

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY

**THE IMPACT OF THE PUBLIC PROCUREMENT ACT 2003, (ACT 663) ON
DISTRICT ASSEMBLIES' COMMON FUND PROJECTS**

BY

EUGENIA AKU AKPORHOR

(B.A SOCIOLOGY WITH POLITICAL SCIENCE)

**THESIS SUBMITTED TO THE DEPARTMENT OF BUILDING
TECHNOLOGY, COLLEGE OF ART AND BUILT ENVIRONMENT IN
PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE
OF MASTER OF SCIENCE IN PROCUREMENT MANAGEMENT**

NOVEMBER, 2015

DECLARATION

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

EUGENIA AKU AKPORHOR
STUDENT SIGNATURE DATE

Certified by:
REV. PROF. FRANK FUGAR
SUPERVISOR SIGNATURE DATE

Certified by:
DR. B. K. BAIDEN
HEAD OF DEPARTMENT SIGNATURE DATE

ACKNOWLEDGEMENT

My gratitude goes to the Almighty God for bringing this work to an expected end.

Miss Theodora Abena Mensah, a Course mate and the Procurement Officer for Jasikan College of Education deserves my gratitude for all the material support she gave me throughout the programme.

To my husband Divine Agbenyegah, my children and Mary Ayettor thanks for the diverse ways you contributed in making this dream come true. .

Rev. Professor Frank Fugar, thank you for your guidance. It was a great honour and privilege having you as a Supervisor. I salute you for your level of tolerance. You were not just a Supervisor, but a Father as well. God bless you.

The DCE for Afadzato South District Assembly, Hon. Angela Alorwu-Tay and the entire staff of the Assembly, thank you for every support you gave me throughout this course.

I acknowledge Staff of Hohoe Municipal and Jasikan District Assemblies who participated in this work for the overwhelming reception they gave me.

Lastly, Mr. Henry Mblerson, my profound gratitude to you for offering to edit this work.

ABSTRACT

Ghana's Public Procurement Act, 663 which came into force in 2003 was meant to promote good governance in the public financial management system. A statutory fund like the District Assemblies' Common Fund (DACF) on the other was also enacted by an Act of Parliament in 1993 known as Act 455 to provide funding towards local and rural development. The Public Procurement Law is significant to the DACF because it employs public procurement procedures and processes. This piece of work therefore seeks to present an empirical investigation into the impact the twelve years existence of the Public Procurement Act has made on the twenty one

(21) years of the DACF projects in the three (3) study areas namely Hohoe Municipal, Afadzato South and Jasikan Districts. Objectives guiding the work comprises ascertainment of stakeholders level of compliance of the Procurement Law in the implementation of DACF Projects, identification of any positive or negative effect of the PPA on DACF Projects, determine the challenges in the implementation of the DACF Projects and to also recommend ways through which the PPA could be used to enhance efficient and effective execution of the DACF. Purposive sampling method was adopted in selecting the sample for the study. The twenty- two (22) participants of the study were made up of District Chief Executives, Coordinating Directors, Procurement Officers, Finance, Works Engineers, Planning, Budget Officers and Internal Auditors. They all happened to be key managers (Procurement Officials) of the Assemblies who play key roles in their procurement matters. Questionnaire served as the tool for the data gathering exercise. The work largely revealed appreciable level of compliance with key requirements of the Procurement Act. It further revealed that though the Assemblies largely complied with key procurement requirements of the Act, they often procured outside their original Annual Procurement Plan, a practice the procurement law frowns on. Non availability of funds prior to procurement, non-

compliance with contract terms of payment, misapplication of the DACF guideline where procurement allocated funds are either reduced or diverted for other interests, unauthorized procurement of non- prioritized items with payment deducted at source, coupled with untimely release of the DACF were some of the major findings identified to be affecting the prompt delivery of

DACF procured projects. The study recommended that the Local Government Ministry made a policy which will seek to have payment for DACF contract sums exceeding one hundred thousand Ghana Cedis (GHS100, 000.00) to be deducted at source avoid misapplication by the Assemblies. It was further recommended that

Internal Auditors who fail to carry out quarterly procurement audit be sanctioned. PPA to collaborate with the relevant authorities to sanction Assemblies which operated outside their Procurement Plans, and also fail to comply with contract terms of payment.

No source deduction must be made without prior authorization of the District Assemblies. The study finally recommended that persons who may find the study interesting develop it on a wider scope by covering more of the 216 District Assemblies in the country. This may involve a wider stakeholder participation such as Assembly Members, Community Interest Groups and Civil Society Organizations where findings and recommendations will add up to knowledge on the impact of the PPA on the DACF projects.

DEDICATION

This work is dedicated to Mr. Ivan Avor Amese, District Works Engineer, Afadzato South District Assembly. Our disagreements over your Bill of Quantities were what challenged me to study this Procurement Management Course.

KNUST



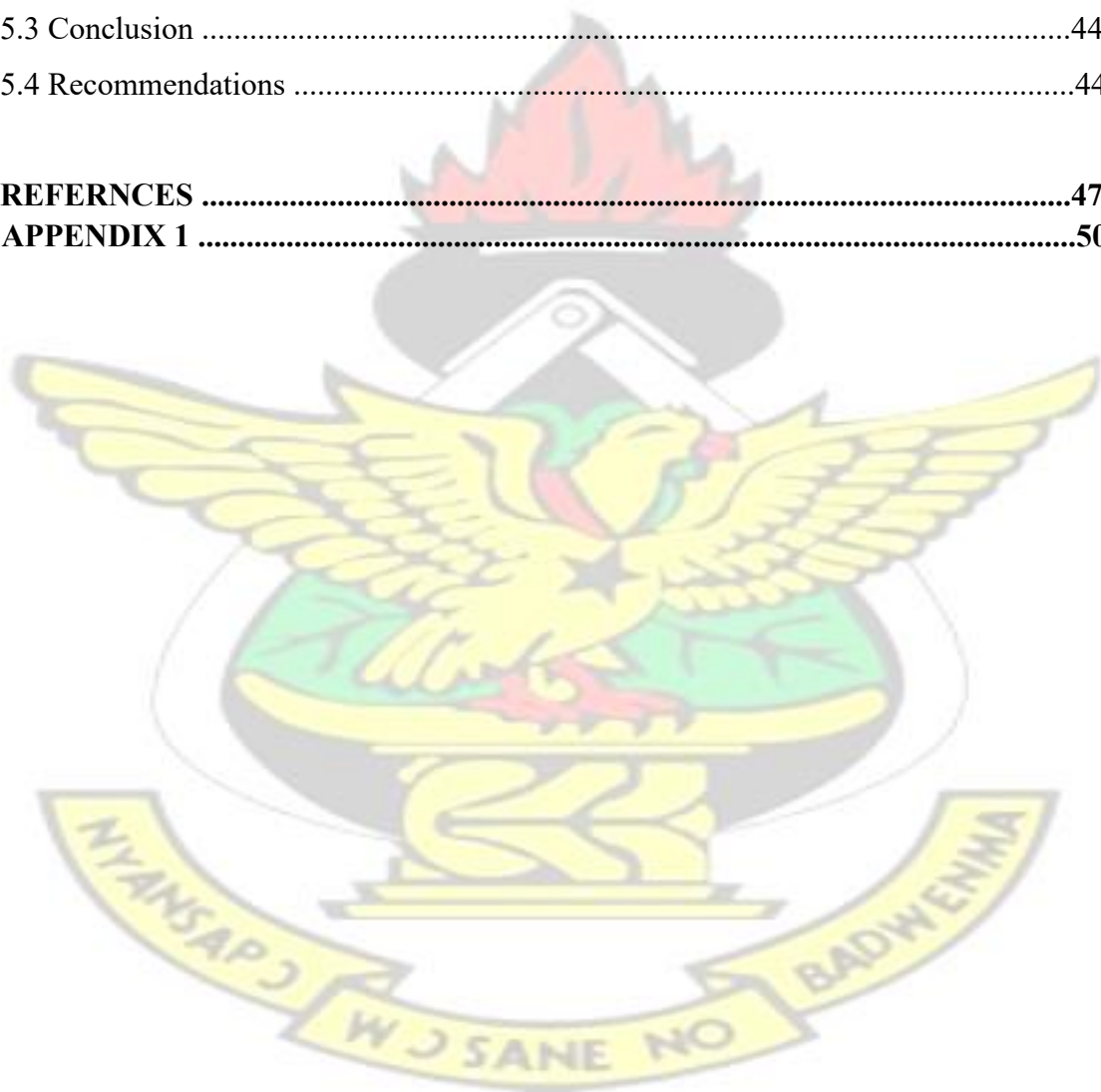
TABLE OF CONTENTS

DECLARATION.....	ii
ACKNOWLEDGEMENT	iii
ABSTRACT	iv
DEDICATION.....	vi
TABLE OF CONTENTS.....	vii
LIST OF TABLES	x
LIST OF FIGURES	x
ABBREVIATION AND ACRONYMS	xi

CHAPTER ONE	1
INTRODUCTION.....	1
1.1 Background to the Study	1
1.2. Problem statements	3
1.3. Research Questions	4
1.4. Research Aim	5
1.5 Research Objectives	5
1.6 Scope	5
1.7 Significance of the Study	6
1.8 Research Methodology	6
1.9 Organization of the Study	7
CHAPTER TWO	8
LITERATURE REVIEW	8
2.1 Introduction	8
2.2 The Concept of the District Assemblies Common Fund	8
2.3 Theoretical framework of the District Assemblies Common Fund (DACF)	9
2.4 Functional Areas of District Assemblies Common Fund (DACF)	10
2.5 The Concept of Public Procurement	10
2.6 Public Procurement Law and District Assemblies Common Fund Project	11
2.7 Compliance level of the Public Procurement Law	15
2.8 Challenges in the Implementation of District Assemblies Common Fund Projects	16

