In order words, any entity conducting public procurement under the Act. A Procurement Entity is responsible for all procurement activity of the entity in compliance with the law and any regulations or administrative instructions issued by the Ministry of Finance in consultation with the Authority (Section 15, (1) Act 663).

Section 15 (2) provides the role and responsibilities of the head of a procurement entity.

2.6.2 Head of Entity

Each Procurement Entity has a head that is responsible for taking decisions on procurement and all matters arising there from (Section 15(2)). The head of entity is required to establish a procurement unit to undertake all activities related to procurement within the entity in accordance with the Act and shall appoint or designate a proficient procurement person with the requisite qualifications, experience and skills as head of the procurement unit to undertake the detailed activities of procurement on behalf of the procurement entity (Regulation 15).

2.6.3 Procurement Unit

A Procurement Unit is an outfit in a procurement entity with the responsibility of superintending procurement. The head of the Procurement Unit (and his/her team) shall be responsible for undertaking and co-ordinating all detailed procurement activities with the procurement entity.

2.6.4 Functions of Procurement Unit

The functions of the procurement unit include:

- a. Receiving procurement requests from originating officers, checking that, the proposed procurement is within the approved procurement plan and that, budget funds are available prior to commencement of procurement proceedings;
- b. That, funds are properly committed prior to issue of any contract or purchase order;
- c. Co-ordinating the preparation of specifications, terms of reference, bills of quantities, drawings, shortlist or advertisements and prequalification, tender or request for quotation documents. When so required by the Tender Committee, submission of documentation for review by the tender committee prior to

issue;

- d. Arranging the publication of advertisements and notices of contract award.
- e. Co-ordinating the process of opening of tenders and quotations and ensuring the preparation of formal records of tender or quotation opening in accordance with Section 56 of the Act;
- f. Participating in evaluation activities of the tender evaluation panel where necessary and assisting in preparation of formal evaluation reports;
- g. Preparing submissions for approval of award by the appropriate authority in accordance with the threshold values established in Schedule 3 of the Act.
- h. Maintaining and updating the database of Suppliers, Contractors and Consultants;
- i. Participating in negotiations with Consultants where necessary or other tenderers where expressly permitted in the Act or Regulations;
- j. Preparing notification of awards and contracts;
- k. Arranging publication of notices of contract awards;
- l. Preparing contract documents and purchase orders in line with the award decision;
- m. Preparing and issuing tender rejection and tenderer debriefing letters.
- n. Preparing contract variations and modifications;
- o. Assisting with inspection and acceptance of goods, works and services; and
- p. Maintaining procurement records in accordance with Section 28 of the Act and the Regulations.

2.6.5 Entity Tender Committee

Section 17 of the Act, mandate each procurement entity to establish a Tender Committee in the manner set out in schedule 1.

2.6.6 Establishment of Entity Tender Committee

Tender Committee is established at the following levels:

- a. Central Management Agency/Ministry/Sub vented Agency;
- b. Tender Committee for Regional Co-ordinating Council; and
- c. Metropolitan/Municipal/District Tender Committee.

For the purposes of this research, emphasis is being put on District Tender Committee and Regional Tender Committee.

2.6.7 Metropolitan/Municipal/District Tender Committee

The committee is made up of eight (8) members.

2.6.8.1 Functions

The functions of Metropolitan/Municipal/District Tender Committee are:

- a. Review procurement plans in order to ensure that, they support polices and programmes of the Assembly;
- b. Confirm the range of acceptable cost of items to be procured and match these with the available funds in the approved budget of the Assembly;
- c. Review the schedules of procurement and specifications and also ensure that, the procurement procedures to be followed are in strict conformity with the provisions of this Act, its operating regulations and guidelines;
- d. Ensure that, the necessary approval is secured form the relevant Tender Review Board in terms of the applicable threshold in Schedule 3 of this Act, prior to the award of the contract;
- e. Facilitate contract administration and ensure compliance with all reporting requirements under this Act; and

- f. Ensure that, stores and equipment are disposed of in compliance with this Act.

For contracts above the threshold of entity tender committee, the committee shall refer its decisions to appropriate review Tender board for concurrent approval.

2.6.8.2 Tender Evaluation Panel

Section 19 of the Act establishes a Tender Evaluation Panel by each procurement entity to evaluate tenders and assist the tender committee in its work. A panel is an adhoc body (Regulation 19(20)) of not more than five members constituted for a specific procurement package. The panel includes members with skills, knowledge and experience relevant to procurement requirements.

2.6.8.3 District Review Board

A District Review Board is established in accordance with schedule 2 of the Act to review procurement decisions of the District Tender Committee within the thresholds set out in schedule 3 of the Act 663. The District Review Board is to review the activities at each of the procurement cycle which will lead to the selection of the lowest evaluated tender by the District Tender Board. The board is made up of five (5) members.

2.6.8.4 The Regional Tender Committee

The Act 663 also establishes Regional Tender Committee to procure goods, works and services at the regional level. The functions of the Regional Tender Committee are:

- i. Confirm the range of acceptable costs of items to be procured and match these with the available funds in the approved budget; ii. Review the schedules of procurements and specifications and also ensure that the procurement procedures to be followed are in strict conformity with the provisions of the Act;

- iii. Ensure that the necessary concurrent approval is secured from the relevant Tender Review Board, in terms of the applicable threshold in schedule 3 of the Act, prior to the award of the contract;
- iv. Facilitate contract administration and ensure compliance with all reporting requirements under this Act; and
- v. Ensure that stores and equipment are disposed of in compliance with the Act.

2.6.8.5 Regional Review Board

A Regional Review Boards is established in accordance with schedule 2 of the Act to review procurement decisions of the Regional Tender Committee within the thresholds set out in schedule 3 of the Act 663. The Regional Review Board is to review the activities at each of the procurement cycle which will lead to the selection of the lowest evaluated tender by the Regional Tender Committee. The board is made up of five (5) members.

2.7 Performance Assessment System (PAS)

The Performance Assessment System (PAS) report gives a qualitative report on the performance of PEs as captured by the assessment exercise using the Evaluation Grid. The PAS report looks at four (4) main areas: Management Systems, Information and Communication, Procurement Process and Contract Management.

2.7.1 Management system

Examines leadership, human resources, monitoring and control system, ethics and compliance with regulatory framework, complaints, appeals and disputes resolution mechanism.

