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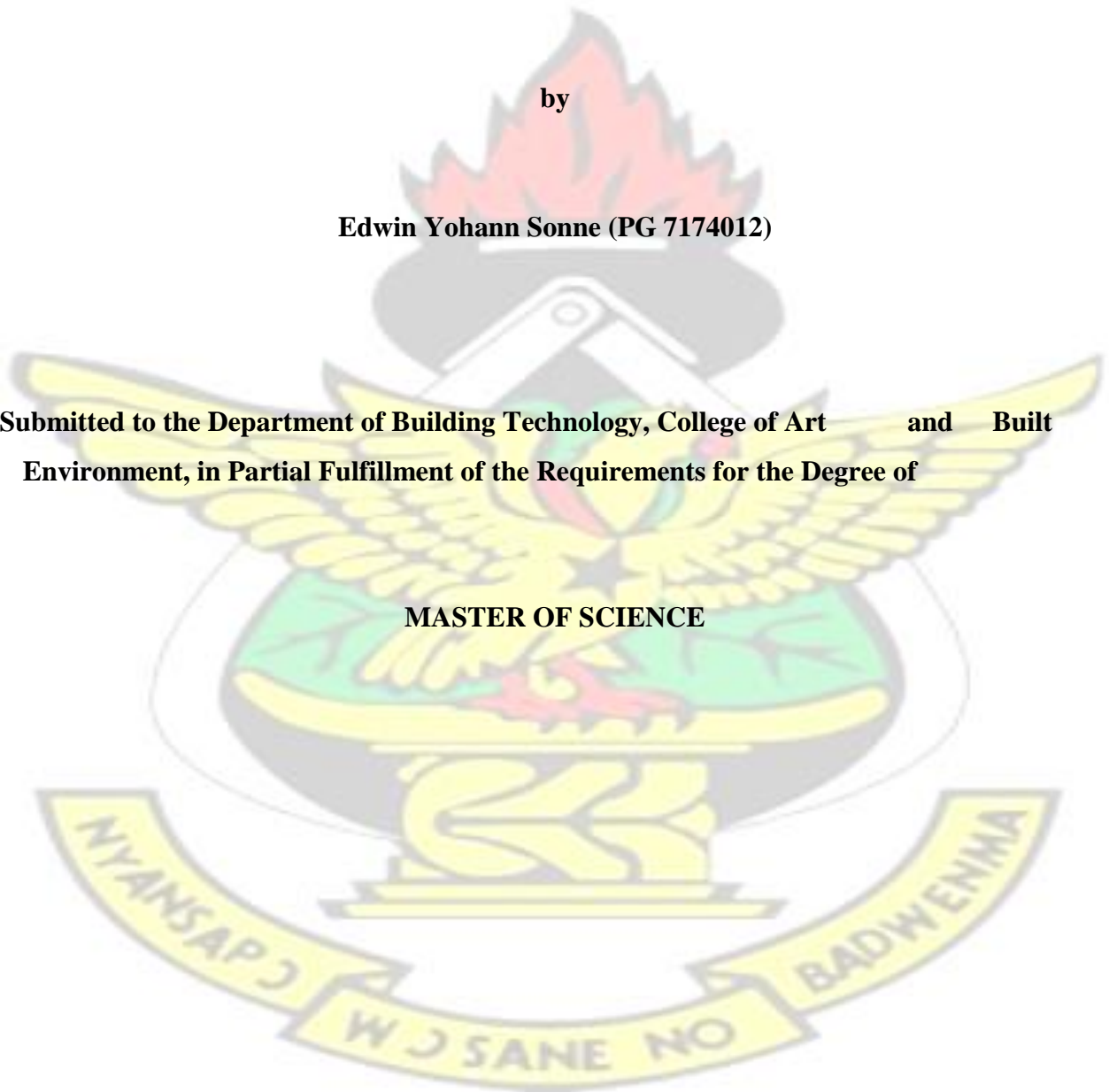
**Assessment of Compliance with the Public Procurement Law (Act 663) and Regulations -  
The Case of Ghana Grid Company Limited (GRIDCo)**

**by**

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**A Thesis Submitted to the Department of Building Technology, College of Art and Built  
Environment, in Partial Fulfillment of the Requirements for the Degree of**

**MASTER OF SCIENCE**



**NOVEMBER, 2016**

## DECLARATION

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

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## ABSTRACT

The essence of an efficient public sector procurement system no doubt is to create wealth and ensure good governance and transparency. Ensuring efficiency, transparency and accountability within the procurement system as well as adherence to procurement laws and regulations by a corporate organization such as Ghana Grid Company Limited (GRIDCo) enhances its financial performance and corporate image. Even though the adoption of procurement policies, rules and regulations are laudable, unfortunately compliance with such policies, rules and regulations has become an issue. The compliance process helps in identifying weaknesses within the procurement system and how to take corrective measures so as to correct deficiencies within the system. The enforcement of the rules and regulations, the reward of incentives and the sanctioning of practitioners is deemed to influence compliance rates or the degree to which public procurement practitioners/governmental purchasers comply with the rules. As a result, this study, designed as a case study research, assessed the compliance with the Public Procurement Law (Act 663) and the Regulations. Ghana Grid Company Limited (GRIDCo) was chosen for the case study. The importance of this company stems from its role as the public organization responsible for economic dispatch of electricity transmission in Ghana. GRIDCo is involved in very huge public procurements for the materials and equipment required to carry out its job of electricity transmission. The study involved the distribution of 200 questionnaires. The recovery rate was 86%, indicating that a total of 172 questionnaires were returned. The findings of the study revealed that GRIDCo's compliance with the Public Procurement Law (Act 663) and regulation is very good. It became clear from the research that even though GRIDCo's compliance level with the Law is at a matured stage, there are grey areas that need further Management attention such as publication of all contracts award on the Public Procurement Authority's website, debriefing of unsuccessful tenderers, etc. There is also the need for Management of Ghana Grid Company Limited (GRIDCo) to put in place measures to explain to all procurement practitioners within the company the importance of the human effort in the timely implementation of the Public Procurement Act 2003, (Act 663), consolidates all procurement undertakings under one Department or Unit, and improve on procurement filing system to ensure smooth conduct of future Audit. Finally, Management should consider e-procurement, as GRIDCo aims to align all its procurement activities with sustainability principles.

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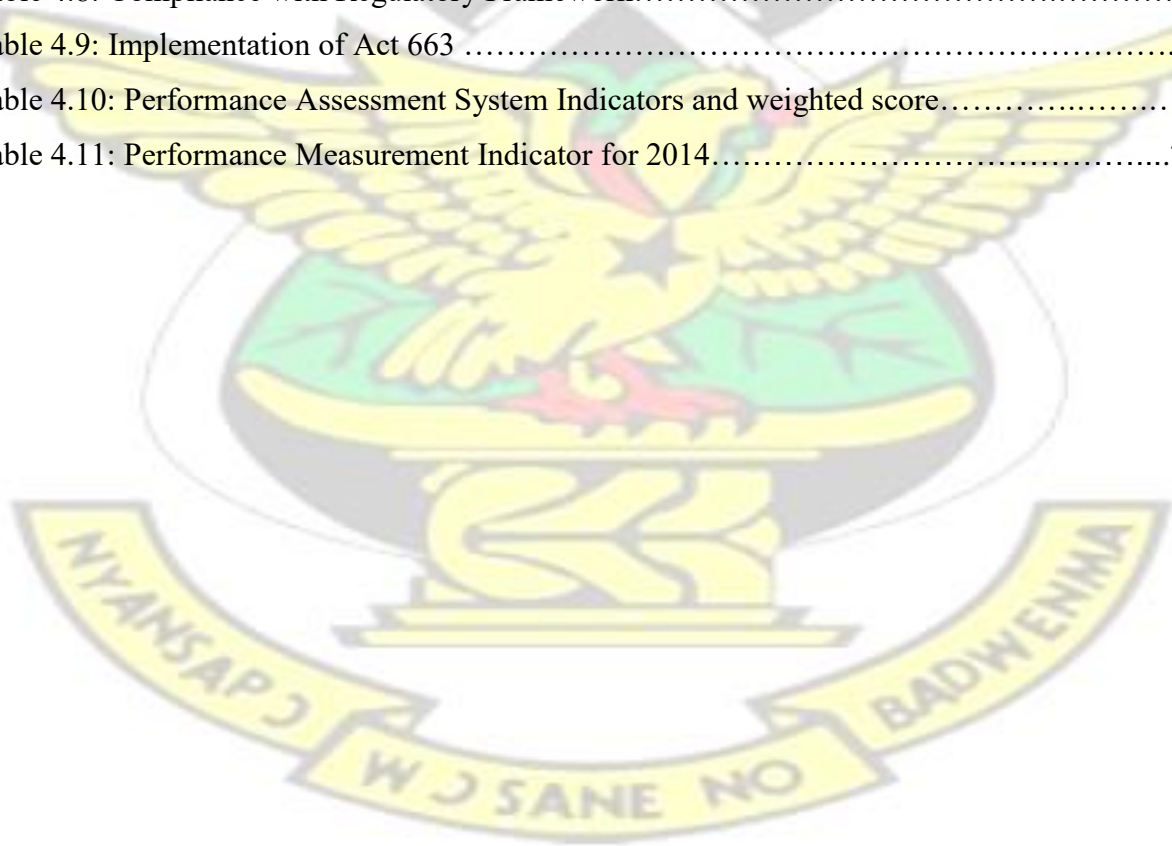
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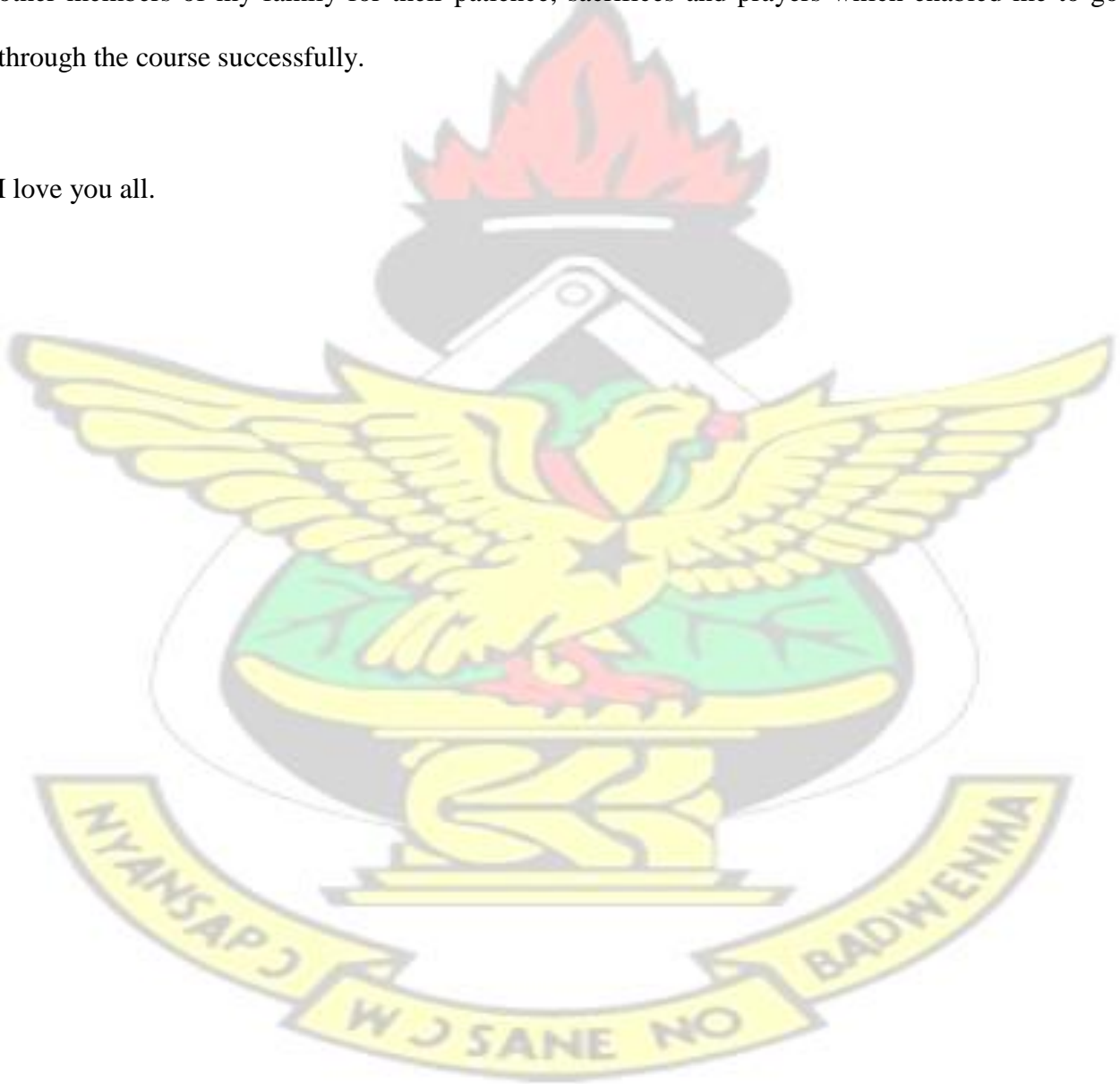


## DEDICATION

The Almighty God deserves special praise for granting me the strength and vital energy to combine family life, office work and academic activities. I am really most grateful to my maker.

Then my wife Doris A. Ackah, my children Beres Yorgen Sonne and Lizette Ashley Sonne, and other members of my family for their patience, sacrifices and prayers which enabled me to go through the course successfully.

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# CHAPTER ONE

## INTRODUCTION

### 1.1 Background

The need for an efficient, non-corrupt and transparent public purchasing system is one of the main drivers behind most reforms. So much money is spent by developing nations in the procurement of goods and services. The need for transparency and efficiency in government purchasing has led to the transformation of the purchasing process through public procurement reforms. Many developing countries have also realized that a well-organized procurement system contributes to good governance by increasing confidence in the fact that public funds are well spent (Hunja, 2003). An equally important reason is that there may be a condition for access to foreign markets and therefore it is incumbent upon the country seeking access to the foreign market to undertake such reforms (Evenett and Hoekman, 2003). The government of Ghana embarked on an exercise to reform the Public Procurement System in 1996 as an integral part of a wider Public Financial Management Reform Programme (PUFMARP). The exercise was to improve the overall public financial management in the country.

Ghana has attempted to address weaknesses in its public procurement process by the passage of several financial and legal instruments. These have come in the form of constitutional procedures, legislative instruments, administrative instructions and financial reforms.

In 1960, the Government enacted the Ghana Supply Commission Act which was reviewed later 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 enacted by the Supreme Military Council. In 1979, another law, the Financial Administration Decree SMCD 221 was also enacted.

All these laws, decrees and instruments were meant to provide a comprehensive framework of administrative powers to regulate the activities of procurement within the public sector. Unfortunately, none of these legal frameworks included the establishment of an effective oversight body to oversee the successful implementation of these laws. The Public Procurement Board of Ghana, renamed Public Procurement Authority was established to oversee and enforce the Public Procurement Act 2003 (Act 663) following the government's reformation of the public procurement system in 1996 culminating into the passage of Act 663 in 2003. Some shortcomings that were identified by the Public Financial Management reform, necessitating the enactment of the Act were as follows:

- Absence of a comprehensive public procurement policy;
- Lack of a legal regime to safeguard the integrity of the public procurement system; and
- Lack of a central body with oversight responsibility for regulating public procurement in Ghana.

Since procurement is the means by which public resources (funds) are spent, improvements within the procurement system by means of reforms have developmental impact within the economies of developing countries within which such reforms are undertaken. In view of the above mentioned shortcomings, the Public Procurement Act 2003 (Act 663) was promulgated to serve as a regulatory framework to regulate all government and public purchases within the Ghanaian economy using public funds. The Act establishes the Public Procurement Authority as the regulatory body for public procurement in Ghana. The Public Procurement Authority's objective 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. The Public Procurement Authority is itself not involved in the conduct of procurement except that it has the authority to approve requests from public procurement entities seeking approval to use single source procurement and restricted

tendering. Some of the various functions the Public Procurement Authority performs include the following: policy formulation, monitoring and regulation of standards, capacity building, professional development and the dissemination of relevant information to all stakeholders.

This thesis examines the level of compliance with the legal and regulatory framework by Ghana Grid Company Limited (GRIDCo), as regards their compliance with public procurement procedures.

GRIDCo was established in accordance with the Energy Commission Act, 1997 (Act 541) and the Volta River Development (Amendment) Act, 2005 Act 692, which provides for the establishment and exclusive operation of the National Interconnected Transmission System by an independent Utility and the separation of the transmission functions of the Volta River Authority (VRA) from its other activities within the framework of the Power Sector Reforms. GRIDCo was incorporated on December 15, 2006 as a private limited liability company under the Companies Code, 1963, Act 179 and granted a certificate to commence business on December 18, 2006. The company became operational on August 1, 2008 following the transfer of the core staff and power transmission assets from VRA to GRIDCo. GRIDCo's main functions are to:

1. Undertake economic dispatch and transmission of electricity from wholesale suppliers (generating companies) to bulk customers, which include the Electricity Company of Ghana (ECG), Northern Electricity Department (NED) and the Mines;
2. Provide fair and non-discriminatory transmission services to all power market participants;
3. Acquire, own and manage assets, facilities and systems required to transmit electrical energy;

4. Provide metering and billing services to bulk customers;
5. Carry out transmission system planning and implement necessary investments to provide the capacity to reliably transmit electric energy; and manage the Wholesale Power Market.

The establishment of GRIDCo is intended to develop and promote competition in Ghana's wholesale power market by providing transparent, non-discriminatory and open access to the transmission grid for all the participants in the power market particularly, power generators and bulk consumers and thus bring about efficiency in power delivery.