2.9 Effective Public Procurement Compliance Measures	18
CHAPTER THREE	19
METHODOLOGY	19
3.1 Introduction	19
3.2 Research Design.....	19
3.3 Population, Sample and Sample Procedures	20
3.4 Data Types and Sources	21
3.5 Instrument Used for Data Collection	22
3.6 Data Analysis, Presentation and Reporting	22
CHAPTER FOUR	23
DATA ANALYSIS AND PRESENTATION	23
4.1 Introduction	23
4.2 Demographic Characteristics and Years of Occupying Current Position	23
4.3 Compliance with the Procurement Laws in the Implementation of the District Assemblies' Common Fund Projects	24
4.3.1 Knowledge of the Public Procurement Law, Manual and Guide	25
4.3.2 Knowledge of the DACF Law and Guideline	25
4.3.3 Establishment of Procurement Unit with Qualified Procurement Officers	26
4.3.4 Annual Procurement plan	27
4.3.5 Quarterly Review of the Procurement Plan/ Incorporation of Source Deductions	29
4.3. 6 Quarterly Internal Procurement Audit Exercise	31
4.4 Challenges with the Implementation of the DACF Projects	32
4.4.1 Availability of Funds Prior to Procurement	32
4.4.2 Disbursement in Accordance with the DACF Guidelines	33
4.4.3 Misapplication of Procurement Allocations	34
4.4.4 Authorities behind Deductions at Source	35
4.5 Positive Effect or Otherwise of the Public Procurement Act on DACF Projects	36
4.5.1 Existing DACF Projects	36
4.5.2 Additional Projects.....	37
4.5.3 Justification for Additional Projects	37

4.5.4 Conformity to Contract Terms of Payment	37
4.5.5 Interest on Delayed Payment	37
4.5.6 Reasons for Non-Application of Interest on delayed payment	38
4.5.7 Price Fluctuation	38
CHAPTER FIVE	41
SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATION	41
5.1 Introduction	41
5.2 Summary of Findings	41
5.3 Conclusion	44
5.4 Recommendations	44
REFERNCES	47
APPENDIX 1	50



LIST OF TABLES

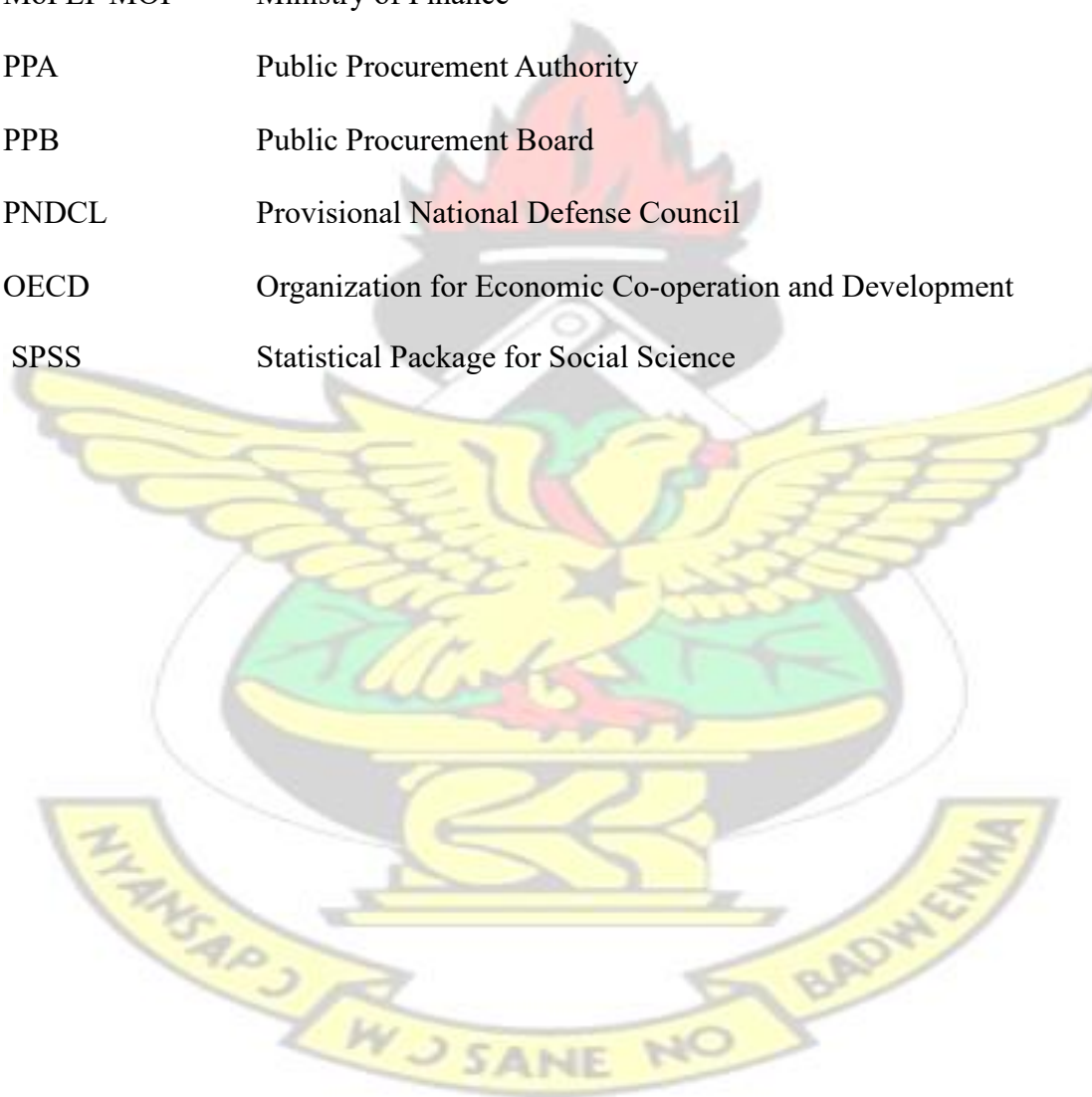
Table 2.1: PPA Compliance Performance Assessment Report for 2010 and 2011	15
Table 3.1: Category of Respondents	21
Table 3.2: Data Types and Sources.....	21
Table 4.1: Years Occupying Current Position	24
Table 4.2: Level of Knowledge of the Public Procurement Law, Manual and Guide .	25
Table 4.3 Level of knowledge of the DACF Law and Guideline	26
Table 4.4: Existence of Procurement Unit	27
Table 4.5: Plan approved before December every year	29
Table 4.6: Submission of plan to PPA for action.....	29
Table 4.7: Quarterly Review of plan.....	30
Table 4.8: Misapplication of Procurement Allocations	35
Table 4.9: Authorities behind deductions at Source	35
Table 4.10: Existing DACF Projects	39
Table 4.11: Additional DACF Projects	39
Table 4.12 Justification for Additional Project	39
Table 4.13: Non Compliance with Terms of Payment	40
Table 4.14: Interest on delayed payment	40
Table 4.15: Reasons for Non-Application for Interest on delayed payment	40
Table 4.16: Price Fluctuations on Delayed Payments	40

LIST OF FIGURES

Figure 4.1: Position of Respondents (Source: Author's Construct, 2015)	24
Figure 4.2: Qualification of Procurement Officers	27
Figure 4.3: Annual Procurement plan	28
Figure 4.4 Incorporation of Source Deductions in the Annual Procurement Plan	30
Figure 4.5: Quarterly Internal Procurement Audit Exercise	31
Figure 4.6: Availability of Funds before Procuring	33
Figure 4.7: Disbursement in Accordance with the DACF Guideline	34

ABBREVIATION AND ACRONYMS

DACF	District Assemblies Common Fund Project
EU	European Union
GDP	Gross Domestic Product
GoG	Government of Ghana
MDAs	Ministries, Department, and Agencies
MMDAs	Metropolitan, Municipal, and District Assemblies
MoFEP MOF	Ministry of Finance
PPA	Public Procurement Authority
PPB	Public Procurement Board
PNDCL	Provisional National Defense Council
OECD	Organization for Economic Co-operation and Development
SPSS	Statistical Package for Social Science



CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

Twelve (12) years ago, the Public Procurement Act (2003), Act 663 came into force. Similarly, the District Assemblies' Common Fund Act, 1993, (Act 455) was enacted twenty-one (21) years ago. One would have expected that twelve years down the line, little or no challenges would have been associated with procurement practices in public procurement entities. The District Assemblies' Common Fund (DACF) for instance which has yearly utilization guideline released by the DACF Administrator should have been devoid of procurement irregularities in the District Assemblies (DA).

Governments make huge procurement expenditures with the hope that their citizens would have value for the taxes they pay. In the opinion of Sarfo (2011), governments make these procurement expenditures in order to satisfy their public demands. Woolcock (2008) for instance established that government procurements within Africa alone rank between an average of about 10 per cent of Gross Domestic Products. He also established that about 70% goes into public expenditure in both Tanzania and Uganda. For Botswana, he noted that public procurement exceeded \$1 billion in 2003 alone. Studies (World Bank, 2003 cited in Dza et al., 2013) have shown that Ghana for instance spends about 43.8% of her annual national income and 90% of development partner's inflows on public procurement.

Owing to the huge expenditures involved in procurement in the public sector, efforts have been made by governments, especially African governments over the past two decades to enact appropriate laws to overcome their procurement challenges. Ghana

for instance enacted the Public Procurement Act 663 in 2003, Nigeria enacted hers in 2007 and that of Rwanda was in 2007.

One key area of the public sector where public procurement is pronounced is Local Government or Local Development. The main objective of local development is to provide the needed social infrastructure which will positively enhance the standard of living of people in their localities (Bavere, 2011). The financing tools adopted by local governments for local development vary among countries (OECD, 2007). Local development has become a component of mainstream thinking about increasing productivity, creating jobs, promoting entrepreneurship, improving human capacity, incomes and general wellbeing (OECD, 2007).

Local development financing in Ghana is not different from most developing countries. Ghana as a country has been involvement in decentralization as far back as the 1850 (Osei-Asibey, 2005). This decentralization processes underwent a series of reforms until the Local Government Act, 1993 (ACT 462) came to being and gave birth to the District Assemblies (Botchway, 2001).

Local governments in Ghana have turned to be the major instruments for local development. To carry out their mandates, DAs depend on funds from Central Government Subventions, the DACF, internally generated funds from fees and fines, donor supports, District Development Facility (DDF), the Urban Development Grant (UDG), and the Highly Indebted Poor Countries (HIPC) Fund among others. With the exception of the Metropolitan Assemblies and selected Municipal Assemblies, all other District Assemblies depend heavily on the DACF as the dominant and reliable source of funding for the implementation of district development programmes. It is

Five percent (5%) of the country's total annual fiscal revenue generated which is shared per a formula approvable by Parliament allocated to the District Assemblies and other local government related bodies (Osei-Asibey, 2005).

According to Banful (2009) the DACF is the most important source of funding for DAs. He indicated that 80 - 90% of DA's annual expenditure was through the DACF. World Bank report (2004) also confirmed the fund was the major source of funding for local development. The National Development Planning Commission (2009) further revealed that funding on local development was made up of 20 percent donor funds, 19 percent Internally Generated Funds (IGF) and 61 percent central government transfers.

