

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

**ASSESSING THE LEVEL OF COMPLIANCE WITH THE PUBLIC
PROCUREMENT ACT 2003, (ACT 663) IN SELECTED PUBLIC ENTITIES
IN UPPER DENKYIRA EAST MUNICIPALITY, CENTRAL REGION**

BY

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A THESIS SUBMITTED TO THE DEPARTMENT OF BUILDING
TECHNOLOGY, KWAME NKRUMAH UNIVERSITY OF SCIENCE AND
TECHNOLOGY IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR
THE AWARD OF

MASTER OF SCIENCE
IN
PROCUREMENT MANAGEMENT

JUNE, 2014

DECLARATION

I hereby declare that this submission is my own work 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.

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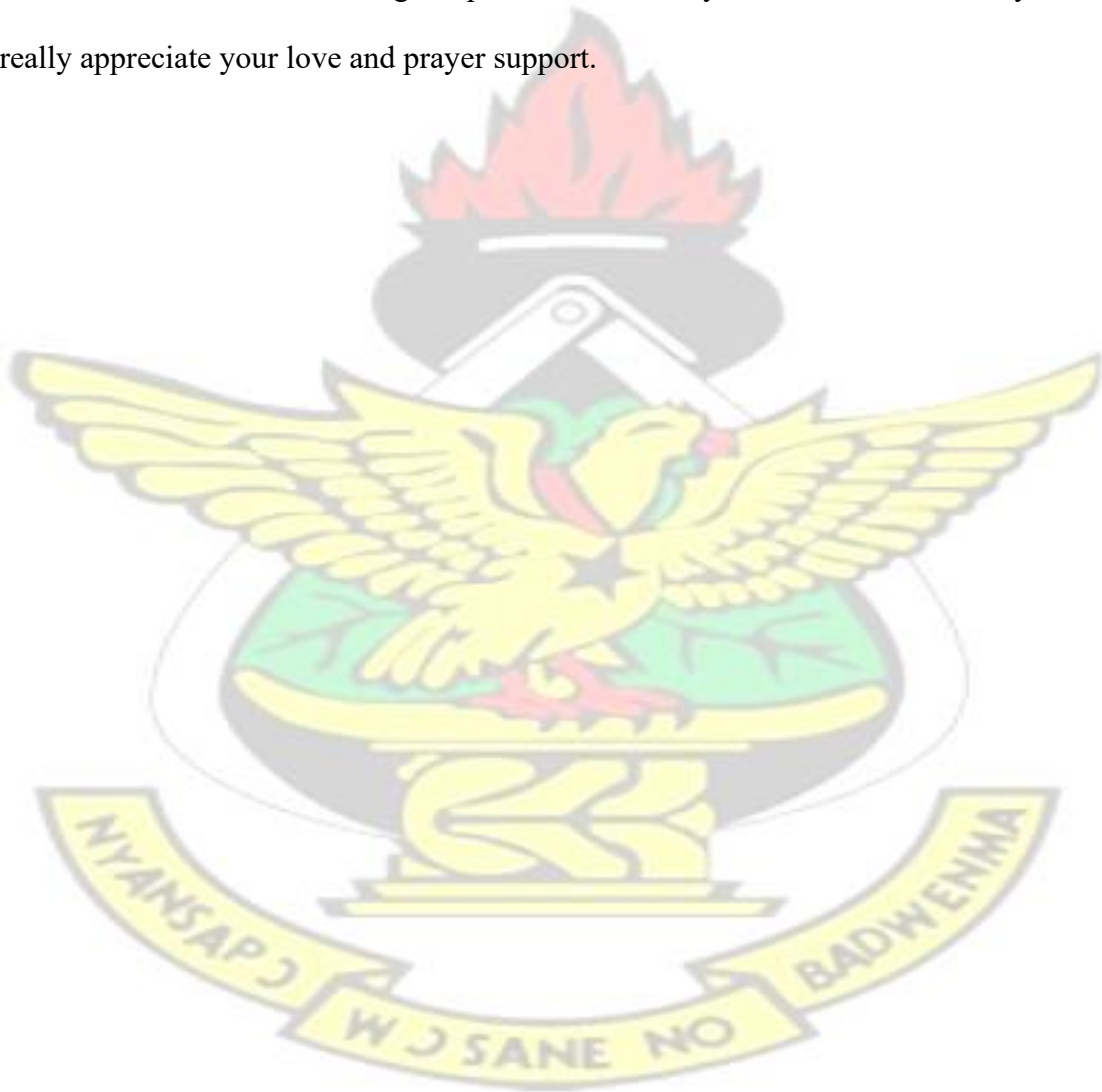
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DEDICATION

I dedicate this research work to the Lord Almighty through whose guidance and protection I have been able to reach this far in my education.

Secondly, to the people who gave meaning to my life, my parents, children and my lovely wife, Patience.

I know this dedication can in no greater measure compensate for the time and other resources committed out during the period of this study. However, this is to say that I really appreciate your love and prayer support.



ACKNOWLEDEMENTS

I'm very grateful to God Almighty for his guidance and protection throughout this work.

My special thanks goes to:

My supervisor, Dr. T. Adjei Kumi, a senior Lecturer in the Department of Building Technology, KNUST for his guidance, detailed supervision, useful suggestions, encouragement and constructive criticisms throughout this research.

All lecturers, of the Department of Building Technology, for their immense assistance and encouragement during my University Education and all persons and organizations who took part in this research or gave me access to information needed for the research. Members of my class and all my friends for their invaluable assistance and encouragement they gave me. I'm most grateful.

To my wife Patience, who is indeed more than a partner, all my love and gratitude for being so supportive and understanding during these years I have been involved with this work. To my children, Prince, Verena, Priscilla, Emmanuel and Gloria who have helped me a lot with their prayers, and smile on their faces every time I see them.

Finally, to my extended family members, especially to my parents, and my siblings, who supported me in diverse ways during my educational life, my eternal gratitude to them all.

ABSTRACT

This research assessed the level of compliance with the procurement structure of the Public Procurement Act 2003, (Act 663) in selected public Institutions in the Upper Denkyira East Municipality, Dunkwa-On-Offin. The Act, was enacted in 2003 with the aim of harmonizing public procurement processes and procedures in the public sector, secure judicious, economic and efficient use of state resources, and further, ensure that public procurement is fair, transparent and non discriminatory. The thesis outlined the events leading to reviews, and features of the legal, institutional and regulatory framework of the public procurement reform in Ghana and specifically analyzed section 15 to 20 of the Act, and its potential effect in terms of compliance on public institutions in Upper Denkyira East Municipality, Dunkwa-On-Offin, in the Central Region. A sample of thirty (30) personnel in Health, Educational, Local Government sectors and members of tender and review board committees in the municipality were used. The main tools used for data collection were questionnaires. This research project was guided by research questions set by the researcher. A response rate of 83.33 % was obtained. The data obtained was then analyzed using SPSS descriptive statistics tool which provided a way for knowing what pertains, in terms of the compliance level of the structure of the Act. The results indicate varying degree of compliance. The institutions scored an average compliance rating of 67% which shows that the compliance level obtained is quite good but much work needs to be done to improve compliance level currently existing. However the challenge of creating effective procurement structures and recruiting appropriate personnel to manage procurement process limits the scope for efficiency and value for money.

TABLE OF CONTENTS

DECLARATION	ii
DEDICATION	iii
ACKNOWLEDEMENTS	iv
ABSTRACT	v
LIST OF TABLES	viii
LIST OF FIGURES	ix

CHAPTER ONE	1
GENERAL INTRODUCTION	1
1.0 Introduction	1
1.1 Background to the study	1
1.2 Problem statement	2
1.3 Aim	4
1.4 Objectives	4
1.5 Significance of study.....	4
1.6 Scope of the study	5
1.7 Research methodology/design	5
1.8 Organization of research chapters	5
CHAPTER TWO	7
LITERATURE REVIEW	7
2.1 Introduction	7
2.1.1 Definition of Public Procurement and key terms	7
2.2 Performance/Compliance of Procurement Entities	9
2.3 The Public Procurement Reforms in Ghana	10
2.4 The Legal and Regulatory Framework of Public Procurement	12
2.5 Implementation Challenges of PPA	13
2.6 Assessments of the Public Procurement Reforms in Ghana	15

2.7 Procurement Procedures, Methods and Thresholds Review in Brief	16
2.7.1 Procurement Methods	16
2.7 Procurement Procedures	19
2.8 Procurement Structures	24
2.8.1 Public Procurement Authority (PPA)	26
2.8.2 Procurement Entity	26
2.8.3 Head of Entity	26
2.8.4 Procurement Unit	27
2.8.5 Functions of Procurement Unit	27
2.8.6 Entity Tender Committee	28
2.8.7 Evaluation Panel	29
2.8.8 Municipal/ District Review Board	30
2.8.9 The Regional Tender Committee	30
2.8.10 Regional Review Board	31
CHAPTER THREE	32
METHODOLOGY	32
3.0 Introduction	32
3.1 The Study Area	32
3.2 Population	32
3.3 Sample and Sampling Techniques	33
3.4 Data Collection Instrument	34
3.5 Questionnaire Design and Administration	34
CHAPTER FOUR	36
RESULTS	36
PRESENTATION AND DISCUSSIONS	36
4.0 Introduction	36
4.1 Background of Respondents	37
4.2 Specialization of Personnel Practicing Public Procurement in the municipality ...	39
4.3 Legal and Regulatory Framework	40
CHAPTER FIVE	44
SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION ..	44
5.0 Introduction	44