## **1.2 Problem Statement**

The objective of the procurement reform in Ghana is to harmonize the processes of procurement in the public entities to secure a judicious, economic and efficient use of state resources in public procurement and ensure that public procurement is carried out in a fair, transparent and nondiscriminatory manner while promoting a competitive local industry (Act 663).

However, allegations relating to non-compliance in procurement processes were leveled against Public Entities (PE) and other stakeholders involved directly or indirectly in procurement were among the findings of the reforms. These allegations include inefficiency, delay in procurement due to long procurement processes, high cost of projects, lack of fairness, transparency, and nondiscrimination in the selection and award of government contracts, as well as inflating contract figures. Public Entities are also confronted with procurement issues such as professionalism, limited career development opportunities for procurement staff in the public service, and weak contract management (World Bank, 2003).

Payan and McFarland (2005) defined compliance as referring to ‘acting in accordance with an influence attempt from source’ as reported by Gelderman and Semeijn (2006). The concept of compliance looks at the conduct of the regulated actor in comparison to the corresponding obligation that the actor is supposed to obey. Compliance is usually assumed to have a negative connotation since it is usually associated with enforced behavior. This negative connotation of compliance is given further emphasis by its definition in the marketing literature as “giving in to the wishes of a more powerful channel member” Gelderman and Semeijn (2006). Gelderman and Semeijn (2006) equally reported that an individual accepts influence not because he/she believes in its content but because he/she expects to gain specific rewards or approval and avoid specific punishments or disapproval by conforming Kelman (1958).

Non-compliance is considered a major hindrance when it comes to compliance issues since it shows that the directives, rules and regulations are not being followed and therefore would be difficult to achieve the objectives of such reform programs. The significance of the compliant process cannot be overstated in that it helps determine if the procurement of goods, services and works are done efficiently and economically. It also helps to assess if the procurement process is being undertaken in accordance with the rules and regulations as pertaining to the regulatory framework within which the reform takes place. The compliance process also helps in identifying weaknesses within the procurement system and how to take corrective measures so as to correct deficiencies within the system. The enforcement of the rules and regulations, the reward of incentives and the sanctioning of practitioners is deemed to influence compliance rates or the degree to which public procurement practitioners/governmental purchasers comply with the rules.

The study would be conducted to determine whether the Public Procurement Act, 2003 (Act 663) and its Regulations is being complied with by GRIDCo.

### **1.3 Research Aim and Objectives**

The aim of this study is to assess the compliance of GRIDCo as a public procuring entity with respect to procurement rules and principles as enshrined in Act 663. Most importantly, the assessment had to achieve the following specific objectives:

1. To provide an overview of the procurement structure in GRIDCo;
2. To highlight constraints encountered by GRIDCo in its procurement functions;
3. To identify bottlenecks in compliance with the Public Procurement Law (Act 663) and Regulations; and
4. To formulate suggestions to address constraints identified in GRIDCo's procurement functions.

### **1.4 Research Questions**

Having made a thorough and exhaustive review of theoretical literature on the impact of public procurement reforms, it would be safe to assume that the problem of this research is located within the context and framework of the following research questions:

1. How is the procurement structure in GRIDCo?
2. What is the relationship between the procurement structure in GRIDCo and the Public Procurement Act 2003, Act 663?
3. Are there constraints in the Public Procurement Act, 2003 (Act 663) that affect its compliance? If yes, what are they?

## 1.5 Significance of Study

Prudent management of public procurement systems have been identified as very important to accelerated national development. To this end, successive governments have realized that reformation in the procurement laws is a justification for judicious use of the taxpayer's money. Thus procurement regimes are strongly regulated and implemented to ensure attainment of value for money through transparency, fairness, cost-effectiveness, efficiency and promotion of competitive local industry.

The allegations of inefficiency, delay in procurement of goods and services due to long procurement processes, lack of transparency, fairness and non-discrimination in the selection and award of government contracts, payment of kickbacks and fronting in the public procurement processes have become a major source of worry.

Annual assessment reports by PPA revealed that public entities are also confronted with procurement issues such as professionalism, limited career development opportunities for procurement staff in the public service, and weak contract management. This shows that the reform is currently faced with numerous implementation challenges threatening its compliance. However, due to the crucial role of the reform in promoting transparency, fairness, efficiency, reduction in corruption, building public and donor trust as well as confidence in public procurement systems, it is very important for a study of this kind to be undertaken to evaluate the impact of public procurement reform strategy on public entities and challenges confronting the reform.

## **1.6 Research Methodology**

The research data gathered from both primary and secondary sources. Primary data was collected through the use of structured questionnaires, which was designed and administered to employees of Ghana Grid Company Limited, belonging to Procurement, Engineering, Finance, Audit and Corporate Departments.

Additionally, the methodology for assessment of national procurement systems jointly developed by the organization for Economic Co-operation and Development (OECD)/Development Assistance Committee and World Bank, adopted by PPA was also used in this research. Secondary data was extracted from relevant textbooks, newspapers, reports/articles, journals, bulletins and documents within the GRIDCo.

Purposive sampling method was used in selecting the sample sizes from various actors and stakeholders engaged in procurement in GRIDCo.

## **1.7 Scope of the Study**

This research on the assessment of Compliance level with the Public Procurement Law (Act 663) and Regulations, chose the Ghana Grid Company Limited (GRIDCo) with its Head Office in Tema, Greater Accra Region, as a case study. The Ghana Grid Company Limited was chosen because the Public Procurement Act 2003 (Act 663) is applicable to it by virtue of the fact that it as a Subvented Agency. The participants sampled for this research were employees of the Ghana Grid Company Limited (GRIDCo), belonging to Procurement, Engineering, Audit and Finance and Corporate Departments. The main reason for using this category of people is that their activities directly or indirectly has a bearing on public procurement within Ghana Grid Company Limited, which is the scope for the study.

It is a case study of one particular subvented agency and will not be a reflection of all other agencies in Ghana. Therefore, the outcome of this research will not take a broad view of the subvented agencies but its discoveries will be positioned in the relevant context of the specific organization. However, its recommendation may be applicable to other subvented agencies.

### **1.8 Limitations of the Study**

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

### **1.9 Organization of the study**

This study is organized into five chapters. Chapter one of the thesis discusses the overview of the study, problem definition, research question, research objectives, significance of the study. Chapter two presents the relevant literature review on public procurement reforms in Ghana and the theoretical framework. Chapter three addresses the identification of the most suitable research methodology for this research. Chapter four presents data analysis, findings and discussions. Finally, chapter five presents summary of findings, conclusion, and recommendations.



the entities. In this chapter, a number of relevant literature on the impact of public procurement reform in Ghana are presented in order to establish and provide answers to the research questions.

## **2.2 Public Procurement Overview**

Public procurement dates between 2400 and 2800 B.C. (Thai, 2001), with a procurement order of fifty (50) containers of oil (Coe, 1989). Other historical evidence of procurement activities was the development of the silk trade that involved China and Greek in 800 B.C. (Thai, 2001). The significance of public procurement cannot be overemphasized considering the huge financial commitment that is usually involved in the procurement process.

The World Bank (2003) estimated the annual value of public procurement for goods, works, and consultancy services at 600 million US dollars representing about 10% of the country's GDP. Therefore, public procurement is an integral function of governments in both developed and developing countries as the gigantic financial outflows has a great impact on their economies that needs prudent management (Thai, 2001). Thus the prudent handling of public procurement functions is fundamental to achieving economic, socio-political and other objectives of government.

Due to the essential role of public procurement in economic and social development, the World Bank specifies four thematic areas of public procurement for its funded projects. That is, ensuring that there is 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).

Furthermore, Schapper et al (2006) posited that technology can be used to enhance transparency. Other studies (Shadrach and Ekeanyanwu, 2003) also agreed on the assertion by Schapper et al (2006). They indicated that electronic commerce (e-commerce) can be used to enhance transparency in the procurement process through effective audit and monitoring of low value transactions. According to them, for high value and very complex procurement procedures, key features of transparency involves publicly available information on procurement policies; information dissemination on bidding programmes; standardized documentation, and bid lodgment; progressive evaluation of tender documents and declaration of tender results.

### **2.3 Definition of Public Procurement**

Hughes (2005) defines Procurement as a process that spans from identification of needs through to the end of a services contract or the end of the useful life of an asset. It includes the design and delivery of those works, products or services, the assessment of their quality, and the evaluations and reviews that will lead to further procurement. The whole process contains several decisions about the services that will be delivered to local authorities and the communities they serve.

According to ISO 10845:2010 procurement is the process through which contracts are created, managed and fulfilled, including all the steps from the establishment of the project or products to be procured, soliciting and evaluating tender offers, awarding and administering contracts and confirming compliance with requirements.

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 (Public Procurement Board, 2007). In other words, Public

Procurement is the process by which organizations acquire goods, works and services using public funds. It is a comprehensive process that runs from proper procurement planning, budget allocation, bids invitation, bids evaluation, award of contract, contract management, performance measurement, monitoring, auditing and reporting.

#### **2.4 Nature of Public Procurement Systems before the Reforms**

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. According to PURFMAR (1996) the procurement system in Ghana has:

- No comprehensive public procurement policy
- No central body with technical expertise to oversee/regulate sound procurement practice
- 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.

World Bank Procurement Guidelines were also used for World Bank projects (World Bank, 1996/1997). Traditional procurement methods were 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. Contractors classified 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 and Cook (2003).

## **2.5 The Public Procurement Reforms in Ghana**

The Public Financial Management 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 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 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 Legal and Regulatory Framework of Public Procurement**

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.

The 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 nondiscriminatory.

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 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.

**Table 2.1-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 tender 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)**

## **2.6 Procurement Principles Affecting Compliance**

The Public Procurement Act identifies the following principles affecting the achievement of good procurement objectives.

### **2.6.1 Professionalism**

Professionalism is the discipline whereby educated, experienced and responsible procurement officers make informed decisions regarding procurement operations. It is in the recognition of this fact that the Public Procurement Authority focuses its resources on the training, professional development, promotion and support for individuals that are engaged in public procurement to ensure adherence to professional and ethical standards (Adjei, 2006). To achieve this, the Authority developed a Capacity Development Policy Paper which aimed at ensuring that;

- Each Procurement Entity has a functional Procurement Unit that is managed by personnel who have the requisite procurement training, competencies, and adhere to agreed code of ethics.

- Personnel in the Procurement Units in the public service will have career paths in procurement and given opportunities to gain professional procurement qualifications. •

#### Establishment of a Procurement Professionals Association

Over 1,289 stakeholders (from MDAs and MMDAs) were trained. Training of Practitioners, Service Providers, Media, Civil Society groups and the Oversight Groups (Parliament, Police, Judicial Service, Attorney General's Office, SFO, CHRAJ, Ghana Audit Service, and Internal Auditors) have not been left out (PPA Annual Report, 2008).

#### **2.6.2 Transparency, Competitiveness and Fairness**

Transparency means that the same rules apply to all suppliers of goods, works and services and that these rules are publicized as the basis of procurement decisions prior to their use. Transparent procurement procedures can contribute to a more efficient allocation of resources through increased competition, higher quality procurement and budgetary savings for governments and thus for taxpayers (PPB Training Module 3, 2007).

To avoid corruption in the public procurement systems there is the need to publish calls for tenders, notifying contract awards in the media, including the successful bidder's name and final price, and making award criteria more transparent and accountable. These are some of the basic principles of transparency in government procurement which directly affect corrupt practices (Evenett and Hoekman, 2005).

In this regard, the Act 663 and Regulations endorse the use of competitive tendering which encourages maximum competition in the procurement system. It involves the use of STDs,

advertising procurement opportunities, public opening, publication of contract awards, creating windows of addressing appeal and complains, etc. Public Procurements using other uncompetitive methods are vigorously monitored and evaluated by PPA and Audit Agency to ensure transparency, fairness, and value for money (Act 663, 2003).

This position has been collaborated by Barden (2006) when he opined that, government agencies can achieve transparency by strategizing through effective and efficient advertising; publicly opening bid documents; effective evaluation of bid documents; the publication of award results; fair and speedy protest and dispute resolution handling processes and the disclosure of signed contracts; and the use of independent evaluation methods, that are consistent with the terms of bid documents.

### **2.6.3 Value for Money in the Procurement Process**

This is the optimum combination of whole cost and quality of a product to meet the customer's requirements. It is reflected in the price of the item or service procured. It has to be noted that Value for Money (VFM) is a critical measure of the effectiveness of the procurement process, its outputs and outcomes. Achieving VFM requires a strategic and integrated approach to procurement (Public Procurement Board Manual, 2006). This, of course, has significant organizational and institutional implications. VFM may be compromised if the Public Procurement Act and Regulations are not followed. This in procurement function is an important test against which well functioned procurement management must be addressed to justify a procurement outcome as necessary conditions for best value, transparency and accountability in public procurement (World Bank, 2003). It is associated with deployment of resources for realization of some expected value in an economic, efficient and effective manner.

The concept of value for money concerns not only the acquisition price/cost but also takes into consideration efficiency and effectiveness of a procurement process. The procurement professionals need to continuously improve upon their performance and innovations necessary to deliver greater value to the procuring entity. Therefore, public procurement professionals need a defined skills and knowledge to efficiently and effectively run the procurement process while public entities strive to motivate procurement staff in terms of remuneration and better conditions of service.

However, studies (EOCD/DAC, 2007) indicate that some procurement officials lack some level of skills and knowledge to manage the procurement cycle. Thus simple issues like bid evaluation and selection were only based on lowest price and not the lowest evaluated price. Project time, cost, and communication are poorly handled in Ghana thereby rendering Value for Money concept ineffective.

#### **2.6.4 Efficiency**

Efficient public procurement system is the one which operates in a timely manner, with a minimum bureaucracy, while being responsive to the needs of the ultimate users of the goods or facilities procured. Efficiency is defined narrowly in terms of value for money – the best quality at the lowest cost. In this view, efficiency is best secured through open competition, so procurement reform is seen as encouraging a more liberalized system. In Ghana to be efficient and effective in Public Procurement is to carry out procurement activities in a professional and transparent environment with a clear set of predefined rules to foster enhanced competition thus stimulating efficiency and

innovation amongst bidders. There is a better utilisation of funding, increased attractiveness to private sector and improved customer satisfaction (PPA, 2008).

According to Cloete and Wissink (2000), efficiency in the public sector means satisfying the most essential needs of the community to the greatest possible extent using the limited resources that are available for this purpose. Thus, public entities should be represented by competent personnel capable of putting the Public Procurement Act (Act 663) into practice to attain efficiency and value for money.

### **2.6.5 Accountability**

Accountability can be explained as the process of holding an individual or an organization fully responsible for all aspects of the procurement process over which they exert authority. The essence of accountability is to strengthen the perception of transparency and fairness. It reduces the incidence of corruption and enforces the Act 663 and regulatory framework which clearly defined responsibilities (Public Procurement Board, 2007).

### **2.6.6 Ethical Approach**

Ethics is concerned with moral principles and values which govern our beliefs, actions and decisions. Ethical approach implies exemplary approach to all procurement processes that cannot be questioned or criticized. The following are examples of conducts prohibited by Ghana's Public Procurement Code of Ethics:

- Revealing confidential or “inside information” either directly or indirectly to any tenderer or prospective tenderer or discussing procurement with any tenderer or prospective tenderer outside the official rules and procedures for conducting procurements;

- Favouring or discriminating against any tenderer or prospective tenderer in the drafting of technical specifications or standards or the evaluation of tenders or destroying, damaging, hiding, removing, or improperly changing any official procurement document;
- Accepting or requesting money, travel, meals, entertainment, gifts, favours, discounts or anything of material value from tenderers or prospective tenderers or discussing or accepting future employment with a tenderer or prospective tenderer;
- Requesting any other Public Servant or Government official representing the Procurement Entity in a procurement to violate the public procurement rules or procedures.

### **2.6.7 Technology**

Growth in business-to-business e-commerce remains strong as information and communications technologies (ICTs) continue to transform organisations' interactions with their suppliers and customers (Mullaney, 2003; European Commission, 2005a). For example, in 2004-05 the proportion of Australian businesses placing orders via the Internet continued to increase (33%), growing by 2% from 2003-2004 (31%) (ABS 2006). Supply-side activities such as electronic procurement (e-procurement) have been identified as a key area where information systems (IS)enabled innovations are likely to yield significant benefits for organisations (European Commission 2005b 2006, Laub, 2001).

E-procurement can increase transparency and procedural efficiency without prejudice to competition (Erridge and Murray, 1998; Hill, 2005). Hill (2005) argues for this, not only because of its transparency, but also to improve efficiency. The benefits of e-procurement include: an increase in contract compliance, leveraging the procurement spend, increased involvement of staff,

and lower processing costs. The lack of a corporate e-procurement system in public sector entities means they will find it difficult to analyze their expenditure on a macro-economic level.

Technological developments have added a new dimension to potential procurement reforms in both developing and industrial economies. E-procurement offers the promise of cutting costs and simplifying administrative procedures.

## **2.7 Benefits of Public Procurement Practices**

From development point of view, public procurement policies are significant. Reducing poverty and attaining health, education, and other objectives among the citizenry requires that the limited public funds available for public procurement of goods, services, and works are properly managed. Generally, the efficient, effective and professional application of public procurement laws can contribute towards sound management of public expenditures (Hunja, 2003).

Efficient public procurement planning leads to the identification of major investment expenditures, that in turn facilitates budgetary and allocation decision-making of procurement practitioners. It is difficult however, to envision how public procurement can deliver significant improvements in the welfare of its citizens without prudent management of public expenditure that emphasizes on effective and efficient procurement policies. This recognition therefore accounts partly for the increasing concentration on public procurement laws and practices and the likely consequences of their reforms.

Furthermore, there is a growing appreciation of the linkages between specific public sector objectives and public procurement practices. For instance, public procurement issues are often a

central focus of programmes to deal with corruption and to ensure that appropriate entrusted power for private gain by public officials are curbed (Evenett and Hoekman et al, 2005).