Considering the huge expenditures governments make in public procurement, it has been acknowledged if the developing countries especially pay particular attention towards the enhancement of good procurement practices will promote good governance and sound environment. It is this recognition that has necessitated the establishment of the appropriate legal frameworks for implementation across the developing countries. (Dza et al, 2013).

1.2. Problem statements

There is no doubt about the fact the District Assemblies' Common Fund remains the major source of funding for development projects in our localities. It is a statutory fund which is expected to be released quarterly to enable the Assemblies honour their procurement obligations. However, irregular release of the DACF on quarterly basis, lack of financial discipline on the part of procurement officials, coupled with inappropriate procurement practices, have accounted for the long delays in the

execution of DACF projects. One would have expected that 12 years after the PPA, its impact on the utilization of the DACF must have been positively overwhelming.

Sections 92 and 93 of the Procurement Act enjoins Public Practitioners and Service Providers maintain the highest ethical standards in the course of tendering through to the contract execution period (Public Procurement Authority, 2004). On the contrary, public procurement entities continuously exhibit poor procurement practices leading to the ever increasing annual public debt confronting the country (World Bank, 2003 cited in Safo, 2011).

Furthermore, the relevant stakeholders seem to have limited knowledge on the on how the DACF guideline for utilization as well as the operations of the PPA. As a result, end- users are poorly placed to legitimately demand social accountability.

It is worth mentioning that, various researches have been conducted on the contributions of the DACF to development at the local level, but studies on the impact of the Procurement Law in the implementation of DACF Projects in particular is inadequate. Knowledge of this development was what encouraged the Writer to undertake a study on the Impact of the Public Procurement Act on the District Assemblies Common Fund Projects in the study area.

1.3. Research Questions

In the data gathering process, the Researcher will pose questions reflecting the objective of the study as seen below:

1. What is the level of compliance of stakeholders with respect to the procurement laws in the implantation of the DACF Project?
2. Identify any positive effects of or otherwise of the PPA on the DACF Projects?

3. What Procurement Law challenges can be identified in the implementation of the DACF projects?
4. What measures must be taken to secure effective implementation of the DACF?

1.4. Research Aim

The Writer's aim is to assess the impact of the Procurement Act on the District Assemblies' Common Fund Projects in three (3) Assemblies: Hohoe Municipal, Afadzato South and Jasikan Districts.

1.5 Research Objectives

The outlined objectives would guide the study:

1. To establish the level of compliance of stakeholders with the Procurement Laws in the implementation of the District Assemblies' Common Fund Projects
2. To determine challenges in the implementation of Common Fund Projects.
3. To identify any positive effect or otherwise of the PPA on the DACF Projects
4. To recommend ways through which the Public Procurement Act can be used to enhance efficient and effective execution of the fund.

1.6 Scope

The study looks at the contribution of the DACF to local development in the Hohoe Municipal, Jasikan and Afadzato South District Assemblies in the Volta Region of Ghana. The above Districts were selected because the Researcher resides nearer the three areas of study; therefore proximity to Respondents was a determining factor.

Secondly, given the three -month“s timeline for the completion of this study, it was not very convenient for Researcher to consider Assemblies which were very far.

Thirdly, Hohoe is a Municipal Assembly, Jasikan is an old District and Afadzato South has been in existence for barely four years so the Researcher found the three areas to be a suitable blend for the study. Fourthly, the study takes a comparative look at the importance of the Procurement Act and its influence on the DACF. So, although it will be delimited to Hohoe, Jasikan and Afadzato South District Assemblies, the findings will be generalized over the whole Metropolitan, Municipal and District Assemblies (MMDAs) with similar characteristics of Hohoe, Jasikan and Afadzato South District Assemblies.

1.7 Significance of the Study

This piece of work will serve as an advocacy platform employing the Assemblies and government as a whole, to create the necessary popular participation environment that will allow all stakeholders to have a say in the development of their localities and their wellbeing. The findings of the study will also assist Public Procurement Practitioners and Service Providers to observe good procurement practices. It will as well add to existing knowledge on Public Procurement practices and the implementation of the DACF.

1.8 Research Methodology

The writer adopted descriptive survey and case study research designs. The target population was made up of Procurement Officials of the Assemblies. Two sampling techniques used were both probability sampling and purposive sampling methods. Eight (8) questionnaires were sent to each of the three (3) study areas. Primary and

secondary sources of data were used. Questionnaire served as the data collection instrument. The data collected was edited, scored, coded and analysed with the help of 'Statistical Package Social Scientists (SPSS)' which was displayed with charts and tables.

1.9 Organization of the Study

The work is divided into five (5) chapters. Chapter one focuses on the general introduction of the work comprising background of the study, statement of the problem, research questions, aim, objectives, scope, and significance of the study and research methodology. The second chapter looks at literature concerning PPA requirements and its significance DACF Projects, stakeholders compliance with the law in relation to the implementation of DACF projects, effect of the PPA on DACF and the challenges in the implementation of DACF.

Chapter three (3) involves the research methodology adopted whiles chapter four (4) concentrated on analyses of the data collected. Chapter five was the summary of the findings, recommendations and conclusion.

The logo of KNUST (Kwame Nkrumah University of Science and Technology) is a large, faint watermark in the background. It features a central shield with a red and white design, flanked by two yellow wings. Below the shield is a yellow banner with the text 'NYANSAPƆ' on the left and 'BADWENMA' on the right. The entire logo is set against a light green background.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This segment will review existing works relating to Common Fund and the Public Procurement Laws. Other relevant issues to consider in the segment will include:

definition of public procurement, District Assemblies Common Fund vis-a-vis the effect of the Public Procurement Law on DACF Projects. Compliant challenges will be dealt with adequately.

It must be clearly stated that any country which fails to managed its procurement system effectively and efficiently risk plunging the country into debt eriving coupled with untoward economic hardships. Revenues which may be channeled through National Development will be rather channeled through debt servicing.
(World Bank, 2000).

2.2 The Concept of the District Assemblies Common Fund

The District Assemblies concept of decentralization under the watchful implementation of the Local Government Ministry was given birth to in 1988. The Assembly system is backed by Local Government 1993. Under Section 162 of the Act, Metropolitan and Municipal Assemblies are all classifies as District Assemblies. Currently, there exist 216 District Assemblies in Ghana. The District Assembly (DA) is the highest political and administrative body in the district with legislative and executive functions. Section 10 of Act 462 (1993) defines the functions of the Assemblies as follows:

- i. Initiate development programmes for the district
- ii. Creation of enabling environment that will attract investors and other organisations to partner the Assemblies and communities in development.
- iii. To be at the fore front of development control (Banful, 2010)

2.3 Theoretical framework of the District Assemblies Common Fund (DACF)

To ensure that Ghana's decentralization efforts are not thwarted, the District Assemblies Common Fund Act, 1993, Act 455 was enacted to provide funding for the

development of the Districts. The law prescribes that not less than 5% of the Total National Income must be disbursed among the Metropolitan, Municipal and District Assemblies (MMDAs). Apart from the MMDAs who benefit from the fund, few government agencies whose functions border on local governance benefit from the fund as well. They include the Regional Coordinating Councils, Members of Parliament for their constituency development, Institute of Local Government Studies, the Local Government Service Secretariat and the DACF Secretariat.

The fund was primarily established to fulfill the provisions of Local Development Agenda which is based on the basic principles of sustainable human development, sustainable livelihoods and local level early recovery. These principles are enveloped in four broad categories as:

- To support Local Government, envisaged to strengthening the capacities of these bodies in order to fulfill their mandate and enhance their potentials,
- To influence the decentralization process,
- To support a combination of capacity development for local government and civil society and community counterparts funding to formulate local development plans, and
- To promote direct community support which involves community-driven development that takes local communities as local development entry points and channeling resources to communities, empower them to prioritize, decide and act to support their communal interests Area-Based Development (UNDP, 2007).

2.4 Functional Areas of District Assemblies Common Fund (DACF)

The District Assemblies Common Fund Secretariat has a responsibility to advise the Assemblies on the functional areas of the fund for each fiscal year. It is circulated to the Assemblies in a paper known as Guideline for the Utilization of the District Assemblies Common Fund (King, 2003).

Procurement Officials of the MMDAs in the discharge of their procurement mandate under the Public Procurement Law and DACF project are obliged to exhibit ethical and high professional standards. It is through this means that the Local Authorities and by extension the state can achieve value for money.

2.5 The Concept of Public Procurement

According to the Public Procurement Authority, public procurement is the process by which organizations acquire goods, works and services using public funds. It includes planning, inviting offers, awarding contracts and managing contracts (PPB, 2007)

Until the year 2003 when the Public Procurement Law came into force, there was no clear cut regulatory framework guiding procurement activities the public sector.

Public procurement was not well coordinated and harmonized as we see today. According to the Public Procurement Authority, public procurement has a direct impact on the on the following:

1. Successful delivery of government projects and public services
2. Sound public financial management by achieving value for money in government expenditure
3. Reducing Corruption
4. Encouraging private sector growth and investment

5. Public procurement also has both economic and social impact. This is because statistics has shown that 50-70% of the national budget, 14% on GDP and 24% on total imports (PBB, 2007).

Procurement is set to achieve specific objectives which consist of providing organizations with a stable and consistent supply of materials and services. This is critical to achieving the sufficient financial management goals and objectives (PPB, 2003).

2.6 Public Procurement Law and District Assemblies Common Fund Project

The DACF is distributed to all MMDAs on the basis of a formula approved by Parliament, payable in quarterly installments and administered by the DACF Administrator. The Office of the Administrator of the District Assemblies Common Fund exists to essentially disburse and monitor fund effectively and efficiently through the use of information technology to Metropolitan, Municipal, and District Assemblies.

The Public Procurement Act was also established with the underlying principles of efficiency, transparency and fairness devoid of discrimination. In pursuance of this goal the PPA operates within 5 tenets. (Anvuur and Kumaraswamy, 2006)

categorized the guiding principles as

.Five basic tenets of the PPA:

- Operating within a broad, clear and consistent legal structure
- Establishing apparent and steady procurement process, measures and processes
- Maintaining an efficient regulating body that will harmonize the processes to ensure judicious use of state resources.