2.7.2 Information and communication

This category examines entities' capacity to give out information in the right format, and ability to utilize information received including market place, data analysis, and knowledge of Apex Body.

2.7.3 Procurement Process

This category seeks information on the entities knowledge of the procurement cycle and how they conduct their activities at each stage. This covers procurement planning, notice, preparation of tender documents invitation for tenders, submission of tender, tender opening, tender evaluation and contract award.

2.7.4 Contracts Management

Contract Management – This measures how entities follow through the performance of the contracts they award. This includes planning and mobilization, implementation, supervision, inspection, inventory control and disposal, and reporting. A formal contract document is drawn up, using the agreed terms and conditions, and signed by both parties. Simpler requirements may use a purchase order or where existing framework contracts exist, contracting may consist of placing a call-off order under the existing contract.

The awarded contract must then be managed, to ensure that both the buyer and supplier perform their contractual obligations. Activities may include expediting delivery, arranging inspection or freight forwarding, checking bank guarantees, establishing letters of credit, making arrangements for receipt and installation of goods, verifying documentation and making payments. Works contracts will often require technical supervision by an engineer/project management team to ensure quality, time schedule and cost. Contracts for consultancy services often require the direct participation of the

buyer or client organisation, as the recipient of training or technical advice or in responding to studies or reports. According to PPA Annual report (2009) Contract completion rate for the year is about 68%. This signified that contract management is a major challenge for most entities. According to Mensah and Ameyaw (2007), contract management recorded a very low compliance level. It was observed that most entities take contract management for granted and thus are not enthusiastic at the contract management stage as compared to the award stage. There is a complete lack of information on ongoing contracts. Reports expected from procurement managers like project implementation and supervision reports, project monitoring reports, delivery reports, keeping of records of items disposed of and the use of appropriate stock control record system were generally not adequate in most of the institutions surveyed.

Table 2.1: Compliance level of Public Entities in Ghana

Description	2007 (%)	2008 (%)	2009 (%)
Management System	34.84	34.62	54.93
Information and communication	43.15	39.82	56.03
Procurement Process	44.34	42.65	67.73
Contract Management	33.52	30.66	53.98
Total	38.96	36.94	59.00

Source: PPA Annual Report, 2008 & 2009

The results for the 2007 and 2008 levels of achievement have been set side by side in a Table 2.1. The achievements for the period 2007/2008 under the Performance Assessment System were lower in all the categories than those for 2007 because more low spending entities were included in the assessment (PPA Annual Report, 2009).

However there is a massive improvement in the 2009 nationwide assessment in all the four indicators above. Whereas the 2007, 2008 and 2009 national performance is 38.96% and 36.94% respectively, the 2009 performance of 59% is an improvement over the previous achievements.

2.8 Threshold for Procurement Methods

Per the threshold for the procurement methods as stipulated in the Ghana Procurement Act, Act 663, there are broadly ten (10) procurement methods. Generally, these procurement methods are embedded in five (5) procurement methods. These methods include:

2.8.1 Pre-qualification

This procurement method comprises the goods, services and technical services.

2.8.2 International Competitive Tender

The international procurement method like the above comprises the goods, services and technical services.

2.8.3 Restricted Tendering

The restricted tender method also comprises the price quotations, goods, services and technical services.

2.8.4 Selection of Consultant Tendering

The selection of consultant tendering, is made up of five (5) different tendering methods. These procurement methods include single source procurement selections; advertisement for expression of interest for consulting services in local newspapers;

least-cost selection; selection based on consultant's qualification and single source selections.

2.9 Empirical literature

In their study of Ghana Osei-Tutu, Mensah and Ameyaw (2011) indicated that contract management recorded a very low compliance level. It was observed that most entities take contract management for granted and thus are not enthusiastic at the contract management stage as compared to the award stage. According to these authors, there is a complete lack of information on ongoing contracts. Reports expected from procurement managers like project implementation and supervision reports, project monitoring reports, delivery reports, keeping of records of items disposed of and the use of appropriate stock control record system were generally not adequate in most of the institutions surveyed.

In addition to the above, Kannan et al (2003) indicates that there are several breaches in contract because of the ineffective communication and he indicated that "one of the ways to ensure effective contract management is through information interaction and communication".

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

As indicated in chapter one of this study, the purpose of this study is to examine the challenges of contract management to the public sector. This chapter will present the practical procedures followed by the researcher in the conduct of the empirical study. The chapter begins by presenting the research approach, the research design, the data collection procedures, the sampling techniques and sources of data. The chapter ends with a presentation of the data analysis procedures and the ethical consideration considered for this study.

3.2 Research approach

This study is more issue-oriented and focuses more on the case study for finding effects and consequences rather than hypothesis testing based on existing theories. As argued by Björklund and Paulsson (2003) it is possible to use these two approaches in combination hence the dissertation uses the combination of a deductive and inductive research approach. The deductive part of the approach is argued from an extensive previous researches conducted within the field of public procurement and its relevance to MDA's. Inductive research is a flexible approach because there is no requirement of pre-determined theory to collect data and information. This helps the research to give inductive arguments (Mertens 2008).

3.3 Research Design

The aim of this research is to conduct an explanatory study about the challenges of contract management in the public sector by concentrating on the MDAs in the Greater Accra of Ghana. For this study, a qualitative research approach, carried out using case studies, was chosen. Due to the relatively little amount of research into the field of contract management in the public procurement processes in Ghana, a

qualitative approach is regarded as useful. The reason for this is that the method enables an insightful investigation of the research objects as empirical data can be investigated with guidance from literature. Due to that the study aim is to provide understanding of the role of contract management in the procurement process. A case study approach was chosen since such an approach enables in-depth analysis of a defined phenomenon (Bell, 2000). The advantage of using a case study approach is that it enables the analysis of different types of material, such as interviews, observations, and different documents, which extends the analytical base (Merriam, 1994). For this project work, information from the investigate relation will be gotten from the administration of questionnaires. A disadvantage of performing case studies is that the study is limited by subjective interpretations (ibid), but to handle such a limitation, the researcher self-administered the research instrument (questionnaire).

3.4 Sample Size

A total of 90 respondents were purposively selected for this project work. The number selected was because there are fewer persons employed in the MDAs solely for procurement processes and a specialized area. As already discussed in this study, six (6) MDAs were randomly selected for this study, that is, more precisely, procurement officers and management, project managers, contract managers, entity tender committee members other officers involved in the procurement processes of MDAs will be used for this study. In each of these MDAs, fifteen (15) respondents working in the procurement department or related areas of the MDAs will be administered with the questionnaires.