In addition, public procurement activities are assuming growing access to international markets. International trade negotiations, whether bilateral, regional, or multilateral—are an instrument through which governments in developed and developing countries address the terms upon which international companies can compete in domestic public procurement markets.

Public procurement has increased donor trust in public systems and has helped improve donor funding, grants and loans, and foreign direct investment in Ghana.

## **2.8 Assessments of the Public Procurement Reforms in Ghana**

Much tends to be claimed for the benefits of procurement reforms. However, there is little analysis whether these benefits were realized after reform initiatives occurred. 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 (Anvuur et al, 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 and higher quality procurement. Transparency in the public procurement systems in Ghana also help in

attracting more investment. Additionally, objective and transparent procedures in the public procurement systems enhance the efficiency of local suppliers and contractors as they compete for public contracts. There is an improvement in tax payments, expanded private sector, with some foreign companies going into joint venture with Ghanaian businesses, generating employment and prospects for the economy. Finally, transparent procurement procedures helped limit bribery and corruption, which are particularly rampant in the procurement field in both developed and developing countries (OECD, 2003).

The Public Procurement Act 2003, Act 663, tends to expand reforms covering procurement and project delivery strategies and methods with a focus on best value intended to maximize the potential and likelihood of achieving value for money in public procurement in Ghana.

With improved public financial management due to transparency and accountability in the public procurement as a result of procurement reforms, it is envisaged that there will be an annual savings of about US\$150 million 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 e-procurement or electronic procurement regimes. However, it is an overt question 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).

## **2.9 Procurement Structures, Roles and Responsibilities**

The Act and Regulations define the institutional framework for public procurement in Ghana – the roles and responsibilities of each stakeholder (The PPA, Procurement entities, The Private Sector, And Oversight Bodies).

## **2.10 Procurement Procedures, Methods and Thresholds**

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

### **2.10.1 Procurement Methods and thresholds**

#### **2.10.1.1 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 without 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 specified in Schedule 3.

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.

#### **2.10.1.2 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 fullfledged tendering procedure appears out of proportion (Acts 663, 2003).

The method is based on comparing price quotations obtained from at least three foreign or local suppliers for goods/works that are small in value.

#### **2.10.1.3 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.

#### **2.10.1.4 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).

#### **2.10.1.5 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. In 2009, 323 out of 360 single source applications received were either approved or conditionally approved as against 318 out of 342 in 2008 by PPA (PPA Annual report, 2008/2009). 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 it generates and the close interaction it brings between the public and private sectors. On that note, the PPA 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.

All contracts must be tendered on an open competitive basis, except otherwise provided for in the Act (s.35). All procurement must use the appropriate standard tender documents provided in Schedule 4 and modifications can only be introduced through contract data sheets or special conditions of contract (s.50). The successful tender for works contracts shall be the lowest evaluated tender price ascertained on the basis of criteria specified in the invitation documents, which shall include (s.59): (1) the tender price subject to any margin of preference for domestic contractors (s.60); (2) the potential for economic development, local involvement or technology transfer; and (3) national security considerations. The selection of consultants shall be on quality and cost-based criteria (s.75) with the price component assessed in a similar manner as for works

(s.69). Quality-based selection is allowed for complex or highly specialized assignments (s.72), and least-cost selection is reserved for small value assignments.

**Table 2.2 - Thresholds for Procurement Methods**

<b>Procurement Method/Advertisement</b>	<b>Contract Value Threshold</b>
(1) Pre-qualification (a) Goods  (b) Works  (c) Technical Services	Above GHC 35 billion Above GHC 70billion (not more than 10% of cost of works)
(2) International Competitive Tender (a)Goods (b)Works (c)Technical Services	Above GHC 15.0 billion Above GHC 20. 0 billion Above GHC 2.0 billion
(3) National Competitive Tender (a) Goods (b) Works (c) Technical Services	More than GHC 200 million up to GHC 2.0 billion More than GHC 500 million up to GHC 15 billion More than GHC 200 million up to GHC 2.0 billion
(4) Restricted Tendering	Subject to Approval by PB
(5) Price Quotation (a) Goods (b) Works (c) Technical Services	Up to GHC 200million Up to GHC 500million Up to GHC 200million
(6) Single Source Procurement and Selection	Subject to Approval by PB
(7) Advertisements for Expressions of Interest for Consulting Services in local newspapers	Above GHC 700million
(8) Least-Cost Selection	Up to GHC 700million
(9) Selection based on Consultant's Qualifications	Up to GHC 350m
(10) Single Source-Selection	Subject to Approval by PB

**Source: Public Procurement Act 2003, Act 663.**

## **2.10.2 Procurement Procedures**

### **2.10.2.1 Planning Procurement**

Generally, planning enables organizations to, among other things, determine performance standards, establish overall direction, anticipate and avoid future problems and reduce the risks of uncertainty, identify and commit resources towards the achievement of goals, determine and develop performance standards, and effectively coordinate various activities in the organization (PPB, 2005). The Public Procurement Act 663 provides for the activity of planning under Part 3 section 21. What the foregoing means is that it is imperative that procurement entities would need to plan their procurement for the coming year by the 30<sup>th</sup> of November of the preceding year. The plan would be reviewed and approved by their Entity Tender Committees (ETCs), after which the plans are updated every quarter. The list of entities who submitted their procurement plans are published in the Public Procurement Bulletin. In 2010, only 164 entities out of over 1000 entities across the country submitted their annual procurement plan. As at October, 2011 only 199 entities submitted their plan to Public Procurement Authority (Procurement Bulletin, 2010/2011).

#### **2.10.2.2 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. Advertising is required for invitations to tender if there is no pre-qualification. The object of advertising is to provide wide and timely notification of tendering opportunities so as to obtain maximum competition by informing all potential tenderers and to afford equal opportunities to all qualified and eligible tenderers without discrimination. For reasons of transparency, fairness and impartiality, tender documents should be provided for all eligible tenderers by the procuring entity. 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 including the Chairperson. The Chairman of the Tender Opening Committee controls and directs the /Tender Opening and does not allow tenderers representatives 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.

Section 55 of the Act states that the provision of tender security is required for all International and National competitive tenders for procurement of goods, and works. In the case of Procurement of consultants services tender security is not required. The use of security is important, in particular, in international trade where the Purchaser may not know the Tenderer or Supplier's professional ability, financial position and credibility. Therefore it is normal for the Purchaser to demand that the Tenderer's or Supplier's ability to perform in accordance with the instructions or contractual obligations be secured with a financial guarantee.

### **2.10.2.3 Contracts Management**

A formal contract document will be 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.

#### **2.10.2.4 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 on 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).

#### **2.10.2.5 Appeals and Complains**

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, 2007).

### **2.11 Ghana Procurement Assessment Report (GPAR)**

The World Bank (2003), made specific recommendation to the Government of Ghana, among other things, establishment of procurement units by procurement entities, improving on stores management, reducing the bureaucracy involved in the processing of payment certificates for contractors and suppliers and ensuring that value for money is achieved in sole source contracts (World Bank, 2003). Subsequently, the Public Authority has been conducting annual procurement assessment via its Benchmarking, Monitoring and Evaluation Directorate. The main objective of the assessment is to find out how the procurement ‘good practices’ enshrined in the Act 663 and its accompanying documents are being employed in the public entities and to inculcate into the public sector Entities the need to monitor and evaluate procurement performance. It is therefore

hoped that ultimately, public entities will adopt this assessment approach and use it on their own for procurement assessment.

### **2.11.1 State of Compliance with the Public Procurement Act, 2003**

The regular and continuous assessment of procurement entities in countries of their national procurement systems with regard to their compliance with the procedures, rules and regulations setup and the public Procurement Laws has been embraced worldwide. In view of this, the World Bank, Organization of Economic Co-operative and Development (OECD), a methodology for assessment of procurement systems to their compliance with the various procurement rules were also developed, namely baseline indicators, performance indicators and performance assessment system (OECD-DAC/World Bank, 2004).

The Public Procurement Authority (PPA) is mandated by Sections 3(d), 3(e) and 3(h) of the Public Procurement Act, 2003 (Act 663) to assess the performance of each entity to ensure compliance with the provisions of Act 663. Subsequently, the Public Procurement Authority has been conducting annual procurement assessment through its Benchmarking, Monitoring and Evaluation Directorate. The main objective of the assessment is to find out how the procurement 'good practices' enshrined in the Act 663 and its accompanying documents are being employed in the public entities and to inculcate into the public sector entities the need to monitor and evaluate procurement performance. It is expected that public entities will adopt this assessment approach and use it on their own for procurement assessment.

### **2.11.2 Relationship between Compliance and Performance in Procurement**

For 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). 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 et al, 2006).

The public procurement Act, 2003 (Act 663) specifies a number of rules, process, procedures and ethics for the whole procurement process. These rules aim to secure efficiency in the use of public funds to ensure non-discrimination, fairness, transparency and accountability in the procurement process.

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 in the region. Knudsen (1999) agrees 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 and 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.

### **2.11.3 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 (PPA). The PAS report looks at four (4) main areas: Management Systems, Information and Communication, Procurement Process, and Contract Management.

#### **2.11.3.1 Management system**

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

#### **2.11.3.2 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.

### 2.11.3.3 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.

### 2.11.3.4 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.

**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
<b>Total</b>	<b>38.96</b>	<b>36.94</b>	<b>59.00</b>

**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 2.3. 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.

## 2.12 Amendment of the Public Procurement Act, 2003 (Act 663)

Implementation of the Act over time revealed certain operational challenges, particularly arising from the interplay of the hierarchical procurement structures specifically designed to ensure efficiency, transparency and value for money in the public procurement system. Extensive amendments have therefore been proposed to revise the hierarchy of approving structures under the Act, to strengthen the composition and functions of both Entity Tender Committees (ETCs) and Tender Review Boards (TRBs), and increase thresholds across board.

**Table: 2.4 Proposed Amendments by PPA**

<b>HIGH SPENDING ENTITIES</b>						
	<b>Current</b>	<b>Proposed</b>	<b>Current</b>	<b>Proposed</b>	<b>Current</b>	<b>Proposed</b>
Head of Entity	5,000	10,000	10,000	25,000	5,000	10,000
Entity Tender Committee (ETC)	100,000	1,000,000	200,000	2,000,000	50,000	1,000,00

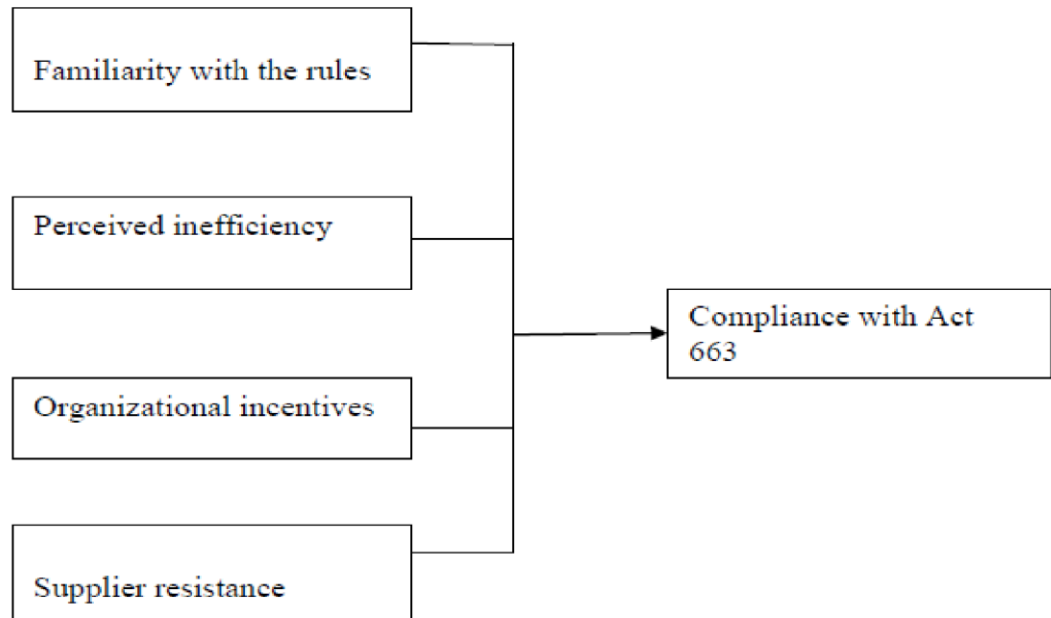
**Source: PPA Annual report, (2007)**

The Public Procurement Authority has since 2007 taken extensive steps to amend the Act following broad consultations held through various stakeholder workshops with key MDAs, MMDAs, SOEs, other public institutions and some civil society representatives PPA (2008).

### **2.13 The Conceptual Framework**

This section presents the main conceptual framework which is the keystone for the study. The principal-agent theory is the underpinning theory used to establish the framework for this study. The principal-agent theory concerns with the arrangement that exists when one person or entity (called the agent) acts on behalf of another (called the Principal). For example shareholders of a company (principals) elect management (agents) to act on their behalf, and investors (principals) choose fund managers (agents) to manage their assets. In this case the government of Ghana (Principal) engages PEs and PPA (agents) to undertake public procurement and enforcing the Public Procurement Act 2003 (Act 663) on its behalf.

This relationship works well when the agent is an expert at making the necessary decisions, but does not work well when the interests of the principal and agent differ substantially. In general, a contract is used to specify the terms of a principal – agent relationship. Agency relationships are enacted in a broader social context for the adoption of policies about aligning incentives in order to discourage self-interested behaviour by managers and reducing agency costs. The political system of any country such as Ghana can, of course, be understood as a complex network of principal-agent relationships composed of citizens, governments and their agents such as Ministries, Departments and Agencies, District Assemblies, elected 41 officials, the judiciary, the legislature and the media. These actors concurrently play principal and agent roles within and across political organizations. The framework was developed in the context of examining the influences upon compliance with procurement directives (Gelderman et al, 2006) and, given its relatively general framing, provides a useful framework for examining the influences on the degree to which any aspect of public procurement policy translates into practice.



**Figure 2.1: A conceptual framework for the explanation of compliance with public procurement Act, 2003.**

*Adopted and Adapted from Gelderman et al, (2006); Walker and Brammer (2007)*

Having outlined the conceptual framework for the study, the research discussed the character of government policies with respect to the explanatory variables in the framework in figure 2.1.

### **2.13.1 Components of Framework**

The conceptual framework classified familiarity with the procurement rules; the perceived inefficiencies in the public procurement systems; the organizational goal achievement and suppliers resistance aim to result in compliance with the Public Procurement Act, 2003 (Act 663).

#### **2.13.1.1 Familiarity with the Public Procurement Law**

Telgen and De Boer (1998) in a study reported that many public institutions were not conversant with the legal obligations to follow the stipulations of the public procurement laws thereby leading to non-compliance with the law. Further, Jensen and Meckling (1976) also argued that both the

principal and agent are motivated by their own self-interest when entering into contractual relationship and aim to maximize benefits or utility for themselves only. To many practitioners, the procurement laws are not exactly clear. Therefore, familiarity of the rules by both purchasers and suppliers will influence the chance that public agents will comply with the rules. This leads to the notion that there exists a relationship between familiarity with the procurement rules and its compliance that leads to positive impact of the public procurement in particular and the economy of Ghana in general.

#### **2.13.1.2 Perceived Inefficiency**

Additionally, the conceptual model indicates that there is a perceived inefficiency in the procurement rules. The public procurement Act, 2003 (Act 663) specifies a number of rules, legal and ethical of conduct for the whole procurement process. These rules aim to avoid discrimination in the award of contracts and to ensure transparency and accountability through the procurement process. However, the rules have been criticized on the premises that they are not in line with best practices in relation to procurement practices in the private sector (Cox and Furlong, 1995).

#### **2.13.1.3 Organizational Incentives**

Furthermore, organizational incentives can result in non-compliance with the procurement rules. To these bureaucrats, cost reductions due to competitive procurement procedures in one year do not necessarily result in increase in subsequent budgets. Lack of procurement professionalism in the public sector is a hindrance for compliance with the public procurement law (Telgen and De Boer, 1998). From this, public entities are not likely to comply with the directives of the procurement law.

In the public sector, procurement officers are the agents who act on behalf of the principal (the state) to realize the goals and objectives of the state. Therefore, the goals of the agent must be in conformity with that of the principal (the state) in order to achieve efficient reform in the public procurement programme.

#### **2.13.1.4 Supplier/Contractor Resistance**

In addition, recognition of supplier resistance is essential for compliance with the procurement rules. To avoid non-compliance with the Procurement Act, 2003, the law enjoins all suppliers to report instances of abuses if they feel aggrieved at the award of contract. On the other hand, the willingness of public entities to listen and effectively address the concerns of aggrieved suppliers/contractors as well as the opportunity to take action against public purchasers is likely to influence private sector participation and compliance with the procurement rules.

#### **2.13.1.5 Compliance with the Act 663**

Finally, compliance with the public procurement Act, 2003 (Act 663) can be achieved when public sector agents behave in a manner that is consistent with the objectives and goals with their principal (the state); when procurement professionals and suppliers are familiar with the procurement rules and when suppliers are knowledgeable and courageous to resist any abuse in the procurement process.

## CHAPTER 3

### METHODOLOGY

#### 3.1 Introduction

This chapter outlines the details of the research methodology by presenting research design, population of the study, sampling procedure, research instrument, data collection procedure, data analysis, ethical consideration, validity and reliability.

#### 3.2 Research Design

The researcher adopted both quantitative and qualitative research designs (mixed research design) in conducting the study. Quantitative research methods, according to Marczyk et al, (2005) attempts to maximize objectivity, reliability, and generality of findings, and is typically interested in prediction. Integral to this approach is the expectation that a researcher will set aside his or her experiences, perceptions, and biases to ensure objectivity in the conduct of the study and the conclusions that are drawn. Key features of many quantitative studies are the use of instruments such as tests or surveys to collect data, and reliance on probability theory to test statistical hypotheses that correspond to research questions of interest.