- Ensure qualified and efficient and well-motivated staff that will work ethically and professionally to promote equity, fairness transparency in the procurement process
- To make efforts to prevent corruption and in the both the pre tendering, tendering and top post tendering stages and the execution of the contract

It is important to add that Sections 92 and 93 of the Procurement Act identify common types of corruption to include Bribery, Extortion or Coercion, Fraud and collusion.

In the course of discharging their procurement responsibilities, Procurement Officials in the Assemblies must be guided by the under -mentioned principles in order not to fall foul of the law.

a) Preparation of Annual Procurement Plan

In order to prevent haphazard procurement including common fund procurements, all public procurement entities are required by the Procurement Law to prepare annual procurements plans of the ensuing year before December of every given fiscal year. The plan must be approved by the Entity Tender Committees before it is forwarded to the Public Procurement Authority for incorporation into their Master plan for the purposes of monitoring. The plan is further subjected to quarterly update. The reason is that resources are in competition several demands. Given the fact all the demands are not always met, it is necessary that plan is reviewed for priority needs to take precedence over less priority needs. The Law frowns on procurement outside the plan (misprocurement). Procurement plan does not mean disregard for entity's budget. in actual the budget preparation must be done alongside the plan. Under no circumstance must procurement items be found in the budget and missing in the plan and vice versa.

The plan is composed of packaged items relating to goods, works and services. It also have time lines relating the tendering stage, evaluation, contract award, and management/execution. The method of procurement is also in the plan (Public Procurement Act, Act 663)

b) Qualification of Tenders

Procurement Officials must ensure that Tenderers have the requisite competencies, experience, financial capacity and the requisite equipment to execute jobs being tendered. Failure on the part of Procurement Officials from doing such due diligence can result in financial loss to the entity which will attract the needed sanctions within the laws of the land.

c) Quotations

When the Procurement Entity is able to establish beyond reasonable doubt that a tenderer or an award winner has or used fraud means to secure a job, the tender must be rejected. The true substantially responsive evaluated tenderer is notified accordingly within 30 days.

d) Products and Services

Procurement Officials must ensure that products being procured meet the required specification and need of the entity. Otherwise, there would be no value.

e) Purchaser's Right

Procurement Officials will have to ensure that all the facilities that must be present to achieve the objective of the service is not ignored or compromised. Where the procurement involves inspecting and testing of the items in respect of conformity,

information on the status of the product must reach the supplier in writing within 21 days completion of the tests.

d) Payment

Procurement Officials must make sure that payment is effected within the contract terms of payment. In any case, for the sake of additional cost implications such as delay on interest payment and price fluctuations, payment must not exceed sixty (60) days after the submission of invoice/ payment..

f) Language

Procurement Officials must ensure that they never make a mistake of accepting any bid document in any other language apart from English. Any such bid must be disqualified. No translation or interpretation must be encouraged.

g) Liquidated Damages

Where Service Providers fail to perform within schedule without any reasonable explanations, it contract sum must attract deductions known as Liquidated Ascertained Damages (LAD) indicated in the contract document.

2.7 Compliance level of the Public Procurement Law

Compliance in procurement means to fulfill and comply with the guidelines set to eliminate the risks associated with procurement processes. Procurement Compliance is a major challenge the world over (De Boer and Telgen, 1998). The major obstacle confronting Act 663 is in respect of compliance. Several activities including transparency assessment have been conducted in the Public organizations. Table 2.1

shows average level of compliance by public organizations in a 2-year Performance Assessment System Report on Compliance of the Procurement Act 663 (2003) by the PPA 2011 and 2010

Table 2.1: PPA Compliance Performance Assessment Report for 2010 and 2011

PPA 2010 Assessment	Level of compliance	Level of compliance
	2010	2011
Management System	57.04%	46.16%
Information and Communication	60.88%	44.13%
Procurement process	70.04%	48.91%
Contract management	55.66%	36.95%

Source: Annual Report of Public Procurement Authority (PPA), 2011

The report from the figure is depressing; indication that organizations are not complying with the necessary requirements. It has further been reported that several procurement institutions have failed to comply with law (Agaba and Shipman, 2007). Also, the PPA's procurement audit in 2005 on 322 institutions indicated only 7 (2%) were compliant. Interestingly other surveys revealed that even those who complied were tainted with corruption.

2.8 Challenges in the Implementation of District Assemblies Common Fund Projects

Several factors have been outlined as challenges to the implementation of the District Assemblies Common Fund Projects.

a) The Public procurement Act

The establishment of the Public Procurement Act has brought to its wake several agitations and complains from the stakeholders in the procurement process. This

complaints include delays in the entire procurement process, corruption and discrimination. It was argued that Procurement Act is a cause of delay in procurement itself and the delay in the award of contracts.

b) Corruption

Studies have shown that corrupt is so much deep endemic in our every day public sector dealings that, it has acknowledged that 20% of government expenditures go into corruption (ADB/ OECD, 2008). Thai (2004) attributes this insufficient control system.

c) Delays in the Release of the DACF

Public sector procurement has been shrouded with the challenge of timely payment of Service Providers for the DACF Projects. There have been several cases of delay and non-predictability of the amount to be received from the Fund. Several reactions have been registered about bureaucracy in the payment process. This is a major drawback for implementation of the DACF.

d) Public Financial Management

Poor public financial management policies and strategies are contributing factors to the successful implementation of DCF projects (Federal Acquisition Institute, 1999).

e) Central Government and Political Interferences

The DACF was established to address local development needs. However, frequent interference by successive governments has contributed to enormous challenges pertaining to the utilization of the fund. Government often issues directives for

deductions to be made towards interventions. These interventions badly affect the Assemblies they are more often outside the plans and programmes of the Assemblies. Unapproved deductions at source greatly affect the procurement needs of the Assemblies. It has been established that 59% get to the Assemblies for development .including government priority project (King et al, 2003).

Some political officials use their positions to influence the process. A study conducted indicated that interference by the Central government on procurement processes has negative effect on the implementation of the DACFP in Ghana (Bavere, 2011).

Similarly, Public Procurement practitioners have always faced challenges imposed upon by a variety of environmental factors including market, legal environment, political environment, organizational (King et al., 2003). Other factors include environment, and socio-economic and other environmental factors as discussed as follows.

g) Legal Environment

Apart from Public Procurement regulations and rules, the legal environment refers to a broad legal framework that governs all business activities including research and development, finance marketing, personnel and contracts. In developing and particularly transitional countries, where legal systems are not comprehensive, government contracts may need detailed provisions (Osei-Tutu et al, 2009).

h) Political Environment

Political commitment is a necessary condition for procurement process to curb corruption. Without political will and commitment by the leadership of a country,

2.9 Effective Public Procurement Compliance Measures

Several measures were advanced to ensure effective compliance of the Public Procurement. According to the Public Procurement Authority (2007) the following measure could be taken to reduce the challenges associated with procurement in the institutions

- The government must disburse funds in time to allow for timely payment of contractors
- There should be periodic audit to ensure effectiveness, and accountability
- Good Practices of Procurement must be enforced

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter gives details of the methods employed to achieve the objectives of the study. It covers the research design, the study population, sample and sampling procedure and sources of data. The chapter also contain method of presentation and reporting of findings, data collection instruments, data processing and analysis.

3.2 Research Design

Research Design is simply the method employed by a researcher to collect data for a study. It also lists and describes the instruments used for the collection of data (Alhassan & Adzahlie-Mensah, 2010). Descriptive survey and case study research were utilise. The Researcher finds descriptive survey design suitable because it will be convenient for this kind of study. It case study is also is also relatively more economical with rapid turnaround. Amedahe (2002) describes case studies to involve observation

of individual unit such as a community, an event or a school. Case study probes and it is a suitable approach for the study as it helps in gaining understanding to the variables (factors that account for compliance with the procurement Act).

Intensive probing that characterizes this kind of study leads to insights concerning previously unsuspected relationships. The use of this design will provide detailed information on procurement practices in the implementation of DACF in Jasikan and Afadzato South Districts and the Hohoe Municipal Assemblies.

Sample and Sampling Procedure

Procurement Officials, who constituted the sampled, participated in exercise. Sampling techniques probability sampling methods and the purposive sampling. Purposive sampling is a technique that allows a researcher to select a case with the required information with respect to objectives..

3.3 Population, Sample and Sample Procedures

The target population for the study is made up of Procurement Officers, District Chief Executives, District Coordinating Directors, Finance Officers, Planning, Officers, Works Engineers, and Internal Auditors. This is to ensure representativeness of relevant stakeholders in the DACF. The inclusion of the procurement officials helped in bringing to bear the extent to which PPA has affected efficient and transparent use of public resources. Also, the Procurement Officials helped in bringing out the causes of delay in payment of contracts and also other problems in the procurement process.

Purposive sampling technique was used. The technique allows a researcher to select Respondents with the required information with respect to the objectives. This technique was used to collect data from the Procurement Officials.

Table 3.1: Category of Respondents

Type of Respondents	NO.
District Chief Executives	3
District Coordinating Directors	3
Procurement Officers,	3
Budget Officers,	3
District Planning Officers	3
Finance Officers,	3
District Internal Auditor	3
District Works Engineer	3
Total	24

Source: Author's Construct, 2015

The Researcher circulated Eight (8) questionnaires to each of the three (3) study areas in anticipation that all the 24 questionnaires will be returned. Unfortunately, two (2) of the participants were not available.

3.4 Data Types and Sources

Data for the study were obtained from two sources, namely, primary sources and secondary sources. The primary sources consists of data used for this study. Secondary sources include journals, publications, internet search and books. Primary data was collected through a field survey. Primary data collected for the study is summarised in Table 3.1.