5.1 Summary of Major Findings	44
5.1.2 Procurement Structures and Procedures	44
5.1.3 Use of appropriate Procurement Structures	45
5.2 Conclusion	45
5.4 Recommendation	46
5.5 Limitations	47
5.6 Areas for further Research	47

REFERENCES	48
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APPENDICES	52
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LIST OF TABLES

Table 2.1 Legal Framework of Procurement Act	13
Table 2.2 Thresholds for Procurement Methods	19
Table 2.3 Compliance level of Public Entities in Ghana	24
Table 3.1 Response rate	33
Table 4.1 Knowledge in the legal regulatory framework	39
Table 4.2 Awareness in the legal regulatory framework	41

LIST OF FIGURES

Figure 4.1 Educational level of respondents	...	...	...	...	38
Figure 4.2 Experience of personnel in procurement practice	...	...	...	...	40
Figure 4.3 Do you have an established tender committee and review board	...	...	...	...	42
Figure 4.4 Functions of review board	...	...	...	...	43
Figure 4.5 Number of times for meetings in a year by entity tender committee	43



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CHAPTER ONE

GENERAL

INTRODUCTION

1.0 Introduction

The Public Procurement Act (Act 663), in Ghana, was enacted in 2003 with the aim of harmonizing public procurement processes and procedures in the public sector, secure judicious, economic and efficient use of state resources, and further, ensure that public procurement is fair, transparent and non discriminatory (Ministry of Finance, 2001). Hitherto, procurement activities were characterized by foul play and abuse in the country. This necessitated a thorough review of the existing procurements regulations. The enactment of the law in 2003 further ensured that modern trends in procurement was adopted to bring about the much needed sanity to procurement system which had been flawed by bad practices such as corruption and other malfeasances (Osei-Tutu *et al.*, 2010).

1.1 Background to the study

Ghana in attempt to address weaknesses in its public procurement process took the initiative by enacting several financial regulations and legal frameworks. In 1960, the Government enacted the Ghana Supply Commission Act which was reviewed in 1990 by PNDC law 245. In the same year, Contracts Act, Act 25 of 1960 was also passed. In 1976, the National Procurement Agency Decree, SMCD 55 was passed by the Supreme Military Council. In 1979, another law, the Financial Administration Decree SMCD 221 was also passed. All these laws, decrees and instruments were meant to provide a comprehensive framework to regulate the activities of procurement within the public sector. The Public Procurement Board of Ghana now the Public Procurement Authority was established by the Public Procurement Act, (Act 663) in

2003, to oversee and enforce the Public Procurement Act 2003 (Act 663). In Ghana, public procurement accounts for 50%-70% of the national budgets (after personal emoluments), 14% of GDP and 24% of imports. Implicitly, public procurement therefore has both social and economic impact on the country (World Bank, 2003a). This indicates that chunk of our national resources is directed towards procurement activities. The regular and continuous assessment of procurement entities in their procurement systems and management with regard to their compliance with the procedures, rules and regulations provided in the Public Procurement Laws has been embraced worldwide.

Compliance is therefore the key to the attainment of the objectives of the procurement Act, Act 663 in the area of transparency, competition, and value for money, accountability and the efficient use of state resources. Hence, this study seeks to know the level of compliance of procurement structure (PART II) of the Act 663 by selected public Institutions and the Municipal Assembly in the Upper Denkyira East Municipality (UDEM), in the Central Region.

1.2 Problem statement

Part 1, Section 1 of the Public Procurement Act, established the Public Procurement Board. The objective of the board is to streamline and harmonize public procurement processes to secure judicious, economic and efficient use of public funds and ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner. To achieve these objectives, the Board performs a number of functions, the major ones being the formulation of policies and regulations, training and capacity building, development of local industries, monitoring and evaluation and ensuring that public procurement is mainstreamed into public financial management system. The

Act has been hailed as a major milestone in Ghana's financial administration system. Before the coming into force of the Act, there were several unstructured ways of awarding contracts and purchasing of needed inputs in both private and public institutions. The lack of regulation and varied approach to procurement provided a way for officials to exploit the situation to their personal advantage. Some experts claim that the Act is bureaucratic, time consuming, over-demanding and amounts to duplication of the financial administration procedure (Ministry of Finance, 2008). Indeed, there are several reported cases of complaints from a number of public sector institutions such as the health sector, education sector and the MMDAs, to the extent that the Act presents a major obstacle to achieving the objectives of their institutions. Most of the public sector institutions do not have a functioning board that oversees the procurement process as required by the Act. In addition, frequent changes of the membership of the few existing boards present challenges to institutions that comply with the Act. Non-compliance to procurement laws is considered as a major hindrance to the effectiveness of the laws (Gelderman et al., 2006). In the light of the above expositions, periodically it is necessary to monitor and assess the public procurement institutions' compliance with the legal and regulatory framework at the local level, this study seeks to assess the level of compliance of the Act (Act, 663) specifically, the Part II of the Act, using Upper Denkyira East Municipality (UDEM) in Central Region as a case study. The part II of the Act, (Act, 663) ensures that appropriate structures such as Tender Committee, Procurement Units, Review Boards, Tender evaluation panels at;

- (a) Central management agencies;
- (b) Government ministries, departments and agencies;
- (c) subverted agencies;

- (d) Governance institutions;
- (e) State owned enterprises to the extent that they utilize public funds;
- (f) Public universities, public schools, colleges and hospitals;
- (g) The Bank of Ghana and financial institutions such as public trusts, pension funds, insurance companies and building societies which are wholly owned by the State or in which the State has majority interest;
- (h) Institutions established by Government for the general welfare of the public or community, have been well established.

1.3 Aim

The aim of the study is to assess the level of compliance of procurement structures (PART II) of the Public Procurement Act, 2003 (Act 663) in Upper Denkyira East Municipality (UDEM) in the Central Region by selected Public Sector Institutions.

1.4 Objectives

The objectives of the study are to:

1. To examine compliance level with part II of Act 2003, Act 663 by selected public institutions in Upper Denkyira East Municipality(UDEM), in the Central Region
2. To suggest specific actions required to secure acceptable level of compliance with procurement structures (PART II) of the Act;

1.5 Significance of study

The significance of the study will be to:

1. Appreciate the importance of procurement structures and role of the key players in the procurement process in various public institutions in the achievement of acceptable level of compliance.

2. Improve literature on compliance of public sector institutions in Central Region and Ghana at large.

1.6 Scope of the study

The study is restricted to Upper Denkyira East Municipality. The study focused on Local Government sector, Health Sector and Education sector institutions and how these sectors have complied with procurement structures, Part II of Act 663.

The target population from whom data was collected were procurement officers, head of the schools, bursars, some teachers, planning, finance, works, budget officials and administrators, and members of District Tender committee and Review Board in the Municipal Assembly.

1.7 Research methodology/design

In the assessment of the level of compliance with the procurement structures of the Act 663 in Upper Denkyira East Municipality in the Central Region, the administration of a structured questionnaire was carried out. Information obtained from the questionnaires, in the selected health, education and Local Government sectors of Upper Denkyira East Municipality (UDEM) responsible for the procurement activities were rated in percentages and converted into charts.

The percentage of respondents for each alternative was given and analyzed using SPSS, descriptive statistics tool.

1.8 Organization of research chapters

The research report is organized as follows:

Chapter one outlined the background, problem statement and the justifications of the study, aim and objectives of the work.

Chapter two is devoted to literature on procurement structures outlined in the Public

Procurement Act (2003), Act 663. It also looks at the assessment of national procurement reforms and systems, Public Procurement system of other works, and presents some list of challenging factors in terms of implementation of the Act. Chapter three presented the methodology used for collecting data, questionnaire design and development, the determination of sample size and administration of questionnaires. Chapter four presented the main results, dealing with discussion of the results; and Chapter five outlined the summary of major findings followed by the conclusions and recommendations.



CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter reviews previous work done on public procurement in Ghanaian entities. In this chapter, a number of literatures are reviewed to find out more work done on procurement of goods, works and services in the public sector. This will help to provide answers to some of the research questions raised as well as provide knowledge about the methodology to be adopted for this project.

2.1.1 Definition of Public Procurement and key terms

a. Procurement

According to Thai (2001), public procurement dates between 2400 and 2800 B.C. Other historical evidence of procurement activity was the development of the silk trade in which China and Greece were involved in 800 B.C.

Government procurement refers to purchases of goods works and services, including professional services, construction, maintenance and material supply contracts, facilities contracts, capital equipment and property and leasing arrangements, undertaken by government for their consumption.

According to Lyson (1996), organizational procurement may be defined as that function responsible for obtaining by purchase, lease or other legal means, equipments, materials, supplies and services required by an undertaking for use in satisfying wants. The definition of 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 involves huge financial commitment and therefore its significance cannot be overemphasized (World Bank, 2003). It is estimated by the World Bank (2003) that public procurement of goods, works and consultancy services stand at 600 million US dollars which is 10% of the USA's GDP. This huge economic/financial implication of procurement makes it an integral function of governments in both developed and developing countries (Thai, 2001).

b. Compliance

As cited by Gelderman et al. (2006) in general, compliance refers to target "acting in accordance with an influence attempt from the source" (Payan and McFarland, 2005, p. 72). From the perspective of a formal concept of compliance, the conduct of the regulated actor is compared to a formal definition of the corresponding (legal) obligation. Compliance has a negative connotation, because it is usually associated with enforcement of something. Compliance is considered as giving in to "the wishes of a more powerful channel member" in the marketing-channel literature (Hunt et al., 1987, p. 377). Kelman (1958, p. 53) also looks at the negative sides of compliance: an individual accepts influence not because he believes in its content but because he expects to gain specific rewards or approval and avoid specific punishments or disapproval by conforming."