Pfeil and Zaphiris (2010), note that quantitative methods are frequently described as deductive in nature, in the sense that inferences from tests of statistical hypotheses lead to general inferences about characteristics of a population. Quantitative methods are also frequently characterized as assuming that there is a single “truth” that exists, independent of human perception. The quantitative technique enabled some descriptive analysis to be conducted in order to achieve the objective of the study. Qualitative or content analysis, according to Zikmund and Babin (2010) has

to do with obtaining data by observing and analyzing content systematically to obtain the specific information (content) and other characteristics of the required message.

### **3.3 The Study Area**

In order to be able to assess the Compliance level with the Public Procurement Law (Act 663) and Regulations, the Ghana Grid Company Limited (GRIDCo) was chosen as a case study. The Ghana Grid Company Limited was chosen because the Public Procurement Act 2003 (Act 663) is applicable to it by virtue of the fact that it is a Subvented Agency.

### **3.4 Population and Sample of the Study**

A research population can be defined as the totality of a well-defined collection of individuals or objects that have a common, binding characteristics or traits. The population for this study comprised those who are involved in public procurement activities within Ghana Grid Company Limited. The participants qualified for sample selection were employees of the Ghana Grid Company Limited (GRIDCo), belonging to Procurement, Engineering, Audit and Finance and Corporate Departments. The main reason for using this category of people is that their activities directly or indirectly has a bearing on public procurement within Ghana Grid Company Limited which is the scope for the study.

### **3.5 Sample Procedure**

Information on procurement activities of The Ghana Grid Company Limited (GRIDCo) cannot be obtained from any other official of the organisation but only privileged few. The researcher deemed it appropriate to adopt the purposive sampling or judgmental technique to solicit the requisite

information from the officials and management members whose core functions entail executing various shades of procurement activities.

Purposive sampling or judgmental sampling technique was adopted in drawing up the sample for the study. According to Pfeil and Zaphiris (2010), purposive sampling is a non-probability sampling technique in which an experienced individual selects the sample based on his or her judgment about some appropriate characteristics required of the sample member.

Researchers using purposive sampling, in the opinion of Buchanan (2000), usually select samples that satisfy their specific purposes even if they are not fully representative. The afore-mentioned sampling procedure enabled the researcher to pick up the necessary data, which were methodically processed to achieve information for analysis.

**Table 3.1 Study Sample distribution**

<b>Sample Frame</b>	<b>No. of Persons</b>
Staff of Procurement	40
Staff of Engineering	80
Staff of Audit	10
Staff of Finance	30
Staff of Corporate	40
<b>Total</b>	<b>200</b>

**Source: Researcher’s Fieldwork**

A total of two hundred (200) respondents representing 23.61 percent of the population were selected to participate in the research.

Purposive random sampling was done for the sample selection as all members of the population have an equal chance of becoming a research participant. This is said to be the most efficient sampling procedure. For this procedure, the lottery sampling or the fish bowl technique was employed. This method involves the selection of the sample at random from the sampling frame through the use of random number tables (Saunders et al, 2006). Numbers were assigned for each employee in the master list. These numbers were written on pieces of paper and drawn from a box; the process was repeated until the sample size was reached. Since the researcher needed respondents with some background or work experience on public procurement processes, out of the total staff strength of eight hundred and forty-seven (847) of Procurement, Engineering, Audit, Finance and Corporate departments of the Ghana Grid Company Limited, a purposive random sampling technique was employed to select two hundred (200). This was done by randomly selecting two hundred (200) respondents from the Procurement, Engineering, Audit, Finance and Corporate Departments.

### **3.6 Data Collection Instrument**

The data collection methods or techniques formed an important part of this research. According to Patton (2002) using more than one data collection instrument strengthens and gives credibility to the study. The use of more than one data collection instrument portrays a true picture of the case under study. In this regard, the researcher gathered the required data from two (2) different sources. This approach was used because it revealed issues that could not be raised in using only one data collection instrument. The study made use of primary and secondary data sources in order to gather relevant information for the study.

### **3.6.1 Primary Data**

The main research instruments used were questionnaires, interviews, and field observations. This was done with the focus on the objectives set in the study. The primary data were collected from the selected respondents within the sample frame in the research population. The analysis of the study was substantially based on this data.

### **3.6.2 Questionnaire Design**

The research questions were developed by the researcher and were reviewed by some experts in academia and in procurement practice. Subsequently, a pilot test of the questionnaire and interview was conducted for ten (10) participants in order to identify and eliminate potential ambiguity in the questionnaire. Generally, the questionnaire was designed to collect general data from selected Staff of GRIDCo. These questions were grouped in categories to collect data on nature of procurement systems, state of compliance, as well as the effect of the public procurement reform on GRIDCo.

All items were rated by participants on a four-point likert scale. The instrument consisted of the following sections: Section A, solicited personal and general information from the participants using objective test. Section B, solicited information on factors affecting performance/compliance in GRIDCo. Some of the questions were scaled from 1-4 with the statement: Strongly Agree, Agree, Disagree, and Strongly Disagree respectively. Questions in this section solicited data on the impact/effect of the reform.

Additionally, the methodology for assessment of national procurement systems jointly developed by the organization for Economic Co-operation and Development (OECD)/Development Assistance Committee and World Bank, adopted by PPA was also used in this research. The

Evaluation Grid has Key Performance Criteria (KPC) with weight scores as followed:

Management Systems (15), Information & Communication (15), Procurement Process (45), and Contract Management (25) which was used to capture a relevant performance data relating to each of these four areas.

There are two parts of the indicators. That is baseline indicators (BLI's) that deal with the formal and functional features of the existing system; and compliance/performance indicators (CPI's), that deal with monitoring performance data to determine level of compliance with the formal system. The CPI's associated with the baseline indicators have been adopted since the author intends to determine the level of compliance with the Procurement Law. The researcher adopted four main Compliance Areas in the study. Indicators that designated Compliance were also used. Specific information or records that designated the indicators were also identified and rated on a scale of 0-5; "0" rating indicates absence of the required information whilst "5" points out that the information available is satisfactory.

### **3.6.3 Questionnaire Administration**

The initial questionnaire developed were pilot tested with two respondents each from all the Departments to ensure that the questions were clear and not ambiguous, such that responses would be consistent with the purpose of the study. Few questions were reviewed as a result of non-response from the respondents of the pilot study. This was done to improve the reliability and validity of the questionnaire. The questionnaires were self-administered on one-to-one basis to the respondents willing to fill or provide answers to the questionnaire. The completed questionnaire was taken by the researcher on the same day. The primary data collected was reviewed by the

researcher to ensure maximum accuracy, legibility, completeness, consistency and to reduce ambiguity.

### **3.7 Data Collection Procedure**

A time frame not exceeding one week was given to prospective respondents to honour the questionnaires. At intervals, the researcher kept reminding the respondents of their responsibility to the study. At the expiry of the time frame, the researcher personally went round to pick up the answered questionnaires. Care was exercised to ensure that all areas had been filled except where they did not apply to the respondent. Respondents who also sense their limitation in answering certain questions sought clarity from the researcher.

### **3.8 Data Analysis**

In this study, both quantitative and qualitative methods were employed in the data analysis. Microsoft Excel was used for data entry and analysis of the data collected. Data preparation was the initial step to convert raw data into structured format that was more appropriate for the analysis. Tasks in this stage included data editing, data coding and data entry, frequency distributions, percentages, and descriptive analysis of assessing the compliance level with the Public Procurement Law (Act 663) and Regulations.

Data collected were collated and analyzed using various quantitative statistical models such as tables, bar chart and pie chart to illustrate the results. The findings were critically examined to ensure consistency with the research objective and research questions.

### **3.9 Ethical Consideration**

Among the significant ethical issues that were considered in the research process include consent and confidentiality. In order to secure the consent of the selected participants, the researcher relayed all important details of the study, including its aim and purpose. Respondents were assured that the information given will not be used for any other purpose except academic work. Respondents were also assured that information supplied will not be given to a third party without their express and written consent and that their confidentiality will always be maintained. In addition, all references to published documents and journals were rightly acknowledged to avoid any breach of intellectual property rights.

### **3.10 Validity and Reliability**

Validity, according to Zikmund and Babin (2010), is a measure or the extent to which a score truthfully represents a concept. Reliability represents also how precise a measure is in that the different attempt at measuring the same thing converges on the point. Reliability, in the opinion of Carlson and Anderson (2007), is an indicator of measuring internal consistency and is the key to understanding reliability. A measure is reliable when different attempts at measuring something converge on the same result when a measuring process provides reproducible results, the measuring instrument is reliable. Reliability is a necessary but not sufficient condition for validity. Reliability scale may not be valid. A reliable but invalid instrument will yield consistently inaccurate results.

The data collection instruments, that is, the questionnaires for the study, were tested for their validity and reliability. By validity, the best indicators or questions after a critical examination of a range of possible indicators were chosen to measure the concept or subject matter which is perception or attitude of respondents with regards to procurement activities at Ghana Grid

Company Limited (GRIDCo). This was made possible after the pre-test. On the other hand to satisfy the need for reliability, indicators were analyzed to see the degree of consistency in measuring the concept at hand. To this end, ambiguity in wording and unclear questions on chosen indicators were removed or corrected subsequently.



## CHAPTER 4<sup>SEP</sup>

### DATA ANALYSIS, DISCUSSIONS AND PRESENTATIONS

#### 4.1 Introduction

This chapter discusses the data analysis and interpretation processes. After gathering all the completed questionnaires from the respondents and reviewing procurement files, the total responses for each item were obtained and tabulated. In order to use the Likert-scale for interpretation, the weighted mean to represent each question was computed. All the data gathered were analyzed using Microsoft Excel. The results of the data were presented in graphs, tables, diagrams and pie charts.

#### 4.2 Response Rate

A total number of two hundred (200) questionnaires were administered to staff of GRIDCo, out of which one hundred and seventy-two (172) were obtained and valid for the data analysis. These valid questionnaires used for the analysis yielded 86% of response rate. This indicates that, the response rate was quite high and reflects the views of the entire population.

#### 4.3 Background of Respondents

The researcher deemed it appropriate to investigate the background of respondents to know what weight to put on the data from them. To this end data was collected on age, highest level of academic qualification and length of service duration.

#### 4.3.1 Gender and Age of Respondents

Table 4.1 shows the sex of the respondents' sample for the study. Out of the responses obtained from the field, 124 respondents, representing 72.09% were male, and the remaining 48 respondents, representing 27.91% were female. The skewed result in favour of males may be attributed to the employment structure of GRIDCo. Nevertheless, it should also be noted that, across all the sections or departments of which the sample were taken, were heavily male dominated.

**Table 4.1: Gender and Age Group of Respondents**

DESCRIPTION	MALE	FEMALE
20-30yrs	43	13
31-40yrs	31	28
41-50yrs	46	5
50-Above Yrs	4	2
<b>TOTAL (Frequency/Percentage)</b>	<b>124 (72.09%)</b>	<b>48 (27.91%)</b>

Source: Researcher's Field Work, September 2016.

#### 4.3.2 Highest Academic Qualification of Respondents

Findings on respondent's highest academic qualification have been presented in Figure 4.1. From the Figure, it was found that, majority of the respondents were holders of university degree, which constitute 47.09%, this was followed by Diploma holders, which also constitutes 28.49%. Post Graduates constitutes 12.79%, Certificate holders were 8.14% and the minority was the holders of CIPS/CILT, which constitute 3.49%. All the respondents are regular participants in public procurement activity and can really give good assessment of the effect of the procurement reform and how to improve on the compliance of the reform.

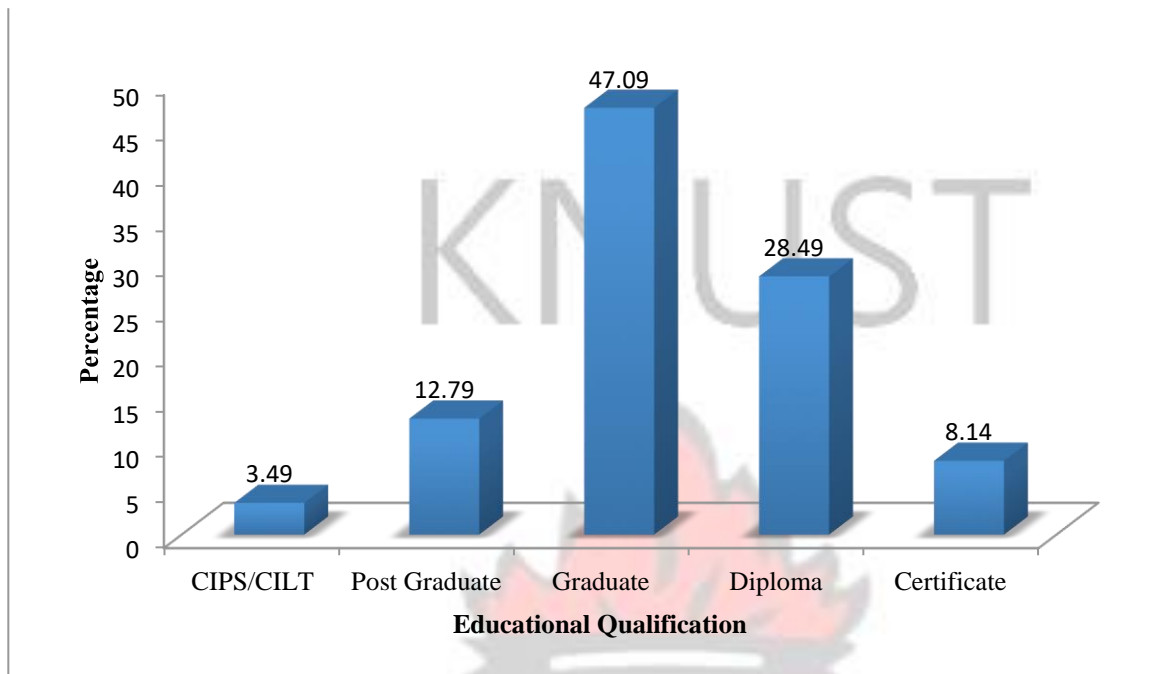


Figure 4.1: Educational Background of Respondents

Source: Researcher's Field Work, September 2016.

#### 4.3.3 Length of service of Respondents

Findings on respondents' length of service with GRIDCo have been packaged in table 4.2

Table 4.2: Length of service of respondents

LENGTH OF SERVICE	FREQUENCY	PERCENTAGE (%)
1-5	36	20.93
6-10	74	43.02
11-15	28	16.28
16-20	16	9.30
21-25	13	7.56
26 and Above	5	2.91
<b>TOTAL</b>	<b>172</b>	<b>100</b>

Source: Researcher's Field Work, September 2016.

Table 4.2 above depicts the fact that forty-three point zero two (i.e. 43.02%) out of the one hundred and seventy-two respondents have been with GRIDCo between 6 and 10 years. Twenty point nine three (i.e. 20.93%) respondents have worked between one (1) and five (5) years. Sixteen point two eight (i.e. 16.28%) respondents have also served GRIDCo for between eleven (11) and fifteen (15) years while nine point three zero (i.e. 9.30%) have worked between sixteen (16) and twenty (20). Seven point five six (i.e. 7.56%) of the respondents have served for between twenty-one (21) and twenty-five (25) years while the remaining two point nine one (i.e. 2.91%) of the sampled respondents have worked for more than twenty-six years. This points to respondents who have adequate experience with the happenings within GRIDCo making them the best people to provide the data required for this study.

#### 4.4 Factors Affecting Performance/Compliance

##### 4.4.1 Professionalism

Professionalism discusses the education/training and capacity development of personnel to make informed decisions regarding procurement operations.

**Table 4.3: Professionalism Assessment of Procurement staff**

<b>PERFORMANCE/COMPLIANCE FACTORS</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
Procurement staff are qualified and experienced to handle Procurement process.	-	-	50.58	49.42
Procurement officers and committee members make informed decisions regarding procurement operations.	-	2.33	83.14	14.53
Competent persons conduct tender Evaluation.	-	-	57.76	42.44

**Source: Researcher’s Field Work, September 2016.**

From Table 4.3, 50.58% agreed to the question of Procurement staff are qualified and experienced to handle Procurement process, while 49.42% strongly agreed. The general consensus is that GRIDCo procurement staff are fully qualified to handle all procurement processes. 83.14% of respondents were of the view that Procurement Officers and Committee members make informed decisions regarding procurement operations. 14.53% of respondent strongly agreed. 2.33% disagreed. On the question of Competent persons conduct tender Evaluation, 57.76% of respondents agreed while 42.44% strongly agreed.

#### 4.4.2 Transparency

Transparency serves as the mirror for the process of public procurement of which trust is created for the process. Thus, Act 663 endorses the use of Standard Tender Documents (STDs), advertising procurement opportunities, public opening, publication of contract awards, resolving disputes and complains, and effective monitoring.

**Table 4.4: Transparency in Procurement Practice**

<b>PERFORMANCE/COMPLIANCE FACTORS</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
There is transparency in the procurement process.	1.16	2.91	47.09	48.84
Procurement opportunities are advertised using the appropriate medium.	0.58	1.74	73.84	23.84
Contract awards are posted on PPA/entity website and notice boards.	2.33	4.07	43.02	50.58
There is effective monitoring and auditing of procurement activities by oversight bodies.	-	5.81	45.35	48.84
Unsuccessful bidders are debriefed within reasonable time.	14.53	30.23	33.14	22.09

**Source: Researcher's Field Work, September 2016.**

From Table 4.4, 47.09% and 48.84% of respondents believed that there is transparency in the procurement process in GRIDCo by agreeing and strongly agreeing respectively. 2.91% disagree with 1.16% strongly disagreeing. Respondents were asked whether procurement opportunities are advertised using the appropriate medium. 73.84% and 23.84% of respondents agreed and strongly agreed respectively. 1.74% disagree with 0.58% strongly disagreeing. Contract awards are posted on PPA/entity website and notice boards, 50.58% and 43.02% strongly agreed and agreed to that assertion respectively. 4.07% and 2.33% of respondents disagreed and strongly disagreed respectively. 48.84% of respondents were of the opinion that there is effective monitoring and auditing of procurement activities by oversight bodies. 45.35% agreed and 5.81% disagreed. Respondents were asked about their opinion on whether unsuccessful bidders are debriefed within reasonable time, 33.14% agreed, 22.09% strongly agreed, 30.23% disagreed and 14.53% strongly disagreed.