Table 3.2: Data Types and Sources

Unit of Enquiry (Data Sources)	Categories of Data
--------------------------------	--------------------

District Planning Officers, Finance Officers,	DACF projects in the community, level of compliance with the PPA, challenges of PPA in the DACF
---	---

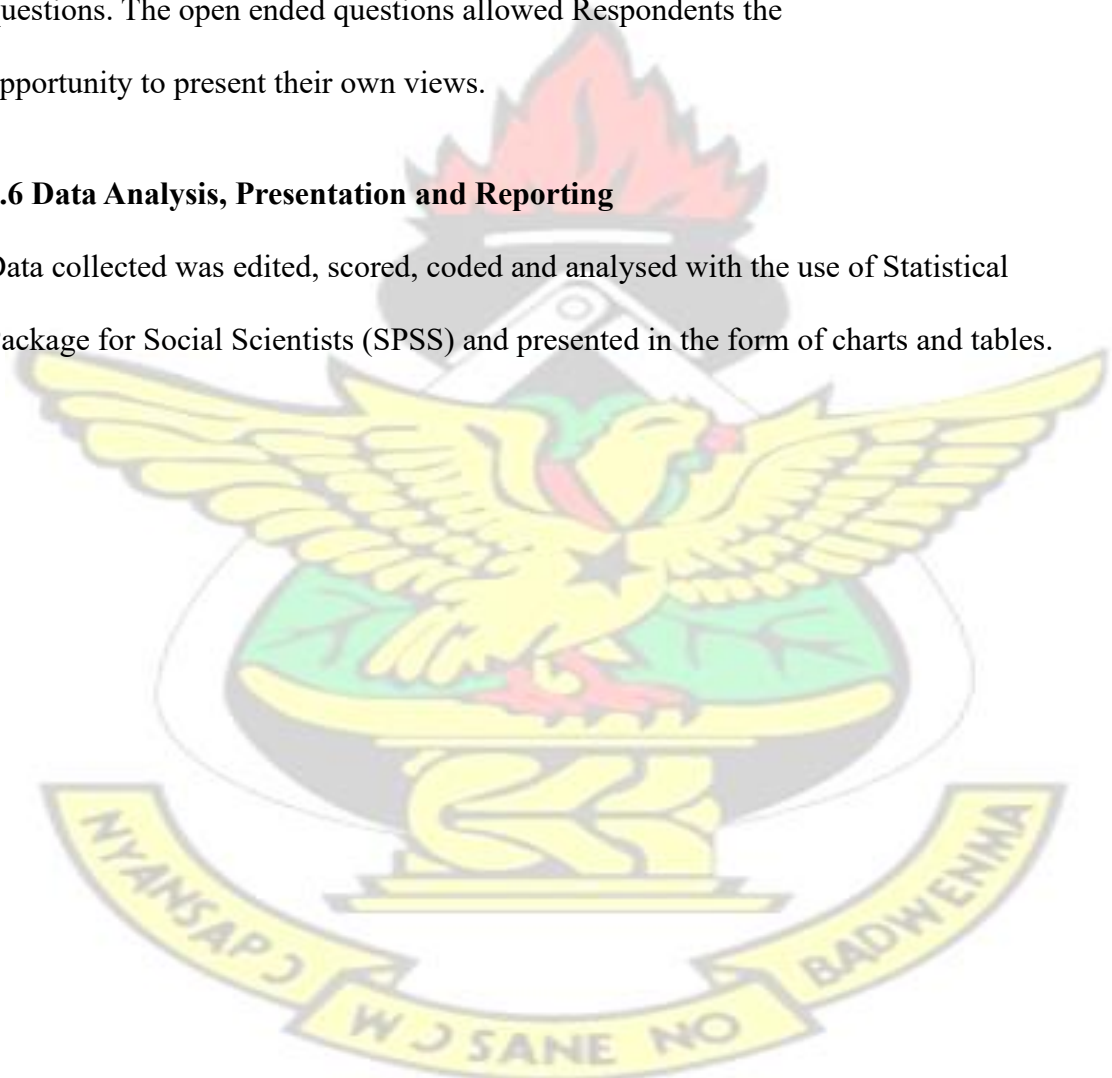
Source: Author's Construct, 2015

3.5 Instrument Used for Data Collection

Questionnaire was the instrument used for the data collection due to the fact that the Respondent were literates. There was therefore no need to do interview as the questions were uniform and very easy to administer. It was made up of closed and open ended questions. The open ended questions allowed Respondents the opportunity to present their own views.

3.6 Data Analysis, Presentation and Reporting

Data collected was edited, scored, coded and analysed with the use of Statistical Package for Social Scientists (SPSS) and presented in the form of charts and tables.



CHAPTER FOUR

DATA ANALYSIS AND PRESENTATION

4.1 Introduction

The chapter presents the analysis of data obtained from respondents. Firstly, the demographic characteristics of respondents are presented, followed by analysis of the various questions under the objectives of the study.

4.2 Demographic Characteristics and Years of Occupying Current Position

Figure 4.1 shows the various positions occupied by Respondents (Procurement Officials) who participated in the study. All the twenty – two (22) participants of the study were found to be people holding positions of decision- making, planning and procurement. It was composed of two (2) District Coordinating Directors and two (2) District/ Municipal Chief Executives. There were three (3) Respondents each in the position of District Procurement Officer, District Budget Officer, District Planning Officer, District Finance Officer, District Internal Auditor and District Works Engineer.

Table 4.1 shows that nineteen (19) of the Respondents, representing 86.4% had occupied their current positions for at least two (2) years. The remaining three (3) representing 13.6% had occupied their positions for six (6) years and above. The Respondents' knowledge of the Public Procurement Law, Manual and Guide (Table 4.2) was found to be good. This suggests that they were better placed to provide appropriate responses to reflect the aim and objectives of the study. A good knowledge of the Procurement Officials on the Public Procurement Regulatory

Frameworks was identified to be a positive development because; it meant they were aware of the consequences of flouting the regulations. It will equally serve as checks and balances on procurement decisions.

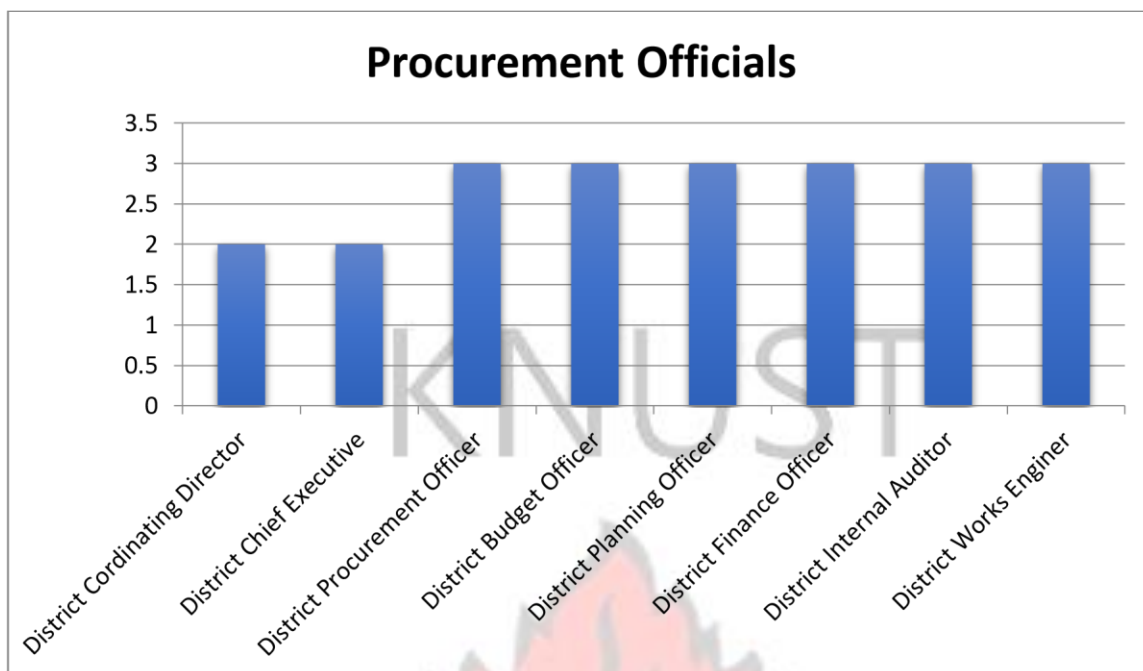


Figure 4.1: Position of Respondents (Source: Author's Construct, 2015)

Table 4.1: Years Occupying Current Position

Response	Frequency	Percentage (%)
2-5 years	19	86.4
6 years and above	3	13.6
Total	22	100

Source: Author's Construct, 2015

4.3 Compliance with the Procurement Laws in the Implementation of the District Assemblies' Common Fund Projects

The first objective of the study relates to ascertainment of the level of compliance of the Procurement Laws by stakeholders (Procurement officials) in the implementation of DACF projects in the study area. Findings made were discussed below.

4.3.1 Knowledge of the Public Procurement Law, Manual and Guide

Stakeholders' knowledge of the Public Procurement Law, Manual and Guide and that of the DACF Law and guidelines for utilization are very relevant for the enhancement of efficiency and effectiveness in the management and administration of the public procurement processes and procedures. To establish the firm level of understanding of Respondents on the District Assemblies Common Fund Law and the guideline for the utilization of the fund, Table 4.2 shows that all the twenty-two (22) Respondents had good knowledge and understanding of the Law. This presupposes that responses from the participants will have a positive result on the aim and objectives of the study.

Table 4.2: Level of Knowledge of the Public Procurement Law, Manual and Guide

Response	Frequency	Percentage (%)
Very High	-	-
High	22	100.

Source: Author's Construct, 2015

4.3.2 Knowledge of the DACF Law and Guideline

Out of the total number of twenty-two (22) participants' knowledge of the DACF Law and Guideline for Utilization of the fund was good. 77.3% scored high with 22.7 % scoring very high (Table 4.3). This is a very positive response because given the fact that the Respondents are the main custodians of the funds for the development of their districts.

Table 4.3 Level of knowledge of the DACF Law and Guideline

Response	Frequency	Percentage (%)
----------	-----------	----------------

Very High	5	22.7
High	17	77.3
Total	22	100

Source: Author's Construct, 2015

4.3.3 Establishment of Procurement Unit with Qualified Procurement Officers

The Public Procurement Manual requires the establishment of procurement units in all government procurement entities. It further requires the engagement of proficient individuals with the needed expertise and qualification to man the procurement units. To this end, the study discovered from Table 4.4 that all the Assemblies had Procurement Units. This suggest that the Assemblies have all complied with the manual which requires the existence of Procurement Units. To establish whether the Assemblies had **Qualified Procurement Officers**, 64% responded 'yes' and 36% responded 'No,' (Figure 4.2). What this means is that 36% of the Assemblies were not fully complying with the procurement law. 63.3% were however complying and that is commendable. To avoid untoward judgement debts and other related procurement irregularities, it is important that all Procurement entities had in place qualified procurement officers to be offering procurement advice to their entities. The Researcher believes that if all District Assemblies could engage qualified procurement officers and Heads of Entities will not unduly interfere with their work, but heed to their professional advice in line with the law, there would no longer be delay in the DACF project. This means they will procure right to avoid delay in the completion of projects.