Compliance occurs when the target performs a requested action, but is apathetic about it, rather than enthusiastic, and puts in only a minimal or average effort (Yukl, 1989).

c. Works

Infrastructure works is to construct, improve, rehabilitate, demolish, repair, restore, or maintain buildings, roads and bridges, etc., or civil works components of information

technology projects (eg. building data centers), irrigation, flood control and drainage, water supply, sanitation, school buildings, health clinics, reception centers, etc.

2.2 Performance/Compliance of Procurement Entities

In its review in 2006, the Public Procurement Authority identified the weakness in the public institutions that needed urgent attention. These important issues are as follows: 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 (haphazard keeping of files), poor handling of Suppliers' Complaints, poor Procurement Planning, Mobilization & Implementation, poor Contract Management and high cost of Advertisement (PPA, 2007) amongst others. Country Procurement Assessment Report (CPAR), prepared by a team made up of Government officials, World Bank and other donor staff, and national consultants, revealed substantial inefficiency in public procurement and concludes that the principle of "value for money" is not being achieved. This is true for both governments financed and donor financed procurement. One Hundred and Thirty-two (132) works contracts reviewed in 2002, which constitute an important part of public expenditure indicated that about 84% incurred cost-overruns of up to 30% of the initial amount (World Bank, 2003b). Management and financial reforms have, focused on improving public procurement efficiency, effectiveness and outcomes (Calendar & Matthews, 2002). Requirements for greater performance produce a refocusing of procurement management away from accountability for compliance through rule-bound codified processes (McCue & Pitzer, 2000) towards accountability for outcomes.

2.3 The Public Procurement Reforms in Ghana

Prior to the enactment of the Public Procurement Act, 2003 (Act 663), Ghana National Procurement Agency (GNPA) and Ghana Supply Company Limited (GSCL) were the main agents that procured all public goods for the government since there was no comprehensive procurement guidance (Verhage et al., 2002; Anvuur et al., 2006). These bodies do not regulate procurement but purchase goods and services on behalf of public entities.

Some of the problems that were identified in the GNPA and GSCL include:

1. No comprehensive public procurement policy
2. There was no comprehensive legal regime to safeguard public procurement
3. There was no central body with technical expertise to oversee / regulate sound procurement practice
4. Clear distinction of roles, responsibility and authority of the procurement entities was missing
5. No independent procurement auditing and monitoring function
6. No authority to dispose off public assets
7. No independent appeals process to address complaints from aggrieved tenderers
8. No rules and regulations to guide, direct, train and monitor procurement.
9. National Procurement Agency (NPA) and Supply Company Ltd procure on behalf of government for procurement entities

Based on the above identified problems, more sector ministries such as the Ministry of Health (MOH) decided to implement their own procurement system .In addition to the GNPA and GSCL, the World Bank Procurement Guidelines were also used for World Bank Projects (World Bank, 1995/1997). Traditional procurement methods were used for public works with provisions for compulsory registration and classification of

supplier and contractors administered by the Ministry of Water Resources, Works and Housing were too general and outdated and their registration criterion – Contractors lists and monetary thresholds – were not regularly rationalized as indicated by the World Bank (1996) and Eyiah et al. (2003).

Major or complex contracts that were financed by the government through architectural consultancy service and project supervision were assigned to the Architectural Engineering Service Limited (AESL) on single basis without recourses to fair competition (World Bank, 1996). Thus the problems of uncoordinated, unregulated systems lead to lack of trust and confidence in the public and donor community hence the need for reform of the public procurement process.

The Public Procurement Reform Program (PUFMARP) was launched in 1996 by the Government of Ghana with the aim of improving the overall public financial management in Ghana. In 1999, the Government of Ghana established the Public Procurement Oversight Group to manage the development of a comprehensive public procurement reform program. The problems encountered with the various form of procurement lead to the enactment of the Public Procurement Act. The Public Procurement Act, 2003, (Act 663) has established Public Procurement Authority (PPA) as a body corporate charged with the oversight responsibility for the effective implementation of the Act. The object for the PPA is to ensure a judicious, economic and efficient use of public funds in a fair, transparent and non-discriminatory manner while promoting a competitive local industry.

2.4 The Legal and Regulatory Framework of Public Procurement

The legal frameworks covering public procurement are:

- Public Procurement Act 663 of 2003;
- Public Procurement Regulation;
- Public Procurement Manual;
- Standard Tender Documents; and
- Guidelines

The Public Procurement Act, 2003 (Act 663) sets out the legal, institutional and regulatory framework to ensure fiscal transparency and public accountability in the procurement system in Ghana. There are five basic principles upon which the Act is based (World Bank, 2003). These include;

1. The legal and institutional framework
2. Standardized procurement procedures and tender documents
3. Independent control system
4. Proficient procurement staff
5. Anti-corruption measures

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

To ensure that the Act achieves its functions, the Act established the Public Procurement Board (PPB) now 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 disposals of stores. It authorizes the issuance of enforceable regulations, Guidelines,

Standard Tender Documents (STDs) and Manual under the Act.

Table 2.1 Legal Framework of Procurement Act

Legal Framework	Details
Public Procurement Act, 2003 (Act 663)	Provide a comprehensive legal regime to harmonize and safeguard public procurement
Public Procurement Manual	Provides practical guidance and step-by-step procedures for undertaking procurement in accordance with the Act
Standard Tender Documents (STD)	They comprise standard invitation and contract documents for procurement of all values. There are separate standard documents for goods, works and services
Public Procurement Regulations	They contain detailed rules and procedures for all aspects of the procurement system, the operations of PPA and procurement entities and the conduct of procurement activities
Guidelines	Issued by the Public Procurement Authority (PPA) which provides supplementary guidance on disposal, single source procurement, margins of preference, framework contract agreements, sustainable public procurement (SPP) etc.

Source: PPA Regulations (2003)

2.5 Implementation Challenges of PPA

It is an undeniable fact that sound public procurement policies and practices are essential for good governance. Examples from the world affirm that public procurement involves huge resources and when directed well could be used to improve development. Ghana's Public Procurement Authority (PPA) claims that corrupt practices in procuring goods especially have significantly reduced, following implementation of the Public Procurement Act 663. This has been attributed to the potentials for punitive measures put in place, a view which is shared by the OECD/ DAC Committee and the Auditor General reports (Business Anti-corruption portal, 2010).

However, a recent report by the World Bank suggests that only 37% of government purchases were subjected to competitive bidding and refers to widespread in public contracting. Also, the deafening outcry over mounting and allegedly scandalous judgment debt payments by government of Ghana raises critical issues about the procurement system.

The risk of corruption and lack of transparency in public procurement are major impediments to sustain economic growth investment and trade. Hoekmans et al. (2004) demonstrates that little is known of actual procurement system in developing countries. The Country Procurement Assessment Report of Ghana produced in 2003, revealed that most staff members of Ministries, Departments and Agencies (MDAs) and District Assemblies (DAs) responsible for procurement were not procurement proficient, though they have been trained in one way or another. The report contended that application of the Public Procurement Act and the Standard Tender and Contract Documents will not be successful without broad training and „refresher“ programmes for officials in charge of procurement. Forgor (2007) confirms that one of the challenges that confronts procurement reforms is the lack of proper training of managers on the procurement process. This supports the assertion that poor dissemination of procurement law is one of the challenges facing the smooth implementation of public procurement laws (Azeem, 2007). Political interference with the procurement process poses a challenge to the implementation process and public procurement reforms. A number of politicians are of the view that they have the right to intervene in the procurement procedures thereby leading to capricious procurement decisions (World Bank, 2004). The lack of career development path and low salaries of procurement personnel also militate against procurement reforms implementation (World Bank, 2003b). Poor record keeping (World Bank, 2003b), delays in payment of contractors and suppliers are also cited as

some of the crucial factors that challenge procurement reforms implementation (Azeem, 2007).

2.6 Assessments of the Public Procurement Reforms in Ghana

The public procurement reform programme in Ghana is a wider reform agenda aimed at improving public financial management. According to the Ministry of Finance (2001), the purpose of the public procurement reform is to promote national development through enhancement of harmonious relationship with other local and international laws and regulations. It is also to foster competition in public procurement processes; transparency and accountability in procurement functions; facilitating the ease of procurement administration; and ensuring that value for money is achieved, so said (Anvuur and Kumarswamy, 2006).

There are improvements in transparency in the public procurement system in Ghana which contributes to a more efficient allocation of resources through increased competition, higher quality procurement. Transparency in the public procurement systems in Ghana also helps in attracting more investment. Transparent procurement procedures also help limit bribery and corruption, which are particularly rampant in the procurement field in both developed and developing countries (OECD, 2003).