3.5 Sampling Techniques

Since the study focuses on MDAs in the Greater Accra Region of Ghana, the purposive sampling technique will be used for this study. Purpose sampling technique was used because of the specialised nature of the study. Purposive sampling was used because it helped eliminate people who will not be fit for this study. In addition to the sample is more accurate and a good representation of the population and the sample in question. The use of purposive sampling was adopted because it was not time consuming, and the results are expected to be more accurate.

In this case the procurement officer or manager and any other management member working in the procurement departments in the MDAs will be administered with the questionnaire.

3.6 Sources of Data

The study will make use of two main types of data. These are primary sources of data and secondary source of data. The primary sources of data were gathered through the administration of the research instrument (mainly questionnaire). The secondary sources of data were gathered from published thesis and reports.

3.7 Data Collection Instrument

For this study, questionnaires were used as the primary method of data collection. Administration of questionnaires is the most common method of data collection when performing case studies (Langemar, 2005). A semi-structured questionnaire was used for this study. These questionnaires were made of both closed-ended questions and open-ended questions. The use of open-ended questions allowed for follow-up questions to be asked respondents to the study. According to Saunders et al. (2009) semi-structured questionnaire help explain how different variables relate to each other.

Furthermore some of the questions are open-ended because it allows for alternative than if well-structured questionnaires (Saunders et al. 2009).

3.8 Data Analysis

Responses were gathered from the questionnaires administered and were entered into the Statistical Package for Social Science (SPSS). After the entry, the collected data was statistically analyzed and data presented in the form of tables and charts.

3.9 Ethical consideration

Permission to conduct the study using the MDAs premises were sought from the various heads of the MDAs. The research participants were made to complete an informed consent form after the purpose of the study is explained to them. The purpose was for individuals not to be coerced to fill the questionnaires that were administered to respondents of the study. Finally, in order to protect the integrity of the above respondents or participants to this study, they were assured of anonymity and confidentiality of the information that was given for the research purposes.

CHAPTER FOUR

RESULTS, ANALYSIS AND DISCUSSION

4.1 Introduction

The chapter presents the results, data analysis and interpretation. The chapter is structured into five (5) sections. The first section concerns the demographic characteristics of respondents to the study. The second section deals with challenges MDAs encounter during contract management whilst the third section identify the importance of contract management to the MDAs in Ghana. The fourth section examines the impact of poor contract management of MDAs and the last section presents the discussion of the findings with references to the literature sampled in chapter two.

A total number of ninety (90) questionnaires were administered to procurement staff from the Ministry of Health, Local Government, Energy, Environmental Protection Agency (EPA), and Educational, Youth and Employment and the Ministry of Water Resources Works and Housing in the Greater Accra Region. Out of this number eighty (80) questionnaires were retrieved, thus the study had a 88.9% response rate. Table 4.1 below shows the response rate from the various MDAs sampled with the questionnaires.

Table 4.1 Response rate to the questionnaire administered

Responses	Number administered	Number obtain
------------------	----------------------------	----------------------

Percent

Ministry of Health	15	14	93.3
Local Government	15	13	86.7
Energy	15	14	93.3
Environmental Protection Agency	15	14	93.3
Educational, Youth and Employment	15	11	73.3
Ministry of Water Res, Work & Housing	15	14	93.3
Total	90	80	88.9

Source: **Researcher's Field Work, Oct, 2013**

The response from the table shows that on average Ministry of Health, Energy, Environmental Protection Agency and the Ministry of Water Resources Work & Housing recorded a 93.3% rate of responses whilst 73.3% and 86.3% response rate was recorded by respondents from the Ministry of Local Government and Rural Development and Educational, Youth and Employment respectively.

4.2 Background of Respondents

In terms of the background of the respondents, the researcher was interested in examining the age group, educational level as well as the gender of the respondents. The gender and age groups of the respondents were sought from the respondents to the study. The responses are presented in Table 4.2 below

Table 4.2: Gender and Age Group of Respondents

Responses	Frequency	Percent
-----------	-----------	---------

Gender:

Male	60	75%
Female	20	25%

Age Group:

20-30 Years	35	42.5%
31-40 Years	29	37.5%
>40 Years	16	20.0%

Source: Researcher's Field Work, Oct, 2013

From Table 4.2, out of the 80 respondents who part took in the study, 60 respondents, representing 75% were male, and the remaining 25 respondents, representing 25% were female. The result shows that there were more male than female respondent. This may be attributed to the purposive nature of the sampling as well as the minimal level of respondents working in the department in-charge of procurement.

Additionally, in terms of age majority of the respondents (42.5%) of the respondents were between 20-30 years whilst the least respondents (20%) were above 40 years old. A further analysis shows that 37.5% of the respondents were between 31-40 years of age.

The further analysis was to find out the educational level of respondents to the study. The education level of respondents is presented in figure 4.1 below