Table 4.4: Existence of Procurement Unit

Response	Frequency	Percentage (%)
----------	-----------	----------------

Yes	22	100
No	-	-
Total	22	100

Source: Author's Construct, 2015

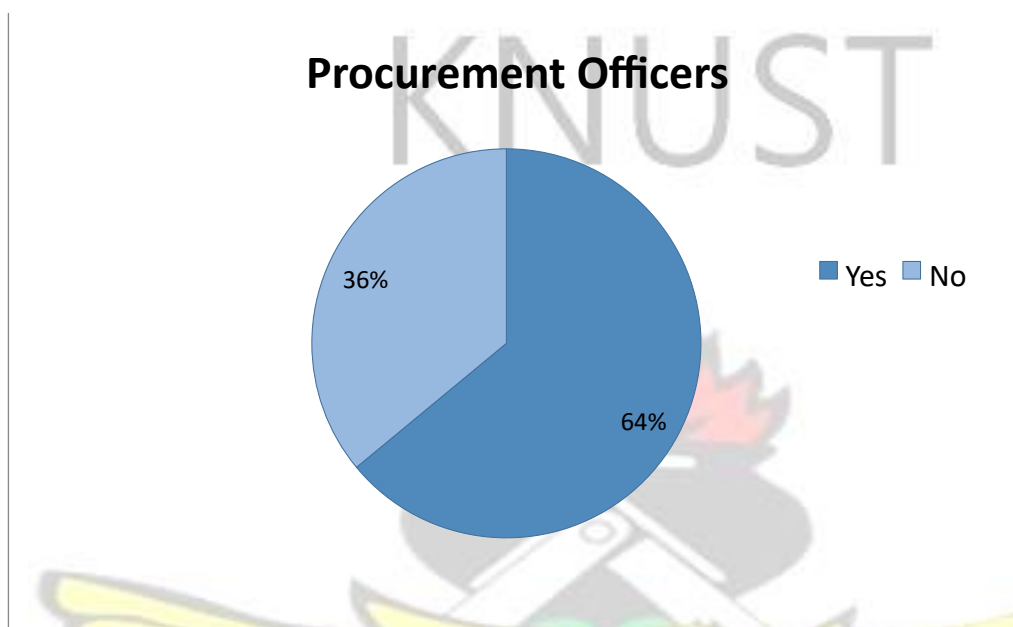


Figure 4.2: Qualification of Procurement Officers

Source: Author's Construct, 2015

4.3.4 Annual Procurement plan

One key requirement of the Public Procurement Act 2003, Act 663, Part 3, Section 21 is for procurement entities to prepare annual procurement plans to support approved programmes for each fiscal year. This will then allow for quarterly updates to be done if necessary. From Table 4.5, 72.7% of the Respondents indicated that they always prepared Annual Procurement Plan. 27.3% on the other hand indicated that it was not always prepared. Interestingly, Table 4.6 shows that 63.6% responded that they always prepare the annual procurement plan but not before December of every year as prescribed by the Procurement law. 36.4% however responded that they prepare the

plan before December every year. With the exception of procurements which are made under emergency situations, any given procurement made outside a public procurement entity's plan will amount to misprocurement. It is important to mention that the essence of the procurement plan is to prioritize the procurement requirements of the entities, package the said requirements in such a way that it can attract economies of scale. The plan also allows the PPA to monitor procurement activities of all procurement entities in the country. In addition to the above, the plan helps to ensure that procurement requirements of the entities are captured in their approved annual budgets. Even though 73% of the Assemblies always prepare Procurement plans, Figure 4.3 shows that 27% of the Assemblies did not always submit their plans to the PPA for action. Only 27% were complying with the requirement. This could be a worrying situation for the PPA because it will distort its monitoring plan.

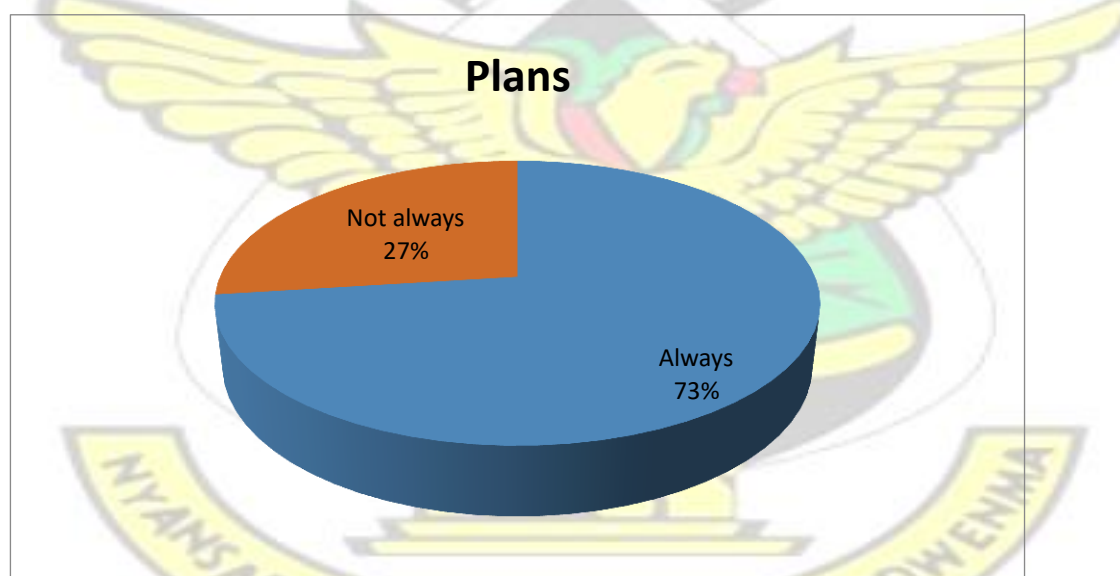


Figure 4.3: Annual Procurement plan

Source: Author's Construct, 2015

Table 4.5: Plan approved before December every year

Response	Frequency	Percentage (%)
----------	-----------	----------------

Always	8	36.4
Not always	14	63.
Total	22	100

Source: Author's Construct, 2015

Table 4.6: Submission of plan to PPA for action

Response	Frequency	Percentage %
Always	6	27.3
Not always	16	72.7
Total	22	100

Source: Author's Construct, 2015

4.3.5 Quarterly Review of the Procurement Plan/ Incorporation of Source

Deductions

Table 4.7 shows that 54.5% of the Respondents indicated that their Assemblies did not always engage in quarterly review of their plans. 45.5% on the other hand indicated that they always carried out the quarterly review. This is another procurement irregularity that is committed in many public procurement entities. Indeed, implementation of the plan is subject to availability of funds. Therefore, in the event where the implementation could not work out as planned, the law requires that the plan is reviewed quarterly to reflect feasible procurements within the fiscal year under review.

Per section 40 (2) of the Public Procurement Act, no procurement entity must make procurement outside its entity's procurement plan. Figure 4.4 shows that seventeen (17) of the Respondents; representing 77% responded that source deductions made at the DACF secretariat were not incorporated in their Annual Procurement Plans. On the other hand, a simple minority of five (5) of the Respondents representing 23%

revealed that their entities do incorporate deductions made at the DACF secretariat in their annual procurement plans. It may be a fact that the Assemblies might not be aware of the deductions until they receive payment advice from the DACF Secretariat. However, once the deductions are established, the Assemblies are obliged to incorporate the said deductions in their plan when they are undertaking quarterly review. The development suggests that the Assemblies have been engaging in some level of misprocurement.

Table 4.7: Quarterly Review of plan

Response	Frequency	Percentage (%)
Always	10	45.5
Not Always	12	54.5
Total	22	100.0

Source: Author's Construct, 2015

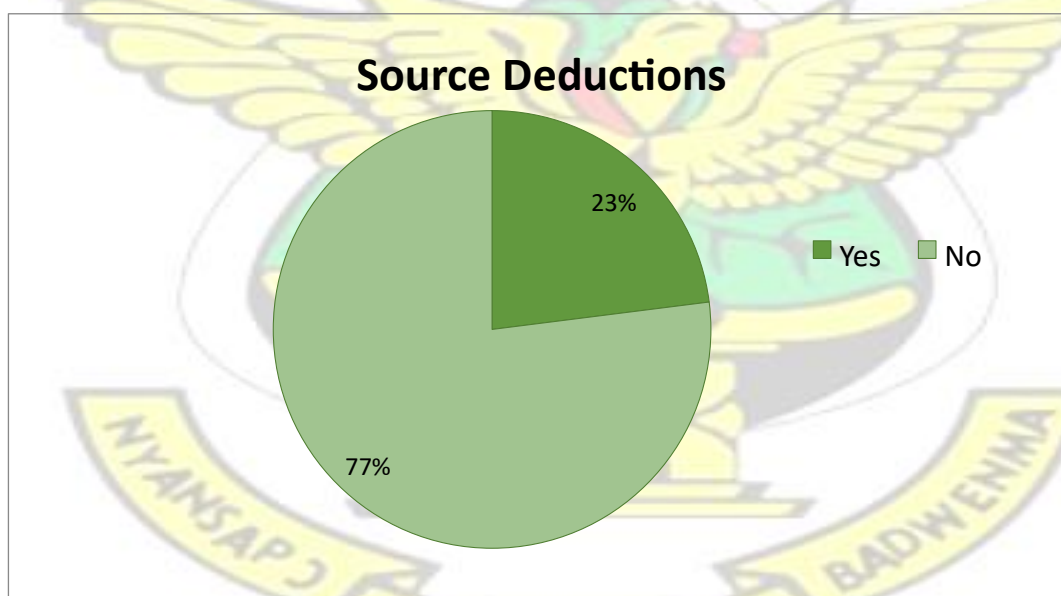


Figure 4.4 Incorporation of Source Deductions in the Annual Procurement Plan

Source: Author's Construct, 2015

4.3. 6 Quarterly Internal Procurement Audit Exercise

Per the requirement of the PPA Manual, Procurement Entities have a responsibility to undertake periodic audits so as to ensure that the procurement entity conform to demands and procedures of the law. It also allow for adverse findings to be corrected in time to enhance effectiveness and efficiency. The study therefore sought to determine whether Internal Procurement Audit was periodically conducted by the Assemblies. Figure 4.5 revealed that only 28% of the Assemblies always conducted the exercise. Sixteen (16) Respondents, representing 72% indicated that it was either **not always** done or **not done at all**. This suggest that the Assemblies are not adhering to the requirement but rather wait until such time that the PPA audit or Auditor General's office conduct their annual or special audit exercise. The practice is unacceptable because procurement audit is an internal control tool which must be utilized to promote good governance.