With improved public financial management due to transparency and accountability in the public procurement as a result of the procurement reforms, it is envisaged that there will be an annual savings of about 150 million US dollars in government-financed procurement alone in Ghana (World Bank, 2003; Anvuur et al, 2006). The introductions of technological developments into the public procurement systems in Ghana have added a new dimension to its procurement reforms. The combination of greater computing power and internet-based communication has given rise to the eprocurement

or electronic procurement regimes. However, it is a question of how, and to what extent, public procuring entities in Ghana can take advantage of the technological developments and reap the benefits from recent innovations (Segal and Taylor, 2001)

2.7 Procurement Procedures, Methods and Thresholds Review in Brief

There are various methods of procurement provided under the law for used by public procurement entities. The choice of particular method is based on the amount involved (threshold) and the circumstances surrounding the procurement.

2.7.1 Procurement Methods

Competitive Tendering (Section 35 & Part V of Act 663)

The Act and Regulations endorse the use of competitive tendering method for standard high value procurement for goods, works and consultancy services. The two types of competitive tendering methods include:

1. International Competitive Tendering (ICT) which is used when effective competition cannot be achieved with the inclusion of foreign firms (s.45).
2. National Competitive Tendering (NCT) is used when the procurement entity so decides (s.44) and subject to contract value thresholds. It is the most preferable method under the law, as it encourages maximum competition in the procurement system. The invitation to tender is always advertised and opened publicly.

Request for quotations (Sections 42-43 of Act 663)

The process of organizing a fully fledged tendering or other competitive tendering procedure is normally a time consuming and costly exercise which can be dispensed with when the contract value is small. The main idea is to allow procuring entities to use a simplified procedure in those instances where the contract value is so small that

the administrative effort related to a full-fledge tendering procedure appears out of proportion (Acts 663, 2003).

Two-Stage Tendering (Sections 36-37 of Act 663)

Two-stage tendering is only allowed where detailed specifications cannot be made available before going to tender (s.36) or the optimal solution is unknown. In the case of services, it is used to obtain proposal or offers on various means to meet its procurement requirements.

Restricted Tendering (Sections 38-39 of Act 663)

This is a procurement method with limited competition. A maximum of six and a minimum of three short-listed suppliers are invited to tender. To apply this method, a procurement entity requires specific approval from the Public Procurement Authority (PPA). The Restricted Tendering method is applied mainly where procurement requirement is of specialized nature and there is enough evidence to show that there is limited number of potential suppliers. In 2009 a total of 167 out of 179 entities received approval to use this method of procurement as compared to 2008 approval of 166 out of 173 applications received (PPA Annual report, 2009).

Single Source Procurement (Sections 40-41 of Act 663)

This system involves procurement from a supplier without any competition. It is normally used for procurement of sole or single sourced requirements. The law allows this method where; procurement is for justifiably urgent items, requirements can only be supplied by one source, additional requirements for purposes of standardization, purposes for research, experiment, study or development, procurement that concerns national security. This method has often been abused by entities and political leaders over the years. According to the Finance Minister, public procurement appears to be

one of government's activities most vulnerable to waste, fraud and corruption due to its complexity, the size of the financial flows in general and the close interaction it brings between the public and private sectors. To this end, the Public Procurement Authority Board was urged to examine very carefully the conditions for approving sole-source procurement applications with the view of making it more of an exception rather than the norm.

Table 2.2 Thresholds for Procurement Methods

Procurement Methods /Advertisement	Contract Value Threshold
(1) Pre- qualification (a) Goods (b) Works (c) Technical Service	Above GHS 35 billion Above GHS 70 billion (not more than 10% of cost of works)
(2) International Competitive Tender (a) Goods (b) Works (c) Technical Services	Above GHS 15 billion Above GHS 20 billion Above GHS 2 billion
(3) National Competitive Tender (a) Goods (b) Works (c) Technical Services	More than GHS 200 million up to GHS 2 billion More than GHS 500 million up to GHS 15 billion More than GHS 200 million up to GHS 2 billion
(4) Restricted Tendering	Subject to Approval by PB
(5) Price Quotation (a) Goods (b) Works (c) Technical Service	Up to GHS 200 million Up to GHS 500 million Up to GHS 200 million
(6) Single source procurement and selection	Subject to Approval by PB
(7) Advertisements for Expressions of Interest for consulting services	Above GHS 700 million
(8) Least-Cost Selection	Up to GHS 700million
(9) Selection based on consultant's qualifications	Up to GHS 350million
(10) Single Source- Selection	Subject to Approval by PB

Source: Public Procurement Act, 2003.

2.7 Procurement Procedures

Planning Procurement

Planning enables organizations to determine performance standards, establish overall direction, anticipate and avoid future problems as well as reduce the risks of uncertainty, identify and commit resources towards the achievement of goals, determine and develop performance standards and effectively coordinate various activities (PPB Manual). Part 3 section 21 of the Public Procurement Act 663 provides for the activity of planning. It is imperative that procurement entities would need to plan their procurement.

Tendering Process

The requirement to advertise the intention to buy goods and works is spelt out by Section 47 of Act 663 for procurement using International and National Competitive Tendering. Advertisement is used to invite tenders. The purpose of advertisement is to disseminate information to the public for the purpose of transparency and to invite tenders.

Procurement entities are to provide tender documents to suppliers and contractors in accordance with procedures and requirements that were stated in the advertisement. The price at which the tender document is sold should be enough to recover the cost of printing and the document being made available to suppliers and contractors. Sufficient quantities of tender documents should be made available as many as there are tenderers. It is an offence to deny any supplier or contractor the opportunity to participate in any tender simply because stocks of documents are exhausted.

Tenders should be opened immediately after the close of tenders. The Procurement Unit will need to ensure smooth operation of the proceedings, prepare minutes of the opening and advise the chairman of the opening session on procedural issues if requested.

A Tender Opening Committee is usually constituted and is made up of at least three persons one of whom should be a member of the Tender committee. The Chairman of the Tender Opening Committee controls and directs the /Tender Opening proceedings and tenderers representatives should not be allowed to interfere with the work of the Committee. Any objections by a Tenderer to the procedures or decisions of the tender opening should be made in writing to the Head of the Procurement Entity.

Contracts Management

A formal contract document will be drawn up, using the agreed terms and conditions, and signed by winning tenderer and the Entity. 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 organization, 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.

Monitoring and Evaluation

Controlling the performance of the procurement function and ensuring its efficiency and effectiveness is essential to the management of the procurement process. It is vital to evaluate how well the procurement process has gone, identify any weaknesses or problems and agree actions to prevent similar problems in the future. Evaluation may include a formal procurement audit. Procurement monitoring is an essential part of procurement management and control linked to compliance with Act 663 and performance outcomes such as value for money, professionalism and code of conduct in procurement. This will involve the management of entity, staff of PPA, private sector, oversight bodies (internal and external audit), civil society (including NGOs), project beneficiaries, and media (PPA Annual Report, 2008).

Appeals and Complaints

Part VII – Review -Section 78 of Act 663 deals with the procedures to be used in handling complaints received from aggrieved parties involved in the procurement process. Any supplier, contractor or consultant that claims to have suffered, or that may suffer loss or injury due to a breach of a duty imposed on the procurement entity, may seek review in accordance with this Part. Procurement decision-making process needs to be properly followed and documented so that complaints can be investigated within the strict time frame. Those involved in audit and in the prosecution of procurement related offences may be able to provide examples of where sanctions could not be applied as a result of poor or inadequate procurement records.

In Ghana, the Authority established seven (7) member Appeals and Complaints Panel comprising legal procurement experts, and representatives from the private and public sectors which was inaugurated in 2007. In the same year the Panel successfully

concluded fourteen (14) cases out of twenty (20) cases received (PPA Annual report, 2007). The appeal and complaints procedures allowed bidding firms with the chance to show their disapproval before the procurement process is completed, as well as thereafter.

KNUST

Relationship between Compliance and Performance in Procurement

For the past decades procurement performance has been attracting great attention from practitioners, academicians and researchers due to poor performance resulting from non adherence to proper processes and procedures. Performance provides the basis for an organization to assess how well it is progressing towards its predetermined objectives, identifies areas of strengths and weaknesses and decides on future initiatives with the goal of how to initiate performance improvements.

Compliance as a concept compares the conduct of the regulators to the equivalent legal obligation that the regulators should comply with (Gelderman et al., 2006; Lange, 1999). Therefore, compliance is considered by political and social regulators as a prescribed process of elimination or avoidance of risk that is normally associated with public procurement systems. Assessment of public procurement management performance is defined in terms of compliance with the set procurement rules (Schapper, Veiga Malta & Gilbert, 2006).

Literature suggests that Public Procurement Act is the basis of measuring procurement performance. This means that there is a positive relationship between compliance to the Public Procurement Act and Procurement Performance. That is, the higher the compliance, the higher the performance of entities. Knudsen (1999), agree that procurement performance starts from the regulatory framework of procurement which

specifies purchasing efficiency and effectiveness in the procurement function in order to change from being reactive to being proactive to attain set performance levels in an entity. For any organization to become more competitive, Amaratunga & Baldry (2002) suggest that performance is a key driver to improving quality of services while its absence or use of inappropriate procedures can lead to noncompliance with purchasing function. PPA agrees with this assertion and so conducts annual performance assessment to establish compliance level of entities in Ghana.

Table 2.3 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 achievements for 2007 and 2008 under the Performance Assessment System were lower in all the categories than those for 2009 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 over improvement in the previous achievements.

2.8 Procurement Structures

Scope of Act 663

Act 663 is applicable to the following (Section 14 (1)):

- Procurement financed from public funds-wholly or partly;

- Procurement of goods, works, services and contract administration;
- Disposal of public stores and equipment; and
- Procurement financed by funds and loans taken by the Government of Ghana, including foreign aid funds.

