

KWAME NKURUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY,

KUMASI

COLLEGE OF ARCHITECTURE AND PLANNING

DEPARTMENT OF BUILDING TECHNOLOGY

**AN EVALUATION OF THE PERFORMANCE OF THE WORKS PROCUREMENT
METHODS IN THE PUBLIC SECTOR REGIME OF GHANA**

BY

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MASTER OF SCIENCE

IN

PROCUREMENT MANAGEMENT

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DECLARATION

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

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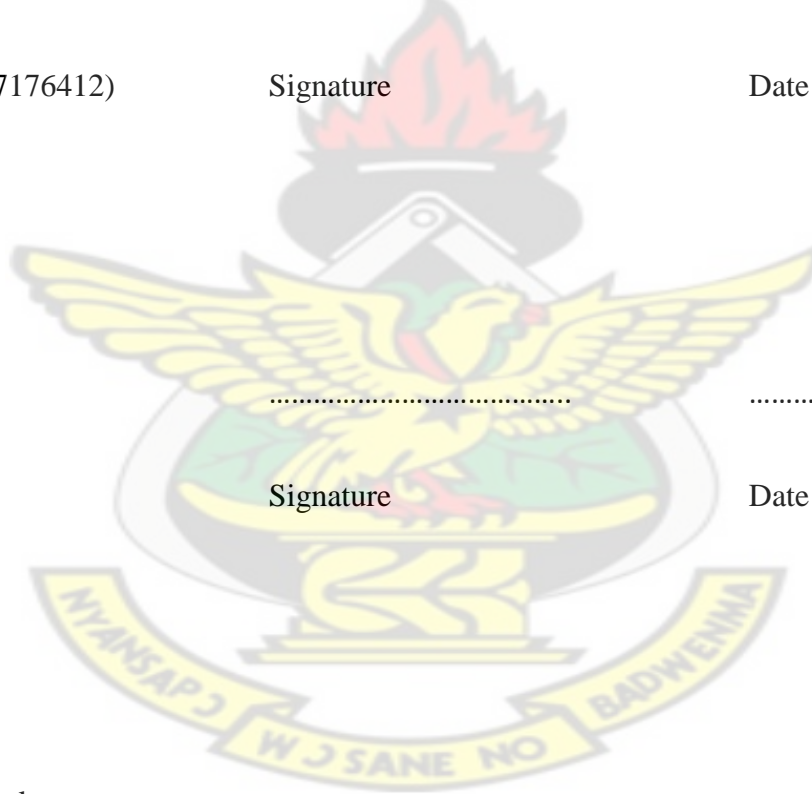
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DEDICATION

I dedicate this work to the Management of Procurement and Project Management Consultancy Ltd, for sponsoring this Master of Science Programme.

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ABSTRACT

Since the enactment of the Public Procurement Act of Ghana (Act 663) in 2003, incidents of corruption, fraudulent acts and collusive behaviour have pervaded the public procurement regime and the direct consequence has been that people at the helm of affairs are taking advantage of the loop holes in the Procurement Methods and their procedures to influence decisions on contract awards. As a result quality delivery on most infrastructure works projects have become poor, and value for money in terms of cost and timely delivery have not been achieved. This research study, premised on the assumption that the Consultants were performing at optimum levels during Pre-Contract and the Post-Contract stages of Works procurement, was undertaken by interviewing 23 Officers comprising Procurement Officers from some select Ministries, Departments and their Consultants with the objective of identifying the loopholes in the Works Procurement Methods and procedures prescribed by the Public Procurement Act and to suggest strategic ways of mitigating corruption and fraudulent acts in the Works Procurement process. Among other findings, the Researcher identified lack of education as a bane to the achievement of the objectives of Act 663 and therefore suggests a collaborative effort between the Public Procurement Authority and the Kwame Nkrumah University of Science and Technology where Procurement related programmes are been run to subsidize the tuition fees to enable public officers study Procurement related courses at various levels. The study also identified that Procurement Entities and the Public Procurement Authority were not exercising enough due diligence to determine the capacities of Contractors recommended for Works Contracts and therefore suggested that the decision to recommend a contractor should not be based exclusively on tender submissions but investigations as well. It was also suggested that the appointment of

the officials of the Public Procurement Authority should be non-partisan, as it would lessen the level of political influence in works procurement.

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CHAPTER ONE

INTRODUCTION

Existing statistical data indicates that public procurement accounts for 50 – 70 % of the National Budget, 14% of Gross Domestic Product and 24% of total imports, World Bank CPAR (2003). Anglomas (2008) identified that the Government of Ghana spends 65% to 70% of its national budget on Public Procurement. It therefore means that larger proportions of the national budget are increasingly been used for public procurement. The social and economic impacts can therefore not be over-emphasized for a third world Country like Ghana where financial resources are scarce.

Before the enactment of the Procurement Act in 2003, price was the major determinant in the evaluation criteria prior to the Award of Contracts in Ghana. Instances of collusion, bribery, conflict of interests, fraud and unfair competition shrouded the entire procurement process to the extent that contracts were awarded by those in the helm of affairs to their cronies, cost and time overruns were prevalent, contracts were abrogated as result of political transitions, projects were abandoned as a result of non-performance on the part of Contractors and suppliers and consequently the primary objective of value for money was not achieved.

The public procurement Act (Act 663) was therefore enacted to provide a legal framework, guidance and to harmonize the processes of procurement to secure a judicious, economic and efficient use of state resources and to ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner (Public Procurement Act, 2003).

The Public Procurement Act provides for the Establishment of a Board to superintend over the processes of public procurement (The Public Procurement Act of Ghana, Act 663). In order to achieve the objective of harmonizing processes and procedures, secure the judicious use of resources, promote efficiency, fairness, transparency and competition; Instructions and regulating documents such as Standard Tender Documents, Regulations and Manuals were developed by the Board. Whiles achieving the objective of uniformity in the usage of the Standard Tender Documents since the coming into being of the Act, the same cannot be said of the achievement of the other objectives and ultimately value for money. Instead fraudulent behavior and corruption of different forms have emerged and pervaded the entire procurement process (Ameyaw et. al, 2012). Consequently, various stakeholders have called for Government Intervention and better reforms to mitigate corruption, fraudulent practices and provide value for money. Anvuur and Kumaraswamy (2006) called for the expansion of procurement reforms and strategies with the focus on “best value” as a means of achieving value for money.

1.1 STATEMENT OF THE PROBLEM

The Public Procurement Act (2003), among other propositions have prescribed various methods of Procuring goods works and Services with comprehensive guidelines in the Manuals and Regulations to make accessible the step by step means of achieving competition, promoting fairness and ultimately providing value for money to the Procuring Entities.

The proposed procurement methods were devised to suit every peculiar procurement situation to further avoid misprocurement and mitigate corrupt practices in the process. Anglomas (2008) identified that most stakeholders favour open competitive tendering because it offers every eligible tenderer the opportunity to participate in the bidding process as it guarantees transparency although it could be expensive. He also identified that Selective tendering

guarantees value for money, as the tenderer is known by his track record though the process could be manipulated.

Competitive tendering even though highly recommended because of the seemingly transparent nature has become rigidly less competitive as one tenderer is able to buy more than one tender document; A press release in 2010 indicated that close to 70% of public procurement has been known to be procured through single sourcing or sole sourcing even though the underlying reasons were not national security concerns, urgency of need or the specialist nature of the works; Restrictive Tendering is invariably becoming similar to Single Sourcing since contractors can collude among themselves to defeat the objective of getting reasonable bill rates; and Request for Quotation has become shrouded with favouritism.

The direct consequence of the above shortfalls are that cost and time overruns are increasingly becoming prevalent, poor quality workmanship is commonplace and projects are abandoned either due to the lack of the required skill or poor enforcement. It is also identified that the facilities when completed are either of inferior quality, fail to perform the desired function or the cost of maintenance during the useful life of the facilities are unusually high. In consequence the primary objective of achieving value for money within the constraints of resource scarcity in Public Works procurement has not been achieved.

Even though researchers like Anglomasa (2008) also identified the fact that there was lack of requisite expertise, competent staff and inadequate training in the procurement profession and that most of the entities had not set up procurement units, it is also suggested that the use of the best suited method in accordance with the guidelines and Manuals of the Procurement Act was key to achieving value for money.

In the wake of the call for reforms to make the procurement processes devoid of corruption and fraudulent acts, it is equally expedient to evaluate the performance of the procurement methods spelt out in the Act and their procedures to identify loop holes if any and make recommendations accordingly.

1.2 AIMS AND OBJECTIVES

1.2.1 AIM

The aim for this study is to identify pragmatic strategies that would make the procurement methods better able to provide value for money in response to calls for providing better reforms to ensure the judicious use of scarce resources.

1.2.2 OBJECTIVES

The objectives are;

- To identify the loop holes in the Works Procurement Methods and Procedures as a step towards enhancing their performance in providing best value.
- To suggest strategic ways of mitigating corruption in the Procurement Process.

1.3 SIGNIFICANCE OF STUDY

Ghana as a third world country is saddled with debt and identified with economic hardships owing to her inability to optimize the use of her resources. This is manifested in her poor infrastructural development among others. Her inability to generate enough financial resources means that she has to continue borrowing from developed countries, the World Bank, Multi-lateral and Bilateral Funding institutions and other International Financing Institutions in order to service her debt, promote economic growth and improve infrastructural Development.

Most often, Financial Credit from these institutions comes not only with strings attached but prescribed ways of administering the funds. The World Bank and the European Bank for Reconstruction has produced guidelines for the procurement of goods, works and services when funds are donated or lent to third world countries identified as most corrupt as per the Transparency International Perception Index. (World Bank, 1994). A World Bank Report in 1994 revealed that Ghana ranked as the 64th most corrupt country in the world and therefore not an exception (World Bank, 1994).

This measure by World Bank to insist on the usage of its Guidelines and Methods in the procurement of goods, works and services funded wholly or partially by it and other International Financing institutions characterizes the erosion of faith in the Procurement Procedures of the nation and her Procurement Regime.

This study, apart from having its primary objective as identifying strategic ways of enhancing the Performance of the Procurement Methods in Ghana and achieve value for money, seeks to identify better reforms that would inject faith in the Public Procurement Act of Ghana in the eye of Donor Agencies, the World Bank and the European Bank for Reconstruction and other International Financial Institutions.

1.4 METHODOLOGY

The data Collection aspect of this study will involve interviews, observations and a review of relevant Cases. Because of the need to get enough information on how the Procurement Methods and procedures are administered, there shall be no limitation on the category of works Projects that are to be sampled.

1.5 SCOPE / DELIMITATION

Owing to the constraints of time and financial resources to extend this study to all the three sectors of procurement in Ghana, this research seeks to focus exclusively on evaluating the performance of the Works Procurement Methods and procedures as enshrined in the Public Procurement Act of Ghana and their impact on value for money in terms of Cost, Time and Quality Delivery. It also seeks to focus exclusively on the works Procurement activities of the Ministries and Departments in the Greater Accra Region of Ghana.



CHAPTER TWO

LITERATURE REVIEW

This Chapter presents Key definitions relevant to the study, an overview of the nature of Public Procurement in Ghana before the passing of the Bill into Law; The Public Procurement Act of Ghana as passed into law in 2003; the Works Procurement Methods as enshrined in the Act with the Objective of achieving Efficiency, Economy, Transparency, Competition and Value for Money; the Performance of the Works Procurement Methods in Ghana in Accordance with the Act; The Procurement Reforms as proposed by stakeholders; and Value for Money in terms of Cost, Time and Quality.

2.1 KEY DEFINITIONS

2.1.1 PROCUREMENT

Procurement can be defined as a means of acquiring goods, works or services at the best possible cost to meet the needs of the purchaser in terms of quality, quantity, time and location. In Public Procurement, the objective is to promote fairness, competition and transparency while minimizing fraud and collusion.

2.1.2 PROCUREMENT METHODOLOGY

Miller et al (2009) defined Procurement Methodology as the overall approach to undertaken procurement and include Procurement Strategy and Procurement System. Business Dictionary defines a Procurement Methodology as a procedure used in converting requirements or requisitions into purchase orders or contracts and includes Competitive Bidding, Direct Negotiations and Single-Source Acquisitions.

2.1.3 PROCUREMENT STRATEGY

A Procurement strategy defines the means by which the project objectives are achieved and includes the contracting arrangements for design, construction, maintenance or operation activities and subcontract arrangements (Miller et al, 2009).

2.1.4 PROCUREMENT SYSTEM

This can be defined as a framework within an organization or institution which defines the responsibilities of the individuals involved in procurement and the methods and procedures to be used in undertaking procurement. Miller et.al (2009) defines it as an organizational system that assigns specific responsibilities and authorities to people and organizations and defines the various elements in the construction of a project.

2.2 PUBLIC PROCUREMENT IN GHANA BEFORE THE ENACTMENT OF ACT 663

Prior to the Enactment of the Act, Price was thought to be the major evaluation criteria based on which Contract Award recommendations were made. The rule of thumb was that the Tenderer with the lowest Tender Price invariably should be recommended and awarded the Contract. For a third world Country like Ghana saddled with economic hardships and poor infrastructural development, Infrastructural Works Development was not only a priority for the Country as a means development but was also a means by which unscrupulous people in the helm of affairs could make money at the expense of the Innocent Tax Payer.

The Tendering Process was usually shrouded in mystery and the “Engineers Estimate”, the Estimated Contract Sum as Determined by the Consultant became an object of contest among tenderers. One only needed to have an idea of the “Engineers Estimate” to brighten one’s

chances of winning the bid since less or usually no consideration was made in regard to the Financial Capacity of the Tenderers, Specific experience in the works of a similar nature, availability of Competent Staff and the availability of the required plant and equipment to execute the works.

The political atmosphere after independence and before the implementation of the 1992 Constitution was very unstable and identified with military takeovers. The transition of one Government to the other was identified with the suspension of works projects for procurement audits and infrastructural works initiatives commenced by the previous governments were discarded.

All the above cited reasons meant that works projects were either abandoned because of the lack of technical expertise or military injunctions, the quality of workmanship was poor, cost and time overruns were prevalent, the facilities were unfit for the intended use and consequently value for money was not achieved.

Studies undertaken by World Bank (World Bank, 2003) revealed that the annual value of Public Procurement for Goods, Works and Consultancy Services in Ghana amounted to about USD 600 Million, representing 14% of the Nations GDP. Anglomas (2003) also identified that the bulk of the expenditures were run by Ministries, Departments, Agencies (MDAs), District Assemblies, Public Hospitals, Colleges, Universities and Schools in the Procurement of Goods, Works and Services. It was therefore thought that defining and implementing a framework to harmonize, regulate and check the expenditure involved in the Public Procurement Process would impact positively on the growing economy of Ghana.