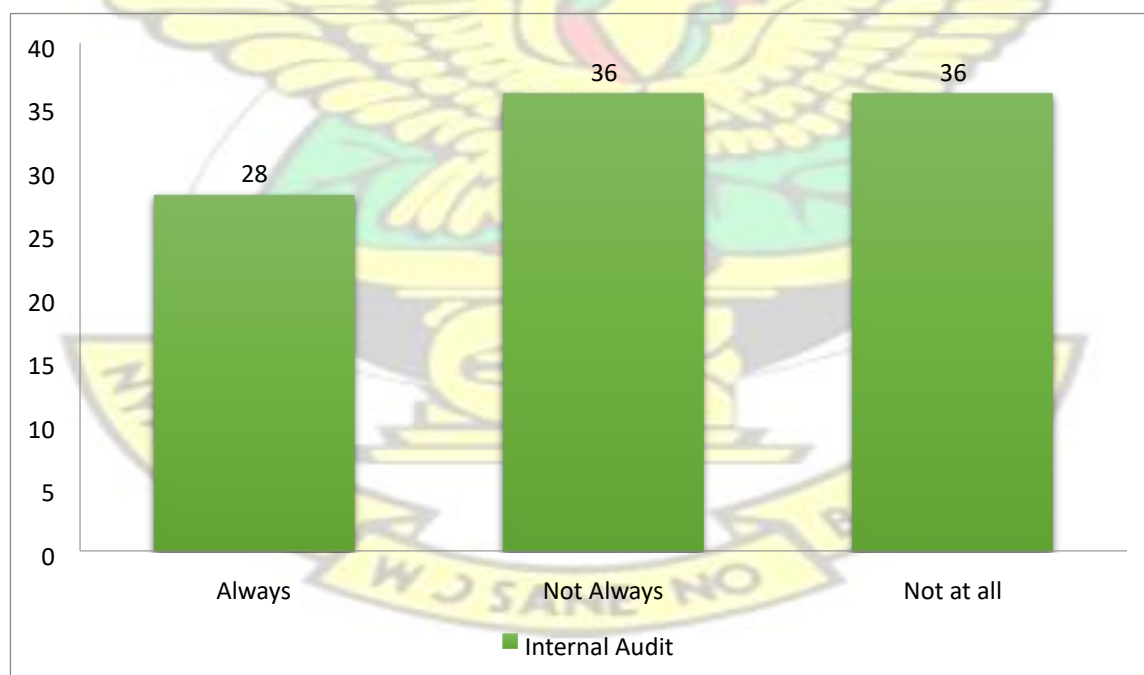


Figure 4.5: Quarterly Internal Procurement Audit Exercise

Source: Author's Construct, 2015

4.4 Challenges with the Implementation of the DACF Projects

The second objective of the study is to establish whether there are challenges associated with the implementation of the DACF projects. The under-mentioned were the discussions and findings gathered on the subject matter.

4.4.1 Availability of Funds Prior to Procurement

Budgets are prepared in anticipation of funds within the fiscal year to procure priority needs followed by lesser needs depending on cash inflows of the entity. It is generally believe that DACF projects are not executed on schedule because the Central Government delays in releasing funds on quarterly basis to the District Authorities. It is for this reason that Procurement Officials in the District Assemblies must plan their procurements in such a way that funds will be available before projects are procured. It is for this same reason that the Procurement Act has made provision for quarterly update of plans to be done. Figure 4.6 shows that only 32% indicated that funds were always available prior to procurement. The remaining 68% indicated that funds were either not always available or not available at all prior to procurement. This is not an acceptable procurement practice because service providers are likely to run into bankruptcy or bedeviled with undue financial challenges. Consequently, on- going projects may suffer delays. The practice will not also encourage private investors to undertake DACF jobs.

Additionally, since it has been established (Osei – Assibey, 2005) that the funds are not released on schedule, it is important that Procurement Entities sign unto feasible contract payment terms which will determine the amount of money to be paid to the service providers at every given release, per the agreed stage of work. If this is not

carefully thought about, payment will prolonged and bring undue interest on delayed payment or judgement debts.

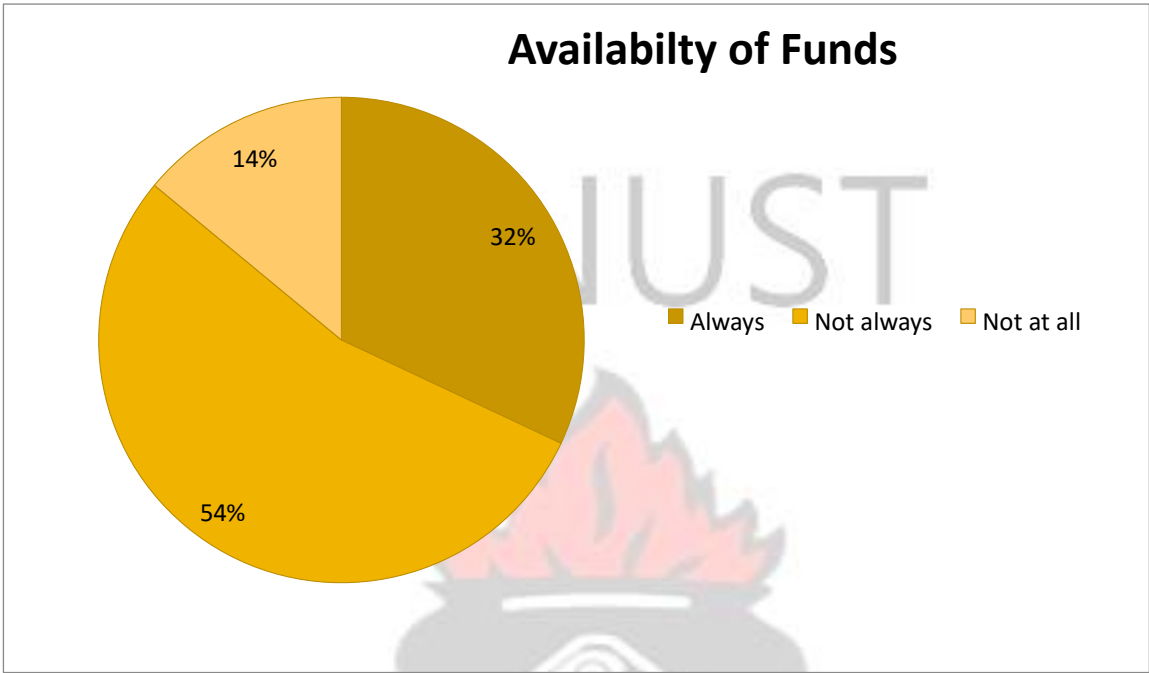


Figure 4.6: Availability of Funds before Procuring

Source: Author's Construct, 2015

4.4.2 Disbursement in Accordance with the DACF Guidelines

The study investigated whether the procurement entities disbursed the DACF in accordance with the Guideline. Figure 4.7 revealed that eight (8) participants, representing 36% indicated that disbursement of the fund was based on the guideline. It is interesting to note that, fourteen (14) of the respondents representing 64% also indicated that they do not strictly follow the guideline. This clearly suggests that the Assemblies do not disburse funds in accordance with the guideline.

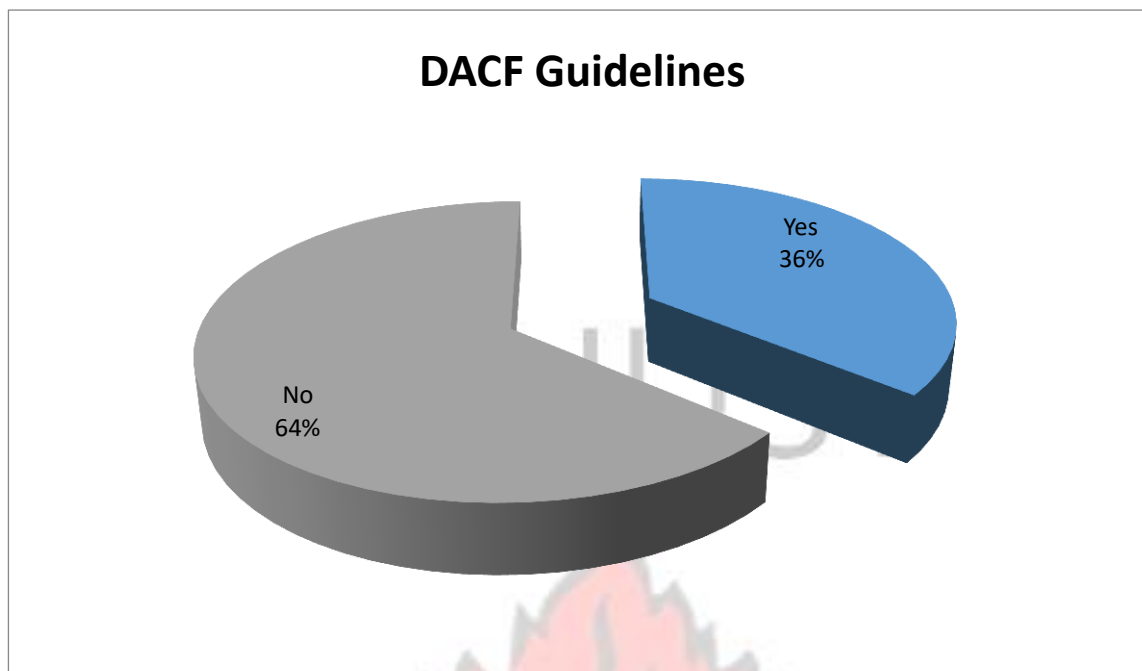


Figure 4.7: Disbursement in Accordance with the DACF Guideline

Source: Author's Construct, 2015

4.4.3 Misapplication of Procurement Allocations

Delay in the completion of DACF projects on time has also been largely attributed to late release of the DACF by government. However, misapplication of the Net Fund released to the Assemblies was found to be one key factor. The study sought to find out if funds allocated for the projects are cut down or diverted for other nonprocurement interests. According to 64% of the respondents (Table 4.8), allocations meant for procurement items are diverted or reduced for non – procurement items. Another 36% indicated that net receipt from the DACF Secretariat after deductions was so small that it made it difficult to adhere to the guideline.