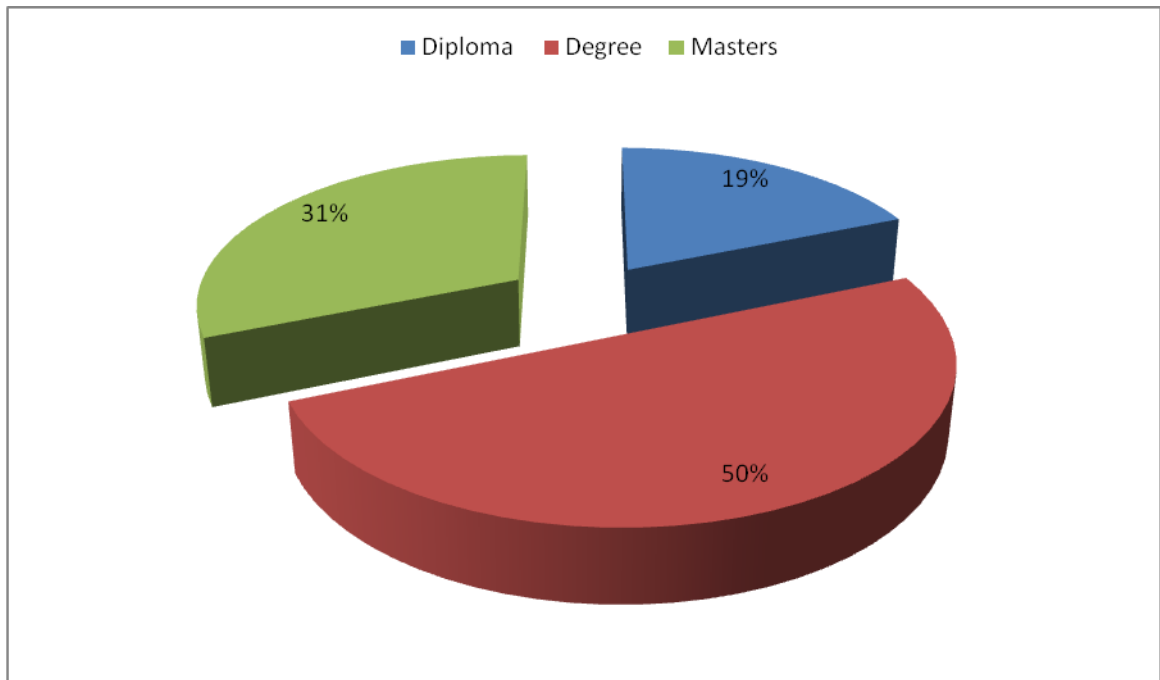


Figure 4.1: Educational Background of Respondents

Figure 4.1 indicate that, all the respondents selected were educated. From the Figure, it was found that, most of the respondents (50%) were holders of university degree. This was followed by Post Graduates degrees which constitute 31% of the respondent and Diploma holders (19%).

4.3 Identify the importance of contract management to the MDA's in Ghana

The first question asked the respondent was to find out whether all respondents had knowledge on the Public Procurement Act and have actively participated in the tendering processes. The responses indicates that all the respondents are regular participants in public procurement activity and can really give good assessment of the effectiveness of the procurement reform on contract management.

Further to the above, respondents were asked if they had any training on the Public Procurement Act, Act 663. The respondent indicates that all respondents have been trained on the Public Procurement Act. A follow up question was asked respondents to

find out the number of times these trainings were done. The response to this question is presented in Table 4.1 below.

Table 4.3 Number of training on Public Procurement Act, Act 663

Response	Frequency	Percent
Once	40	50
Twice	20	25
Thrice	12	15
More than three times	8	10

Source: Researcher's Field Work, Oct, 2013

The analysis from Table 4.3 shows that 50% of the respondents had been trained once on the Public Procurement Act whilst only few respondents have been trained more than three (3) times on the Public Procurement Act. The remaining 15% and 25% have been trained thrice and twice respectively.

Respondents were further asked if they have participated in any tendering process. The responses shows that majority (92.5%) of the respondents had actively participated in the Public Procurement process while only 7.5% of the respondent have never taken part in the Public procurement processes before. For those who indicated that they had actively partaken in the procurement processes, their experiences with the procurement processes in Ghana were sought. The responses are presented in figure 4.2 below

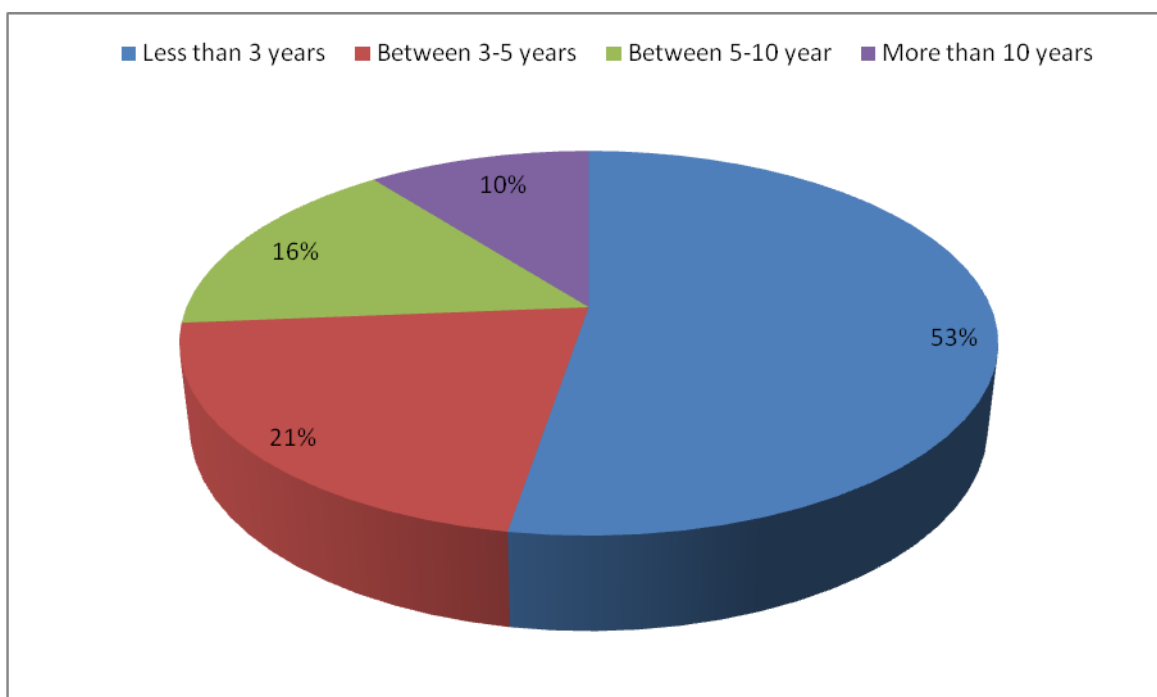


Figure 4.2 Experience in the procurement practice

The responses as presented in Figure 4.2 shows that 53% which represented majority of the respondents indicated that they had less than 3 years experience in the procurement practices. This was followed by 21%, 16% and 10% of the respondents who had between 3 to 5 years' experience, between 5 to 10 years and more than 10 years experience on the procurement experiences respectively. Further to the above, respondents were asked if they have contract managers in their organisation. Their responses are presented in Table 4.3 below

Table 4.4 Do your Organisation has a Contract Manager

Response	Frequency	Percent
Yes	10	12.5
No	56	70.0
Not sure	14	17.5

Source: Researcher's Field Work, Oct, 2013

The response from Table 4.4 shows that 12.5% answered in the affirmative whilst most (70.0%) answered in the negative. The remaining 17.5% were not sure whether their organisation has a contract manager. The above responses show that most MDAs in most cases do not have Contract Managers in-charge of their procurement activities. In most cases the procurement officers perform the functions of a contract manager. Added to the above, respondents were further asked if the expertises of the contract managers are relevant to their various organizations. The responses as presented by the respondents are shown in figure 4.3 below.