Consequently, Constitutional, Legislative and Administrative Instruments such as the Contracts Act in 1960, Ghana Supply Commission Act, later reviewed in 1990 by PNDC law 245, the Ghana National Procurement Agency Decree in 1979 and the Financial Administration Decree in 1979 were all instituted to ensure economy, performance and reduce impropriety. Subsequent reviews of the Procurement processes revealed substantial cost overruns, the unavailability of a comprehensive legal framework, corrupt and fraudulent Acts, Inefficiencies, lack of fairness and lack of transparency in the administration of public funds in the procurement process (Anglomasa, 2012).

With the same nagging challenges recurring, the Government of Ghana established the Public Financial Reform Program in 1993 which was implemented in 1995 and subsequently reviewed by a committee set up by the Ministry of Finance and Economic Planning in 1999. The committee drafted the Public Procurement Bill in 2002 which was enacted into law by the Parliament of Ghana in 2003 as the Public Procurement Act, 2003 (Act 663). It became operational on the August 27, 2004.

2.3 THE PUBLIC PROCUREMENT ACT OF GHANA, (ACT 663)

The Public Procurement Act of Ghana was the Six Hundred and Sixty-Third Act of the Parliament of the Republic of Ghana enacted to establish the Public Procurement Board to make Administrative and Institutional Arrangements for procurement; stipulate tendering procedures and provide for purposes connected with tendering.

The Act has Nine (9) different parts and Four (4) different schedules. The parts and schedules relevant to Works Procurement and this research are as detailed below.

2.3.1 PART ONE –ESTABLISHMENT OF THE PUBLIC PROCUREMENT BOARD

The board was to act as a body corporate with perpetual succession and a common seal with a corporate name, with the capacity to acquire, hold, manage and dispose property in connection with the execution of its functions. Essentially, the board was charged with the responsibility of “harmonizing the processes of public procurement to secure a judicious, economic and efficient use of the state resources in public procurement and ensure that the public procurement is carried out in a fair, transparent and non-discriminatory manner” (Public Procurement Act, 2003).

Among the functions of the Board were the following;

- Developing Draft rules, instructions and other regulatory documentation on public procurement and formats for public procurement documentation.
- Monitor, supervise and ensure compliance with statutory requirements
- Publish a monthly Public Procurement Bulletin which shall contain information germane to public procurement including proposed procurement notices, notices of invitation to tender and contract Award information.
- Facilitate the training of public officials involved in public procurement at various levels.
- Develop, promote and support training and professional development of persons engaged in public procurement and ensure adherence by the trained persons to ethical standards.
- Investigate and debar from procurement practice under the Act, suppliers, Contractors and Consultants who have seriously neglected their obligations under a public procurement Contract, have provided false information about their qualifications or offered inducements of the kind referred to in Section 3 of the Act.
- Perform such other functions as are incidental to the attainment of the objects of the Act.

2.3.2 PART TWO – PROCUREMENT STRUCTURES

2.3.2.1 SCOPE OF APPLICATION OF THE ACT

The Act applies to the following;

- procurement of goods , works and services, financed in whole or in part from public funds, except where the Minister of Finance and Economic Planning decides that it is in national interest to use a different procedure.
- Functions that pertain to procurement of goods, works and services including the description of requirements and invitation of sources, preparation, selection and award of contract and the phases of contract administration.
- The disposal of public stores and equipment.
- The Procurement with funds or loans taken or guaranteed by the state and foreign aid funds except where the Applicable Loan Agreement Guarantee Contract or Foreign Agreement provides a procedure for the use of the funds.

INSTITUTIONS INVOLVED IN THE IMPLEMENTATION OF THE ACT

The act applies to the procurement activities of the following Institutions;

- Central Management Agencies
- Government Ministries, Departments and Agencies
- Sub vented Agencies
- Governance Institutions
- State Owned Enterprises to the extent that they use state funds
- Public Universities, Public Schools, colleges and Hospitals

- The Bank of Ghana and Financial Institutions such as Public Trusts, Pensions Funds, Insurance Companies and Building Societies which are wholly owned by the state or in which the state has majority interest.
- Institutions established by the Government for the general welfare of the public or community.
- Where the Minister of Finance decides that it is in National Interest to use a different procedure. The Minister shall define and publish in the Gazette the method of procurement to be followed in order to serve the interest of the economy.

2.3.2.2 PROCUREMENT ENTITIES

Procurement Entities are responsible for procurement, subject to the Act and to such other conditions as may be laid down in the procurement regulations and administrative instructions of the Minister of Finance, issued in consultation with the Board (Act 663, 2003). The head of the Entity and officers delegated by the Head are accountable for actions taken in regard to public procurement.

2.3.2.3 TENDER COMMITTEES

Tender Committees are established by the Procurement Entities to ensure that procedures are followed in accordance to the Act, sound judgment is exercised in the making of procurement decisions and the appropriate Tender Review Boards are referred to for approval for procurements above its threshold. They are supposed to meet at least once every quarter and notice of the meetings shall be given at least two weeks prior to the scheduled date for the meeting.

2.3.2.4 TENDER EVALUATION

The tender evaluation panel is appointed by the Procurement Entity to evaluate tenders and assist the Tender Committee in its work. Members of the panel are supposed to have the required expertise and shall proceed in accordance to the predetermined and published evaluation criteria.

2.3.2.5 TENDER REVIEW BOARDS

Tender Review boards are established at every level of the process to review activities at each step of the procurement cycle leading to the selection of the lowest evaluated bidder. They are also mandated to grant concurrent approvals or otherwise to enable the procurement entities continue with the process and to review decisions of Heads of Entities in respect of complaints.

The manner set out in schedule 2 is as follows;

1. Central Tender Review Board
2. Ministerial/Headquarters Tender Review Boards.
3. District Tender Review Boards.

2.3.3 PART THREE – PROCUREMENT RULES

The procurement rules in the Act provide guidelines to the Procurement Entities in the discharge of their procurement activities. They include the following;

- Procurement Entities must prepare Procurement Plans to support their approved programmes, indicating the contract packages, estimated cost of packages, proposed Procurement Methods and the processing steps and times
- Tenderers must be Prequalified to ensure they have the professional and technical competence, required Financial Resources, required Equipment Holding and the Capacity to enter the contract;

- The grounds for the rejections of tenders, proposals and quotations
- The Entry into force of the procurement Contract
- The requirement of public notice of Procurement Contract Awards
- The prescribed way of describing or specifying the Goods, Works or Services to be procured
- The language to be used in the prequalification documents, Tender Invitation documents and documents of offers or proposals.

2.3.4 PART FOUR AND FIVE– PROCUREMENT METHODS AND PROCEDURES

Part four of the Act details the various Methods of Procurement, peculiar circumstances under which the methods are to be used and the procedures for the administration of those methods in the procurement process. The prescribed Works Procurement methods are;

- Competitive Tendering
- Two-Stage Tendering
- Restricted Tendering
- Single Source Procurement
- Request for Quotation

2.3.4.1 COMPETITIVE TENDERING METHOD

The Competitive Tendering Method exists in two forms namely National Competitive Tendering and International Competitive Tendering.

2.3.4.1.1 NATIONAL COMPETITIVE TENDERING

National Competitive Method of Tendering is used for lower value procurements. The Act permits the use of National Competitive Tendering when the value threshold is between the amounts sated in Schedule 3 of the Act. It can also be used when the works by their nature or scope are unlikely to attract foreign competition or where there are justifiable reasons for the Procurement Entity to limit the participation to domestic Contractors.

2.3.4.1.2 INTERNATIONAL COMPETITIVE TENDERING

International Competitive Tendering method is used when it is thought that effective competition cannot be obtained unless foreign firms are invited to tender and when the value threshold exceeds the amount indicated in Schedule three of Procurement Act. The Act requires that the language shall be in English, the Tender Invitation shall be placed in a newspaper of wide circulation to attract foreign competition, at least six weeks is allowed for the submission of tenders, and the technical specifications are made compatible with international standards.

2.3.4.2 TWO –STAGE TENDERING METHOD

This method is recommended where it is not feasible for the Procurement Entity to formulate detailed specifications for the works or the subject of the works is subject to rapid technological advances. In the first stage, contractors are invited to submit their proposals without tender prices. The proposals are examined against the criteria stipulated under sections 29, 32 and 62(6) to create a shortlist of satisfactory proposals.

In the second stage of the procurement process, the Procurement Entity then invites Contractors whose tenders were not rejected after the first stage of evaluation to submit final tenders with

prices on a single set of specifications. The Tenders are then evaluated and compared to ascertain the successful tenderer.

2.3.4.3 RESTRICTED TENDERING

This method is prescribed for reasons of efficiency and economy and subject to the approval of the Public Procurement Board. It involves a direct invitation to a shortlist of pre-registered or known contractors and is used under the listed circumstances;

- The works are available from a limited number of Contractors
- The time and cost required to examine and evaluate a large number of tenders is disproportionate to the value of the works to be procured.

2.3.4.4 SINGLE SOURCE PROCUREMENT

This method involves the Procurement Entity inviting a price quotation from only one contractor with the approval of the Public Procurement Board under the listed circumstances;

- The works are available from a single source or only one contractor has exclusive rights in respect of the works and no reasonable alternative is available.
- Where there are national security concerns.
- There is an urgent need for the works and therefore engaging in tender proceedings or any other method of procurement is impractical due to the unforeseen circumstances giving rise to the urgency which is not the result of dilatory conduct on the part of the procurement entity.
- Where owing to a catastrophic event , there is an urgent need for the works
- Where the Procurement Entity which has procured works determines that additional works need to be procured from that contractor for the sake of standardization.

- There is the need for compatibility with existing works.

2.3.4.5 REQUEST FOR QUOTATION

This method involves the Procurement Entity requesting for price quotations from at least three (3) Contractors to ensure competitive prices. The submitted quotations are then evaluated and the lowest Responsive Evaluated bid recommended for award.

The method is used under the following circumstances;

- When the estimated value is less than the amount stated in schedule 3 of the Act.
- When the requirement is for a widely available works such as redecorations, repairs and minor alterations not requiring detailed specification and which can be estimated by just a site visit.

2.4 TENDERING PROCEDURES FOR COMPETITIVE TENDERING

2.4.1 ISSUANCE OF STANDARD TENDER DOCUMENTS

Standard Tender Document is a set of documents issued by the Procurement Entity which defines the works to be executed in terms of technical specifications, drawings, bill of quantities etc., the procurement procedures to be followed and the proposed Contract Conditions. Standard Tender Documents are supposed to contain enough information to enable tenderers submit responsive tenders.

Upon the receipt of the request to procure and the notification of the availability of the funds, the Head of the Procurement Entity is supposed to prepare the tender documents by modifying the following key areas in the Standard Tender Documents;

- Invitation to Tender

- Tender Data Sheet
- Technical Specification/Drawings
- Bill of Quantities
- Conditions of Particular Application
- Forms of Tender, Tender Security,
- Forms of Agreement and Performance

2.4.2 ADVERTISEMENT FOR COMPETITIVE TENDERING

The Public Procurement Act requires that the Invitation to tender should be published for a minimum of two (2) weeks for National Competitive Tendering and Six (6) weeks for International Competitive Tendering.

For National Competitive Tendering, the advertisements are supposed to be published in the Public Procurement Bulletin, the Website of the Public Procurement Board and in at least two daily newspapers of wide circulation. Advertisement for International Competitive Tendering should take the form of publications in international Newspapers and Journals. The submission of the Invitation documents to the embassies of foreign countries is deemed to have met the requirement.

2.4.3 CONTENTS OF THE ADVERTISEMENT

The Act requires that the advertisement should include brief information on the following

- The source of funding
- The works to be procured
- The minimum qualification requirement for the tenderers
- The procedure for obtaining the tender document

- The place and deadline for the submission of the tenders
- The price of the tender document
- The value of the tender security

2.4.4 SALE OF TENDER DOCUMENT FOR COMPETITIVE TENDERING

The tender documents are supposed to be made available for sale by the Procurement Entity before the publication of the invitation to tender and the price of the tender documents should reflect only the price of the tender document and the cost of making it available to tenderers. When the stock of the tender documents is exhausted, the Procurement Entity must initiate action to print extra copies to meet the needs of prospective tenderers.

2.4.5 ISSUE OF STANDARD TENDER DOCUMENTS FOR RESTRICTIVE TENDERING

The Public Procurement Act (Act 663) requires that the Head of the Procurement Entity should prepare and issue the Standard Tender Documents with a personalized letter to the all the shortlisted Contractors simultaneously either by a registered post or by hand in return for a written receipt.

2.4.6 ISSUE OF REQUEST FOR QUOTATION

Similar to Restrictive Tendering, Standard Request for Quotation Documents are issued to shortlisted tenderers with personalized letters. For complex requirements where the Normal Standard Request for Quotation Documents and Purchase Order Documents are inappropriate, nor provide an appropriate form of Contract, the Act requires that the Procurement Entity may utilize appropriate formats from the other Standard Tender Documents.

2.4.7 TENDER EVALUATION FOR COMPETITIVE TENDERING

The Act requires that the Procurement Entity shall constitute a Tender Evaluation Panel with a minimum of Three (3) qualified Members to undertake the evaluation of tenders. The Evaluation Panel is required to evaluate tenders against the criteria set out in the tender documents.

2.4.8 PRELIMINARY EXAMINATION OF TENDERS

The Preliminary examination of tenders requires that the evaluation panel should observe the following (Manuals, Public Procurement Act, 2003).

- Ascertain whether the tenders are complete and responsive to the basic instructions and requirements of the tender document
- Whether tenders are eligible to tender, if not already determined prior to the invitation to tender.
- Whether tenderers are from eligible source countries.
- Whether tenders have been submitted in the correct format without missing pages.
- Whether any erasures, interlineations, additions or other changes in the tender have been initialed by the tenderer.
- Whether the required tender security had been submitted in the correct form, amount and validity period.
- Whether there are material reservations or deviations from the terms and conditions of the tender document.
- Whether the tender has been correctly signed and authorized.
- If the tenderer is a joint Venture, a copy of the joint venture agreement has been submitted.

- The correct number of copies of the tender document has been submitted.
- Tender is valid for the required period.
- All key documents and information have been submitted.
- Tender meets any other key requirements of the tender document

2.4.9 RESPONSIVENESS OF TENDERS

Tenders examined against the above listed criteria and determined to have conformed to all the instructions requirements, terms and conditions of the tender as listed above without material deviation, reservation or omission are said to be substantially responsive and are therefore subjected to financial evaluation.