#### 4.4.3 Efficiency and Value for Money

The research intended to find out if GRIDCo is showing concern in exercising its procurement function efficiently to achieve value for money in the practice of procurement.

**Table 4.5: Efficiency and Value for Money in procurement practice**

PERFORMANCE/COMPLIANCE FACTORS	STRONGLY DISAGREE	DISAGREE	AGREE	STRONGLY AGREE
There is a greater efficiency in public procurement.	-	4.65	61.63	33.72
Better utilization of funds by GRIDCo.	0.58	1.74	56.40	41.28
There is effective contract management and reporting in GRIDCo.	-	1.16	58.72	40.12
There is value for money in projects being implemented by GRIDCo.	1.16	5.23	50.58	43.02
Projects are completed on schedule and within cost.	-	13.37	47.67	38.95

**Source: Researcher's Field Work, September 2016.**

From Table 4.5, 61.63% of respondents believed there is a greater efficiency in public procurement. 33.72% strongly agreed and 4.65% disagreeing to that. 56.40% of respondent were of the view that there is better utilization of funds by GRIDCo. 1.74% disagree and 0.58% strongly disagree. Majority of respondents were of firm conviction that there is effective contract management and reporting in GRIDCo. 58.72% agree, 40.12% strongly agree with 1.16 disagreeing.

50.58% and 43.02% of respondents agree and strongly agree respectively that there is value for money in projects being implemented by GRIDCo. 5.23% disagree and 1.16% strongly disagree. Projects in general are completed on schedule and within cost. This is as per 47.67% of respondents during the survey agreeing to that question posed. 38.95% strongly agree and 13.37% disagree.

#### **4.4.4 Competitiveness**

The section intended to measure whether GRIDCo is demonstrating fairness and whether they are actively encouraging greater service providers to participate in the tendering process through transparency and interaction with the private sector to make them competitive in the procurement process.

**Table 4.6: Competitiveness and Fairness in Procurement**

<b>PERFORMANCE/COMPLIANCE FACTORS</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
More companies compete for public contracts	-	2.91	71.51	25.58
The Public Procurement Reform has stimulated private sector growth.	-	2.33	50.58	47.09
Increased trust and confidence in public procurement among stakeholders.	1.16	5.23	48.84	44.77

**Source: Researcher’s Field Work, September 2016.**

From Table 4.6, 71.51% agreed when the researcher sought to find out if more companies compete for public contracts in GRIDCo. 25.58% strongly agreed, while 2.91% disagreed.

50.58% of respondents were of the view that Public Procurement Reform has stimulated private sector growth. 47.09% of respondent strongly agreed. 2.33% disagreed.

On the question of increased trust and confidence in public procurement among stakeholders, 48.84% of respondents agreed while 44.77% strongly agreed. 5.23% disagreed and 1.16% strongly disagreed.

#### **4.4.5 Accountability**

The section intended to measure whether procurement practitioners in GRIDCo are held fully responsible for all aspects of the procurement process over which they exert authority. This measure strengthens the perception of transparency and fairness as well as reduce the incidence of corruption.

**Table 4.7: Accountability in Procurement Practice**

<b>PERFORMANCE/COMPLIANCE FACTORS</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
Procurement practitioners are held accountable for their actions	0.58	1.74	56.98	40.70
There has been a sanction against procurement entity (GRIDCo) or staff.	8.14	30.23	38.95	22.67

**Source: Researcher’s Field Work, September 2016.**

From Table 4.7, 56.98% agreed when the researcher sought to find out if Procurement practitioners are held accountable for their actions in GRIDCo. 40.70% strongly agreed, while

1.74% disagreed and 0.58% strongly disagreed.

On the question of whether there has been a sanction against procurement entity (GRIDCo) or staff, 38.95% of respondents agreed while 22.67% strongly agreed. 30.23% disagreed and 8.14% strongly disagreed. This shows that accountability in the procurement function in GRIDCo is very high.

#### 4.4.6 Ethics and Compliance with Regulatory Framework

The Public Procurement Authority (PPA) is mandated by Sections 3(d) 13(e) and 3(h) of the Public Procurement Act, 2003 (ACT 663) to assess the performance of each entity to ensure compliance with the provisions of Act 663. The research intends to ascertain whether public entities comply with the regulatory framework of the procurement reform.

**Table 4.8: Compliance with Regulatory Framework**

PERFORMANCE/COMPLIANCE FACTORS	STRONGLY DISAGREE	DISAGREE	AGREE	STRONGLY AGREE
All stakeholders uphold code of ethics.	-	1.16	55.23	43.60
GRIDCo complies with the Public Procurement Act 663.	0.58	3.49	54.65	41.28
GRIDCo applied appropriate procurement methods for appropriate thresholds in procurement.	-	0.58	56.40	43.02
GRIDCo uses Standard Tender Documents from PPA in procurement.	-	-	48.84	51.16
GRIDCo post their tender, adverts and contract awards at PPA website.	-	1.16	52.91	45.93
GRIDCo prepares and post their Annual Procurement Plans on PPA website	-	-	52.91	47.09

**Source: Researcher's Field Work, September 2016.**

From Table 4.8, 55.23% of respondents agreed that stakeholders uphold code of ethics. 43.60% strongly agreed and 1.16% disagreed. 54.65% of respondent were of the view that GRIDCo complies with the Public Procurement Act 663. 41.28% strongly agreed. 3.49% disagreed and 0.58% strongly disagreed. Majority of respondents were of firm conviction that GRIDCo applied appropriate procurement methods for appropriate thresholds in procurement. 56.40% agreed, 43.02% strongly agreed with 0.58% disagreeing. GRIDCo uses Standard Tender Documents from PPA in procurement, 51.16% and 43.02% strongly agreed and agreed respectively. 52.91% of respondents said GRIDCo post their tender, adverts and contract awards at PPA website. 45.93% strongly agreed and 1.16% disagreed. On GRIDCo prepares and post their Annual Procurement Plans on PPA website, 52.91% of respondents agreed with 47.09% strongly agreed to that statement. This shows that GRIDCo largely complies with regulatory framework of the Public Procurement Law of Ghana.

#### 4.4.7 Challenges in the Implementation of the Act 663

From Table 4.9, 62.79% of respondents strongly agreed that there are weaknesses in public procurement system. 37.21% agreed. The general perception is that Public Procurement process is too long. 83.14% of respondents agreed, 10.47% strongly agreed. 5.23% disagreed and 1.16% strongly disagreed. Public Procurement process is too expensive according to the study 73.84% agreed, 17.44% strongly agreed, 8.14% disagreed, and 0.58% strongly disagreed.

**Table 4.9: Implementation of Act 663**

<b>PERFORMANCE/COMPLIANCE FACTORS</b>	<b>STRONGLY DISAGREE</b>	<b>DISAGREE</b>	<b>AGREE</b>	<b>STRONGLY AGREE</b>
There are weaknesses in public procurement system	-	-	37.21	62.79
The general perception is that Public Procurement process is too long	1.16	5.23	83.14	10.47

The Public Procurement process is too expensive	0.58	8.14	73.84	17.44
Cost of public procurement of works and goods are too expensive	-	2.33	73.00	24.68
There are delays in the procurement process	0.58	2.91	66.28	30.23

**Source: Researcher's Field Work, September 2016.**

73.84% of respondents were of the view that cost of public procurement of works and goods are too expensive. 73.00% agreed, 24.68% strongly agreed with 2.33% disagreed. There are delays in the procurement process as per the study conducted. 66.28% agreed, 30.23% strongly agreed, 2.19% disagreed and 0.58% strongly disagreed. This implies that implementation of the Procurement Law in GRIDCo is largely without major constraints.

#### **4.5 Performance/Compliance Assessment of GRIDCo**

The Public Procurement Act, 2003 (Act 663) seeks to mainstream 'best practices' in the procurement of Goods, Works and Services, which will transcend into the achievement of savings and value-for-money.

Therefore, the objectives for undertaking the Annual Assessment Exercise are:

1. To find out how the procurement 'best practices' enshrined in the Act 663 and its accompanying documents are being employed in the public entities.
2. To inculcate into the public sector entities the need to monitor and evaluate their procurement performance; and
3. That ultimately, public entities will adopt this assessment approach and use it on their own for procurement assessment.

The assessment has been generated using data collected on GRIDCo in the area of procurement for the year 2014. The assessment has two main headings:

1. Performance Assessment System (PAS) report
2. Procurement Measurement Indicator (PMI) report

#### 4.5.1 Performance Assessment System (PAS) report

The Performance Assessment System (PAS) report gives a qualitative report on the performance of Ghana Grid Company Limited (GRIDCO) as captured by the current assessment exercise using the Evaluation Grid. The PAS report looks at four (4) main areas:

- Management Systems
- Information and Communication
- Procurement Process
- Contract Management

To mark the importance of PPA attached to each of these areas, weights have been attached to them as shown below

**Table 4.10: Performance Assessment System Indicators and weighted score**

Management Systems	15
Information & Communication	15
Procurement Process	45
Contract Management	25
<b>Total</b>	<b>100</b>

Source: Public Procurement Authority, 2009

The Evaluation Grid has Key Performance Criteria (KPC) which was used to capture the relevant performance data relating to each of these four areas. The performance of Ghana Grid Company Limited (GRIDCo) as relates to each Key Performance Criterion is shown in the KPC, Appendix II. It shows the areas under each KPC, which Ghana Grid Co. Ltd. (GRIDCo) has to work on to improve its performance.

#### **4.5.2 Procurement Measurement Indicator (PMI) report**

The Performance Measurement Indicator (PMI) report is the quantitative report generated from the Contracts Data Sheet. This report presents the levels of achievement recorded by Ghana Grid Company Limited (GRIDCo) for each of the procurement compliance/performance indicators. The results for these indicators are obtained by analyzing the information collected on the various contracts executed in the year 2014.

#### **4.5.3 Background of Entity**

Ghana Grid Company Limited (GRIDCo) was established in accordance with the Energy Commission Act, 1997 (Act 541) and the Volta River Development (Amendment) Act, 2005 Act 692, which provides for the establishment and exclusive operation of the National Interconnected Transmission System by an independent Utility and the separation of the transmission functions of the Volta River Authority (VRA) from its other activities within the framework of the Power Sector Reforms. GRIDCo was incorporated on December 15, 2006 as a private limited liability company under the Companies Code, 1963, Act 179 and granted a certificate to commence business on December 18, 2006.

The company became operational on August 1, 2008 following the transfer of the core staff and power transmission assets from VRA to GRIDCo.

GRIDCo's main functions are to:

- Undertake economic dispatch and transmission of electricity from wholesale suppliers (generating companies) to bulk customers, which include the Electricity Company of Ghana (ECG), Northern Electricity Department (NED) and the Mines;
- Provide fair and non-discriminatory transmission services to all power market participants;
- Acquire, own and manage assets, facilities and systems required to transmit electrical energy;
- Provide metering and billing services to bulk customers;
- Carry out transmission system planning and implement necessary investments to provide the capacity to reliably transmit electric energy; and manage the Wholesale Power Market.

The Staff strength of the entity was 863. Its total expenditure for the year 2014 was GHS625,095,000.00 out of which GHS 4,426,250.00 was utilized for procurement activities. Funding for these activities was provided through Internally Generated Funds.

#### **4.6 Performance Assessment System (PAS)**

The Entity scored a total weighted score of 85.47 in 2014. The Entity's performance under the four main areas of Performance Assessment System as indicated on figure 4.2 below was as follows:

- Management System: 15 out of 15
- Information and Communications Systems: 14.33 out of 15
- Procurement Process: 43.64 out 45
- Contract Management System: 12.50 out of 25

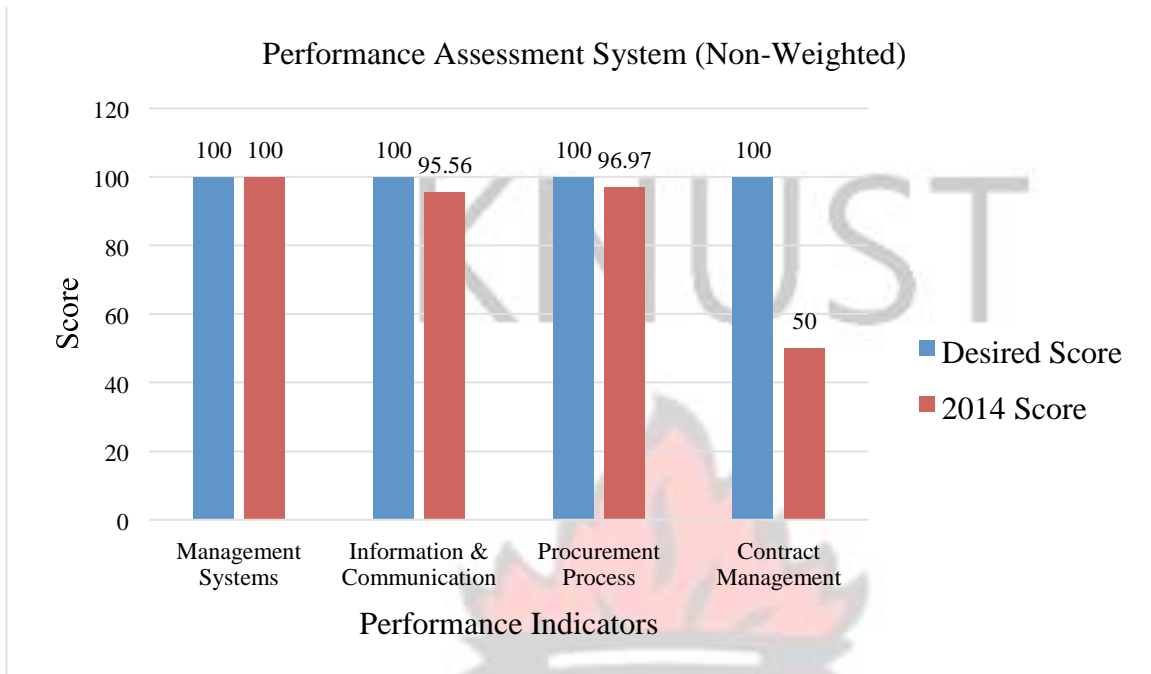


Figure 4.2: Achievement for the Performance Assessment System results

Source: Researcher's Field Work, September 2016.

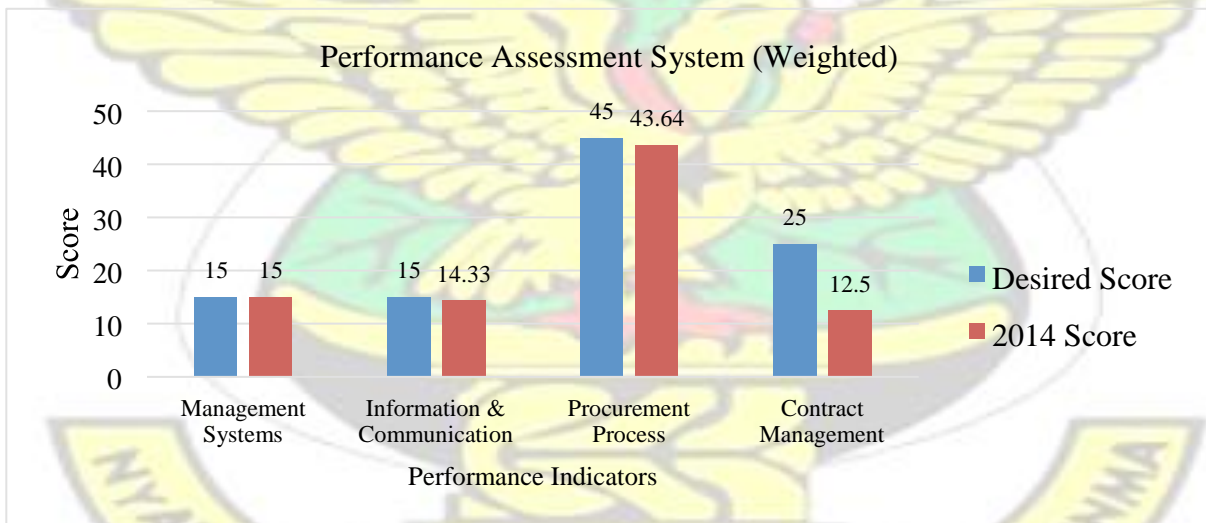


Figure 4.3: Achievement for the Performance Assessment System results

Source: Researcher's Field Work, September 2016.