The EXCEPTIONS are:

Where the Minister decides that alternatives procedures are in the national interest;

Where a loan or funding of agreement specifies alternatives procedures e.g. some aid agreements; and

The Act does not apply to stores management and distribution.

Who does the Act 663 apply to?

The following institutions come under the ambit of Act 663 (Section 14(2)):

- 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.

Act 663, Part II of sets out the structures which are to be set up to carry out procurement in the Public Sector. 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:

- Public Procurement Authority;
- Procurement Entity;

- Head of Procurement Entity;
- Procurement Unit;
- Entity Tender Committees;
- Entity Review Boards; and
- Tender Evaluation Panel

2.8.1 Public Procurement Authority (PPA)

The Public Procurement Authority acts as the statutory advisory and co-ordinating body on procurement (Part I 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.

2.8.2 Procurement Entity

A Procurement Entity is an organization or person that has legal/administrative mandate for procurement purposes (Chapter 2.2, Procurement Manual). In other 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.

2.8.3 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).

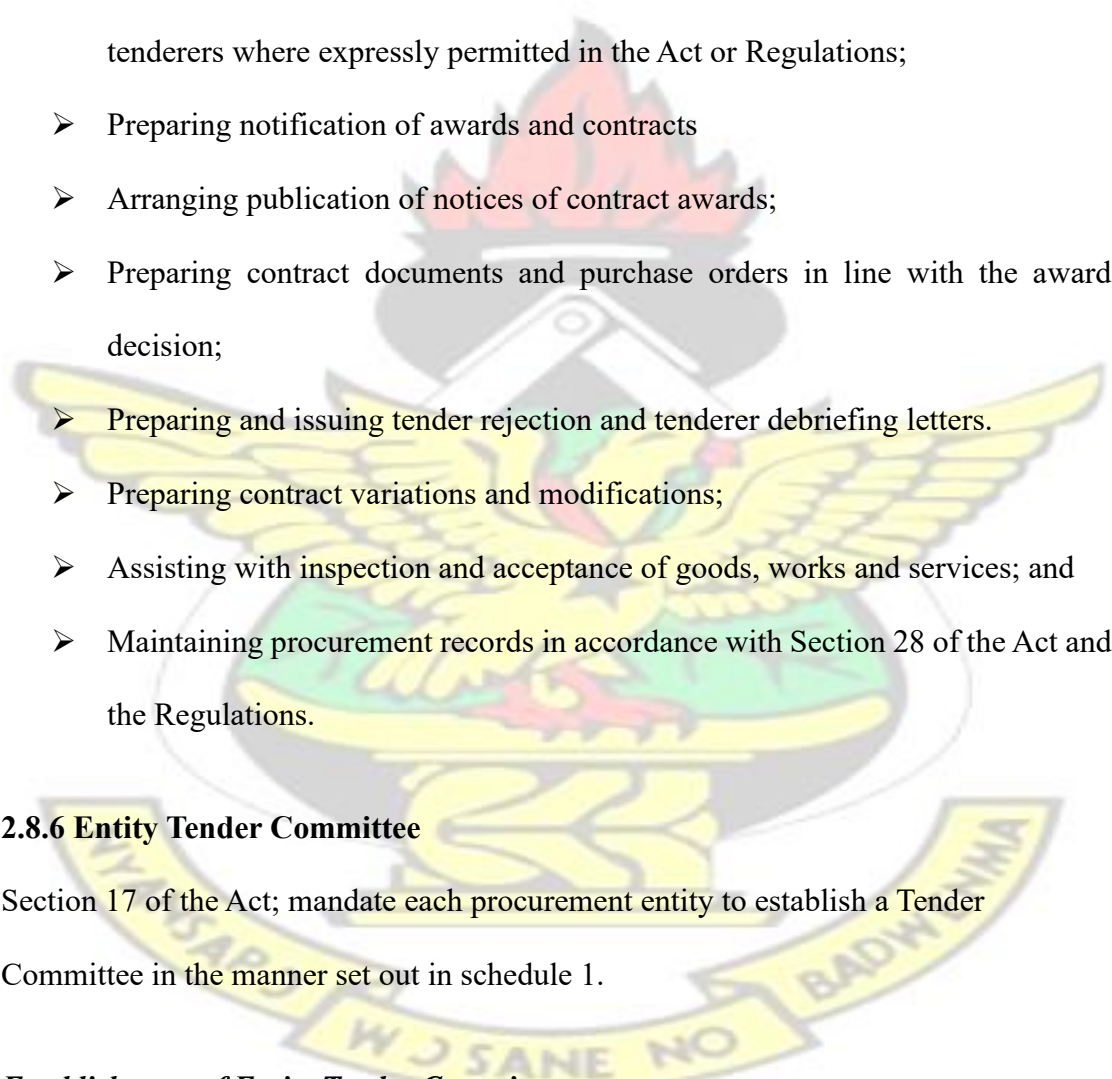
2.8.4 Procurement Unit

Procurement Unit is an outfit in a procurement entity with the responsibility of superintending procurement. The head of the Procurement Unit shall be responsible for undertaking and co-ordinating all procurement activities with the procurement entity.

2.8.5 Functions of Procurement Unit

The functions of the procurement unit include:

- 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;
- That, funds are properly committed prior to issue of any contract or purchase order;
- 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;
- Arranging the publication of advertisements and notices of contract award.
- 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;

- 
- The logo of Kenya National University of Science and Technology (KNUST) is a large, semi-transparent watermark in the background. It features a central shield with a red flame-like shape at the top, a white and grey geometric design in the middle, and a yellow and green base. The shield is flanked by two yellow wings. Above the shield is a banner with the text 'WISDOM BEGETH KNOWLEDGE'. Below the shield is another banner with the text 'KNUST'.
- Participating in evaluation activities of the tender evaluation panel where necessary and assisting in preparation of formal evaluation reports;
 - Preparing submissions for approval of award by the appropriate authority in accordance with the threshold values established in Schedule 3 of the Act.
 - Maintaining and updating the database of Suppliers, Contractors and Consultants;
 - Participating in negotiations with Consultants where necessary or other tenderers where expressly permitted in the Act or Regulations;
 - Preparing notification of awards and contracts
 - Arranging publication of notices of contract awards;
 - Preparing contract documents and purchase orders in line with the award decision;
 - Preparing and issuing tender rejection and tenderer debriefing letters.
 - Preparing contract variations and modifications;
 - Assisting with inspection and acceptance of goods, works and services; and
 - Maintaining procurement records in accordance with Section 28 of the Act and the Regulations.

2.8.6 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.

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

However, the study focused on the District Entity Tender Committees in the Central Region.

Metropolitan/Municipal/District Tender Committee

The committee is made up of eight (8) members and has a number of functions to perform, which includes the following:

- a. Review procurement plans in order to ensure that, they support policies 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 from 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.

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

2.8.7 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 ad hoc

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.

2.8.8 Municipal/ 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.

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

2.8.9 The Regional Tender Committee

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

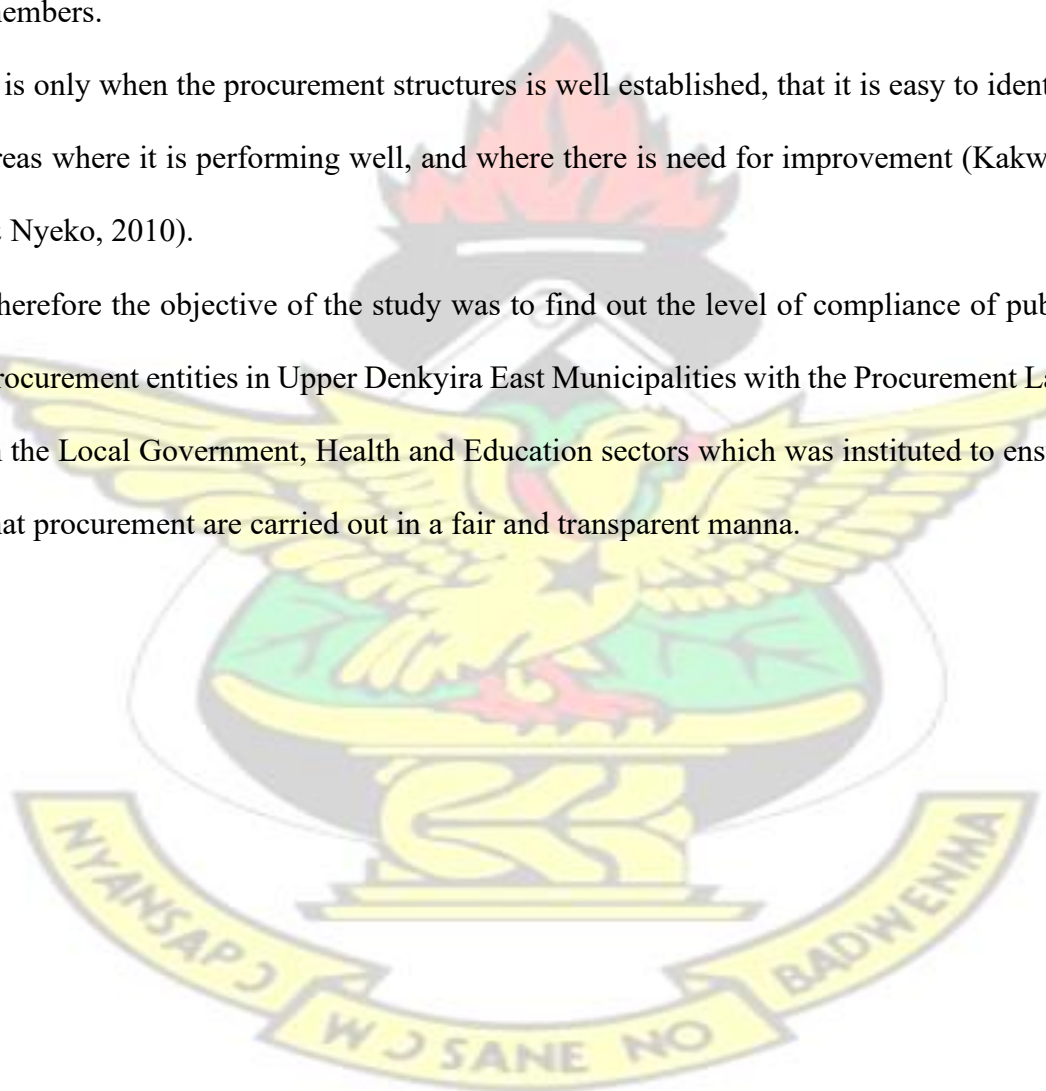
- i. Confirm the range of acceptable costs of items to be procured and match these with the available funds in the approved budget;
- ii. Review the schedules of procurements and specifications and also ensure that the procurement procedures to be followed are strict conformity with the provisions of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