A material deviation, reservation or omission is one that;

- affects in any substantial way the scope, quality, or performance of the works specified in the tender document
- Would limit in any substantial way, inconsistent with the tender documents, the rights of the Procurement Entity or the Tenderer's obligations under any resulting contract;
- Or if corrected would unfairly affect the competitive position of other tenderer's obligations under any resulting contract or if corrected would unfairly affect the competitive position of other tenderers presenting substantially and compliant tenders.

Tenders containing material deviations, reservations or omissions are determined as non-responsive and are therefore rejected and may not be subsequently made responsive by the Tenderer or the Procurement Entity. Where a tender is determined to be substantially responsive, the evaluation panel may waive, clarify or correct any non-conformity, error, or omission which does not constitute a material deviation. Such non-conformity should be quantified in monetary

terms to the extent possible and taken into account in the financial evaluation and comparison of tenders (Manuals, Public Procurement Act, 2003).

2.4.10 FINANCIAL EVALUATION OF TENDERS

Tenders determined to be substantially responsive are evaluated further to determine their evaluated prices and the lowest evaluated tender. This is achieved as follows;

- Taking the tender prices as read out at the tender opening.
- Correcting arithmetic errors in tenders in accordance with the procedure sated in the Tender Data.
- Applying any non-conditional discounts offered in the Tender.
- Making financial adjustments in accordance with the tender documents for non-material, non-conformity, errors or omissions.
- Converting all tenders to a single currency, using the currency and the source and date of exchange rate indicated in the tender Document.
- Applying any margin of preference indicated in the tender document.

Tenders are compared against the criteria highlighted above and ranked according to their evaluated prices to determine the lowest evaluated Tender.

2.4.11 POST QUALIFICATION OF THE LOWEST EVALUATED TENDER PRICE

This is undertaken in accordance with the requirements stated in the tender document to ascertain the tenderers, technical, financial and physical resources available to undertake the contract including his current workload. If the lowest evaluated tenderer meets the post qualification criteria of the tender requirements, the tender is recommended for award unless the Tenderer's

qualification has since materially deteriorated, or if the Tenderer's has since received some additional work that reduces the available capacity.

If the lowest evaluated responsive tenderer fails post qualification, his tender should be rejected and the next ranked tenderer should then be subjected to post-qualification. If successful, the tenderer is recommended for award, otherwise the process continues for the other tenderers.

2.4.12 EVALUATION REPORT AND RECOMMENDATIONS

The Public Procurement Act of Ghana requires that the Tender Evaluation Panel will prepare and submit an evaluation report to the Tender Committee using the Standard Tender Evaluation Report Format for the Evaluation of works. The Evaluation report should essentially summarize the results of the evaluation against the criteria spelt out in the Tender Document and the recommendation for the award or cancellation of the proposed contract.

The Panel may recommend the award of the Contract or Contracts to the lowest Evaluated Responsive Tenderer or combination of Tenderers or a cancellation of the procurement process.

The panel may recommend a cancellation of the procurement process if;

- None of the tenderers are found to be responsive
- All tenders are unreasonably high in price compared to the cost estimate
- None of the tenderers are qualified
- Where there is deemed to be an absence of competition.

2.4.13 REVIEW AND APPROVAL OF THE REPORT

The appropriate review authority (Head of Procurement Entity, Tender Committee, District, Regional, Ministry or Central Tender Review Board) will review the evaluation report and

recommendations in the evaluation report. The review authority before granting approval will ensure that any written complaints made by the tenderers are addressed and responded to. If the complaints reveal a serious breach of procedures or ethics, the review authority may recommend rejection of the evaluation report and call for re-tendering.

2.4.14 EXTENSION OF TENDER VALIDITY

The tender validity period is usually specified in the Tender Documents and evaluation and award of contract should be completed within the period set for the validity of the tenders. The Procurement Act, (Act 663, 2003) requires that should circumstances prevent the award of Contract within the original tender validity period, extensions in writing should be requested from the Tenderer's in accordance with the Tender Document. Tenderers who reject the request to extend their validity periods may withdraw from the tender without penalty but those who agree to the extensions are required to extend their Tender Securities accordingly (Manuals, Public Procurement Act, 2003).

Tenderers' who agree to extend their Tender Validity periods are not permitted to revise their quoted prices or rates or other conditions as indicated in the tender. However, if the tender provides for price adjustment, adjustments could be permitted when requests for second and subsequent extensions are made.

2.4.15 AWARD OF CONTRACT

Following the approval from the relevant review body, the Act (663, 2003) requires that a formal commitment of the required funds against the budget of the procurement entity should be made and approval sought before the Contract is awarded to the Lowest Evaluated Responsive Tenderer.

The Act also requires that notice of the award should be communicated to the successful tenderer who would be required to respond by issuing a letter of acceptance and the relevant performance security as prescribed by the tender. Subsequent to the submission of the letter of Acceptance and the Performance Security, the Successful Tender is invited to sign the Contract.

Failure however on the part of the successful tenderer to confirm his acceptance or furnish the Performance Security or to sign the contract may constitute grounds for the annulment of the award and the forfeiture of the Tenderer's Tender Security. Under such circumstances the Procurement Entity may award the Contract to the next Lowest Evaluated Tenderer who is qualified to execute the contract, who would also be required to make the necessary submissions as prescribed by the Contract and Sign the Contract.

Within thirty (30) days of award of the Contract, the Procurement Entity is required to submit notice of the Contract Award to the Public Procurement Board for publication in the Public Procurement Board Website and the Procurement Bulletin.

2.4.16 SCHEDULE THREE (3) OF THE ACT

This Schedule details the Contract Value thresholds for the Various Procurement Methods and the Decentralized Procuring Entities Thresholds for Review or Approval. The Contract Thresholds for the Works Procurement Methods prescribed in the Act and the Decentralized Procuring Thresholds for the Entities are as indicated in Tables 1 and 2 respectively;

Table 1: Thresholds for Procurement Methods (Act 663 of Ghana, 2003)

PROCUREMENT METHOD/ADVERTISEMENT	CONTRACT VALUE THRESHOLD
Advertisement	Above ₵ 70 Billion

International competitive Tendering	Above C 20 Billion
National Competitive Tendering	More than C500 Million up to 15 Billion
Restricted Tendering	Subject to Approval from Procurement Board
Price Quotation	Up to C500 Million
Single Source Procurement	Subject to Approval by Procurement Board

Table 2: Decentralized Procuring Entities Thresholds (Act 663 of Ghana, 2003)

AUTHORITY	VALUE OF WORKS (C)
Head of Entity	Up to 100million
Entity Tender Committee	Greater than 100 Million but less than 500 Million
District Tender Review Board	Greater than 500 Million but less than 2 Billion
Ministerial and Regional Tender review Board	Greater than 2 Billion but less than 15 Billion
Central Tender review Board	Above 15 Billion

2.5 PUBLIC PROCUREMENT AFTER THE ENACTMENT OF THE ACT (ACT 663)

Ameyaw, et. al (2012) argued that since the implementation of the Public Procurement Act in 2003, substantial gains have not been achieved. Further, they alluded to the fact that the nation (Ghana) ranked 62nd and 69th most corrupt country for the years 2010 and 2011 respectively, out of a total of 183 countries globally from an assessment done by the Transparency International. It therefore makes it apparent that the eradication or mitigation of corruption as a means of ensuring fairness and achieving value for money is far from been achieved.

The same Researchers, Ameyaw et al (2012) also reported that a study undertaken in 2003 revealed that most staff members of the Ministries, Departments, Agencies (MDA's) and District

Assemblies lacked the requisite skill in procurement and therefore could not effectively discharge their procurement duties efficiently even though they had been trained. They recommended that a broad training and “refresher” programmes for the official was required to complement the application of the Act, the Tender and Contract Documents.

The same authors (Ameyaw et.al, 2012) also revealed that a world Bank Report in 2004 cited the fact that some politicians thought they had the right to influence the procurement Process.

All the above cited reasons; Corruption, Lack of the requisite skill and Undue political influence among others can be said to have defeated the objectives for which the Act was enacted. With some awareness creation, the level of political influence can be eliminated or moderated, with some training of the procurement professionals, which is a corporate responsibility of the Public Procurement Board; the efficiency in the discharge of the procurement functions can be achieved.

Corruption however is thought to be part of human kind. Arguably, it is said that corruption cannot be eradicated but others believe it can be mitigated. It is therefore imperative to say that there is the need to evaluate the performance of the Procurement Methods and Procedures in the Act and to seek to devise strategic ways of identifying the inefficiencies and loopholes in the methods and procedures and to recommend better ways of making those methods less susceptible to corrupt and fraudulent acts during public procurement.

2.5.1 THE USE OF PROCUREMENT METHODS IN LOCAL GOVERNMENT AS IDENTIFIED BY AMEYAW ET. AL. (2012)

A survey undertaken by Ameyaw et. al in 2012, adjusted to reflect only the Works Procurement Methods in some Metropolitan, Municipal and District Assemblies in Ghana is as seen in Table 3

Table 3: Contracts and the Procurement Methods Adopted (Ameyaw et. al., 2012)

Procurement Method	No of Contracts	Percentage of Total
International Competitive Tendering	0	0
National Competitive Tendering	113	63
Request for Quotation	47	26
Sole sourcing	17	9
Restrictive Tendering	0	0
Unknown	2	1
TOTAL	179	100

The above survey revealed that 0% of the Contracts were procured through International Competitive Tendering, 63 % procured through National Competitive Tendering, 26% procured through Request for Quotation, 9% through Sole sourcing, 0% through Restrictive Tendering and 1% procured using an unknown method of procurement.

The above survey shows therefore that Competitive Tendering accounts for more than 50% of the Works Procurement Methods adopted even though no Contracts were procured through Restrictive and International Competitive Tendering. It is therefore imperative to say that in order to achieve value for money in terms of Cost, Quality and Time, more focus should be concentrated on making Competitive Tendering Methods and Procedures better able to deliver best value.

It is however disheartening to know that 1% of the works were procured using some other unorthodox means instead of methods prescribed in the Public Procurement Act of Ghana. It equally follows that the above development could be attributable to the lack of awareness on the requirement to comply with the Procurement Regulations and Manuals or a deliberate attempt to circumvent protocol to satisfy a parochial interest.

2.6 GLOBAL CALL FOR REFORMS IN PROCUREMENT METHODS AND STRATEGY

A recent study on the procurement Challenges facing the Implementation of Competitive Tendering in the Public Procurement of Works in Chad by Douh et al (2013), revealed that since their reforms in 2003, Competitive Tendering was characterized by low rate of Project Execution (25%) due to excessive delays in the treatment of Projects, abusive use of derogations in the award of Contracts (60%), concentration of many contracts (28%) into the hands of few Contractors and Project Overprices, 40%. Further investigations attributed the above challenges to delays, ignorance and complexity of the procedures, rigidity and incompleteness of regulations, lack of qualified personnel, lack of adequate equipment, poor funding of activities and entities, institutional weaknesses, corruption and political interferences.

As a recommendation, Douh et al recommended that the challenges must be addressed through the development of well-articulated long-term strategies among which a thorough review of the processes and procedures to mitigate delays and corruption should be undertaken.

Miller et al (2009), in a research to provide focus on Australian Infrastructure, revealed that Competitive Tendering was an ideal method of procurement for “ simple” buildings where there is little or no opportunity for design innovation, as the likely cost is known in advance. He

however indicated that some circumstances would require alternative procurement methods to competitive Tendering as the latter can waste a considerable amount of time and resources in certain circumstances. It follows therefore that the ability to determine which procurement method to use for which project under which circumstance was equally key to avoiding delays, lessening cost and achieving value for money.

Miller et al further suggested that Innovative Procurement was essential in providing value for money. They also suggested that while government regulation could inhibit innovation, it could also provide an incentive to innovate since it was largely about how the regulation is implemented or possibly interpreted. Further they suggested that moving from Prescriptive to Performance based regulation can improve the relationship between innovation and regulation.

The procurement reforms in Chad since 2003 are not different from that of Ghana. The common denominator is that the objectives of ensuring competition, promote fairness, efficiency, economy and value for money have not been achieved due to various acts of corruption and fraudulent acts, among others.

Research undertaken by the Australian Bureau of statistics and the survey of Miller et al (2009) confirms the fact that Nations outside Africa and the world at large are recommending more innovative methods and procedures in Public works procurement. Equally commonplace is the fact that the influence of Government or political influence could be an inimical factor.

For an African country like Ghana whose bulk of national expenditure is spent on public procurement, the achievement of value for money should be a priority.

2.7 THE CONCEPT OF VALUE FOR MONEY

Procurement is the whole process of acquisition from third parties (Including logistical aspects) and covers goods, services and construction projects. This process spans the whole life cycle from the initial concept and definition of business needs through to the end of the useful life of an asset or the end of a services contract (Peter Gershon, 1999).

An estimated amount of £13 Million is spent annually on works procurement in the UK just like how USD 600million is spent annually by public institutions on procurement in Ghana. Essentially therefore the management of the entire procurement cycle is crucial. All public procurement of goods services and works must be done with due regard to propriety and regularity.

Value for money is not about achieving the lowest initial price. It is defined as the optimum combination of whole life cost and quality. Value for money from procurement can be achieved in so many ways. These include;

- Getting an increased level of quality at the same cost
- Avoiding unnecessary purchases
- Ensuring that user needs are met but not exceeded
- Specifying the purchasing requirements in output terms so that suppliers can recommend cost effective and innovative solutions to meet that need
- Sharpening the approach to negotiations to ensure that a good deal is gotten from suppliers
- Optimizing the cost of delivering a service or goods over the full life of the contract rather than minimizing initial price.

2.7.1 VALUE FOR MONEY IN WORKS PROCUREMENT

In works Procurement, it similarly means going beyond price to get the best available outcome when all relevant costs and benefits over the whole procurement cycle are considered.

This can be achieved by;

- Avoiding unnecessary costs
- Avoiding time overruns
- Ensuring Quality by strict supervision
- Ensuring that fitness for purpose is achieved
- Maintenance and running costs are lower
- Minimizing negative risks and increasing the probability of positive risks
- Making environmental and safety considerations.

2.7.2 VALUE FOR MONEY IN TERMS OF COST

A study undertaken by Ameyaw et al (2013) to investigate the cost of tendering in three public entities revealed that the average cost of tendering for those institutions between 2009 and 2012 was equivalent to an amount of USD 1, 879.90 per project, representing 0.70% of their respective contract sums. They also established that a bulk of the expenditure was associated with tender evaluation.

Pearson (1985), Dawood (1994) and Pasquire and Collins (1997) have in separate studies identified that Procurement Entities were been wasteful in their expenditures on tendering and therefore called for reforms to curtail cost. Arguably, if the cost effectiveness is not achieved during the Contractor selection stage, it could translate into cost overruns during the post contract stage and therefore negatively impact on value for money to the Client.