#### 4.6.1 Management Systems

This category under the Performance Assessment System determines the seriousness GRIDCo

Management pay to the procurement activities in the entity. Management Systems examines leadership, human resources, monitoring and control system, ethics and compliance with regulatory framework, and complaints, appeals and disputes resolution mechanism. Management overall performance in 2014 was 100% as shown in figure 4.4 below

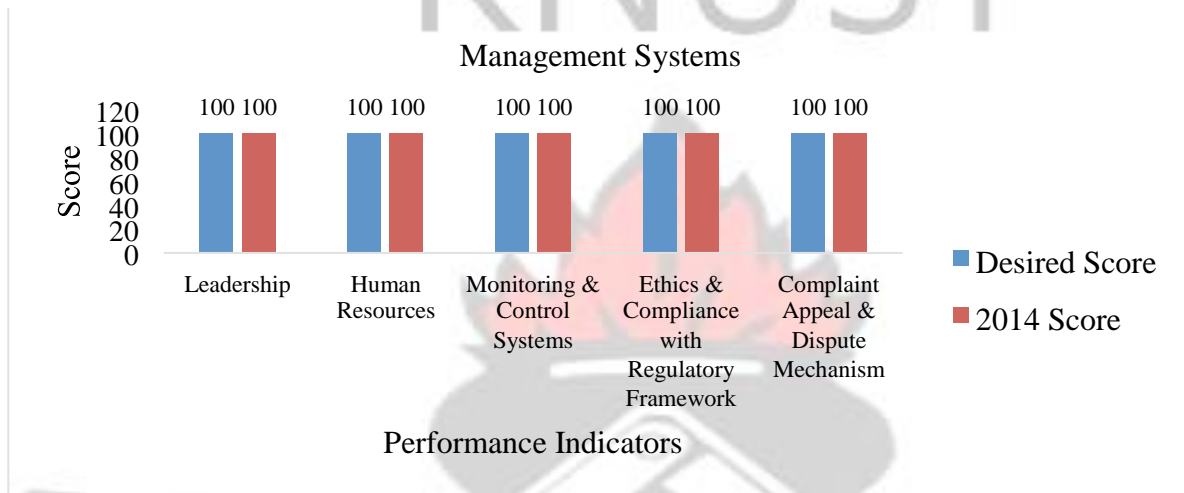


Figure 4.4: Performance Assessment System results – Management Systems

Source: Researcher’s Field Work, September 2016.

#### 4.6.2 Information and Communication

This is a measure of the management relationship with the public concerning the dissemination of information to the public and how the feedback was utilized. 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.

The entity’s overall performance was 95.96%. The entity scored 100% in Market place, Data Analysis and Knowledge of Apex Body. The Entity however scored 77.78 on information as per details in figure 4.5 below.

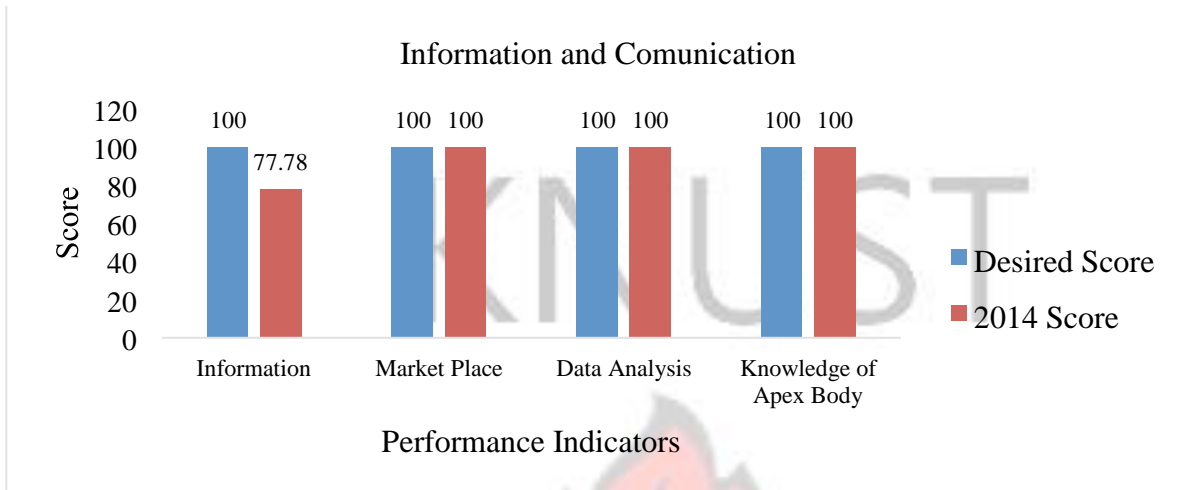


Figure 4.5: Performance Assessment System results – Information and Communication

Source: Researcher’s Field Work, September 2016.

#### 4.6.3 Procurement Process

This procurement process category determines an entity’s knowledge in the use of the procurement process within the procurement cycle. It 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.

The entity’s overall performance was 96.97%. The entity scored 100% in procurement planning, Notice, Preparation of Tender Documents, Invitation to Tender, Submission of Tender, Tender Opening and Tender Evaluation. The Entity however scored 66.67 on Contract Award as per details in figure 4.6 below.

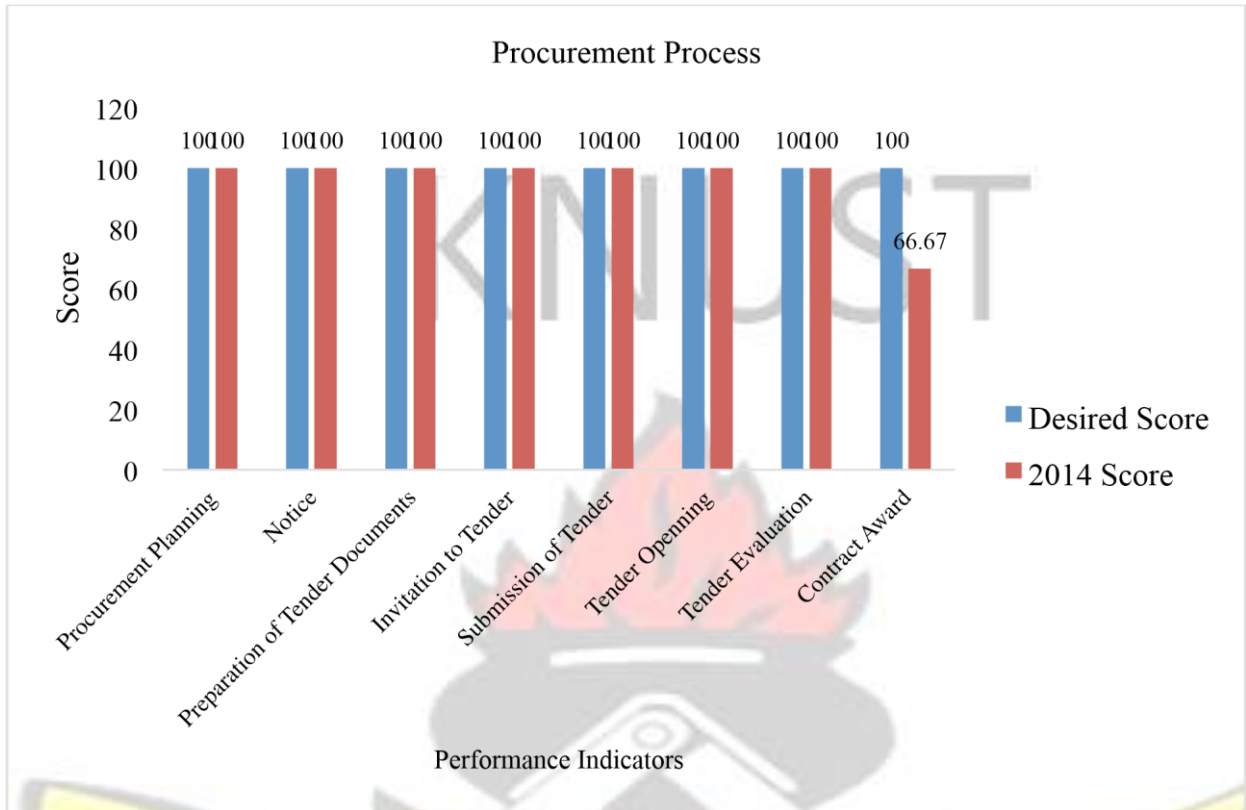


Figure 4.6: Performance Assessment System results – Procurement Process

Source: Researcher’s Field Work, September 2016.

What this means is that GRIDCo prepared its procurement plan, submitted it to the Entity Committees for approval one month before the end of the financial year of 2014, and uploaded it onto the PPA website as required under Section 21, Act 663. Notices of procurement packages were in the right format and content. Tender documents were prepared in accordance with Standard Tender Documents from the Public Procurement Authority. The number of bidders that participated in a procurement packages was very encouraging, ample time was given for submission of tenders. Tenders were received in secure tender boxes and publically opened in the presence of Tenderers. This shows consistency with the principles of Act 663. Tender Evaluation

Committees are constituted as per procurement package and evaluation members had the requisite procurement and technical expertise. Mandatory and timely publications of Tender results were not adhered to. Unsuccessful bidders were not notified and debriefed as required by Act 663. Not all contracts were also published on the PPA website.

#### 4.6.4 Contract Management

This category indicates how the entity monitored activities after contract award.

The entity's overall performance was 50% as per details in figure 4.7 below.

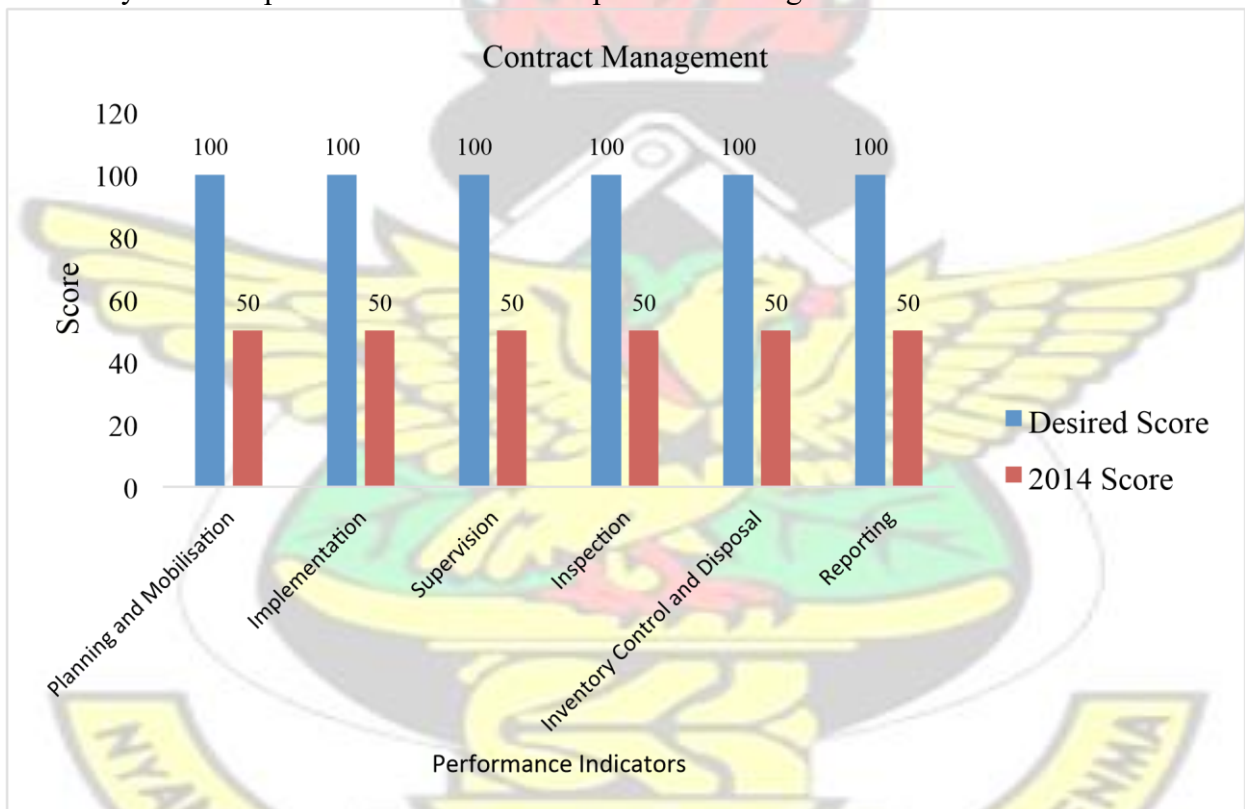


Figure 4.7: Performance Assessment System results – Contract Management

Source: Researcher's Field Work, September 2016.

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

The study revealed that fifty percent of contract reviewed had project plans. Advance payment certificates and copy were not available for all projects sampled, though payment records were found on project accounting system. Effective problem-solving and contract amendment systems were in place with records of contract variation orders, minutes of project team meeting and monitoring reports. Contract supervision revealed that half of projects outcomes are achieved in a timely manner and as planned. Close follow-up on project implementation is undertaken with suppliers, contractors and consultants. Physical verification of delivery of good, work and deliverables inspections for completion were undertaken in compliance with the contract provisions. Field/spot-check reports, handing over certificates, completion/delivery reports were mostly available. Not all goods/materials were stored and issued in accordance with stock control policy. Stock control records such as store received advice, store ledger book, tally/bin cards, requisition and issue voucher and return to store voucher were absent in some case especially project left overs and spares. Disposal of goods were consistent with the provision of PPA's guidelines for disposal of public stores. Progress/final reports on some contracts were not available, accounting for about half of project reviewed under this study.

#### **4.7 Performance Measurement Indicator (PMI)**

There are eleven Performance Measurement Indicators (PMIs). These indicators provide the means of gauging the performance of the activities they cover. Findings and discussions is done under the headings of the various indicator as shown in table 4.11.

**Table 4.11: Performance Measurement Indicator for 2014.**

Indicator	Metric	Criteria	Result (2014)
1. Advertisement of Tender Opportunities	(a) % of open tendering procedures publicly advertised	Percentage	100
	(b) % of open tendering procedures opened publicly and recorded	Percentage	100
2. Publication of Awards	% of contracts awards published	Percentage	45.45
3. Time for tender invitation and opening	Average number of days between invitation to tender and tender opening	Number	21
4. Tender participation	Average number of Tenderers	Number	5
5. Responsive tenders	Average number of responsive tenders	Number	31.75
6. Method of procurement	% of tenders using each of the procurement methods	Percentage	SS 7.60 PQ 40.15 NCT 36.36 ICT 15.89
7. Tender Processing lead-time	Average number of days between tender opening and contract award	Number	71
8. Cancelled tendering Procedures	% of tendering procedures cancelled per the provisions of ACT663	Percentage	None
9. Protest	(a) Tendering procedures with protests	Number	0
	(b) % Protests resolved	Percentage	0
10. Resolution of Contract Disputes	(a) Contracts with disputes	Number	0
	(b) % of contracts with resolved disputes	Percentage	None
11. Contract Completion	(a) % of contracts completed fully with acceptable performance	Percentage	66.67
	(b) % of contracts with completion reports	Percentage	66.67

Source: Researcher's Field Work, September 2016

### PMI1: Advertisement of Tender Opportunities

The Public Procurement Act, 2003 (ACT 663) enjoins that the notices for national and international tendering procedures, which are open competitive methods, should be advertised.

The notices are to be published in at least two (2) newspapers of wide national circulation as stated in Section 47 (2) of Act 663.

Entity score 100% for open tendering procedures publicly advertised, opened and recorded.

### **PMI 2: Publication of Awards**

Section 31 of Act 663 requires entities to publish contract awards in the form and manner prescribed by the PPA. Entity published 45.45% of contracts awarded in 2014. It means GRIDCo is not fully complying with this requirement as stipulated by the law.

### **PMI 3: Time for Tender Invitation and Opening**

This is the time the tenderers are allowed to put together their tenders. It is measured as the difference between the date the tender notice first appeared in the newspaper and the date of the tender opening. Average number of days between invitation to tender and tender opening was 21 days in 2014. This is consistent with the legal requirement.

### **PMI 4: Tenderer Participation**

This indicator records the level of responses entities receive to their tender notices. This is a measure of the responsiveness of the marketplace to meet the needs of the entities. The Average number of Tenderers participation was 5 tenderers in 2014. Entity is advised to utilize more competitive tenders which will invite higher tenderer participation.

### **PMI 5: Responsive Tenders**

This indicator gives a measure of the ratio of responsive tenders that are received for each notice put out by the entities. The Average Number of responsive tenders was from 31.75%.

### **PMI 6: Method of Procurement**

This indicator is the ratio of each of the recognized procurement methods to the number of tenders put out in 2014. The breakdown is as follows ICT 15.89% in 2014, NCT: 36.36% in 2014, Price Quotation: 40.15% in 2014 and Single Source: 7.60% in 2014.

### **PMI7: Tender Processing Lead-Time**

This is the time period between the date of tender opening and the date of contract award. This period covers the period for evaluation, the period for seeking approvals and the signing of the contract. Average number of days between tender opening and contract award was 71 in 2014. An indication that there was delay in the preparation of evaluation report, and review of evaluation report by Entity Tender Committee.

### **PMI 8: Cancelled Tendering Procedure**

This indicator looks at the number of tendering procedures that were cancelled by the entities. There were no tendering procedures cancelled per the provisions of ACT 663 in 2014.

### **PMI 9: Protests**

This indicator has been modified to capture the number of protests received and the ratio resolved. There were no protests from tenderers in the year 2014

### **PM1 10: Resolution of Contract Disputes**

This indicator now shows the number of contracts with disputes and how many of them were resolved using the provision of the conditions of contract. There were no contracts with disputes recorded in 2014

**PMI 11: Contract Completion**

The timely and acceptable completion of projects is measured by this indicator. There were 66.67% of contracts in 2014 complete with reports and acceptable performance.



## CHAPTER 5

### SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

#### 5.1 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 to improve the administrative structures, procedures, performance and policies of Public Procurement Authority with the overall aim of improving on the level of compliance with the Procurement Law and Regulations in GRIDCo.

#### 5.2 Findings

From the study, the following findings were made:

##### 5.2.1 Advertisement of Tender Opportunities

The Public Procurement Act, 2003 (ACT 663) enjoins that the notices for national and international tendering procedures, which are open competitive methods, should be advertised. The notices are to be published in at least two (2) newspapers of wide national circulation as stated in Section 47 (2) of Act 663. GRIDCo recorded 100% score for open tendering procedures publicly advertised.

##### 5.2.2 Publication of Awards

Section 31 of Act 663 requires entities to publish contract awards in the form and manner prescribed by the PPA. GRIDCo published 45.45% of contracts awarded in 2014.