2.8.10 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.

It is only when the procurement structures is well established, that it is easy to identify areas where it is performing well, and where there is need for improvement (Kakwezi & Nyeko, 2010).

Therefore the objective of the study was to find out the level of compliance of public procurement entities in Upper Denkyira East Municipalities with the Procurement Law, in the Local Government, Health and Education sectors which was instituted to ensure that procurement are carried out in a fair and transparent manna.



CHAPTER THREE

METHODOLOGY

3.0 Introduction

This chapter looks at the study area, the population and representative sample of the population. It also considers the sampling techniques. This chapter, furthermore, includes the source of data, the instrument for data collection, the presentation of data gathered as well as the scope.

3.1 The Study Area

The study area-Upper Denkyira East Municipality (UDEM) consists of Education, Health and Local Government public procurement entities in the Central Region. The Upper Denkyira East Municipality is one of the twenty Administrative Districts of the Central Region. It lies within latitudes 5°. 30" and 6°.02" north of the equator and longitudes 1° W and 2° W of the Greenwich Meridian.

The Upper Denkyira East Municipality covers a total land area of 1700 square kilometers, which is about 17% of total land area of the Central Region.

3.2 Population

A research population can be defined as the totality of a well defined collection of individuals or objects that have common binding characteristics or traits. The populations for this study comprised of the staff working in Local Government, Health and Education sectors in the Upper Denkyira East Municipality who are involve directly or indirectly in the procurement process in ensuring that structures of the Act are complied with. In all, thirty (30) staff members were targeted, five from each of these selected Public Institutions. The main reason for using these three public procurement institutions and sectors in the Municipality is because these sectors procure works, goods and services using public funds at the local level. It is therefore important to find

out their level of compliance with the Public Procurement Act, so as to ensure the optimum utilization of state resources.

3.3 Sample and Sampling Techniques

In conducting a research, it is highly impossible to cover every member of the population. This is because of the time limitation for the project the cost factor that will be incurred in trying to get all the members of population. Therefore a representative sample is chosen from which generalization can be made about the population (Graziano&Raulin, 1997). Census sampling technique was used for the sake of convenience.

Table 3.1 Response rate

Category of respondents	Sample Size	Number of Respondents	Rate of Response (%)
Municipal Assembly	5	5	100
Municipal Education office	5	4	80
Municipal Health Directorate office	5	4	80
Municipal tender committee	5	4	80
Municipal Review Board	5	4	80
Senior High School	5	4	80
Total average response			83.33

Source: Researcher's Field Work, Oct, 2013

3.4 Data Collection Instrument

According to Patton (2002), using more than one data collection instrument strengthens and gives credibility to the study. The researcher therefore made use of both primary and secondary data.

Primary Data

Triangulation was employed as a means of collection of primary data. The main research instruments used were questionnaires. The primary data were collected from the sample of the population. The analysis of the study was substantially based on this data.

Secondary Data

To obtain secondary data for the research, the following were reviewed: books, articles, Public Procurement Act, 2003 (Act 663), Dictionaries, encyclopedias, internet etc.

3.5 Questionnaire Design and Administration

Research questionnaire was developed and were reviewed by some experts in academia and in the procurement practice.

Questionnaires

Questionnaires were the main data collection instrument used for the study. It was used to collect data from ten (10) members of staff at the Municipal education office and one Senior High School under the education sector, five (5) staff from Municipal Health Directorate, five (5) staff at the Municipal Assembly, five (5) members of the Municipal Tender Committee and five (5) members District Tender Review board. The questionnaire was appropriate because it facilitated the collection of data; it provided the same responses from a given set of respondents and helped reduce inconvenience

caused by unfavorable interview times and busy schedules of the respondents. In all 30 questionnaires were sent out for this study, to be administered to procurement unit, bursars, some teachers, planning, finance, works, budget officials and administrators and the rest were given to members of entity tender and review board committees. In all twenty-seven (25) questionnaires were retrieved. The researcher personally administered the questionnaire to the respondents. The structured questionnaire was used to guide the researcher in getting the information for the study from staff of the selected public institutions. The questionnaire consisted of closed ended questions, based on the objectives of the research and can be found in appendices. No statistical formula was used to determine the sample size. However, at least 5 members each were chosen for the sake of convenience purpose.



CHAPTER FOUR

RESULTS PRESENTATION AND DISCUSSIONS

4.0 Introduction

The focus of this chapter is on the analysis of data gathered from the field with the aid of questionnaires. This research sought to assess the level of compliance of the public procurement law in respect of structure of the Act in the educational, Health and Local Government sectors in the Upper Denkyira East Municipality (UEM). This chapter presents the data collected from twenty-five (25) respondents, who are procurement, head of school, bursar, some teachers, planning, finance, works, budget officials and administrators, and five (5) members each from Municipal Tender Committee and Tender Review Board which answers the research question. The analysis was performed around the objectives for this study; however, other relevant details were added for better presentation of findings. Tables and charts were used with their appropriate figures and wordings. The analysis was performed on the following key areas;

- name of entity/organization/agency/unit
- sector of organization/unit
- structure of procurement
- years of experience in procurement practices
- existence of entity tender committee
- full complement of the entity tender committee
- reference of procurement above entity's approval threshold to the appropriate approval authority
- number of meetings in a year as entity tender committee
- notice for meeting prior to the scheduled date of tender committee meeting
- chairing of tender committee meetings
- Do you empanel expertise in the evaluation of tender/quotations

- use of PPA standard evaluation format
- use of predetermined criteria to evaluate tender
- functions of tender review boards
- qualification related procurement
- availability of the following legal document (a) Act 663 (b) regulation(c) procurement manual(d) standard tender document
- understanding in Act 663 (663) Regulation,
- Procurement Manual, Standard Tender Document.
- Various roles in the organization by respondents

This was mainly done to gather information to assess the level of compliance of public procurement structure by public organizations in the Upper Denkyira East Municipality, Central Region. It was however necessary to consider issues that concerns awareness of the existence of the procurement structures in the various public institutions, and others such as roles being played by respondents.

4.1 Background of Respondents

A total number of thirty (30) questionnaires were administered to staff of Local Government, Health, Educational and procurement structure committees sectors in the Upper Denkyira East Municipality, in the Central Region of Ghana, out of which twenty-five (25) were retrieved and valid for the data analysis. These valid questionnaires used for the analysis obtained 83.33% response rate. This indicates that, the response rate was quite high and reflects the views of the entire population.

Figure 4.1 indicate that, all the respondents selected were educated, this was expected, since the respondents were already working in the departments which have a required educational level for its minimum qualification. From the Figure, it was found that, majority of the respondents were holders of university graduate degree holders, which

constitute 84%, this was followed by post graduate degree holders which also constitutes 8%. Certificate and others constituted 4% respectively. All the respondents are regular participants in public procurement activity and can really give good assessment of the effect of the procurement structure and how to improve on the compliance of the structure.