2.7.3 VALUE FOR MONEY IN TERMS OF TIME

Tamakloe (2011) defined a successful project as one which has achieved its technical objectives in terms of performance, maintained, its schedule (in terms of time) and remained within budgetary costs. Even though the emphasis of his study was on the post-contract (construction) stage of the works procurement, through literature he was able to reveal that some jurisdictions worldwide were beginning to adopt contracting methods in the field of transportation, employing “Bidding on Cost/Time” to encourage competition among contractors on the basis of minimizing cost or project duration; incentive/disincentive contract clauses that provide financial incentives to reduce construction duration.

It follows therefore that if the contract terms, conditions and contract data of projects are tailored during the tendering stage to provide incentives for minimizing project durations, or if Timely delivery is introduced as a criterion for contractor selection and subsequently enforced during the post contract phase, value for money in terms of timely delivery can be achieved.

With the prices of basic goods and services skyrocketing as a result of inflation, it is arguable to say that most Contractors would want to compromise on quality as a means of recouping losses in times of time overruns during project execution and when fluctuation clauses are not applicable within the contract.

It is therefore imperative to say that Procurement Entities must ensure that considerations are made in terms of time during procurement planning and tendering and the award of the Contract.

2.7.4 VALUE FOR MONEY IN TERMS OF QUALITY

Quality Cost and Time are inextricably linked in works procurement such that when one is compromised, one or two of the rest are affected. N.Ravi Shankar et al (2011) have identified

that one of the critical measures of project success is the Quality of its performance which may be affected by an attempt to crash the completion time with additional budget.

Amin (2011) explained that quality is said to be an ambiguous term understood by different people and is believed to be the characteristics of a product or service that bear on its ability to affect customers' buying decisions and satisfaction, which is a determining factor affecting entities. Further, Amin indicated that any serious attempt to improve quality must take into account the cost associated with achieving quality and must be done at the lowest possible cost. He also identified Time, Cost, Quality and Risks as four critical objectives of project management which are not independent but intricately related. Both researchers have underscored the fact that the three (Timely Delivery, Cost and Quality) are important and pragmatic steps must be taken to ensure that they are achieved.

In Public works procurement facilities are constructed using the Tax Payers money with the objective that the facility would be fit for the purpose it was built for and would last for its intended useful life with minimal maintenance and running costs. It is therefore not only imperative that Consultants must enforce the terms of the contract to ensure that objectives in terms of quality delivery are met, but also imperative that the mode of Contractor selection is tailored to ensure that the Contractor with the required technical competence, personnel, equipment and experience is engaged to execute the works to specification and thus ensure that value for money is achieved in terms of quality.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 INTRODUCTION

This chapter seeks to identify the study area, the target population, the sampling techniques employed, the data collection procedures and sources, the constraints and scope or limitation of the study and the underlying assumptions based on which the study is premised. The chapter concludes with a review of the research objectives.

3.2 RESEARCH AREA

This research study seeks to assess the performance of the Works Procurement Methods enshrined in the Public Procurement Act of Ghana, identify loop holes and suggest better ways of making the procedures less susceptible to acts of corruption and fraud.

Studies have revealed that 65-70% of the National Budget of Ghana is expended through Public Procurement and a bulk of this national Budget is accounted for by the Procurement Activities of the Ministries, Departments and Agencies (MDAs). In response to the call for reforms to sanitize procedures, provide value for money and suggest corruption mitigation measures, this study seeks to focus on the Works Procurement Activities of the Ministries, Public Departments and Agencies in the Greater Accra Region of Ghana.

3.3 RESEARCH POPULATION

A population is defined as any set of people or events from which the sample is selected and to which the study results will be generalized. The Population of this research study encompasses all the Entity Tender Committee Members, Tender Evaluation Panels and Procurement Officers of all the Ministries, Departments and Agencies in the Greater Accra Region of Ghana. Owing to

the fact that Works Procurement Activities in the Ministries, Departments and Agencies usually require the involvement of the Works Consultants and sometimes the officers of the Public Procurement Board, this research population extends to include the activities of the various consultants involved in the procurement activities and some officials of the Public Procurement Board.

3.4 RESEARCH SAMPLE AND TECHNIQUES

Owing to the constraints of resources and the impracticability of testing every entity in a population, various experts have suggested ways of selecting smaller units within the population whose attributes are representative of the population such that when tested, conclusions can be drawn on the entire population.

Due to the large numbers of procurement officers in the Ministries, Departments and Consultants involved in works procurement and the inadequacy of time, the following categories of respondents and sample frames were drawn from the population.

Table 4: Respondents Categories and Sample Frame

RESPONDENTS CATEGORY	SAMPLE FRAME (NO OF OFFICERS)
Procurement Officers in the Ministries	10
Procurement Officers in the Departments	10
Works Consultants	10
Officials of the Public Procurement Board	2
Total	32

3.5 DATA COLLECTION

In order to enhance the credibility of this research finding, both Primary and Secondary Data collection methods were employed. The Primary Data collection methods involved the interviewing of the officials listed in Table 2 above and field observations. The Secondary Data Collection method involves the reviewing of cases relevant to this study.

3.6 DESIGN OF STRUCTURED INTERVIEW QUESTIONAIRES

The Interview questions were developed by the researcher and reviewed by Works Procurement Experts through the Delphi Technique approach to identify and exclude ambiguities and questions irrelevant to the research objectives. The questions were structured in different parts. The First and second parts attempt to solicit from the respondents their personal Data in relation to education and experience in the area of Works Procurement; the third part focuses on how respondents employ the Procurement Methods Prescribed by the Act in the procurement Activities and how those methods impact on quality and timely delivery and cost, while the last part seeks to reveal the respondents assessment of how the predetermined evaluation criteria impact on project performance.

A pilot test was undertaken on the Interview questionnaires on Ten (10) participants comprising, Procurement Officers and Consultants to ascertain the comprehensiveness and reliability of yielding results before the actual primary data collection.

3.7 ON FIELD OBSERVATIONS

The researcher anticipated the tendency that some respondents would not be truthful in their response to some of the interview questions for fear of reprisals even though assurances of confidentiality would be given. The On field observation method of data collection was therefore

employed to complement the findings of the interview and further give credibility to the research study.

These on field observations were undertaken within the period of this research study to identify some unconventional norms and shortfalls in the procurement activities of officers in the Ministries and Departments.

3.8 SECONDARY DATA COLLECTION

This method of data collection involved the collection of data from the Procurement Manuals and Regulations of the Act (Act 663) and the review of relevant cases in articles, reports, journals and other publications to identify the various reforms that have been proposed by various researchers and the procurement activities of other jurisdictions.

3.9 DATA ANALYSIS

This study seeks to employ both qualitative and quantitative methods in the analysis of the data collected to enhance a clearer appreciation of the findings. The data analysis process involves the conversion of the raw data into structured formats, data coding and the use of measures of central tendencies to identify emerging trends in the works procurement method administration and assess the impact or relative importance of the evaluation criteria employed in the tender process.

The latter part of the data analysis seeks to identify major loopholes in the procurement procedures to enhance in the objective of suggesting anti-corruption measures that would promote transparency, enhance competition, ensure economy and provide best value.

3.10 SCOPE / LIMITATIONS OF STUDY / ASSUMPTIONS

Owing to the Constraints of time and funds, this study focused essentially on the procurement activities of some select Ministries and Departments, their associated Consultants and some

officials of the Public Procurement Board. In the assessment of project performance, the study was premised on the assumption that Consultants were performing at optimum levels during the post contract stage of the procurement process.

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CHAPTER FOUR

DATA PRESENTATION AND ANALYSIS

This chapter presents the data collected through Interviews and observations within the study period and relevant cases reviewed and the analysis undertaken. It focuses on using qualitative and quantitative approaches for the data analysis to enhance an appreciation of the findings and facilitate in the realization of the research objectives. The primary data collection aspect of this research study required that officers involved in Procurement in the selected Ministries and Departments, their associated consultants and some officers of the Public Procurement Authority were interviewed using structured and standard questionnaires. Table 5 below highlights the targeted numbers of officers against the numbers that were successfully interviewed.

4.1 RESPONSE RATE

Table 5: Tabulation of the Expected Responses against the Actual Responses in the Select Institutions

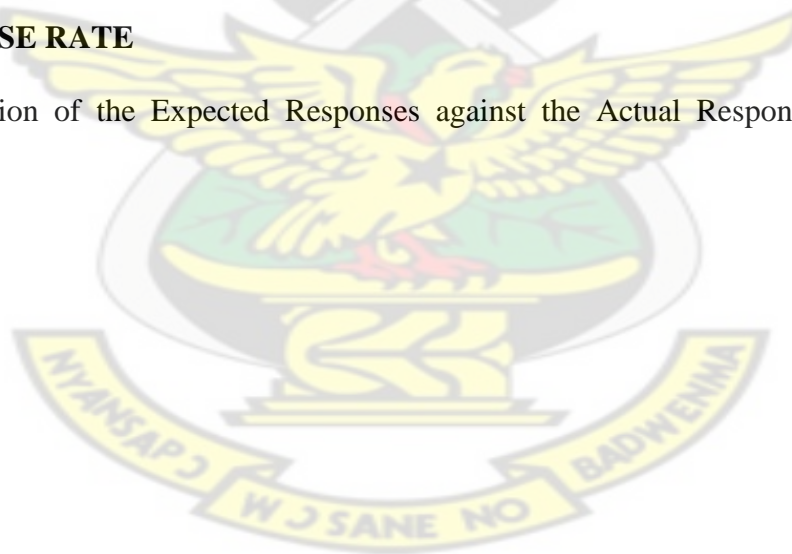


Table 5: Tabulation of the Expected Responses against the Actual Responses in the Select Institutions

RESPONDENTS CATEGORY	TARGETED NUMBER OF OFFICERS	NUMBER OF SUCCESSFUL RESPONSES	PERCENTAGE OF SUCCESSFUL RESPONSES (%)
Ministries	10	7	70
Departments	10	8	80
Consultants	10	8	80
Public Procurement Board	2	0	0
TOTAL	32	23	71.8

From the table above, it can be established that a response rate of 71.8% was achieved, which is substantially high enough for conclusions to be generally drawn for the entire population.

4.2 EDUCATIONAL BACKGROUND OF RESPONDENTS

An enquiry into the level of experience and educational background of the respondents yielded the following as indicated in Table 6

Table 6: Educational Background of Respondents

EDUCATIONAL BACKGROUND	NUMBER OF RESPONDENTS
Procurement Related Certification	3
Non-Procurement Related/Other	20
TOTAL	23

From Table 6 above, it can be observed that twenty (20) out of twenty-four (23) officers interviewed admitted not having the required education and skill in a procurement related programme or training, representing 86.96% of the respondents, while three (3) out of twenty-four (23) officers interviewed had qualifications in procurement related courses, representing 13.04%.

Out of the 20 officers who admitted not having procurement related education, 15 submitted that they have had between 0-5 years' experience in works procurement and had learnt the procurement procedures through observations and "on-the job" training. The other 5 were quite evasive when the question in regard to education was asked. All the 23 respondents however indicated they were familiar with the Public Procurement Act of Ghana.

4.3 EVALUATION OF PROCUREMENT METHODS

Table 7 highlights the Procurement Methods that were identified to have been used in the Contractor selection processes through the interviews undertaken.

Table 7: Procurement Methods employed in the Contractor Selection Processes

PROCUREMENT METHOD	FREQUENCY/ NUMBER OF OFFICERS INVOLVED
Open Competitive Method	23
Restrictive Tendering Method	18
Single Sourcing/Sole Sourcing	13
Request for Quotation	2
Two-Stage Tendering	0
TOTAL	56

4.3.1 EVALUATION OF THE PERFORMANCE OF OPEN COMPETITIVE TENDERING METHOD

The Open Competitive Methods of Procurement refers to International and National Competitive Methods of Procurement. International Competitive Method is appropriate for high value or complex procurements, or where the works by their nature or scope, are unlikely to attract adequate local competition. The Act also requires the use of International Competitive Tendering for Procurements above the threshold in Schedule 3 (Manuals, Act 663).

National Competitive Method is appropriate for lower value procurements, where the works by their nature or scope are unlikely to attract foreign competition, or where there are justifiable reasons for the Procurement Entity to restrict tendering to domestic Contractors. The Act also permits the use of National Competitive Tendering for works between the thresholds indicated in Schedule 3 (Manuals, Act 663).

4.3.1.1 EVALUATION CRITERIA DISTRIBUTION

Table 8 highlights the distribution of the evaluation criteria used in the evaluation of tenders under the Open Competitive Method of Tendering (National Competitive Tendering / International Competitive Tendering)

Table 8: Evaluation Criteria used in Open Competitive Tendering

EVALUATION CRITERIA	FREQUENCY
Price	23
Works of Similar Nature	23
Key Personnel	23
Equipment Holding	23
Degree of Work Load	3
Lines of Credit	7
Capacity to Contract	2
History of Past Performance	3

Observing from Table 8 above, it is clear that Price, Works of similar nature, Key Personnel and Equipment Holding are the most frequently used evaluation criteria used in open Competitive Tendering. All the 23 respondents admitted using the above listed criteria in their evaluations. Degree of Work Load, Lines of Credit, Capacity to Contract and History of Past Performance, however are not frequently employed as criteria for the evaluation of tenders.

4.3.1.2 EVALUATION CRITERIA ASSESSMENT

Table 9: Assessing Tender Submissions against Evaluation Criteria: Open Competitive Tendering

METHOD OF ASSESSING TENDER SUBMISSIONS AGAINST EVALUATION CRITERIA	FREQUENCY/ No. OF RESPONDENTS	PERCENTAGE OF TOTAL RESPONDENTS (%)
Based on Tender Submissions	17	74
Based on Both Tender Submissions and Investigations	6	26
TOTAL	23	100

Table 9 above highlights the methods of assessing the Tender Submissions against the set evaluation criteria and their corresponding frequencies or Number of Respondents. From the Table 9 above, it can be observed that 17 out of 23 respondents indicated that tenders were evaluated based exclusively on the tender submissions in the envelopes, representing 74% of the total number of people interviewed; 6 out of 23 respondents revealed that tenders were assessed based on both submissions in the envelopes and through Investigations to ascertain the authenticity of the submissions, availability of the Key personnel and equipment etc. proposed for the works.