### **5.2.3 Time for Tender Invitation and Opening**

This is the time the tenderers are allowed to put together their tenders. It is measured as the difference between the date the tender notice first appeared in the newspaper and the date of the tender opening. Average number of days between invitation to tender and tender opening was 21 days in 2014.

### **5.2.4: Tenderer Participation**

This indicator records the level of responses entities receive to their tender notices. This is a measure of the responsiveness of the marketplace to meet the needs of the entities.

The Average number of Tenderers participation was five (5) tenderers in 2014.

### **5.2.5 Responsive Tenders**

This indicator gives a measure of the ratio of responsive tenders that are received for each notice put out by the entities. The Average Number of responsive tenders was from 31.75

### **5.2.6 Method of Procurement**

This indicator is the ratio of each of the recognized procurement methods to the number of tenders put out in 2014. The breakdown is as follows:

1. ICT: 15.89% in 2014
2. NCT: 36.36% in 2014
3. Price Quotation: 40.15% in 2014.
4. Single Source: 7.60% in 2014.

### **5.2.7 Tender Processing Lead-Time**

This is the time period between the date of tender opening and the date of contract award. This period covers the period for evaluation, the period for seeking approvals and the signing of the contract. Average number of days between tender opening and contract award was 71 in 2014, an indication that there was delay in the preparation of evaluation report, and review of evaluation report by ETC.

### **5.2.8 Cancelled Tendering Procedure**

This indicator looks at the number of tendering procedures that were cancelled by the entities. There were no tendering procedures cancelled per the provisions of ACT 663 in 2014.

### **5.2.9 Protests**

This indicator has been modified to capture the number of protests received and the ratio resolved. There were no protests from tenderers in the year 2014

### **5.2.10 Resolution of Contract Disputes**

This indicator now shows the number of contracts with disputes and how many of them were resolved using the provision of the conditions of contract. There were no contracts with disputes recorded in 2014

### **5.2.11 Contract Completion**

The timely and acceptable completion of projects is measured by this indicator. There were 66.67% of contracts in 2014 complete with reports and acceptable performance.

### **5.3 Conclusion**

The study attempted to assess the level of compliance with the Public Procurement Law (Act 663) and Regulations by Ghana Grid Company Limited (GRIDCo). The study revealed very clearly that GRIDCo as a procuring entity had a total weighted score of 85.47 in 2014 under the Performance Assessment System (PAS) with some areas of improvement to work on. With this achievement, the Ghana Grid Company Limited (GRIDCo) is placed in STAGES 5: EXCELLENCE of the Public Procurement Maturity Table as per Appendix III. Benchmarks to be monitored for excellence.

### **5.4 Recommendations**

The Ghana Grid Company Limited performed well in compliance with the Public Procurement Law (Act 663) and Regulations during the financial year 2014. It is highly commended and urged to remain in this position for all future procurement in order to maintain the open and transparent system and obtain value for money in its spending.

Based on the findings reached, the researcher makes the following recommendations to the Ghana Grid Company Limited (GRIDCo).

1. Management of Ghana Grid Company Limited (GRIDCo) should put in place a measure to explain to all procurement practitioners within the company the importance of the human effort in the timely implementation of the Public Procurement Act 2003, (Act 663).
2. Ghana Grid Company Limited (GRIDCo) should put in place measures to monitor the administrative activities performed during the implementation of the Act so as to prevent any administrative delays within the process.

3. Ghana Grid Company Limited (GRIDCo) should consolidation of all procurement undertakings under one Department or Unit, and improve on procurement filing system to ensure smooth conduct of future Audit.
4. Entity is advised to have all contracts awarded published at PPA Website: [www.ppaghana.org](http://www.ppaghana.org).
5. Entity is advised to utilize more competitive tenders which will invite higher tenderer participation.
6. Structures must be put in place to reduce delays in the preparation of evaluation report, and review of evaluation report by ETC.
7. Unsuccessful tenderers must be debriefed within reasonable time.
8. Management should consider e-procurement, as they aim to align all procurement activities with sustainability principles.

### **5.5 Future Research**

The following are some areas that could be explored for future research:

1. Development of the Compliance Assessment Tool into a Comprehensive Computerbased Software System.
2. An assessment of compliance levels in procurement of goods and consultancy services.
3. A compliance assessment of Public utility Companies in Ghana

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## APPENDIX I – QUESTIONNAIRE

# KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY, KUMASI



## COLLEGE OF ARCHITECTURE AND PLANNING DEPARTMENT OF BUILDING TECHNOLOGY MSc. PROCUREMENT MANAGEMENT

### RESEARCH SURVEY QUESTIONNAIRE

**TITLE OF RESEARCH: ASSESSMENT OF COMPLIANCE WITH THE PUBLIC PROCUREMENT LAW (ACT 663) AND REGULATIONS - A CASE OF GHANA GRID COMPANY LIMITED (GRIDCo)**

This questionnaire is administered to collect data for a Master's Thesis on Assessment of Compliance with the Public Procurement Law (Act 663) and Regulations.; a case of GRIDCo.

Your participation in this study is entirely voluntary. The results of this study will be used for a research thesis which is in partial fulfillment for the award of a Master of Science Procurement Management by KNUST. Information provided is completely anonymous and will be kept confidential and destroyed after the study.

Should you need further clarification, please don't hesitate to contact Edwin Yohann Sonne on 0269 -184-164 or [eysonne@yahoo.com](mailto:eysonne@yahoo.com) or [edwin.sonne@gridcogh.com.gh](mailto:edwin.sonne@gridcogh.com.gh). Thank you for your time.

**INSTRUCTION:** Please tick (√) in the box and write where necessary.

**SECTION A: PERSONAL DATA**

1. Gender: Male ( ) Female ( )
2. Age: 20-30yrs ( ) 31-40yrs ( ) 41-50yrs ( ) 51and above ( )
3. Educational background: Post Graduate ( ) Graduate ( ) Diploma ( )  
Certificate ( ) CIPS/CILT ( )
4. Years of Service.....

**SECTION B: FACTORS AFFECTING PERFORMANCE/COMPLIANCE**

On the scale of 1- 4 answer the following questions

Scale: 1= Strongly Disagree, 2= Disagree, 3=Agree, 4= Strongly Agree

<b>PERFORMANCE/COMPLIANCE FACTORS</b>	<b>Strongly Disagree</b>	<b>Disagree</b>	<b>Agree</b>	<b>Strongly Agree</b>
<b>SCALE</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>Professionalism</b>				
Procurement staff are qualified and experienced to handle Procurement process.				
Procurement officers and committee members make informed decisions regarding procurement operations.				
Competent persons conduct tender Evaluation.				
<b>Transparency</b>				
There is transparency in the procurement process.				
Procurement opportunities are advertised using the appropriate medium.				
Contract awards are posted on PPA/entity website and notice boards.				
There is effective monitoring and auditing of procurement activities by oversight bodies.				
Unsuccessful bidders are debriefed within reasonable time.				

<b>Efficiency and Value for Money</b>				
There is a greater efficiency in public procurement.				
Better utilization of funds by GRIDCo.				
There is effective contract management and reporting in GRIDCo.				
There is value for money in projects being implemented by GRIDCo.				
Projects are completed on schedule and within cost.				
<b>Competitiveness</b>				
More companies compete for public contracts				
The Public Procurement Reform has stimulated private sector growth.				
Increased trust and confidence in public procurement among stakeholders.				
<b>Accountability</b>				
Procurement practitioners are held accountable for their actions				
There has been a sanction against procurement entity (GRIDCo) or staff.				
<b>Ethics and Compliance with Regulatory Framework</b>				
All stakeholders uphold code of ethics.				
GRIDCo complies with the Public Procurement Act 663.				
GRIDCo applied appropriate procurement methods for appropriate thresholds in procurement.				
GRIDCo uses Standard Tender Documents from PPA in procurement.				
GRIDCo post their tender, adverts and contract awards at PPA website.				
GRIDCo prepares and post their Annual Procurement Plans on PPA website				
<b>Challenges in the Implementation of the Act 663</b>				
There are weaknesses in public procurement system				
The general perception is that Public Procurement process is too long				
The Public Procurement process is too expensive				
Cost of public procurement of works and goods are too expensive				

There are delays in the procurement process

# KNUST



# KNUST

## APPENDIX II – BASEELINE PERFORMANCE EVALUATION GRID



1A - Leadership						
1A1 - Procurement Entity responds to the required training advice to develop sustainable training strategy and capacity to manage their procurement operations	Capacity Development Strategy	- Procurement Training Programme - Training Unit / Providers Evaluation Report	Entity has a training programme – 3  Entity Implements training programme – 4  Entity Evaluates training programme - 2			
1A2 - Procurement Entity is aware of the availability of the support provided by the PPB	Technical Support from the Apex Body	-Draft rules / Instructions / Manuals and Documentation available to entities  - Training / workshops / seminars	Rules / instructions / Manuals etc. from PPA available – 5  Entity has taken part in PPA training / Workshop – 2  Entity has had Correspondence of some sort with PPA - 2			
1A3 - Internal audit provides timely information on procurement to enable management action and for improving performance	Management Compliance & Performance Improvement	- Internal Audit Report - Institutional organigram - Internal Audit procedures	Copies of Internal Audit report(s) – 3  Copy of Internal Audit procedures – 3  Internal audit structure - 3			
1A4 - Procurement Entity keeps records for all phases of procurement activities	Good record Keeping	Project Files (current / archived)	Entity has separate files for every transactions – 6  Ease of retrieving information from files – 3			
1B – Human Resources						

1B1 - Procurement Entity ensures that Procurement staff have the required professional procurement qualification and/or competence for the intended job	Professional Procurement Qualification / Competence	-Skill and Competence in Procurement  -Professional	At least one CIPS Qualification - <b>9</b>  Other staff have HND in Purchasing & Supply - <b>7</b>				
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		Procurement Qualification or equivalent	Graduates in other fields with procurement training - <b>4</b>  Staff have no procurement qualifications or training - <b>0</b>				
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1B2 - Procurement Entity implements programmes to enhance and inform private sector participation in public procurement.	Continuous improvement in procurement capacity of private sector	Frequency of Programme & Programme Documents  Reports on training Programmes	<b>IS PROGRAMME FOR PRIVATE SECTOR ENHANCEMENT IN PLACE (YES / NO)</b>  Entity Implements programme for Private sector enhancement - <b>4</b>  Entity undertakes such activities frequently - <b>3</b>  Entity has undertaken such activity at least once - <b>2</b>				
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1B3 - Procurement Entity has Auditors trained in procurement processes to assist in monitoring compliance	Auditors Trained in Procurement processes	Regular Procurement Training Programmes for Audit Staff	Internal Auditors in Place - <b>2</b>  Training programme for Auditors - <b>1</b>  Auditors have been trained in new procurement dimensions - <b>6</b>				
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1B4 - Procurement Entity has a standard procedure to evaluate performance of procurement staff and address capacity development issues	Staff Performance Evaluation	Existence of Standard Job Evaluation Procedures and Staff Appraisal Reports	Entity has general standard staff appraisal system -5  Entity has specific appraisal system for procurement staff - 2				
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			Copies of appraisal reports available - 2				
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**1C Monitoring & Control Systems**

1C1 - Procurement Entity sets payment periods taking cognizance of the payment procedures of the Ministry of Finance and Economic Planning	Payment Systems	Review invoices in line with contract payment terms interest paid on delayed payments Quarterly Cash Plans related to Contract	Review invoices in line with contract payment terms - 4  Interest paid on delayed payments - 3  Quarterly cash plans related to contract - 2				
1 C2 - Procurement Entity ensures that all contracts are captured in the approved budget and compared with actual contract sum	Contract and Budgetary Control Systems	Commencement Certificate Cash Plan and Cash Ceiling Commitment Control Register	All procurement transactions captured from approved budget - 6  Analysis done to compare actuals with budget - 3				



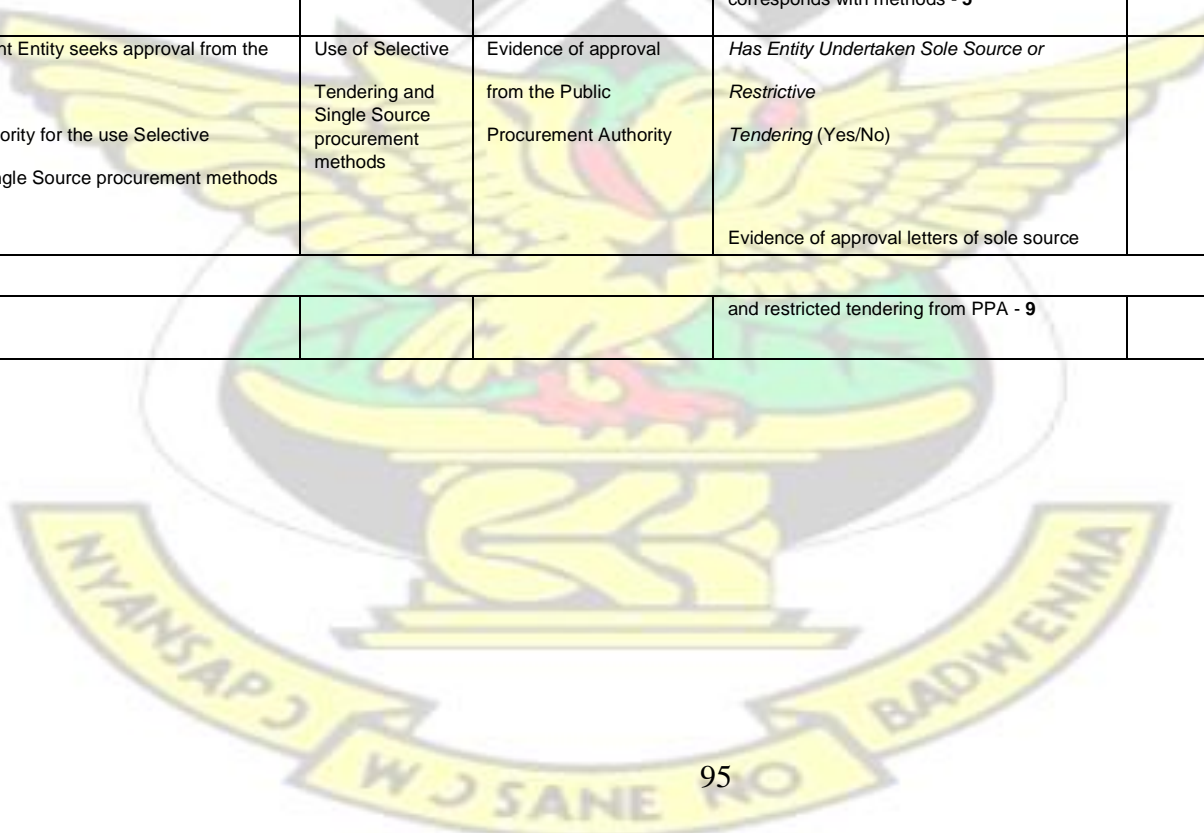
1 C3 - Procurement Entity has defined methods of contract administration responsibilities which include inspection and acceptance procedures and methods to review and issue contract amendments in a timely manner	Contract-Administration & Quality Control Mechanism	Check approval of Relevant approving Authorities, Contract Management Proceedings as outlined in conditions of contract – Review and amendments	Contract document clearly indicate contract management proceedings with clear cut responsibilities for review & amendments - 6  Approvals by relevant approving Authorities - 3				
1 C4 - Procurement Entity uses available media for the Dissemination of information on procurement.	Use of information dissemination systems	use of PPB website or Procurement Entity's own website  Use of Procurement Bulletin Copies of newspaper	Use of PPA website - 2  Use of Entity's own website - 1  Use of procurement bulletin - 1  Use of newspapers - 5				

		clippings, etc.					
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**1D – Ethics and Compliance with Regulatory Framework**

1D1 - Procurement Entity complies with the applicable regulations of the Public Procurement Act	Application of regulations	Formats and other relevant regulatory documentation on public procurement	Appropriate methods used for appropriate thresholds in procurement plan - 3  Evidence of using methods as stated in plan – 2  Good documentation - 2  Good contract management - 2				
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1 D2 - Procurement Entity is aware of the Standard Tender Documents and uses them as appropriate	Use of Standard Tender Documents	Copies of Standard Tender Documents	Copies of Standard Tender Documents from PPA available - 5  Evidence of use of such STDs - 4				
1 D3 - Procurement Entity is aware of the Procurement Manual and uses it as a guide	Use of PPA's Procurement Manual	Copy of PPA's Procurement Manual	Copies of PPA procurement Manual available - 5  Evidence of use of such Manual - 4				
1 D4 - Procurement Entity applies appropriate procurement methods	Knowledge of Procurement Methods	Procurement Plans, Copies of adverts for tenders, copies of Letters of Invitation	Right methods used in procurement plan - 4  Copies of adverts/ Letters of invitation corresponds with methods - 5				
1 D5 - Procurement Entity seeks approval from the Public Procurement Authority for the use Selective Tendering and Single Source procurement methods	Use of Selective Tendering and Single Source procurement methods	Evidence of approval from the Public Procurement Authority	<i>Has Entity Undertaken Sole Source or Restrictive Tendering (Yes/No)</i>  Evidence of approval letters of sole source				
			and restricted tendering from PPA - 9				