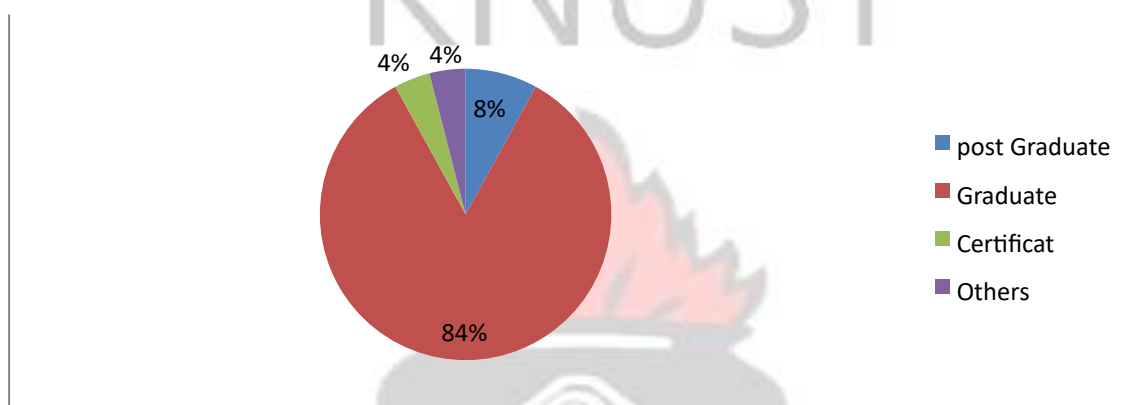


Figure 4.1 Educational level of respondents

Source: Researcher's Field Work, Oct, 2013

Table 4.1: Rate of responses from the six (6) selected entities

Entity	Questionnaire	Responses	Percentage %
Municipal Assembly	5	5	100
Municipal Education office	5	4	80
Municipal Health Directorate office	5	4	80
Municipal tender committee	5	4	80
Municipal Review Board	5	4	80
Senior High School	5	4	80
Total	30	25	83.33

Source: Researcher's Field Work, Oct, 2013

4.2 Specialization of Personnel Practicing Public Procurement in the municipality

Irrespective of the high educational levels of the respondents, the researcher finds it necessary to find the specific professional qualifications of the respondents in order to have a fair view of their capacity to comply with the Public Procurement Act. These entities do not have functioning procurement units. While procurement activities in Local Government sector are managed by Planning Officers and Public Works Engineers and that of second cycle school is managed by Accountant/bursar. The research established that Procurement is a profession and therefore required technical staff with procurement qualification and training in order to understand the importance of the structure in the entities and the entirety of the legal framework.

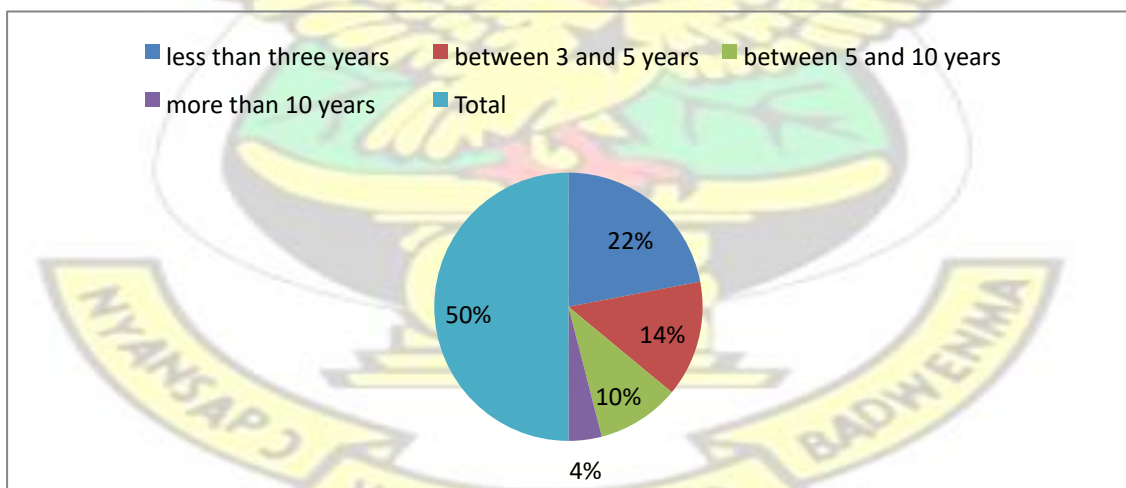


Figure 4.2 Experience of personnel in procurement practice

Source: Researcher's Field Work, Oct, 2013

4.3 Legal and Regulatory Framework

An average of 97% of respondents indicated their awareness of the availability of the legal framework whilst 65% of the same respondents indicated their good understanding of the legal framework. This means a good number of the respondents have knowledge about the legal framework. The effect is that procurement activities are undertaken by entities with good understanding of the Act.

Table 4.2 Awareness in the legal regulatory framework

	No. of responses	% Percentage
Respondents awareness of the availability of legal framework		
Act 663 : Yes	25	100
No	0	0
Regulation: Yes	23	92
No	2	8
Procurement Manual: Yes	24	96
No	1	4
Standard document: Yes	25	100
No	0	0
Understanding and competence of Legal Document: Act 663;		
Very Good	4	16
Good	19	76
Fair	2	8
Poor	0	0
Regulation		
Very Good	2	8
Good	17	68
Fair	6	24
Poor	0	0
Procurement Manual		
Very Good	5	20
Good	15	60
Fair	5	20
Poor	0	0

Standard Tender Document		
Very Good	4	16
Good	14	56
Fair	6	24
Poor	1	4

Existence of procurement structures in the entities

Section 17 of the Act establishes the requirement for and responsibilities of Tender committees. Averagely, 92% of respondents in the sectors under consideration for the study indicated that procurement structures are in place to ensuring that the procurement functions in the institutions are followed. Prior notice before scheduled date for meeting is not good.

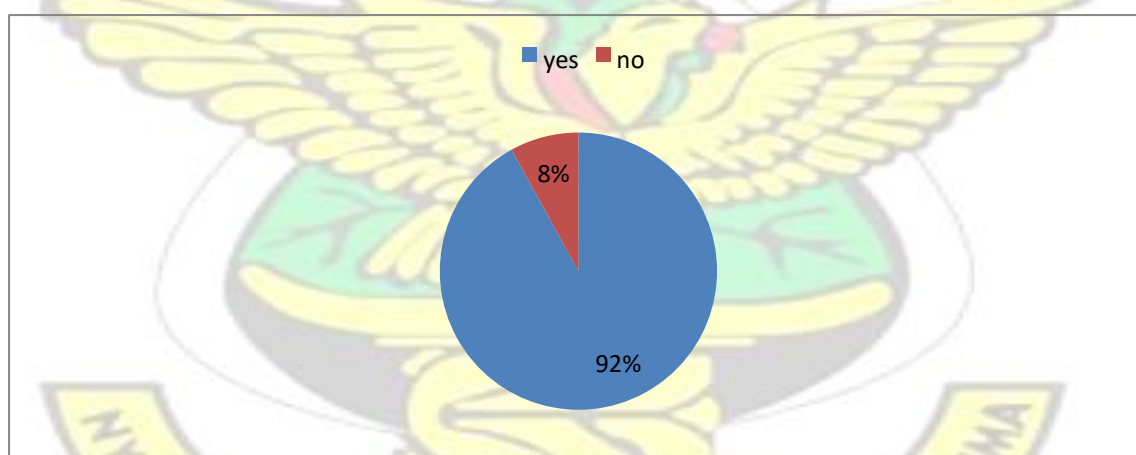


Figure 4.3 Do you have an established tender committee and review board

Source: Researcher's Field Work, Oct, 2013

Functions of the procurement structures

Section 15 of the Act establishes the responsibility of a procurement entity for all procurement activity of the entity in compliance with the Law, and therefore one of the functions is to ensure at least one meeting is held every quarter within the year.

However, results obtained from the analysis, only 32% indicated their compliance with 14days prior notice before meetings whilst 44% shows 7days prior notice. 4% indicated that notice is normally served within 3days prior notice for meetings day. However, only 8% indicated 21days prior notice for meetings. The effect is that averagely, mandatory prior notice days were not adhered to.

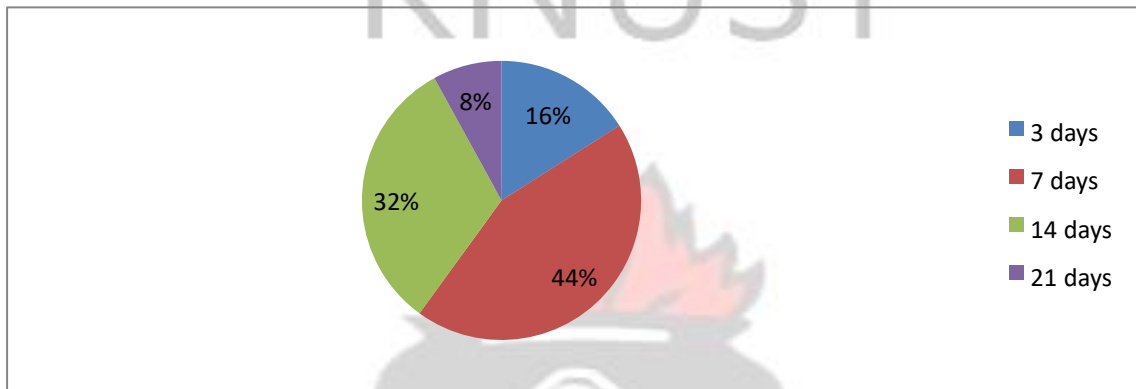


Figure 4.4 Functions of tender committee

Source: Researcher's Field Work, Oct, 2013

The law requires that, at least entities should have four meetings within a year. The analysis shows that only 36% complied with this provision, while 32% shows that three meetings are held in the year. This is shown in figure 4.5.