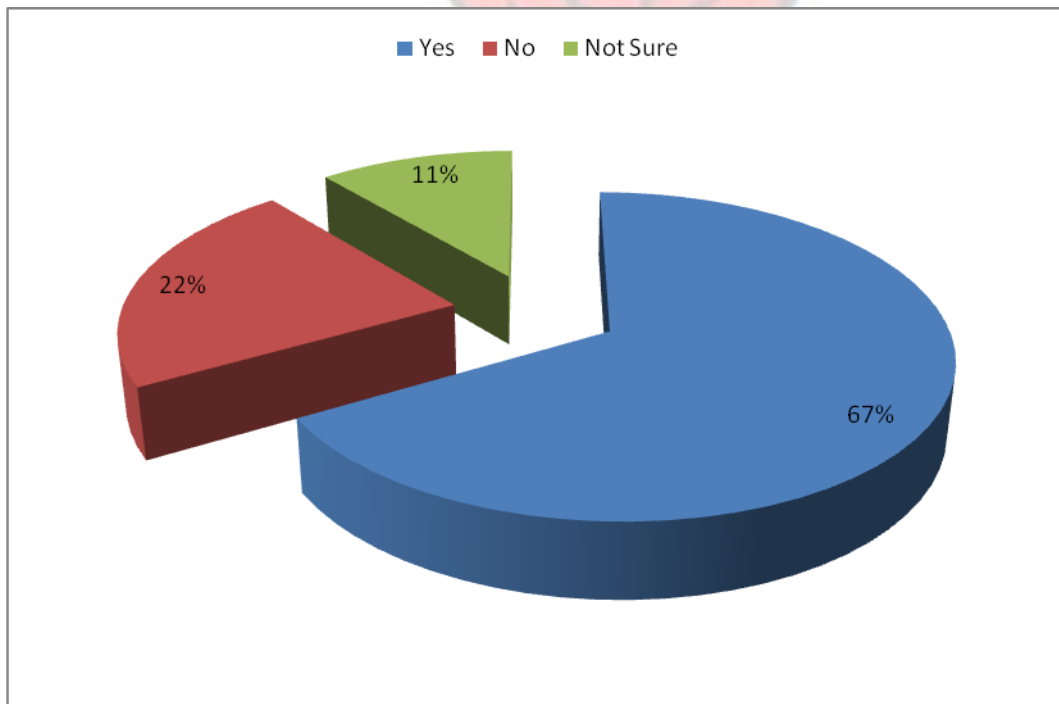


Figure 4.3: Are the contribution of expert relevant

Figure 4.3 shows that out the 10 respondents who indicated that they had a contract manager, 67% indicated that their activities are relevant to the organisation whilst 22% indicated that the activities of these experts are not relevant. In addition to the above, 11% of the respondents were not sure of the relevance of these experts. For those who

indicated that these experts were relevant they said so because they help reduce the numerous law suits that are accompanied with not carrying through the projects on time. Others indicated that these contract managers help educate the MDAs of the nitty-gritty of the contract. Others also indicated that they help prompt the MDA whenever they discover that the contract is not being followed.

A further question was asked respondents on how they will rate their organisation adherence to the delivery of contract over the period of the contract. The responses gathered is presented in Table 4.5

Table 4.5: Adherence to contract delivery period

Response	Frequency	Percent
Very satisfactory	18	22.5
Satisfactory	20	25.0
Neutral	18	22.5
Not satisfactory	24	30.0

Source: Researcher's Field Work, Oct, 2013

From Table 4.5, it was found that 22.5% rated the adherence as very satisfactorily and neutral respectively whilst 25% of the respondents indicated that the adherence was satisfactorily. Majority of the respondents indicated that the adherence to the contract delivery period was not satisfactory.

4.4 Impact of Poor Contract Management on MDA's

Under this section, seven questions were asked respondents to the study, two (2) of which were open ended. The first question was to find out if their various MDAs have

ever encountered breach of contract. The responses are presented in Table 4.6 below

Table 4.6: Breach of Contract

Response	Frequency	Percent
Yes	65	81.3
No	15	18.8

Source: Researcher's Field Work, Oct, 2013

The responses from Table 4.6 indicate that 81.3% of the respondents answered in the affirmative that, there have been breaches of contracts whilst only 18.8% answered in the negative. For those who answered in the negative a further question was asked to find out the number of times these breaches have occurred. The responses are presented in Table 4.7 below

Table 4.7: Number of times contract has been Breached

Response	Frequency	Percent
Less than 3	8	20.0
Between 3 and 5	12	29.2
Between 5 and 10	20	50.8

Source: Researcher's Field Work, Oct, 2013

The response as presented in Table 4.7 shows that majority (50.8%) of the respondent indicated that the breach was between 5 to 10 times whilst only 20% indicated that the breach had been less than 3. The remaining 29.2% indicated that the breach was between 3 to 5 times. None of the respondents indicated that breaching was more than 10 times

Further question was also asked respondents to find out the number of times the contract have over run the delivery period. The response to this question is presented in Figure 4.4 below