4.3.1.3 POST CONTRACT STAGE PERFORMANCE IN TERMS OF QUALITY

Table 10: Post Contract Stage Performance in terms of Quality: Open Competitive Tendering

QUALITY OF WORK	FREQUENCY/NO OF RESPONDENTS	PERCENTAGE (%)
Excellent	3	13.04
Very Good	3	13.04
Good	12	52.17
Poor	5	21.74
TOTAL	23	100

Observing from Table 10 above, 26.08% of the respondents indicated that the post Contract performance in terms Quality was either very good or excellent, 52.17% of the interviewees indicated that performance was good qualitatively and 21.74% of the interviewees indicated that quality delivery was poor.

4.3.1.4 POST CONTRACT STAGE PERFORMANCE IN TERMS OF TIMELY DELIVERY

Table 11: Post Contract Stage Performance in terms of Timely Delivery: Open Competitive Tendering

DELIVERY	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Good	5	21.74
Poor	18	78.26
TOTAL	23	100

In terms of timely delivery, as can be seen from Table 11 above, 21.74% of the respondents indicated that the Contractors performance in terms of timely delivery was good. 78.26% however indicated that there were time overruns.

4.3.1.5 POST CONTRACT STAGE PERFORMANCE IN TERMS OF COST OVERRUNS

Table 12: Post Contract Stage Performance in terms of Cost Overruns: Open Competitive Tendering

PREVALENCE OF COST OVERRUNS	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Yes	20	86.96
No	3	13.04
TOTAL	23	100

86.96% of the respondents submitted that Cost Overruns were prevalent in the procured works while 13.04% indicated that cost overruns were not prevalent in the procured works. This can be seen from Table 12 above.

4.3.1.6 PERFORMANCE DURING DEFECTS LIABILITY PERIOD

Table 13: Defects Liability Period Performance: Open Competitive Tendering

DEFECTS LIABILITY PERIOD PERFORMANCE	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Non-responsive/Very Poor	10	43.48
Quite Poor	7	30.43
Very Responsive / Good	6	26.09
TOTAL	23	100

Table 13 above summarizes the performance of the Contractors procured under Open Competitive Methods and the procedures highlighted above during the defects liability period. From the table above, 73.91% of the Contractors involved performed either very poorly or poorly during the defects liability period. This accordingly manifested in the reluctance to make good defects identified and notified to them and the quality of finish. 26.1% of the officers interviewed however indicated that the Contractors involved performed well during the defects liability period.

4.3.2 AN EVALUATION OF THE PERFORMANCE OF RESTRICTIVE TENDERING METHOD

4.3.2.1 METHOD /MEANS OF SHORTLISTING CONTRACTORS

The Procurement Act of Ghana permits the use of Restrictive Tendering as a means of works procurement, subject to the approval of the Public Procurement Board. The Procurement Procedure requires a direct invitation to a shortlist of pre-registered or known Contractors. Table 14 below highlights the means by which contractors were shortlisted for the tendering process based on the interview responses.

Table 14: Method/Means of Shortlisting Contractors

SHORLISTING MODE	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Pre-Qualified List	10	55.56
Instructions From a Higher Authority	1	5.55
Other /I don't know	7	38.88
TOTAL	18	100

As can be seen from table 14 above, 18 respondents admitted being involved in the use of Restrictive method as a means of procurement. 10 officers revealed that the shortlist of Contractors was from a pre-qualified list; 1 indicated that the Contractors were shortlisted as a result of “ Instructions from Higher Authorities ”; 1 indicated that other means were employed and 6 also indicating that they had no idea how the contractors were shortlisted.

4.3.2.2 EVALUATION CRITERIA DISTRIBUTION

Table 15 highlights the distribution of the evaluation criteria used in the evaluation of tenders under the Restrictive tendering Method of Procurement

Table 15: Evaluation Criteria used in Restrictive Tendering

EVALUATION CRITERIA	FREQUENCY
Price	18
Works of Similar Nature	18
Key Personnel	18
Equipment Holding	18
Degree of Work Load	4
Lines of Credit	5
Capacity to Contract	2
History of Past Performance	9

As can be seen from Table 15 above, all 18 respondents admitted using Price, Works of similar nature, Key personnel and Equipment Holding as Criteria based on which the contractor selection process was undertaken. 4 however admitted using Degree of work load, 5 considered

lines of credit, 2 considered capacity to contract and 9 considered History of past performance during the evaluation process.

4.3.2.3 EVALUATION CRITERIA ASSESSMENT

Table 16: Assessing Tender Submissions against Evaluation Criteria: Restrictive Tendering Method

METHOD OF ASSESSING TENDER SUBMISSIONS AGAINST EVALUATION CRITERIA	FREQUENCY/ No. OF RESPONDENTS	PERCENTAGE OF TOTAL RESPONDENTS (%)
Based on Tender Submissions	14	77.78
Based on Both Tender Submissions and Investigations	4	22.22
TOTAL	18	100

Table 16 above highlights the methods of assessing the Tender Submissions against the set evaluation criteria and their corresponding frequencies or Number of Respondents. From the Table 16 above, it can be observed that 14 out of 18 respondents indicated that tenders were evaluated based exclusively on the tender submissions in the envelopes, representing 77.78% of the total number of people interviewed; and 4 out of 18, representing 22.22% of the respondents indicated that tenders were evaluated based on the submissions in the envelopes and through Investigations to ascertain the authenticity of the submissions, availability of the Key personnel and equipment, etc. proposed for the works.

4.3.2.4 POST CONTRACT STAGE PERFORMANCE IN TERMS OF QUALITY

Table 17: Post Contract Stage Performance in Terms of Quality: Restrictive Tendering

QUALITY OF WORK	FREQUENCY/NO OF RESPONDENTS	PERCENTAGE (%)
Excellent	2	11.11
Very Good	3	16.67
Good	9	50.00
Poor	4	22.22
TOTAL	18	100

Observing from Table 17 above, 77.78% of the respondents indicated that the post Contract performance in terms Quality of the delivery was good, very good or excellent and 22.22% of the interviewees indicated that performance was poor.

4.3.2.5 POST CONTRACT STAGE PERFORMANCE IN TERMS OF TIMELY DELIVERY

Table 18: Post Contract Stage Performance in terms of Timely Delivery: Restrictive Tendering Method

DELIVERY	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Good	10	55.56
Poor	8	44.44
TOTAL	18	100

In terms of timely delivery, as can be seen from Table 18 above, 55.56% of the respondents indicated that the Contractors performance in terms of timely delivery was good. 44.44% however indicated that there were time overruns.

4.3.2.6 POST CONTRACT STAGE PERFORMANCE IN TERMS OF COST OVERRUNS

Table 19: Post Contract Stage Performance in terms of Cost Overruns: Restrictive Tendering Method

PREVALENCE OF COST OVERRUNS	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Yes	12	66.67
No	6	33.33
TOTAL	18	100

66.67% of the respondents submitted that Cost Overruns were prevalent in the procured works whiles 33.33% indicated that cost overruns were not prevalent in the procured works. This can be seen from Table 19 above.

4.3.2.7 PERFORMANCE DURING DEFECTS LIABILITY PERIOD

Table 20: Defects Liability Period Performance: Restrictive Tendering

DEFECTS LIABILITY PERIOD PERFORMANCE	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Non-responsive/Very Poor	3	16.67
Quite Poor	4	22.22
Very Responsive / Good	11	61.11
TOTAL	18	100

Table 20 above summarizes the performance of the Contractors procured under Restrictive Tendering Methods during the defects liability period. From the table above, 38.89% of the Contractors involved performed either poorly or very poorly during the defects liability period. This accordingly manifested in the reluctance to make good defects identified and notified to them and the quality of finish. 61.11% of the officers interviewed however indicated that the Contractors involved performed well during the defects liability period.

4.3.3 THE PERFORMANCE OF SINGLE /SOLE SOURCING METHOD OF PROCUREMENT

The Procurement Act of Ghana also permits the use of Single/ Sole Sourcing as a means of works procurement, subject to the approval of the Public Procurement Board. This method is usually used for urgently needed works, works that can be provided from only one source, works for which for National Security reasons cannot be made public and works whose value is disproportionate with the cost of undertaking competitive tendering. (Act 663, 2003).

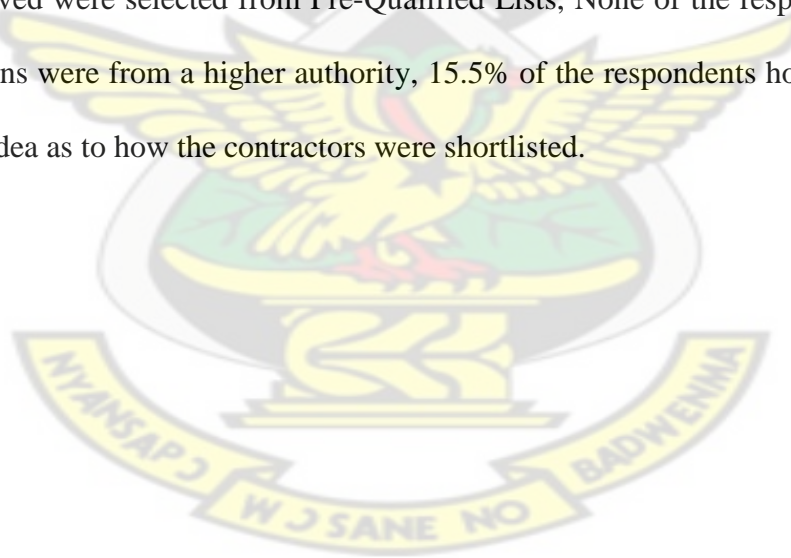
4.3.3.1 METHOD /MEANS OF SHORTLISTING CONTRACTOR

As part of the survey, respondents were interviewed on how the contractors procured through single sourcing were selected or shortlisted. Table 21 highlights the means by which the contractors were shortlisted/ selected.

Table 21: Method/Means of Shortlisting Contractors

SHORLISTING MODE	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Pre-Qualified List	11	84.6
Instructions From a Higher Authority	0	0
Other /I don't know	2	15.4
TOTAL	13	100

From Table 21 above, 13 officers admitted being part of the Contractor selection method through single /sole sourcing. Out of this number, 84.6 % of the respondents indicated that the Contractors involved were selected from Pre-Qualified Lists, None of the respondents indicated that the Instructions were from a higher authority, 15.5% of the respondents however mentioned that they had no idea as to how the contractors were shortlisted.



4.3.3.2 UNDERLYING REASONS FOR THE USE OF SINGLE /SOLE SOURCING AS THE PROCUREMENT METHOD

Table 22: Underlying Reason for the use of Single/ Sole Sourcing as a Procurement Method

REASON	FREQUENCY/ No. OF RESPONDENTS	PERCENTAGE OF TOTAL RESPONDENTS (%)
National Security /National Policy	0	0
Monopolistic /Specialist nature of Works	3	23.08
Urgency of Need	10	76.92
Standardization/Compatibility	0	0
Other	0	0
TOTAL	13	100

Table 22 above highlights the underlying reasons why Single/Sole sourcing was used as the Procurement Method from the interview responses. Out of the 13 people who admitted using Single /Sole Sourcing as the Method, 3 respondents cited that the works were of a special nature and therefore only one source (Monopolistic nature) could provide the works; 10 respondents indicated that the works were urgently needed. No respondent however cited National Security Concerns /National Policy as a reason for the use of the Method.

4.3.3.3 APPROVAL GRANTING AUTHORITY: SINGLE/SOLE SOURCING

Table 23: Approval Granting Authority: Single Sourcing

AUTHORITY	FREQUENCY/NO OF RESPONDENTS	PERCENTAGE (%)
Head of Entity	0	0
Public Procurement Authority	13	100
Other	0	0
TOTAL	18	100

From the table above, all respondents indicated that the Public Procurement Authority granted approval for the use of Single/Sole Sourcing. None of the respondents cited the Head of Entity or Other as an Approval Granting Authority during the procurement process.

4.3.3.4 ASCERTAINING CONTRACTOR'S CAPACITY TO EXECUTE THE WORKS BY PROCUREMENT ENTITY

Table 24: Ascertaining Contractor's Capacity to execute the works by the Procurement Entity

INVESTIGATION BY PROCUREMENT ENTITY	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Yes	6	46.2
No	5	38.5
Don't Know	2	15.3
TOTAL	13	100

When respondents were asked whether the Procurement Entities did some investigations to ascertain the capacities of the Contractors they recommended to the Approval Granting Authorities, 46.2% answered in the affirmative, 38.5% answered No and 15.3% mentioned that they did not know.

4.3.3.5 EVALUATING THE CONTRACTOR'S PRICE QUOTATION

Table 25 below highlights the responses of the respondents when asked how the Price Quotations of the Selected Contractors were evaluated.

Table 25: Evaluation of Price Quotations

METHOD OF EVALUATION	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Through Negotiation	5	38.46
Price Reasonableness	7	53.85
Other/Don't Know	1	7.69
TOTAL	13	100

38.46 % of the respondents revealed that the price quotations of the Contractors involved were evaluated through Negotiation, 53.85% indicated that the quotations were subject to price Reasonableness Analysis while 7.69 % of the respondents did not know how the quotations were evaluated.

**4.3.3.6 ASCERTAINING CONTRACTOR'S CAPACITY TO EXECUTE THE WORKS:
CLARIFICATIONS SOUGHT BY PUBLIC PROCUREMENT AUTHORITY**

Table 26: Ascertaining Contractor's Capacity to execute the works: Clarifications Sought by Public Procurement Authority

CLARIFICATIONS SOUGHT BY PUBLIC PROCUREMENT AUTHORITY	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Yes	0	0
No	13	100
TOTAL	13	100

From Table 26 above, it is indicative that no clarification was sought by the Public Procurement Authorities in response to the request by the Procurement Entities to use Single/Sole Sourcing as a means of Procurement.

4.3.3.7 POST CONTRACT STAGE PERFORMANCE IN TERMS OF QUALITY: SINGLE /SOLE SOURCING

Table 27: Post Contract Stage Performance in terms of Quality: Single/Sole Sourcing

QUALITY OF WORK	FREQUENCY/NO OF RESPONDENTS	PERCENTAGE (%)
Excellent	0	00.00
Very Good	2	15.38
Good	3	23.08
Poor	8	61.54
TOTAL	13	100

Observing from Table 27 above, 38.46% of the respondents indicated that the post Contract performance in terms Quality of the delivery was good, very good or excellent while 61.54% of the interviewees indicated that performance was poor.

4.3.3.8 POST CONTRACT STAGE PERFORMANCE IN TERMS OF TIMELY DELIVERY: SINGLE /SOLE SOURCING

Table 28: Post Contract Stage Performance in terms of Timely Delivery: Single/Sole Sourcing

DELIVERY	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Good	3	23.08
Poor	10	76.92
TOTAL	13	100

In terms of timely delivery, 76.92% of the respondents reported that the Contractors did not perform in a timely manner, while 23.08 % reported that the Contractors were able to meet the Contract durations.