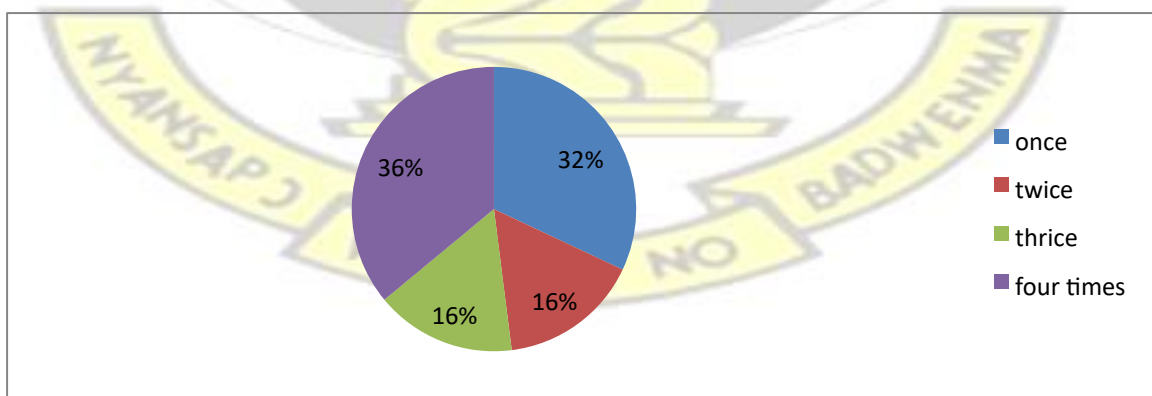


Figure 4.5 Number of times for meetings in a year by entity tender committee

Source: Researcher's Field Work, Oct, 2013

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.0 Introduction

This chapter highlights the major findings of the study. The findings are outlined in direct response to the specific objectives. Recommendations have been provided with the overall aim of suggesting specific actions on the level of Compliance with the procurement structures of Act 2003, (Act 663) of some selected public sector institutions in the Upper Denkyira East Municipalities of central region

5.1 Summary of Major Findings

The study revealed that the public procurement institutions in the Municipalities have largely upheld the provisions of the Act 663 and other legal requirements. Largely, the institutions have all the relevant committees in place. However, prior notices before scheduled meeting day were not adhered to.

5.1.2 Procurement Structures and Procedures

The Public Procurement Act, 2003 (Act 663) specify the establishment of procurement structures that will support and strengthen the execution and supervision of the procurement functions. These structures include Entity Tender Committee (ETC), Head of Entity, Evaluation Panel, and Procurement Unit. These structures have varied activities to perform in the procurement cycle. The study established that these structures, especially ETCs and Procurement Units does exist in most institutions and are properly constituted and so do perform their functions well. Though majority of

staff in these selected institutions for the study have a high education background, they lack the technical expertise in procurement practice to execute procurement activities efficiently and effectively to attain value for money.

5.1.3 Use of appropriate Procurement Structures

It is discovered that appropriate procurement structures are used to secure approvals for procurement activities to move on in the procurement cycle. It was also established, that officials in these Institutions were aware of the availability of the legal framework of procurement practice in Ghana.

5.2 Conclusion

The Procurement Act, 2003(Act 663) has put in place measures to bring about efficiency, effectiveness and accountability. The study showed that although the government is making efforts to bring about efficiency, and effectiveness into public procurement system or process; bottlenecks still exist. Compliance to Act 663 by public procurement institutions remains the biggest challenge to realize the objectives of achieving transparency, competition, economy, fairness and accountability in public procurement in Ghana. The survey concluded that a varying level of compliance existed among the procurement institutions studied in respect of Part II of the Act. It established that, whereas there was a high level of compliance in areas of well established tender committees, tender review boards, awareness of availability of legal framework, functionality of various procurement structures, areas including prior mandatory days before scheduled date for meetings and professional expertise in procurement practice shows low compliance.

It is also worth noting that, high education levels were shown in the study; little was revealed about possession of professional qualification in procurement in the entities.

The Act required at least four meetings should be held in a year, the study show low compliance to this by tender committees as compared to once a year, which indicates non compliance. The existence of the procurement unit in the entities which is the execution arm of the institutions shows high level of compliance, which greatly improves the execution of procurement activities, functions and compliance. The quest to derive maximum benefits from the Public Procurement Act, Act 663 (2003) requires addressing the issue of compliance and challenges faced by procurement entities in the areas identified as problematic in this study. These findings from the study are therefore relevant in the process of identifying any interventions to facilitate speedy implementation of Act 663.

5.4 Recommendation

In light of the discussions, findings and the conclusions, the following recommendations are hereby made; As a result of these study findings, the researcher put forward the following recommendations:

Establishment of Procurement Structures

The Public Procurement Act makes provision for the establishment of structures such as Procurement Units, Entity Tender Committees (ETCs) to manage procurement activities in all entities and to engage persons proficient in procurement. In the four selected institutions in the municipality, all indicated the existence of the procurement structures with few challenges in terms of prior notice days and number of times an entity committee must meet in a year.

The study, therefore, recommends the establishment of permanent Procurement Units to be managed by qualified procurement experts to ensure an improved overall procurement structure functions and compliance with the Public Procurement Act,

2003.

For an entity to derive the full benefit of the procurement compliance, procurement function must be seen as very important management function to ensure proper roles and responsibilities are played for sustained compliance.

5.5 Limitations

Like any other research, the study is not without constraints, and these are:

- i. Compliance assessment tools that were used were adopted from Public Procurement Authority and other defended thesis on the same topic in other regions and therefore any limitations that are embedded in them equally affected this study.
- ii. The study used a close-ended questionnaire for data collection and this has a weakness of limiting the amount of data collected. There is likelihood that relevant data may not have been captured because of use of close-ended questionnaire.
- iii. Limited resources such as funds and time are limiting factors to the study. In spite of these constraints, the results of this study are thought provoking enough and can be regarded as a basis for more detailed work on the topic in future.

5.6 Areas for further Research

These are the areas where further research could be conducted:

- the impact of personnel with procurement expertise on public procurement in the Ghanaian Local Government sector.
- the effect of procurement planning on procurement by MMDs in Ghana.

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APPENDICES

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

RESEARCH QUESTIONNAIRE

This questionnaire is administered to collect data for a Masters Dissertation on the
assessment of level of compliance with Part II of Procurement Act 2003, (Act 663) by
Selected MDAs and Dunkwa Municipal Assembly in the Upper Denkyira East
Municipality. I will be grateful if you could answer the following questions by ticking
(√) the appropriate box for each item. The questionnaire is in various parts; procurement

structure/experience, compliance of structures, qualification and knowledge of the legal framework. Please note that all information provided will be strictly treated as confidential as this work is for academic purposes. Thank you.

SECTION 1: PROCUREMENT STRUCTURES/ EXPERIENCE

1. What is the name of your entity/organization/agency/unit?

Municipal Assembly ☐ Municipal Education Directorate ☐ Senior High school ☐
Municipal Health Directorate ☐ others ☐

2. Which sector does your organization/unit belong? Health ☐ education ☐ local government ☐ procurement structure ☐ others ☐

3. Which level of procurement structure do you belong?

Procurement Unit ☐ District Tender Committee ☐ District Review Board ☐
Regional Tender Review Board ☐ Evaluation Panel

4. Please indicate your years of experience in procurement practices and processes

Less than 3 years ☐ between 3 and 5 years ☐ between 5 and 10 years ☐ More than 10 years ☐

5. What is your role in the organization?

Procurement Officer ☐ planner ☐ engineer ☐ school head ☐ bursar ☐
coordinating director ☐ Budget officer ☐ others ☐

SECTION 2: COMPLIANCE OF PROCUREMENT STRUCTURES

2.1 Tender Committee

6. Do you have an Entity Tender Committee in place?yes ☐ no ☐

7. Do you have full complement of the entity Tender Committee?..... yes ☐ no ☐

8. Do you refer procurement above entity's approval threshold to the appropriate approval authority.....yes ☐ no ☐

2.2 Meetings of Tender Committee

9. How many times do you meet in a year as Entity Tender Committee? Once ☐ twice ☐ thrice ☐ four times ☐ not at all ☐
10. How long do you give notice for meetings prior to the scheduled date of tender committee meeting? 3days ☐ 7days ☐ 14days ☐ 21days ☐ not at all ☐
11. Does the head of entity chair tender committee meetings?..... yes ☐ no ☐

2.3 Tender evaluation panel

12. Do you empanel expertise to evaluate tenders/quotations?yes ☐ no ☐
13. Do you use PPA standard evaluation format?.....yes ☐ no ☐
14. Are you aware of minimum and maximum number of members?.....yes ☐ no ☐
15. Do you use predetermined criteria to evaluate tenders?..... yes ☐ no ☐

2.4 Tender Review Boards

16. Do you have an established tender review board?..... yes ☐ no ☐
17. Does the board meet to review activities at each step of procurement cycle?..... yes ☐ no ☐
18. Does the board give concurrent approval or otherwise to enable the procurement entities continue with the procurement process?yes ☐ no ☐.

SECTION 3: QUALIFICATION/ CAPACITY DEVELOPMENT

19. What is your educational level?
- (a) Post Graduate ☐ (b) Graduate ☐ (c) Diplomas ☐ (d) Certificate ☐ (e) Others ☐
20. Do have any qualification related procurement?..... yes ☐ no ☐

SECTION 4: LEGAL AND REGULATORY FRAMEWORK/DOCUMENTS

21. Are you aware of the availability of the following Legal Documents?
- (a) Act 663yes ☐ no ☐
- (b) Regulationyes ☐ no ☐
- (c) Procurement manual.....yes ☐ no ☐

(d) Standard Tender Documentyes [] no []

22. Indicate your understanding and competence about the following Legal Documents?

	Very Good	Good	Fair	Poor
Procurement Act, Act 663(2003)				
Regulation				
Procurement Manual				
Standard Tender Document				