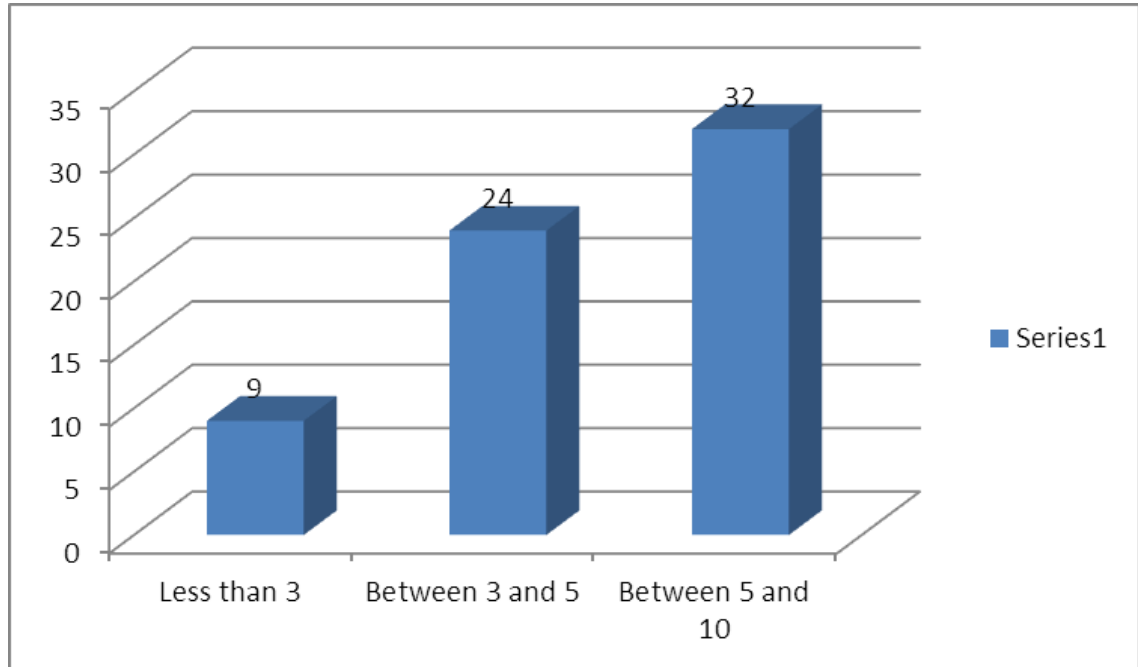


Figure 4.4 Frequency of contract over run delivery period

From figure 4.4 above, 49.2% (32 respondents) of the respondents indicated their MDA's contract over run period is occurred between 5 and 10 times; 36.9% (24 respondents) indicated that it was between 3 to 5 times only, 13.8 (9 respondents) indicated that the contract over run period had occurred less than 3 times; and another question was asked respondent to find out whether their organisation has gone through litigation. The responses are presented in Table 4.8 below.

Table 4.8: Have your organisation gone for Litigation

Response	Frequency	Percent
Yes	14	17.5
No	32	40.0

Source: Researcher's Field Work, Oct, 2013

From Table 4.8, the responses show that most respondents (42.5%) do not know whether their organisation had gone for litigation whilst fewer respondents (17.5%) stated that their organisation had gone for litigation. The remaining respondents (40%) state that their MDAs had not gone for any litigation. A further question was asked respondents the reason for the litigation. The reasons for the litigation as indicated by respondents included the poor performance of the contract specifically with regards to adherence to the specification of deliverables, and inadequate budgetary support to finance the contract. The other reasons given were poor monitoring of the contract management processes. When asked if the poor contract management has affected MDAs, all the respondents answered in the affirmative by saying yes.

The reason was that it has raised the cost of the contract as well as lead to the series of court cases which affects their operations as MDA's. This also affects the general operation of the MDA's leading to their inability to achieve their medium to long term objectives. In addition to the above, respondents gave reasons such as the lowering of performance standards.

4.5 Challenges MDAs encounter during contract management

This section examined the challenges MDAs encounter during contract management. In this section, eleven (11) questions were asked respondents to the study. Out of this, only a question was open ended.

The first question asked respondents to the study was, are there challenges in the contract management during the procurement processes? The answer to the above question is presented in figure 4.5 below

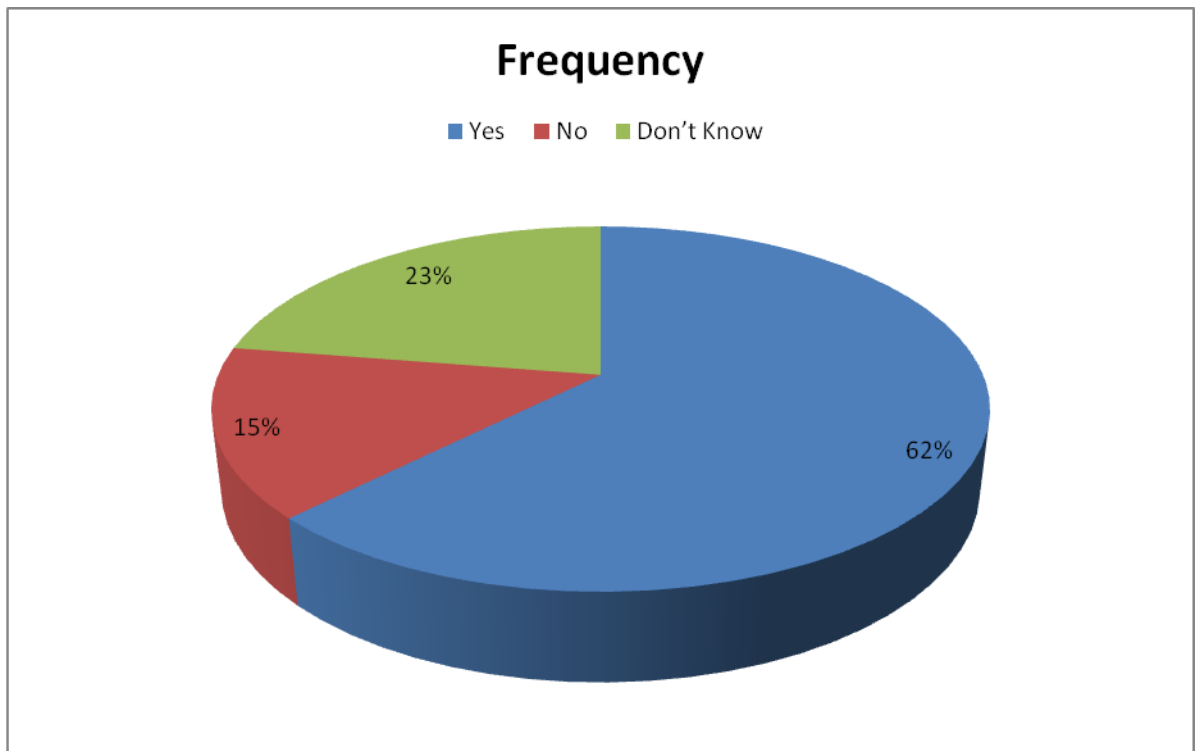


Figure 4.5 Challenges in the contract management processes

In answer to this question, figure 4.5 above showed that 62% of the respondents to the question answered in the affirmative (yes), that is, there are challenge in contract management during the contract management processes whilst only 15% answered in the negative, that there are not challenges with the contract management processes. The major challenges as identified by respondents include the release of budgetary allocation to finance the contract; poor delivery standards and quality management issues. There were also challenges associated with capacity and expertise of procurement staff and the general delay in the delivery to the specification, interference with the procurement processes as well as difficulty in conforming to the Procurement Act.