4.3.3.9 POST CONTRACT STAGE PERFORMANCE IN TERMS OF COST OVERRUNS: SINGLE/SOLE SOURCING

Table 29: Post Contract Stage Performance in terms of Cost Overruns: Single/Sole Sourcing

PREVALENCE OF COST OVERRUNS	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Yes	11	84.62
No	2	15.38
TOTAL	13	100

84.62% of the respondents submitted that Cost Overruns were prevalent in the procured works while 15.38% indicated that cost overruns were not prevalent in the procured works. This can be seen from Table 29 above.

4.3.3.10 PERFORMANCE DURING DEFECTS LIABILITY PERIOD: SINGLE/SOLE SOURCING

Table 30: Defects Liability Period Performance: Single/Sole Sourcing

DEFECTS LIABILITY PERIOD PERFORMANCE	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Non-responsive/Very Poor	9	69.23
Quite Poor	2	15.38
Very Responsive / Good	2	15.38
TOTAL	13	100

Table 30 above summarizes the performance of the Contractors procured under Single/Sole Sourcing Methods during the defects liability period. From the table above, 84.61% of the Contractors involved performed either poorly or very poorly during the defects liability period. This accordingly manifested in the reluctance to make good defects identified and notified to them and the quality of finish. 15.38% of the officers interviewed however indicated that the Contractors involved performed well during the defects liability period.

4.3.4 THE PERFORMANCE OF REQUEST FOR QUOTATION AS A METHOD OF PROCUREMENT

4.3.4.1 METHOD /MEANS OF SHORTLISTING CONTRACTORS

This method of procurement is for widely available works which do not require detailed specification and whose value can be readily estimated by just a single site visit. It requires the

comparison of at least three price quotations to promote competition. Table 31 below summarizes the responses of the respondents in relation to the method of shortlisting the Contractors.

Table 31: Method/Means of Shortlisting Contractors

SHORLISTING MODE	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Pre-Qualified List	2	100
Instructions From a Higher Authority	0	0
Other /I don't know	0	0
TOTAL	2	100

As can be seen from Table 31 above, only 2 respondents admitted ever using Request for Quotation as a method of procurement and both indicated that the Contractors were selected from a pre-qualified list.

4.3.4.2 EVALUATION CRITERIA DISTRIBUTION

Table 32 highlights the distribution of the evaluation criteria used in the evaluation of tenders under the Request for Quotation Method of Procurement

Table 32: Distribution of Evaluation Criteria used in Request for Quotation

EVALUATION CRITERIA	FREQUENCY
Price	2
Works of Similar Nature	1
Key Personnel	2
Equipment Holding	1
Lines of Credit	2

As can be seen from Table 32 above, both respondents indicated that Price, Key Personnel and Lines of Credit were among the criteria used in the evaluation. Only one indicated that works of similar nature and Equipment Holding were equally considered.

4.3.4.3 EVALUATION CRITERIA ASSESSMENT

Table 33: Method of Assessing Tender Submissions against Evaluation Criteria: Request for Quotation

METHOD OF ASSESSING TENDER SUBMISSIONS AGAINST EVALUATION CRITERIA	FREQUENCY/ No. OF RESPONDENTS	PERCENTAGE OF TOTAL RESPONDENTS (%)
Based on Tender Submissions	2	100
Based on Both Tender Submissions and Investigations	0	0
TOTAL	2	100

Table 33 above highlights the methods of assessing the Tender Submissions against the set evaluation criteria and their corresponding frequencies or Number of Respondents. From the Table 33 above, it can be observed that all the respondents indicated that the evaluation was based exclusively on tender submissions.

4.3.4.4 POST CONTRACT STAGE PERFORMANCE IN TERMS OF QUALITY

Table 34: Post Contract Stage Performance in terms of Quality: Request for Quotation

QUALITY OF WORK	FREQUENCY/NO OF RESPONDENTS	PERCENTAGE (%)
Very Good	0	0
Average	1	50
Poor	1	50
TOTAL	2	100

Out of the two respondents, one thought the Contractors delivery in terms of quality was good. The other indicated that the Contractor's performance was poor.

4.3.4.5 POST CONTRACT STAGE PERFORMANCE IN TERMS OF TIMELY DELIVERY

Table 35: Post Contract Stage Performance in terms of Timely Delivery: Request for Quotation

DELIVERY	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Good	0	0
Poor	2	100
TOTAL	2	100

In terms of timely delivery, as can be seen from Table 35 above, both respondents indicated that the Contractors performance was poor.

4.3.4.6 POST CONTRACT STAGE PERFORMANCE IN TERMS OF COST OVERRUNS

Table 36: Post Contract Stage Performance in terms of Cost Overruns: Request for Quotation

PREVALENCE OF COST OVERRUNS	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Yes	2	100
No	0	0
TOTAL	2	100

As can be seen from Table 36 above, both respondents indicated that there were cost overruns.

4.3.4.7 PERFORMANCE DURING DEFECTS LIABILITY PERIOD

Table 37: Defects Liability Period Performance: Request for Quotation

DEFECTS LIABILITY PERIOD PERFORMANCE	FREQUENCY/No. OF RESPONDENTS	PERCENTAGE (%)
Non-responsive/Very Poor		0
Quite Poor	1	50
Very Responsive / Good	1	50
TOTAL	2	100

Table 37 above summarizes the performance of the Contractors procured under the Request for Quotation Method of Procurement during the defects liability period. From the table above one

of the Contractors performed quite poorly while the other's performance was good during the defects liability period.

4.3.5 THE PERFORMANCE OF TWO STAGE TENDERING AS A METHOD OF PROCUREMENT

This method becomes appropriate when it becomes impossible for the procurement Entity to formulate detailed specifications or plans for the works to identify their characteristics in a defined manner or when the subject of the works is subject to rapid technological advances. The procurement process involves inviting tenderers to contribute to detailed specifications during the first stage of tender. The second stage involves the preparation of detailed specifications and the issuance of a Restricted Tender to participants who were not rejected during the first stage.

During the survey, none of the respondents admitted using Two-Stage Tendering as a Method of Procurement. Most of the respondents demonstrated very little knowledge on this method of procurement.

4.4 THE IMPACT OF POST-QUALIFICATION CRITERIA ON PROJECT PERFORMANCE

As part of the survey, all the 23 Respondents interviewed were asked to give their evaluation on the importance of the following under listed evaluation criteria on Project performance. Table 38 summarizes the findings.

Table 38: The Impact of the Evaluation Criteria on Project Performance

EVALUATION CRITERIA	VERY HIGH	HIGH	LOW	VERY LOW
Experience in works of similar nature	23	0	0	0
Financial Capacity	23	0	0	0
Availability of required plant and equipment	23	0	0	0
History of past performance	23	0	0	0
Key Personnel	23	0	0	0
Capacity to contract	23	0	0	0
TOTAL	138	0	0	0

As can be seen from the Table above, all the 23 respondents indicated that Experience in works of similar nature, Financial Capacity, Availability of required plant and equipment, History of past performance, key personnel and capacity to contract impacted highly on project performance during the post contract stage of the procurement process.

The respondents were then asked about the frequency of the usage of the above listed Post Qualification Evaluation Criteria. Table 38 below summarizes their responses.

4.5 FREQUENCY OF USAGE OF THE EVALUATION CRITERIA IN CONTRACTOR SELECTION

Table 39: Frequency of Usage of the Evaluation Criteria in the Contractor Selection

EVALUATION CRITERIA	FREQUENTLY	QUITE FREQUENTLY	NEVER
Experience in Works of Similar Complexity	23	0	0
Financial Capacity	13	10	0
Availability of Required Plant and Equipment	23	0	0
History of Past Performance	20	3	0
Key Personnel	23	0	0
Capacity to Contract	9	8	6

From the table above, all 23 respondents mentioned that Experience in Works of Similar Complexity, Availability of Plant and Equipment and Key Personnel were frequently used; 13 respondents indicated that Financial Capacity was Frequently used while 10 indicated that it was used Quite Frequently; 20 indicated that History of Past Performance was used Frequently while 3 mentioned that it was used Quite Frequently; 9 Respondents indicated that Capacity to

Contract was used frequently, 8 said it was used Quite Frequently and 6 mentioned that Capacity to Contract was never used as an Evaluation Criteria in Contractor Selection Process.

4.6 PRIMARY DATA FINDINGS AND THE IDENTIFICATION OF LOOP HOLES IN THE PROCUREMENT METHODS

4.6.1 EDUCATION AND FAMILIARITY WITH ACT 663 AND ITS PROCEDURES

- 20 officers out of the 23 interviewed (86.96%) did not have any education in any Procurement related field. 15 out of the 20 who lacked the requisite knowledge in procurement, admitted learning the practice through observations and “on the job” training. All of the respondents however indicated that they were familiar with the Public Procurement Act and Procedures for Works Procurement.

4.6.2 OPEN COMPETITIVE TENDERING

- Open Competitive Tendering Method (National Competitive/International competitive Tendering method) emerged as the most frequently used method of Works Procurement with a relative percentage of 41.07%
- The relative Importance attached to the Degree of Work Load of Contractors, Lines of Credit, Capacity to Contract and History of Past Performance by Procurement Entities during Tendering was very low. This manifested in the fact that the above mentioned criteria were used less frequently than other criteria such as Price, Works of Similar Nature, Key Personnel and Equipment Holding.
- 74% of the respondents who were involved in the use of Open Competitive Tendering mentioned that during the Contractor selection processes, tenders were evaluated exclusively based on Tender Submissions. 26% however indicated that evaluations were

based on the Tender Submissions and Investigations. They indicated that Investigations were undertaken to ascertain the authenticity of the documents submitted and the available capacities of the Contractors in terms of the required key personnel, their financial capacities, work load and their capacities to Contract.

- 78.3% of the Contractors who were procured through Open Competition were rated to have had the following performances in terms of Quality Delivery; Good, Every Good and Excellent. 21.7% of the Contractors however performed poorly. Within the premise of the assumption that the Performance of the Works Consultants during the post contract period is satisfactory, it is arguable to say that the Contractors performed poorly because enough or No due diligence or investigation was undertaken to actually ascertain their capacities to delivery qualitatively in accordance with the Post Qualification Criteria prescribed in the tender.
- In terms of timely delivery, 5 out of the 23 Contractors were able to meet the intended Completion period. 18 however could not meet the Intended Completion period. This failure to meet the intended completion time could be attributable to the fact that the Contractors were focusing on other projects because of the degree of work load or lacked the required equipment, key personnel or financial capacity to execute the works. It also underscores the fact that most of the Tender Evaluation Panels do not investigate to ascertain the actual capacities of the Contractors to deliver before award and project execution.
- 86.95% of the projects procured using open competitive methods were shrouded with cost overruns. Only 13.04% of the projects were executed within budget. For a developing country like Ghana where the basic prices of goods and services keep

skyrocketing on a daily basis because of inflation, it follows therefore that projects with time overruns would invariably be identified with cost overruns. Other studies have revealed that most Contractors under such circumstances and under poor supervision conditions would want to compromise on quality in order to cut on costs. The resulting facility might not be able to perform its desired function or may come with higher maintenance costs over its entire useful lifespan.

- 73.9% of the Contractors were known to be non-responsive during the Maintenance or Defects Liability Period of the Projects. 26.1% however were very responsive in relation to the correction of defects noted and identified to them. As can be observed from above, a project with time overruns would almost invariably be identified with cost overruns. A contractor who is overburdened with construction costs during the construction stage would inevitably not cooperate with the consultants during the defects liability period.

4.6.3 RESTRICTIVE TENDERING METHOD

- This method of Procurement emerged as the second most used procurement method from the survey undertaken with a total of 18 Responses. In relation to the means of generating the shortlist of firms, 10 of the respondents revealed that the shortlist was from a pre-qualified list from the Institution's Bank of firms, 1 indicated that the list was generated as a result of Instructions from a Higher Authority and 7 revealed that they had no idea how the list of firms was generated. Out of the 7 who revealed they did not know how the Contractors were shortlisted, 3 were very evasive but eventually answered that "they had no idea".

It has been suggested that Restricted Tendering, by its nature of limiting competition to a minimum of 3 and a maximum of 6 makes it more convenient for people in Higher Authority to influence the shortlisting process. This is confirmed by the revelation that one of respondents admitted that the shortlist of firms was generated as a result of “Instructions from a Higher Authority”.

- All of the 18 respondents revealed that Price, Works of Similar nature, key Personnel and Equipment Holding were among the criteria used in the evaluation of the tenders. However, only 4 respondents considered the Degree of Work load on the Contractor, 5 considered Lines of Credit, 2 considered Capacity to Contract and 9 considered History of Past Performance as essential criteria during the evaluation of tenders.

Many have argued that the generation of a shortlist of competent Contractors from a long list guarantees that all the shortlist of Contractors would have the capacity to execute the works as per the clients’ requirements with Price only as the distinguishing criteria. However it can equally be argued that to the extent that one cannot guarantee that the shortlisting process would be carried out without the influence of Higher Authorities as revealed by the survey, value for money in terms of Quality and Timely Delivery within budget cannot be guaranteed.

- The findings of Table 16 reveals that in relation to the assessment of the shortlisted Contractor’s capacity to execute the works, 14 respondents mentioned that the evaluation was undertaken exclusively based on the Tender Submissions of Tenderers while 4 indicated that Investigations were undertaken to complement the tender submissions during the evaluation process.

- Qualitatively, in terms of performance, it was observed that 22.22% of the respondents indicated that the Contractors had performed poorly while 77.78% revealed that the performances of the Contractors involved were good, very good or excellent. This revelation confirms the assertion and general expectation that if Contractors are shortlisted from a long list of other Contractors in accordance with the prescribed criteria and without any undue influence or favouritism, all of the shortlisted contractors should be capable of meeting the performance standards in terms of quality.
- Close to 50% of the Contractors, i.e. 44.44 % could not meet the intended completion duration when Timeliness was considered as a criterion of assessing post contract performance. 55.56% however were able to meet the Intended completion period. This comparatively is better than the performance of the Contractors who were procured under the open Competitive methods, i.e. 78.26% failing to meet the intended completion duration.
- Cost, unlike time and quality delivery, has assumed the same trend as the performance of the Contractors who were procured through Open Competitive Methods. 66.67% of the respondents indicated that there were cost overruns while 33.33% indicated that there were no cost overruns.
- The Defects Liability Performances of the Contractors involved was comparatively better than Open competitive Methods of Procurement, as 61.11% of the respondents had indicated that the responsiveness of the Contractors was good as against 38.89% whose performance was quite poor or very poor.