<p>1 D6 - Procurement Entity ensures anti-corruption provisions on corruption, conflict of interest and unethical behaviour in tender and contract documents</p>	<p>Anticorruption Measures Enforced</p>	<p>Copy of Code of Conduct for the Civil Service and other anti-corruption documentation issued for use within the Public Service Systematic approval by approving authorities (ETC, TRB, CTRB, PPB) Standard</p>	<p>Use of Standard Tender Documents issued by PPA - 5</p> <p>Contract Data Sheets with specific anti-corruption provisions - 2</p> <p>Tender Data Sheets with specific anticorruption provisions - 2</p>				
<p><b>1E – Complaints, Appeals and Dispute Mechanism</b></p>							
<p>1 E1 - Procurement Entity handles complaints relating to procurements appropriately</p>	<p>Fair and Transparent Complaint and Remedy procedures</p>	<ul style="list-style-type: none"> <li>- list of complaints received</li> <li>- Complaints and Appeal Procedure</li> <li>- Records of complaints and subsequent resolution sent to all parties,</li> <li>- Minutes of meetings, reports, etc.</li> </ul>	<p><b>HAS ANY COMPLAINTS BEEN RECEIVED (YES/NO)</b></p> <p>Appeals procedures in place - 3</p> <p>List of complaints received -1</p> <p>Evidence of records of complaints &amp; subsequent resolution sent to all parties – 3</p> <p>Minutes/reports of meetings - 2</p>				
<p>1 E2 - Procurement Entity has the capacity to handle lodged complaints and enforce decisions in a fair, efficient and transparent manner</p>	<p>Management Capacity to handle complaints</p>	<ul style="list-style-type: none"> <li>- Complaints lodged and timely treated/resolved</li> <li>- Enforcement mechanism</li> <li>- Decisions Report</li> </ul>	<p>Complaints lodged are timely treated/resolved - 4</p> <p>Decisions taken to resolve complaints/appeals are enforced - 3</p>				

			Decisions are communicated to all parties				
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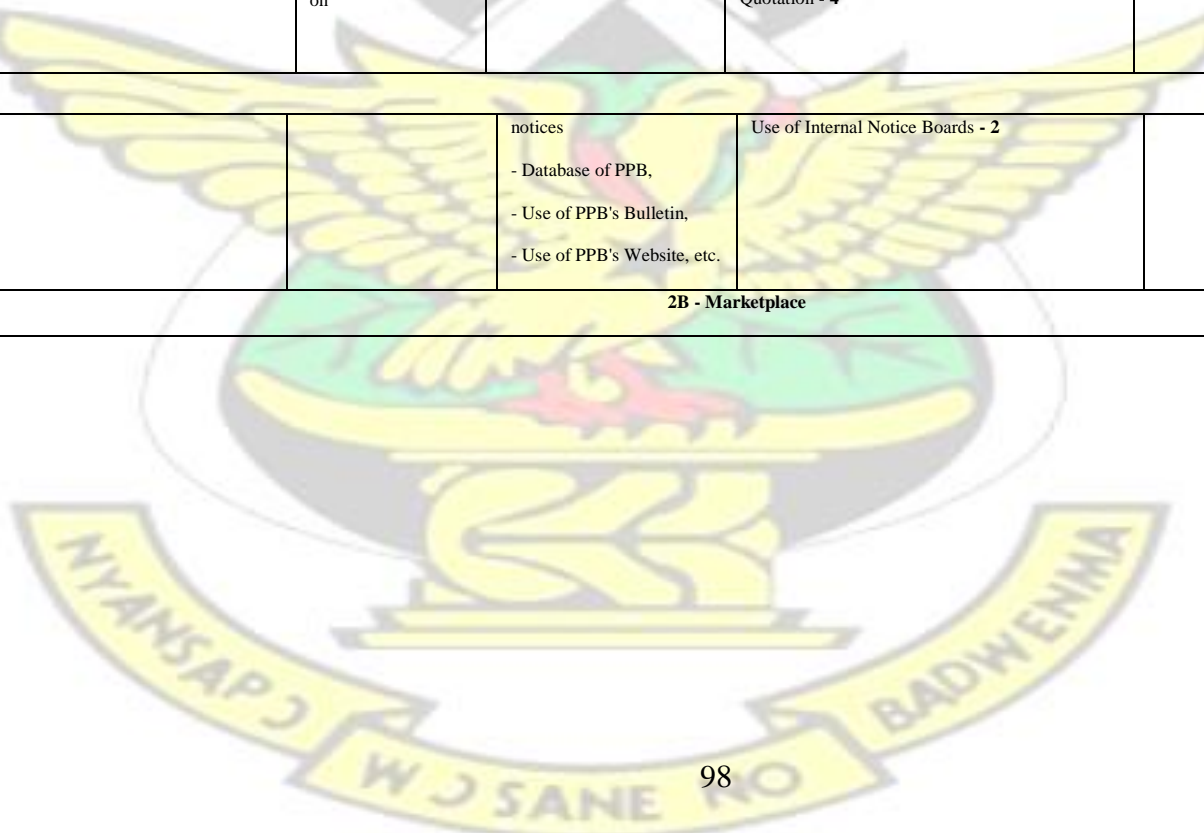
			timely - 2				
1 E3 - Procurement Entity makes public the decisions on complaints	Scrutiny by general public	Report on Decisions Copies of Publications	Reporting on decisions especially to concerned parties - 5  Advertising decisions - 4				
1 E4 - Dispute resolution procedures exists and provide for an efficient and fair process to resolve disagreements amicably as well as to enforce the outcomes	Dispute Resolution Mechanism	<ul style="list-style-type: none"> <li>- Dispute Resolution framework</li> <li>- Contract Documents</li> <li>- Dispute resolution file</li> </ul>	<p><b>HAS THERE BEEN DISPUTES RELATING TO CONTRACT ADMINISTRATION (YES/NO)</b></p> <p>Dispute Resolution Framework exist - 4</p> <p>Clauses in contract documents are clear on disputes resolution - 3</p> <p>Disputes resolution file available - 2</p>				

**INFORMATION AND COMMUNICATION**

**2A - Information**

2A1 - Procurement Entity is aware of available systems for initiating and disseminating procurement information including tender invitations, request for proposals and contract award	Capacity for initiating and disseminating information	<ul style="list-style-type: none"> <li>- PPB's Procurement Bulletin,</li> <li>- PPB's Website</li> <li>- Adverts in Newspapers</li> <li>- Announcements on Electronic Media</li> <li>- Databases</li> <li>- Notice Boards</li> <li>- procurement Information System</li> </ul>	Aware of use PPA's Procurement Bulletin & Website (Yes/No)  Aware of use of newspaper adverts (Yes/No)  Aware of Internal Notice Boards (Yes/No)				
2A2 - Procurement Entity makes use of available systems for timely dissemination of procurement information	Publication of information on	<ul style="list-style-type: none"> <li>- Publication of adverts - Tender and Contract award</li> </ul>	Use of PPA's Procurement Bulletin & Website - 3  Use of newspaper adverts / Letters of Price Quotation - 4				

		notices <ul style="list-style-type: none"> <li>- Database of PPB,</li> <li>- Use of PPB's Bulletin,</li> <li>- Use of PPB's Website, etc.</li> </ul>	Use of Internal Notice Boards - 2				
<b>2B - Marketplace</b>							



Procurement Entity engages in frequent interactions with the Private Sector to improve their competitiveness and responsiveness	Knowledge of Marketplace	<ul style="list-style-type: none"> <li>- Programmes for interactions training / workshop s/ seminars for private sector</li> <li>- records of interactions - Criteria for sourcing for potential suppliers</li> <li>- Response from potential Tenderers to invitation to tender</li> <li>- Databases of registered consultants, contractors and suppliers on past and current performance</li> </ul>	<ul style="list-style-type: none"> <li>- Interactions with stakeholders 5</li> <li>- Internal Database for: Suppliers/Contractors/Consultants - 2</li> <li>Response from potential tenderers to tenders - 2</li> </ul>				
<b>2C – Data Analysis</b>							
2C1 - Procurement Entity incorporates sustainable procurement issues in procurement activities	Promotion of sustainable public procurement	<ul style="list-style-type: none"> <li>- Feasibility study</li> <li>- Technical Specifications incorporate sustainable procurement clauses</li> <li>- copies of EIA/Social Impact / economic feasibility reports</li> </ul>	<ul style="list-style-type: none"> <li>- Detailed Technical specifications in tenders - 4</li> <li>- copies of <i>EIA/Social impact /economic</i> feasibility reports - 5</li> </ul>				
2C2 - Procurement Entity has a system to collect data related to performance of procurement and report	Performance Data Collection	<ul style="list-style-type: none"> <li>- Data Recording System</li> <li>- procurement Monitoring</li> </ul>	<ul style="list-style-type: none"> <li>-Evidence of data collection system in place - 3</li> <li>-Evidence of using data to do analysis to assess</li> </ul>				
regularly	System	Report	performance - 3				
		<ul style="list-style-type: none"> <li>- Project Files</li> </ul>	<ul style="list-style-type: none"> <li>-Evidence of reporting on performance - 3</li> </ul>				

2D - Knowledge of Apex Body						
201 - Procurement entity is fully informed and understands well the role of the Authority	Knowledge of role of the Board	<ul style="list-style-type: none"> <li>- availability and understanding of the Procurement Law</li> <li>- Functional relationship with the PPA</li> </ul>	-Evidence of Correspondence from PPA - 9			
PROCUREMENT PROCESS						
3A - Procurement Planning						
3A1 - Well defined Procurement Plan linked to the budget formulation process based on multi-year framework	MTEF Link to Procurement Plan	<ul style="list-style-type: none"> <li>- Budget Document (Medium Term Expenditure Framework MTEF)</li> <li>- Procurement Plan</li> </ul>	<ul style="list-style-type: none"> <li>- Copy of Annual Budget - 3</li> <li>- Well defined Procurement Plan - 3</li> <li>- Posted plan on PPA's Website - 3</li> </ul>			
3B - Notice						
3B1 - Publication of notices are mandatory and publicly advertised in a timely manner according to respective procurement methods and thresholds, where applicable	Mandatory and Timely Publication of Notices	<ul style="list-style-type: none"> <li>- Publication of Notices in Procurement Bulletin - Adverts in Newspapers of wide national and or international circulation</li> </ul>	<i>Has entity undertaken NCT / ICT before? (yes/no)</i> <ul style="list-style-type: none"> <li>- Copies of Adverts - 4</li> <li>- Compare Adverts against Procurement Plan - 5</li> </ul>			
3C - Preparation of Bidding Documents						
3C1 - Tender documents contain clear scope of work / services, neutral technical specifications and conditions (e.g. eligibility, evaluation criteria, etc.) to enable Tenderers to respond adequately	Clear & Objective Tender Documents	<ul style="list-style-type: none"> <li>- Tender Documents - Specifications (with no reference to a particular brand names, trademarks, etc.)</li> <li>- Terms of Reference</li> </ul>	<ul style="list-style-type: none"> <li>- Standardized tender documents for tendering – 4</li> <li>- Technical specifications does not include brand names, trademarks, etc. - 5</li> </ul>			

3D - Invitation to Bid							
3D1 - Fair and transparent rules apply for the selection of Tenderers	Fair and Transparent selection criteria applied for qualification	Sample of tender documents Prequalification dossiers - Requests for quotations/proposals - Invitation to Tender - etc.	- Tender Documents contain Evaluation Criteria – <b>3</b> - Tender Documents contains Contact Address – <b>3</b> - Date/Time for submission/Opening of Tenders - <b>3</b>				
3D2 - Appropriate Margins of Preference are used in accordance with the Guidelines on Margins of Preference	Use of Margins of Preference	- Copy of Guidelines on Margins of Preference - Clauses on application of Margins of Preference in Tender Documents, Tender Evaluation Report	<b>Does Entity use Margin of Preference ( yes / no)</b> - Copy of Guidelines for Margin of Preference - <b>2</b> - Check margin of preference in tender documents - <b>2</b> - Check evaluation reports on reference to margin of preference - <b>5</b>				
3E - Submission of Bid							
3E1 - Procurement Entity ensures consistency in the quality of tenders submitted.	Consistency & Quality of Tender submission	- Clarity of tendering instructions - Appropriate tendering documents.	- Invitation and Submission Dates - <b>1</b> - Time of Tender Closing – <b>1</b> - Venue of Tender Opening – <b>1</b> - Contact Address of Entity – <b>1</b> - Use of Appropriate Tender Documents - <b>5</b>				
3F - Bid Opening							
3F1 - Procurement Entity opens tenders at the same time as the deadline for the receipt of tenders	Tender Preparation Lead-time	- Minutes of tender opening process. - time for bid preparation	- Specific Dates - <b>4</b> - Time for Tender Openings - <b>3</b> - Minutes of Tender Opening - <b>2</b>				

3F2 - Opening of tenders is conducted publicly according to defined procedures specified in the tender documents	Transparent Public Tender Opening	- Adverts or invitation letters. - tender Documents	-Evidence of Adverts/invitation Letters - 3 -Signed pages of Tender Documents - 2 -Signed Minutes of Tender Openings - 2				
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	Process	- Signed Attendance Sheet for tender opening - Signed pages of tender documents - Signed minutes of tender openings	-Signed Attendance sheet for Tender Opening - 2				
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3F3 - Tenders received are registered, securely stored and kept confidential throughout the tendering process	Security & Confidentiality of Tenders	Secured Tender Box with evidence of responsibility - record of tender submissions	- Secured tender box in place - 5 - Signed Attendance sheets submission of tenders - 4				
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3F4 - Procurement Entity keeps records of tender opening procedures	Records of Tender Openings	- Records of procurement process - Tender registers - Minutes of tender openings	- Tender opening Register for all tenders - 4 - Minutes of Tender Opening - 5				
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**3G - Bid Evaluation**

3G1 - Procurement Entity uses only the pre-disclosed criteria and clear methodology in Tender documents for evaluation	Objective Evaluation Criteria	Evaluation Criteria and Report consistent with provisions in Tender Documents	Evaluation report consistent with Tendering requirement - 9				
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**3H - Contract Award**

3H1 - All Tenderers are informed in a timely manner of bid results and contract award	Mandatory and Timely Publication of bid results	Notices/Notification of Procurement Contract Awards to all Tenderers, General Public	Notification of Contract - 3 Publication of Contract Awards - 3 Copies of Letters for Losers of Tenders - 3				
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**CONTRACT MANAGEMENT**

**4A - Planning & Mobilization**

4A1 - Procurement Entity makes advance Payments on Submission of acceptable guarantees	Advance Payment	- Advance Payment Certificate - Copy of advance payment guarantee	<b><i>HAS THERE BEEN ADVANCE PAYMENT (yes/no)</i></b> - Advance Payment Certificate - 5 - Copy of Advance Payment Guarantee - 4				
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4A2 Project plan with outcomes and milestones are clearly defined and reviewed.	Definition of Project outcomes and milestones	- Project / Work Plan	- Project Work Plan - 9				
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**4B - Implementation**

4B1 - Effective problem-solving and contract amendment systems in place.	Problem-solving and Contract Amendment	- Minutes Project Team Meeting	Project Monitoring Reports - 9				
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**4C - Supervision**

4C1 - Project outcomes are achieved in a timely manner and as planned	Timely Project outcomes	Project delivery reports	- Project Delivery Reports - 4 - Compare Project delivery reports with Project Work Plan -5				
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4C2 - Close follow-up on project implementation is undertaken with suppliers, contractors and consultants	Project implementation follow-up	Progress Report from suppliers, contractors and consultants	- Project Implementation meeting with stakeholders - 9				
<b>4D - Inspection</b>							
4D1 - Physical verification of delivery of goods inspection of completed works are undertaken in compliance with the contract provisions.	Physical verification of goods and inspection of completed works	- Field and/or spot-check Reports - Handing Over Certificates - Completion/Delivery Reports	Inspection of Goods and Field Verification - 3 Handing Over of Certificates - 3 Completion / Delivery Reports - 3				
<b>4E – Inventory Control and Disposal</b>							
4E1 - Goods/materials are stored and issued in accordance with stock control policy	Stock Control Policy	Stock Control Record Systems	Evidence and Use of Stores Received Advice (SRA) - 2 Evidence and use of Stores Ledger Book - 2 Records of Tally/Bin Cards - 2 Evidence of Requisition and Issue Voucher - 2 Return to Store Voucher - 1				
4E2 - Disposal of goods and equipment made in accordance with provisions of PPA	Effective Store Disposal Procedures	Board of Survey - Report from Board Survey Records of Disposal of items	<b>HAS ENTITY ENGAGED IN DISPOSAL OF ITEMS</b> <b>YES/NO</b> Membership of the Board of survey - 3 Minutes of Board of Survey - 3 Record of Disposed Items - 3				
<b>4E – Reporting</b>							

4F1 - Effective monitoring and evaluation of contracts in place	Regular report on Project Implementation	Progress and/or Periodic Reports	Evidence of Report for contract monitoring and evaluation - 9				
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### APPENDIX III – MATURITY TABLE (SHOWING ENTITY’S PLACEMENT AND WHY)

STAGES	STAGES 1	STAGES 2	STAGES 3	STAGES 4	STAGES 5
<b>CHARACTERISTICS</b>	<b>NON CONFORMING</b>	<b>CONFORMING</b>	<b>MATURING</b>	<b>MATURED</b>	<b>EXCELLENCE</b>
<b>PROCUREMENT STRUCTURES</b>	Prescribed structures not in Place. No Procurement Unit	Structures and Procurement Unit In place but Procurement unit not effective	All structures are in place including procurement Unit which is functioning well	All structures are in place including procurement Unit well which is functioning well	All structures are in place including procurement Unit well which is functioning well
<b>PROCUREMENT STAFF</b>	No qualified or trained Procurement staff	No procurement professionals Staff however have training in procurement	Has at least one qualified procurement staff	All procurement staff have professional qualification	All procurement staff have professional qualification

<b>PROCUREMENT PLANNING</b>	No procurement plans are prepared	No procurement plans are prepared	Procurement plans prepared but not posted on PPA Website	Procurement plan prepared & posted on PPA Website	Procurement plan prepared & posted on PPA Website
<b>PROCUREMENT PERFORMANCE</b>					
Total weighted Score	0-20		21-40	41-60	61-80
Performance Rating	Poor		Fair	Good	Very Good
Areas of Improvement	26-49		16-25	11-15	1-10