The next issue was to find out which parties brought about the challenge. The responses are presented in Table 4.9 below

Table 4.9: Parties which brought about these challenges

Response	Frequency	Percent
Client	20	25.0
Contractor/ Service Provider	60	75.0

Source: Researcher's Field Work, Oct, 2013

The above responses in Table 4.9, shows that 25% of the respondent indicated that it was through the client whilst majority of the respondents (75%) indicated that the service providers or contractors were the majority parties who brought about the breach of the contract. The last question to the respondents was to find out from them which of the tendering method is most challenging. The response to this question is presented in Table 4.10 below

Table 4.10: Challenges in Contract Management Associated with Procurement

Methods	Frequency	Percent
International competitive tender	2	2.5
National competitive tender	40	50.0
Restricted tendering	18	22.5
Selection of consultants	20	25.0

Source: Researcher's Field Work, Oct, 2013

The responses gathered and presented in Table 4.10, shows that majority (50%) of the respondents stated the National Competitive Tendering as the major procurement method which poses challenges. This was closely followed by the selection of

consultants (25%) and restricted tendering processes (22.5%). The least response gathered was international competitive tendering which had a response rate of 2.5%.

4.6 Discussion of the findings of the study

Contract management was a major challenge for most MDAs. Contract completion over run of about 50% signifies contract management could be challenging. As indicated by Kannan et al (2003) “one of the ways to ensure effective contract management is through information interaction and communication”.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATION

5.1 Introduction

This chapter highlights the major findings of the study. The findings are outlined with reference to the specific objectives. This is followed by the conclusion drawn from the summary of the findings as well as the recommendation made to overcome the challenges of contract management in the procurement processes in Ghana. This is aimed at improving the contract management process among MDAs with references to the Public Procurement processes in Ghana.

5.2 Summary of Major Findings

The study revealed that the most MDAs sampled follow the provision of the Public Procurement Act 2003 (Act 663), the manual and other legal requirements however, there are inherent challenges.

5.2.1 The importance of contract management to the MDA's in Ghana

All respondent are knowledgeable and have actively participated in the Public Procurement processes for their MDAs under the Public Procurement Act, 2003 (Act 663). Most respondents have been trained once (50%) on the new Public Procurement Act and have experienced the tendering processes under the new public procurement Act (Act, 663) for not less than 3 years and not less than 3 times in the tendering processes. In addition most MDAs (70%) have no contract managers in-charge of their contract management processes. The contribution of expert or the contract managers are relevant to the organisations. These contract managers were relevant to the MDA's because they help reduce the numerous law suits that are accompanied with not carrying through the projects on time. Furthermore most respondents (37.5%) indicated that they were very satisfactory with their MDAs adherence to the delivery of contract over the contract period.

5.2.2 Impact of poor contract management on MDAs

Most MDAs have breached the contract before as indicated by 81.3% of the respondents and (50.8%) of the breach had been between 5 and 10 times in the last five (5) years. In addition to the above, the contracts have been over run between 5 and 10 times in the last five (5) years. This has made most MDAs go through several litigations, the reason being due to the poor performance of the contractors and service providers, and the increase in the cost of the contract. The poor performance has affected all the MDAs, the reasons being that it raised the cost of the contract as well as lead to the series of court cases which affects their operations as MDAs.

5.3 Conclusion

The study can conclude that males are more involved in the Public Procurement processes than females in most MDAs. In most cases all the MDAs do not have contract Managers whose job it is to manage the contract once it has been signed. However it was deduced that the procurement officers act in the capacity of contract managers.

5.4 Recommendations

Based on the conclusion drawn the researcher recommends that qualified and capable procurement and contract management personnel should be engaged by MDAs to manage their contracts and also support the procurement processes.

Also MDAs, MMDAs and management of all entities should ensure that the zeal attached to the contract award stage should be applied in the contract management process until the contract is fully executed and closed out.

Finally, researchers should also develop interest in this area and specifically research into why less attention is given to the contract management stage of the procurement cycle.

REFERENCES

- Adjei, A.B, (2006), Message from the Chief Executive. Public Procurement Board, June 2006.
- Anvuur, A. and Kumaraswamy, M. M. (2006). Taking forward public procurement reforms in Ghana, CIB W107 Construction in Developing Economies International Symposium. Construction in Developing Economies: New Issues and Challenges. Santiago, Chile, (9), 18-20
- Arrowsmith, S., & Trybus, M. (Eds.) (2010). *Public Procurement: The Continuing Revolution*. New York: Kluwer Law International.
- Arrowsmith, S. (2003). *Government Procurement in the WTO*. The Hague/London/New York: Kluwer Law International.
- Bolton, P. (2006). Government Procurement as a Policy Tool in South Africa. *Journal of Public Procurement* 6(3):193–217.
- Björklund, Y and Paulsson, D. (2003) The Economic Analysis and Development Strategies of The Green Building, In: Charles O. Egbu and Michael K.L. Tong, first Scottish conference for postgraduate Researchers of the built and natural Environment, 18th and 19th November, 2003, pp. 637-43.
- Eyaa, S. & Oluka, P.N. (2011). Explaining noncompliance in public procurement in Uganda. *International Journal of Business and Social Science*. 2(11), June:35–44.
- Hommen, L., & Rolfstam, M. (2009). Public procurement and innovation: Towards taxonomy. *Journal of Public Procurement*, 9(1):17–56.
- Hunja, R. R. (2003), Obstacles to public procurement reform in developing countries, in Arrowsmith, S. & Trybus, M (Eds.) *Public Procurement: The continuing Revolution*. Kluwer international.
- Langemar, Y. (2005). Corruption in procurement auctions, Governance and the efficiency of economic systems. Discussions Paper No. 90. Available at: <http://www2.wiwi.hu-berlin.de/wt1/research/2006/Corruption%20in%20Procurement%20Auctions.pdf> (Accessed on 5th October, 2013)