4.6.4 SINGLE/SOLE SOURCING PROCUREMENT METHOD

- As already indicated earlier in this report, Single/Sole sourcing as a procurement method requires the shortlisting of a single Contractor owing to the urgency of need, monopolistic nature of the works etc. and requires the approval of the Public Procurement Authority.

When respondents were interviewed on how the contractors were shortlisted, out of 13 respondents, 11 indicated that the Contractors were selected from a prequalified List while 2 indicated they had no idea how the Contractors were selected. The implication is that they actually had no clue as to how the Contractors were selected, or simply were scared to tell the truth for fear of reprisals.

- The findings of Table 22 indicate that the approval for the use of the method was granted by the Public Procurement Authorities for 11 of the projects, while 2 of the respondents indicated they either did not know or other Authorities had granted the approval, contrary to the dictates of schedule 3 of the Public Procurement Act (Act 663, 2003).
- The reasons cited by the Procurement Entities as a justification for the use of the method included the Specialist/Monopolistic nature of the works and the Urgency of need. 3 respondents indicated that the works could only be procured from only one contractor while 10 indicated that there was an urgent need for the works. When the respondents were inquired whether the capacities of the Contractors proposed for the works were assessed before the approval was sought, 6 answered in the affirmative, 5 indicated otherwise and 2 indicated they did not know. The responses of the other 5 however conflict with the requirement that in order to ensure value for money is achieved,

Investigations /due diligence ought to be undertaken to verify the capacity of the Contractor to execute the works within schedule, as per specification and within budget.

- The evaluation of the Price quotation of the prospective contractor for reasonableness of rates becomes extremely important owing to the fact that the works are been procured from a single source and therefore value for money in terms of the procuring at the right price cannot be guaranteed. From Table 26, 5 respondents indicated that the price quotations were evaluated through Negotiation, 7 indicated that Price Reasonableness Analysis was undertaken and 1 indicated he/she did not know.
- Owing to the Constraints of time, the Officials of the Public Procurement Authorities could not to interviewed to inquire whether clarifications or investigations were usually carried out by their outfit to ascertain the veracity of the reasons cited for the use of Single/Sole sourcing as the method of procurement and to establish the capacity of the Contractors proposed to deliver best value.

However, all the 13 respondents comprising Procurement Officials and Consultants interviewed indicated that they were never contacted by the Public Procurement Authorities to clarify any issues in relation to their request to use Single Sourcing as a Method of Procurement.

- As can be seen from Tables 27, 28, 29 and 30, the performances of the Contractors involved during the Post-Contract stage of the Procurement processes were abysmal. Qualitatively, 61.54% performed poorly, 76.92% of the Contract durations were not met 84.62% of the projects were identified with Cost overruns and the Defects Liability Performances of 84.62% of the Contractors were poor. Conclusively value for money

could not be said to have been achieved in terms of Cost, Quality and Timely Delivery for the projects surveyed.

4.6.5 REQUEST FOR QUOTATION

- The Summary of Table 32 indicates that only 2 respondents had indicated that Request for Quotation had been used as a Method of Works Procurement. The findings of Table 33 also indicated that Price, Key personnel and Lines of Credit were accepted by both respondents as essential for the Contractor Selection Process. Only 1 considered Works of Similar nature and Equipment Holding as equally important.
- Both Respondents also indicated that the assessment of the Contractors capacity was based exclusively on the tender submissions. In terms of Quality Delivery, One Contractor delivered qualitatively and 1 performed poorly. Both Contractors could not however meet the Contract durations, budgets were exceeded by both Contractors and only one Contractor was responsive during the Defects Liability period.
- The fact that only two respondents had used Request for Quotation indicates that it is relatively less common as a procurement method as compared with Open Competitive, Restrictive and Single/Sole Sourcing Methods. It can also be argued that the fewer respondents for this method make the results seemingly less reliable. However, it could also be argued that the performances of the Contractors involved were not so much at variance with those who were procured using Open Competitive, Restrictive and Single Sourcing Methods.

4.6.6 TWO STAGE TENDERING METHOD

- From the interviews undertaken, none of the 23 respondents indicated earlier, admitted using Two Stage Tendering as a method of procurement. In fact, most of the respondents demonstrated very little or no knowledge on this method of procurement.

4.6.7 THE IMPACT OF POST QUALIFICATION EVALUATION CRITERIA ON PROJECT PERFORMANCE

- All 23 respondents mentioned that Experience in Works of similar nature, Financial capacity, Availability of Required Plant and Equipment, History of Past Performance, Key Personnel and Capacity to Contract were very important during Contractor Selection and impacted “Very Highly “ on Project Performance.
- As seen in Table 39 when Respondents were inquired about the frequency of usage of the Methods indicated above in the Contractor Selection process, all 23 responded that Experience in Works of Similar Complexity, Availability of Required Plant and Equipment and Key Personnel were used Frequently. 13 responded that Financial Capacity as an evaluation criteria was used frequently and 10 indicated that it was used Quite Frequently. 20 Respondents indicated that History of Past Performance was considered frequently during evaluations and 3 responded that it was considered Quite Frequently. In terms of Capacity to Contract, 9 indicated it was used frequently, 8 indicated it was used quite frequently and 6 indicated it was never considered during evaluations.
- Contrary to expectations, it is conclusive to say that even though all Respondents thought all the criteria indicated in Table 38 were important and therefore should be considered during evaluations as they were thought to impact “Very Highly” on project performance,

in practice only a selected few of the Criteria were used by Procurement Entities. As can be seen from Table 39, 6 Respondents indicated that Capacity to Contract was never used in evaluations, 8 indicated that it was used quite frequently, 3 indicated that History of Past Performance was used Quite Frequently and 10 indicated that Financial capacity was used quite frequently.

- One could argue that the decision to use some or all of the Criteria would depend on the Method of Procurement been used. For instance, Capacity to Contract and Experience in Works of Similar nature may not be so relevant after a shortlist of firms is generated from a long list during Restrictive Tendering as all the Shortlisted firms would be deemed to have had all the necessary Certifications to have a “free pass” under the Capacity to Contract and Works of Similar Nature criteria. However, in order to further assure and guarantee the possibility of achieving value for money, all the relevant evaluation criteria should be considered during evaluations or contractor capacity assessments.

4.7 DATA ANALYSIS FROM OBSERVATIONS AND THE IDENTIFICATION OF LOOP HOLES IN WORKS PROCUREMENT

The following “on field” observations were made during the study period.

COMPETITIVE TENDERING

- Contrary to the requirements of Public Procurement Act (Act 663, 2003), It has become normal practice for Procurement Entities to print out and sell only a few tenders after the Invitation to tender notice is advertised. It is common place to hear sayings like “All the Tender Documents have been sold”.

The Procurement Act of Ghana also requires that the Invitation to tender notice for National Competitive Tendering should be published in Public Procurement Bulletin, the Public Procurement Board website and in at least 2 daily local newspapers of wide circulation. For International Competitive Tendering, publications should be made in International Newspaper or Journals and copies of the Invitation notices submitted to the foreign embassies and High Commissions in the Country (Manuals, Public Procurement Act, 2003). This unfortunately is usually not done in accordance with the requirements spelt out or not done at all.

The Implication of the above is that one tenderer could buy all the tender documents or contractors could collude among themselves to bid strategically to favour one tenderer which in consequence would defeat the ultimate objective of achieving value for money, ensuring competition, transparency and the judicious use of the Nations' resources.

- The normal practice during tender openings of National or International competitive tenders is to read out and record the documents submitted by tenderers in the sealed envelopes. Documents expected to be provided in addition to the Contractor's priced schedules are recorded as "Provided" or "not provided". Any attempt to specify the validity or otherwise of any supporting document is termed as an evaluation exercise which ought not to be carried out during tender openings.

The consequence of the above is that tenderers are able to sneak in authentic documents to replace documents which would otherwise be declared invalid during the evaluation process, upon collusion with members of the tender committee.

- Tender evaluation is usually undertaken based exclusively on the submissions in the sealed envelopes. No verification is done beyond the submissions to ascertain the true qualification of the tenderer.

The Implication of the above is that Contractors who are incapable of executing the works are able to fraudulently misrepresent facts just to win the Contracts which in consequence would defeat the objective of achieving value for money.

RESTRICTIVE TENDERING

- This method of procurement which requires that direct invitations are addressed to shortlisted Contractors opens up the possibility of one Contractor been invited to submit tenders in different company names, upon collusion with the Procurement Entities.

Many have argued that to the extent that Contractors have been shortlisted from a long list guarantees the claim that either of the shortlisted contractors can execute the works within schedule, in accordance with specification and Budget, however, it has been observed that because of the exclusion of the Public Invitation to bid, people in the helm of affairs are able to award contracts to their cronies, which consequently defeats the objectives of Act 663 of Ghana.

- The Procurement process also requires the approval of the Public Procurement Authorities following the justification of the need to use the prescribed method. Among the reasons prescribed by the Act for the usage of the methods includes the availability of the works from a limited source and when the time and cost of evaluating a large number of tenders is disproportionate with the value of works to be procured (Procurement Act, 2003).

It however has been observed that some Procurement Entities submit their requests to the Public Procurement Authorities citing all or any of the above reasons, when the actual reason for the use of the method is anything but what is prescribed by the Act.

It was equally observed that no clarification was usually sought by the Procurement Authorities in an attempt to authenticate the underlying reasons for the use of the method.

This was confirmed through the interviews granted during the collection of primary data for the study

The Consequence of the above is that contracts can be awarded to some select contractors and value for money is not achieved.

SINGLE/SOLE SOURCING METHOD

- This method of procurement also requires the seeking of approval from the Public Procurement authorities by the Procurement Entity. It also requires a written justification for the use of the method. Among the reasons prescribed by the Act for its usage includes; urgency of need, National security concerns, the monopolistic nature of the works, compatibility with existing works etc.

Similar to the identified practices associated with Restrictive Tendering, it was also observed that contrary to the reasons cited by the Procurement Entities as a justification for the use of the Single/Sole Sourcing, the underlying reasons are anything but what is cited above. The implication therefore is that people at the helm of affairs could award contracts to their cronies and Contract Bill rates are padded at the expense of the objectives of achieving value for money.

- It was also observed that No clarifications /Investigations or enough due diligence was usually undertaken by the Public Procurement Authorities to ascertain the authenticity of the need to use the method for the procurement of works.

REQUEST FOR QUOTATION

- This method even though prescribed by the Act for small value procurements and works such as Renovations and Paintings, etc., It was observed that single sourcing was been used as the Method of Procurement in place of Request for Quotations owing to the fact that Procurement Entities are either oblivious of the Method or are not familiar with the procedures stated in the Act.
- For those Procurement Entities that were familiar with the use of the method, it was also observed that favouritism was identified with the shortlisting requirement which had the consequence of defeating the objectives of the Public Procurement Act.

TWO STAGE TENDERING

- Among the Procurement methods prescribed in the Act, Two Stage Tendering was least familiar among the Procurement Entities observed. Those familiar with its usage have argued that it is most suited for Consultancy Contracts as compared to Works Contracts since detailed designs and specifications of most of the works requested by entities in Ghana are usually available prior to tendering.
- It is also anticipated that in the administration or application of the Method which requires the submission of specifications and designs before the issuance of Restrictive Tenders to qualified Contractors, Authorities at the helm of affairs could influence the

evaluation process to favour a selected Contractor or Contractors could collude among themselves.

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CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

This chapter seeks to draw an insight from the data collected and analyzed, the observations made and the discussions undertaken in chapter four to achieve the objective of

- Suggesting strategic ways of mitigating corruption in the Works Procurement Processes.

5.1 CORRUPTION AND FRAUD

Corruption can be defined in philosophical, theological or moral discussions as a spiritual or moral impurity or a deviation from an ideal. It entails many different forms including bribery and embezzlement. It is also said to be in different scales ranging from small favors among small numbers of people (Petty Corruption) to large scale corruption (Grand corruption) and Systemic Corruption, i.e. corruption that is part of the everyday structure of society. Corruption (2013). Available at <http://en.wikipedia.org/wiki/Corruption>. [Accessed 15th November 2013]

Fraud is defined as a false representation of a matter of fact—whether by words or by conduct, by false or misleading allegations, or by concealment of what should have been disclosed—that deceives and is intended to deceive another so that the individual will act upon it to her or his legal injury. It is known to be most common in the buying and selling of property, including real estate and intangible property such as stocks, bonds and copyright. Fraud (2013). Available at <http://legal-dictionary.thefreedictionary.com/fraud>. [Accessed 15th November 2013]

In Public Procurement, fraud and corruption pervades in the entire procurement cycle. That is from the identification of the need to procure, the preparation of tender documents, tendering,

evaluation, Award of Contract, Works Execution and Contract Administration and the Defects Liability Period.

Many have argued that corruption cannot be eradicated as it is embedded in human nature. However to the extent that it is a canker affecting Public Procurement and the nation's economy, it becomes prudent to attempt to devise pragmatic strategies for mitigating its effects in Works Procurement.

5.2 CONCLUSION

The outcome of the Interviews undertaken indicated that 86.95% of the Interviewees lacked the requisite education in a Procurement related course and 15 out of the 20 who lacked the requisite education learnt the practice through observations and "on the Job".

Even though formal education cannot eradicate corruption, the education of the Procurement Officers in Procurement related Programmes would flush away their ignorance in the procurement procedures, expose them to best practices and avoid mistakes or errors that would make their activities susceptible to undue influence.

The Public Procurement Authority, among other obligations is charged with the responsibility of facilitating the training of Public Officials involved in Public Procurement at all levels. This objective unfortunately is far from been achieved, perhaps owing to the constraints of cost or misplaced priorities. As a measure towards educating the Public Officials to sanitize the procurement environment, the Researcher suggests that the Authority in collaboration with the Government of Ghana should subsidize the fees of all Public Officials who enroll to pursue a programme in Procurement Management or any other Procurement related programme in Public Universities such as the Kwame Nkrumah University of Science and Technology.

It is also suggested that the Public Procurement Authority should be empowered logistically to carry out regular procurement audits on the activities of Public Entities and sanctions should be visited on any officers who engages on any act that contravenes the Provisions of the Act to serve as a deterrent.

Finally, it is suggested that the appointment of officials of the Public Procurement Authority should be non-partisan as it would eliminate or mitigate the level of political influence in the discharge of the duties of members.

5.3 RECOMMENDATIONS: CORRUPTION MITIGATING MEASURES IN WORKS PROCUREMENT

From the literature reviewed, the data gathered, analyzed and the loopholes identified, the following measures are suggested as a means of mitigating the fraud and corruption identified with the Procurement Methods and Procedures prescribed in the Public Procurement Act of Ghana (Act 663, 2003).

5.3.1 OPEN COMPETITIVE TENDERING

- Awareness should be created to impress upon Procurement Entities to desist from the act of printing and making available limited copies of Tender Documents. As many documents should be printed as required to promote competition and increase the chances of achieving best value.
- In accordance with the requirements of the Act, as prescribed in the Procurement Manuals, Tender Invitation Notice for National Competitive Tendering should be published in the Public Procurement Bulletin, the Public Procurement Board Website and in at least 2 daily local newspapers of wide circulation; for International competitive

Tendering, the publications should be made in International Newspapers or journals and copies of the Invitation notices sent to the embassies and High Commissions. Additionally the Public Procurement Authority should be enhanced logistically to monitor the publication of tender notices. The above measure has the impact of further enhancing more participation and competition.

- As part of the record of tender proceedings during tender opening, the tender committee should ascertain and record the validity of all auxiliary documents such as Business Registration Certificates, Social Security Certificates, and Bid Security etc. to avoid the event of tenderers colluding with members of the tender committee to sneak in documents to replace counterfeit ones during evaluation.
- Procurement Entities should ensure that the evaluation criteria stated in the tender documents are detailed and comprehensive enough to promote participation and enhance the chances of getting the best contractor to execute the works.
- During evaluation of tenders, the tender committee should verify the authenticity of all certificates submitted together with the tender, claims of payment of Income tax and related issues etc. and investigate the availability of the Key Personnel and equipment proposed for works, the veracity or otherwise of the works of similar nature undertaken for the relevant period, the degree of work load on the Contractor and liquidity levels of the tenderers.

The above measure has the impact of ensuring that the contractor selected has the required capacity to execute the works and that value for money would be achieved.

5.3.2 RESTRICTIVE TENDERING

- Procurement Entities should monitor the level of activities of all Contractors constituting part of the Pre-Qualified list of capable Contractors, their Capacities to Contract and their Liquidity Levels periodically or as when required to ensure that all the Contractors constituting part of the list are capable of executing works when engaged. Any Contractor who fails to meet the periodic assessment should be expunged from the list.

The above measure ensures that only capable contractors are shortlisted when there is the need to use Restrictive Method, which definitely would ensure performance in terms of quality delivery.

- Training programmes and refresher courses should be organized to enlighten Public Procurement officials on some of the punitive actions that would be taken against officials who engage in collusive acts with Contractors.
- The Public Procurement Authority, before granting approval for the use of the above method should undertake an independent enquiry into the reasons justifying the use of the method and the actual capacities of the Contractors recommended to execute the works. Price schedules or Bills of Quantities submitted by the Procurement Entities should be interrogated by Quantity Surveyors whose services should be contracted if not available in-house, before approval is granted for the use of the method.
- The evaluation criteria stated in the tender should be detailed, complete, unambiguous and comprehensive enough to enable the procurement entity select the best contractor with the qualities that would achieve the objectives of the client. Due diligence should be done beyond the tender submissions to ensure that best value is achieved.

5.3.3 SINGLE /SOLE SOURCING PROCUREMENT METHOD

- The findings of the interviews revealed that single sourcing registered the worse performances in terms of quality delivery, timely delivery and execution within budget; nonetheless its importance as a method of procurement is justified by the reasons prescribed by the act for its usage.
- For works that are already available but not available from a single source, the Procurement Entities should select the Contractor from the List of approved firms after all the due diligence is carried out on the Contractor to ascertain his capacity to execute the works. Price reasonableness analysis should be carried out on the Contractors quotation to ensure that the best price is agreed upon before approval is sought from the Public Procurement Authorities
- Similarly as recommended for Restrictive Tendering, the Public Procurement Authority should do enough diligence beyond the written requests from the Procurement Entities to ascertain the veracity or otherwise about the need to use the method, the capacity of the Contractor proposed for the works and the reasonableness of the rates in the Bill of Quantities.

5.3.4 REQUEST FOR QUOTATION

- The findings of the data collected indicate that Request for Quotation was relatively less popular than Open Competitive Tendering, Restrictive Tendering and Single Sourcing. It was also observed that for works best suited for the method above, Procurement Entities were using Single Sourcing as the method of procurement owing to the fact that the Contract Sums were small.

Refresher Courses on procurement should be organized for procurement officials to enlighten them on which method to use at what circumstance.

- It was also observed during the data collection that for those Entities familiar with the use of this method, favouritism was rampant. The Public Procurement Authorities should implement stiffer punishments for those who contravene the provisions of the Act.

5.3.5 TWO STAGE TENDERING

- Of all the 23 respondents interviewed none of the interviewees had ever been involved in the use of the above method. It was also observed that Procurement Entities had very little or no knowledge about the procedures involved in the use of the method in the procurement of works. It is therefore suggested that refresher courses should be organized to enlighten Public Procurement Officers on the Works Procurement Method and its procedures.
- However, since it involves the use of Restrictive Tendering the evaluation Criteria should be detailed, complete, unambiguous and comprehensive to ensure a conflict free evaluation exercise that would require the exercise of discretion and ensure that the best Contractor is procured for the works

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APPENDICES

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY



COLLEGE OF ARCHITECTURE AND PLANNING DEPARTMENT OF BUILDING TECHNOLOGY

INTERVIEW GUIDE

AN EVALUATION OF THE PERFORMANCE OF THE WORKS PROCUREMENT METHODS IN THE PUBLIC SECTOR REGIME OF GHANA.

My name is Joseph Anvuur, a student of the Kwame Nkrumah University of Science and Technology, pursuing a Master of Science Degree in Procurement Management. In partial fulfillment of the award of the above named degree, as my Dissertation, I am to evaluate the performance of the Works Procurement Methods and their procedures prescribed in the Public Procurement Act of Ghana. This research study is been supervised by Mr. Peter Amoah of the Department of Building Technology of the aforementioned University. The focus of this study is on the activities of the Procurement Entities in some select Ministries and Departments in the Greater Accra Region of Ghana, of which you form part.

As part of this research, I am conducting interviews to seek information from Procurement Officers from the aforementioned Institutions and their Consultants. I would therefore be grateful if you could kindly indulge me for a Twenty (20) minute interview session to enable me collect data for this study. Your response will be treated as “STRICTLY CONFIDENTIAL” and the information would be used exclusively for academic purposes. Only a consolidated summary of the results would be reported and published i.e. no names of participating individuals or institutions would be referred to. A summary of the findings will be made available to you upon request.

INTERVIEW QUESTIONS

Section A: Personal Data

1. Please indicate your years of experience in the procurement of works?
(a) 0-5yrs (b) 6-10yrs (c) 11-15yrs (d) 15yrs and above

Section B: Works Procurement Methods Evaluation

2. Did you study Procurement Management/Supply Chain Management?
or any related programme in procurement? (a) Yes (b) No
3. How do you evaluate your knowledge in Procurement? (a) Low (b) Average
(c) High
4. Are you familiar with the Public Procurement Act and Procedures for Works
Procurement?
(a) Yes (b) No
5. Have your Institution been engaged in any works procurement before?
(a) Yes (b) No
6. If your answers to (3) and (4) above are yes, have you participated in the Contractor
Selection Process before in Works Procurement? (a) Yes (b) No
7. If your answer to (5) above is yes, which of the following Procurement Methods were
used in the Contractor Selection Process?
 - a. Competitive Tendering (National or International Competitive Tendering)
 - b. Restricted Tendering

- c. Single/Sole Sourcing
- d. Request for Quotation
- e. Two (2) stage Tendering

OPEN COMPETITIVE TENDERING

8. If your answer to (6) above is Competitive Tendering (National / International), which of the following were among the criteria used in the evaluation of the tenders?
- (a) Price
 - (b) Works of Similar Nature
 - (c) Key Personnel
 - (d) Equipment Holding
 - (e) Degree of Work Load
 - (f) Lines of Credit
 - (g) Capacity to Contract
 - (h) History of Poor Performance
9. How was the assessment of the above evaluation criteria undertaken?
- (a) Based on the Tender Submissions
 - (b) Based on Investigation
 - (c) Based on both Tender Submissions and Investigations.
10. How was the performance of the Consultants during the Post-Contract Stage (Construction Stage)?
- (a) Very good
 - (b) Good
 - (c) Poor
 - (d) Excellent
11. How was the performance of the Contractor(s) in terms of Quality?
- (a) Very good
 - (b) Good
 - (c) Poor
 - (e) Average
12. How was the performance of the Contractor in terms of Timely Delivery?
- (a) Good
 - (b) Poor
13. Were there Cost Overruns?
- (a) Yes
 - (b) No
14. How would you assess the Contractor's performance and attitude during the Defects Liability Period?
- (a) Non- responsive
 - (b) Quite Poor
 - (c) Very Responsive /Good

RESTRICTIVE TENDERING METHOD

15. If your answer to Question (6) above is Restrictive Tendering, how were the Contractors shortlisted?

- (a) From a Pre-qualified List in the Institution's List of Contractors
- (b) Instructions from a higher authority.
- (c) Other, Please state.....

16. Which of the following were among the criteria used in the evaluation of the tenders?

- (a) Price
- (b) Works of Similar Nature
- (c) Key Personnel
- (d) Equipment Holding
- (e) Degree of Work Load
- (f) Lines of Credit
- (g) Capacity to Contract
- (h) History of Poor Performance

17. How was the assessment of the above evaluation criterion /criteria undertaken?

- (a) Based on the Tender Submissions
- (b) Based on Investigation
- (c) Based on both Tender Submissions and Investigations.

18. How was the performance of the Consultants during the Post-Contract Stage (Construction Stage)?

- (a) Very good
- (b) Good
- (c) Poor
- (d) Excellent

19. How was the performance of the Contractor(s) in terms of Quality?

- (a) Very good
- (b) Good
- (c) Poor
- (d) Average

20. How was the performance of the Contractor in terms of Timely Delivery?

- (a) Good
- (b) Poor

21. Were there Cost Overruns? (a) Yes (b) No

22. How would you assess the Contractor's performance and attitude during the Defects Liability Period?

- (b) Non-responsive (b) Quite Poor (c) Very Responsive /Good

SINGLE /SOLE SOURCING

23. If your answer to question (6) above is or includes Single / Sole Sourcing, how was the Contractor selected/shortlisted.

- a. From a list of Firms in the Institution's bank of firms
b. Through an Instruction from a higher authority.
c. Other, Please state.....

24. Who granted the approval to use single /sole sourcing as the Procurement Method?

- (a) The Head of Entity
(b) The Public Procurement Board
(c) Other, Please state.....

25. If the answer to Question (24) above is (a) was any investigation done by the Procurement Entity beyond the documentation submitted by the Contractor to ascertain their capacity to execute the works.

- (a) Yes (b) No

26. If the answer to Question (24) above is (b), were u contacted by the Public Procurement Authority for any further clarification in regard to the Contractor's ability to execute the works.

- a. Yes
b. No

27. If the answer to Question (24) above is (a) was the value of the Contract within the value threshold of the Head of Entity's authority?

- (a) Yes (b) No (c) I do not know

28. How was the Contractor (s) price quotations evaluated?
(a) Through Negotiation (b) Price reasonableness analysis.
(b) Other. Please state.....

29. How would you assess the performance of the Consultant on the project (s)
(a) Very good (b) Average (c) Poor

30. Was the Contract sum exceeded? (a) Yes (b) No.

31. If the answer to Question (30) above is “yes”, how would you describe the price variance?

(a) Low (b) Very High (c) Moderate

32. How would you assess the Contractors performance in terms of Quality Delivery?

(a) Good (b) Poor (c) Average.

33. How would you assess the Contractors performance in terms of Timely Delivery?

(a) Contract Duration was exceeded (b) Contract Duration was met.

34. How would you assess the Contractor’s performance and attitude during the Defects Liability Period?

(c) Non- responsive (b) Quite Poor (c) Very Responsive /Good

REQUEST FOR QUOTATION

35. If your answer to Question (6) above is Request for Quotation, how were the Contractors shortlisted?

(a) From a List of firms in the Institution’s Bank of Firms
(b) Through an Instruction from above
(c) Other, Please state.....

36. Which other criteria was used for evaluating the Proposals submitted apart from price?
Please state.....

37. How would you assess the performance of the Consultant on the project (s)
(a) Very good (b) Average (c) Poor

38. Was the Contract sum exceeded? (a) Yes (b) No

39. If the answer to Question (38) above is “yes”, how would you describe the price
variance?

40. Low (b) Very High (c) Moderate

41. How would you assess the Contractors performance in terms of Quality Delivery?
(a) Good (b) Poor (c) Average

42. How would you assess the Contractors performance in terms of Timely Delivery?
(a) Contract Duration was exceeded (b) Contract Duration was met.

43. How would you assess the Contractor’s performance and attitude during the Defects
Liability Period?
(a) Non- responsive (b) Quite Poor (c) Very Responsive /Good

TWO-STAGE TENDERING

44. If your answer to Question (6) above is Two Stage Tendering, which of the following
criteria was used together with the detailed specification to prequalify contractors for the
second stage?

(a) Price (b) Works of Similar Nature (c) Key Personnel
(d) Equipment Holding (e) Degree of Work Load (f) Lines of Credit

(g) Capacity to Contract (h) History of Poor Performance.

45. How would you assess the performance of the Consultant on the project (s)

(b) Very good (b) Average (c) Poor

46. Was the Contract sum exceeded? (a) Yes (b) No

47. If the answer to (46) above is “yes”, how would you describe the price variance?

(a) Low (b) Very High (c) Moderate

48. How would you describe the Contractors performance in terms of Quality Delivery?

(b) Good (b) Poor (c) Average

49. How would you describe the Contractors performance in terms of Timely Delivery?

(c) Contract Duration was exceeded (b) Contract Duration was met.

50. How would you describe the Contractor’s performance and attitude during the Defects Liability Period?

(d) Non- responsive (b) Quite Poor (c) Very Responsive /Good

ASSESSING THE IMPACT OF EVALUATION CRITERIA ON PROJECT PERFORMANCE

51. How would you evaluate the Impact of the following on the Performance of the Contractor (s) in terms of Quality, Cost and Timely delivery?

Please tick (√) appropriately.

Evaluation Criteria	Very High	High	Low	Very Low
Experience in Works of similar complexity				
Financial Capacity				

Availability of required Equipment				
History of Past Performance				
Key Personnel				
Capacity to Contract				
Other (State):				
Other (State)				
Other (State)				

KNUST

52. How frequently are the following evaluation criteria used in the Contractor selection process in your Institution?

Evaluation criteria	Frequently	Quite Frequently	Never
Experience in Works of similar complexity			
Financial Capacity			
Availability of required Equipment			
History of Past Performance			
Key Personnel			
Capacity to Contract			
Other(State)			
Other (State)			

Other Comments:



Thank You for Your Participation