- Lyson, K. (1996). *Constructing grounded theory: A practical guide through qualitative analysis*. Los Angeles: Sage.
- Kannan , G. & Martin, K. & Powers, E. (2003). The secrets to successful strategy execution. *Harvard Business Review* June 2008, 81-94. (2003)
- McCrudden, C. (2004). Using public procurement to achieve social outcomes. *Natural Resources Forum*: 257–67.
- McCue, C.P., & Pitzer, J.T. (2000). “*Centralized vs Decentralized Purchasing: Current Trends in Government Procurement Practices.*” *Journal of Public Budgeting, Accounting & Financial Management*, 12 (3): 400-420.
- Mensah , S., and Ameyaw, C. (2007). Public procurement in Ghana: The implementation challenges to the Public Procurement Law 2003 (Act 663). *International Journal of Construction Supply Chain Management* Vol. 2, No. 2 (pp. 55-65) 64
- Merriam, D (1994). *Procurement Performance Measurement System: Focusing on the Swedish Public Sector*. from Lund Institute of Technology web site: http://www.tlog.lth.se/documents/publications/Lic_Daniel_Knudsen.PDF
- Mertens, G. (2008). “*The Economic Context of Government Procurement: New Challenges and New Opportunities*”. *Journal of Public Procurement*, 2 (1): 5571.
- Ministry of Finance (2001) *Procurement Reform Proposal*. A component of the Public Financial Management and Reform Programme (PURFMARP), Accra: Ministry of Finance, Ghana
- Odhiambo, W. & Kamau, P. 2003. Public procurement: Lessons from Kenya, Tanzania and Uganda. OECD Development Centre Working Paper No. 208.
- Osei-Tutu, E., Badu, E., Owusu-Manu, D., (2011). *Exploring Corruption Practices in Public Procurement of Infrastructural projects in Ghana*. *International Journal of Managing Projects in Business*. Vol. 3 No. 2, 2010, pp. 236-256.
- OECD (2007). *SIGMA support for improvement in governance and management*. Available at: <http://sigmaweb.org> (accessed on 20 August 2013).
- PPA (2007), “*Public Procurement Authority (PPA) Annual Report*”, Republic of Ghana, pp. 18

PPA Annual Report. (2009). National Public Procurement Authority Annual Report 2008. Ghana.

Thai, K.V. 2006. Advancing public procurement: practices, innovation and knowledge sharing, in *Advancing public procurement: practices, innovation and knowledge sharing* (ch. 1), edited by K.V. Thai & G. Piga:Pr Academics Press:1–13.

Thai, K. V. (2001). Challenges in public procurement. In *Challenges in Public Procurement: An International Perspective* Vol. 3. Boca Raton FL, USA: PrAcademics Press

Tucker, T., (1998), A critical analysis of the procurement procedures of the World Bank. In S. Arrowsmith & A. Davies (Eds.), *Public Procurement: Global Revolution* (pp.139- 157). London: Kluwer Law International.

Uyarra, E. & Flanagan, K. (2009). Understanding the innovation impacts of public procurement. Manchester Business School Working Paper, No. 574. Available at: <http://www.mbs.ac.uk/research/workingpapers/> (accessed on 19 November 2013).

Verhage, Gronden, Awanyo and Boateng, (2002). "The challenge of integrating sustainability into talent and organization strategies: investing in the knowledge, skills and attitudes to achieve high performance", *Corporate Governance*, Vol. 9 Iss: 4, pp.484 – 494

World Bank (2003), "*Ghana 2003 Country Procurement Assessment Report*", Washington, DC: Ghana Country Department, The World Bank.

World Bank, (1997). *Guidelines: Selection and Employment of Consultants by the World Bank Borrowers*, Washington, DC: The World Bank.

World Bank (1996), "*Ghana 1996 Country Procurement Assessment Report*", Washington, D.C.: The World Bank.

APPENDIX A: QUESTIONNAIRE

UNIVERSITY OF SCIENCE AND TECHNOLOGY

QUESTIONNAIRE TO SELECTED RESPONDENTS

The researcher is studying the challenges of contract management in the Public Procurement processes in Ghana. The research is a dissertation in partial fulfillment of the requirements for the award of a Master of Science in Procurement Management. The information provided would be used strictly for academic purposes only and therefore treated with utmost confidentiality. The researcher will be grateful if you kindly answer the questions below.

Demographic Data

1. **Gender:** a. Male () b. Female ()
2. **Age Group:** a. 20-30 Years () b. 31-40 Years ()
c. 41-50 Years ()
3. **Educational Level:** a. Diploma/ HND () b. Degree ()
c. Master ()

Identify the importance of contract management to the MDA's in Ghana

4. Have you had any training on the Public Procurement Act, Act 663?
a. Yes () b. No () c. Not that I can remember ()
5. State the number of times you have received training on Act 663?
a. Once () b. Twice () c. Three time () d.
More than three times ()
6. Have you participate in any tendering process? a. Yes () b. No ()
c. Not that I can remember ()
7. Please indicate your years of experience in procurement practices. a. Less than
3 years () b. Between 3 and 5 years () c. Between 5 and 10 years ()
d. More than 10 years ()
8. Do you have contract mangers in your organization? a. Yes () b. No ()
c. Not that I can remember ()
9. How would you rate the importance of contract management in the public

procurement process? a. Very important () b. Important ()
c. Neutral () d. Not important () e. Not needed ()

10. How would you rate your organization and its party's adherence to delivery of contract with the period provided for in the contract?

a. Very satisfactory () b. Satisfactory () c. Neutral ()
d. Not satisfactory () e. Not needed ()

Impact of poor contract management of MDA's

11. Has your organization ever encountered breach of contract within the last five years? a. Yes () b. No () c. Don't know ()

12. How often has your contract been breached within the last five years?

a. Less than 3 () b. between 3 and 5 () c. between 5 and 10 ()
d. More than 10 ()

13. How frequent has your contract over run its delivery period within the last 5 years? a. Less than 3 () b. between 3 and 5 () c. between 5 and 10 ()
d. More than 10 ()

14. Has your organization ever gone into litigation because of contract management challenges? a. Yes () b. No () c. Don't know ()

15. If yes, what is the reason for the above response

.....
.....

16. The poor contract management has affected MDA's? a. Yes () b. No ()
c. Don't know ()

17. If yes, how has it affected these MDA's?

.....
.....

Challenges MDAs encounter during contract management

18. There are challenges in the contract management during the public procurement processes. a. Yes () b. No () c. Don't know ()

19. What kind of challenges do you encounter during contract management under the public procurement system

20.

-
21. Which of the parties brought about the challenges? a. Client ()
b. Contractor/ service provider () c. Others, please specify,
22. In your opinion which method of procurement methods encounters the most challenges in the process. a. International competitive tender ()
b. National competitive tender () c. Restricted tendering ()
d. Selection of Consultant ()