Table 4.8: Misapplication of Procurement Allocations

Reasons	Frequency	Percentage (%)

Some percentage of funds allocated for procurement items are diverted or reduced for non – procurement items	14	64
Net receipt from the DACF Secretariat after deductions are small and that makes it difficult to follow the guideline	8	36
Total	22	100

Source: Author's Construct, 2015

4.4.4 Authorities behind Deductions at Source

Ideally, every payment in respect of procurement made at source should be solely authorized by the Assemblies. To establish the authorities behind the deductions at source, Table 4.9 revealed that 68% of the Respondents could not exactly tell authorities behind the deductions. 13.6% indicated it was the Local Government Minister. 9.09% said their Heads of Entity. Another 9.09% also said it was the Service Providers. Such arbitrarily deductions will no doubt have a tow on the financial commitments and procurement needs of the Assemblies. It is high time the Local Government Minister, Finance Minister, DACF Administrator and the PPA came together to stop the practice.

Table 4.9: Authorities behind deductions at Source

Response	Frequency	Percentage (%)
Local Government & RD Minister	3	13.6
The Head of Entity	2	9.09
Service Providers	2	9.09
Can't Exactly Tell	15	68.1
Total	22	100

Source: Author's Construct, 2015

4.5 Positive Effect or Otherwise of the Public Procurement Act on DACF

Projects

The third objective of the study was to assess any positive effect or otherwise of the Public Procurement Act on the District Assemblies Common Fund Project. To achieve the above stated objective therefore, the Researcher sought to establish whether or not the coming into force of the PPA Act has brought any significant improvement in the prompt execution of DACF projects. Findings to this effect are discussed below.

Regarding any positive effect of the Procurement Act on DACF Projects, the Researcher agrees that in spite of the long delay in the execution of DACF Projects, the procurement law continue to make an impact in the successful execution of projects in the public service, seen improvement in public financial management leading to the achievement of value for money, seen a reduction in the level of corruption, as well as growth in private sector investment (PPB, 2007).

For the negative effect of the Procurement Act on DACF Projects, the study revealed the following:

4.5.1 Existing DACF Projects

Table (4.10) sought to determine whether the Assemblies had on - going DACF Projects which had stalled for more than three years as a result of delayed payment. Fourteen (14) of the Respondents representing 63.6% responded in the affirmative. The remaining eight (8) Respondents constituting 36.4% responded in the negative.

4.5.2 Additional Projects

Interestingly, further investigations revealed that in spite of the existing DACF projects which had stalled as a result of delayed payments, Table 4.11 shows that the Assemblies continue to add new DACF Projects. Eleven (11) of the Participants,

representing 78.6% said 'yes' while the remaining three (3) representing 21.4% responded in the negative.

4.5.3 Justification for Additional Projects

Additionally, when the participants were asked to justify why they continued to add on new projects when outstanding payments had not been cleared, twenty (20) of the Respondents (Table 4.12) representing 90% percent indicated they come in the form of Central Government Priority Projects. The remaining two (2), representing 10% also responded that they come in the form of political commitments on the part of political heads

4.5.4 Conformity to Contract Terms of Payment

To establish the logic in adding on further projects when the old ones had not been paid, the Researcher decided to establish whether the Assemblies complied with the terms of payment spelt out in their contract documents. Table 4.13 showed twenty (20) of the Respondents representing 90% indicating that they were unable to conform to the terms of payment for DACF procurements. Two (2) Respondents representing 10% also indicated their Assemblies" conformed.

4.5.5 Interest on Delayed Payment

When they were asked whether they were saddled with interest on delayed payments, (9) of the 20 Respondents representing 81.8% (Table 4.14) who responded that they do not conform to the payment terms stated they were not saddled with interest on delayed payment. The remaining 2, representing 18.2% said yes.

4.5.6 Reasons for Non-Application of Interest on delayed payment

Regarding why they think the Service Providers were not applying for interest on delayed payment, eight (8) of the twenty (20) again representing 73.7% (Table 4.15) responded that the Service Providers were afraid of being blacklisted by the procurement entities. Two (2) representing 18.2% said they just try as much as possible to avoid legal actions with their clients. The remaining one (1) person in the minority representing 9.1% said he/she preferred to maintain a cordial relation with his/her client hence failure to apply for the interest

4.5.7 Price Fluctuation

Finally, when they were asked whether price fluctuations affected the contract sums, Table 4.16 showed that all the twenty (20) Respondents who had earlier indicated that they do not conform to the contract terms of payment indicated that price fluctuations definitely affected the contract sums when payment was delayed.

Section 2 of the PPA outline the main objectives of the Act to include:

- a) Harmonisation of the public procurement processes in the public service
- b) Secure judicious, economic and efficient use of state resources
- c) ensure public procurement is fair, transparent and non-discriminatory

Having established the above findings, it is clear that the Assemblies have failed to achieve the PPA objective which seeks to secure judicious, economic and efficient use of state resources. Secondly, so long as the Assemblies continue to pile up projects in share disregard for contract terms of payment, the Public Procurement Act, 2003, (Act 663) cannot make any positive impact in the procurement of DACF Projects until such time that Minister for Finance, the Local Government Minister, the Public Procurement

Authority and the DACF Administrator come together to introduce sanctions in this regard.

Table 4.10: Existing DACF Projects

Response	Frequency	Percentage (%)
Yes	14	63.6
No	8	36.4
Total	22	100

Source: Author's Construct, 2015

Table 4.11: Additional DACF Projects

Response	Frequency	Percentage (%)
Yes	11	78.6
No	3	21.4
Total	22	100

Source: Author's Construct, 2015

Table 4.12 Justification for Additional Project

Response	Frequency	Percentage (%)
They come in the form of government priority projects	20	90
They come in the form of political ambitions	2	10
Total	22	100

Source: Author's Construct, 2015

Table 4.13: Non Compliance with Terms of Payment

Response	Frequency	Percentage (%)
Yes	20	90
No	2	10
Total	22	100

Source: Author's Construct, 2015

Table 4.14: Interest on delayed payment

Response	Frequency	Percentage (%)
Yes	18	81.8
No	2	18.2
Total	20	100

Source: Author's Construct, 2015

Table 4.15: Reasons for Non-Application for Interest on delayed payment

Response	Frequency	Percentage (%)
Service Providers are afraid of being blacklisted	17	73.7
Service Providers try as much as possible to avoid legal actions	2	18.2
Service Providers try as much as possible to avoid legal actions	1	9.1
Total	20	100

Source: Author's Construct, 2015

Table 4.16: Price Fluctuations on Delayed Payments

Response	Frequency	Percentage (%)
Yes	20	100
No	-	-
Total	20	100

Source: Author's Construct, 2015

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATION

5.1 Introduction

This chapter presents the discussion of the analysed data in chapter four and relates them to the various reviewed literature and theoretical underpinnings of the study. It will also look at the limitations of the study and make some important

recommendations for future researches in the same area. It will conclude by summarizing the whole study and the outcome of the study.

5.2 Summary of Findings

The Researcher sought to find out about the impact the PPA had made so far on DACF projects in Hohoe, Jasikan and the Afadzato South District Assemblies. The aim of the Researcher was therefore to assess the effect of the Procurement Law on District Assemblies' Common Fund Projects. To be able to achieve the aim, the under-mentioned objectives had to be identified:

- Ascertain the level of compliance with the procurement laws by stakeholders in the implementation of the Assemblies' Common Fund Projects
- Determine the challenges in the implementation of District Assemblies' Common Fund Projects.
- Identify any positive effect or otherwise of the PPA on DACF Projects

The Procurement Act was established to harmonize public procurement process to ensure that public procurement was fair and transparent. Public procurement is significant to DACF because it employs public procurement procedures and processes which secure judicious, economic and efficient utilization of state resources.

The objectives of the study revealed the following findings:

1. Ascertainment of the Level of Compliance with the Procurement Laws by Stakeholders in the Implementation of the District Assemblies' Common Fund Projects

- a) Existence of Procurement Units
- b) Existence of qualified procurement personnel

- c) Availability of Annual Procurement Plan
- d) Annual Procurement Plans not always forwarded to PPA for monitoring purposes
- e) Quarterly review of plans not always conducted
- f) Deductions at source (DACF Secretariat) not incorporated in Annual Procurement Plans to avoid misprocurement

2. Determine the challenges in the implementation of District Assemblies`

Common Fund Projects.

- a) Irregular release of the DACF on quarterly basis as prescribed by the DACF law
- b) Deductions made at source for the payment of unauthorized and nonprioritized procurement items.
- c) Procurement Officials could not tell who were the Authorities behind most of the source deductions
- d) Misapplication of funds allocated for procurement related items for non-procurement related items
- e) Misprocurement – procurement outside the annual procurement plan
- f) Disregard for the DACF Guideline for disbursement by the Assemblies.
- g) Failure to conduct Internal Procurement Audit which serve as a tool for checking procurement irregularities

3. Assess any positive effect or otherwise of the of the PPA on DACF

Projects

Positive effects identified include:

- Successful delivery of other public services projects
- Reduction in the level of corruption and

- Improvement in public financial management leading to the achievement of value for money

Negative effects include:

- Non-compliance with contract terms of payment
- Continues pile up of projects when existing ones have not been fully executed and paid up.
- Misprocurement
- Reduction/diversion of procurement related items for Non-procurement related items
- Failure of Service Providers to demand interest on delayed payment for fear of being blacklisted

So far as nothing is done to check the above, it will be difficulty for the Public Procurement Act to make any great impact on DACF Projects

5.3 Conclusion

The findings revealed that the Assemblies largely comply with key requirements under the law. These include the establishment of procurement Units, preparation and approval of annual procurement plan. The main challenge has to do with failure on the part of the Assemblies to judiciously implement the annual procurement plan in line with the guideline for the utilization of the DACF. The Assemblies' inability to resist unauthorized deductions at source, coupled with non-compliance with contract terms of payment, failure to carry out internal procurement audit, the practice of procuring prior to release of funds and untimely release of funds were some of the factors to be the stumbling block to the smooth implementation of the Procurement Act on the DACF Projects.

5.4 Recommendations

Considering the finding made on the various objectives of the study, the following recommendations were made:

1. The study has revealed that the Assemblies do not strictly operate within their annual procurement plans. Otherwise, DACF projects could not have stalled for years before completion. The longer the projects delay, the longer it takes for the local communities to benefit from infrastructural facilities funded under the DACF. It is for this reason that the Researcher is recommending to the Finance Minister to strengthen the Public Procurement Authority financially to enable them play their monitoring responsibilities effectively and efficiently. Also, considering the key benefits the country stands to gain from procurement monitoring, the Public Procurement Authority must be able to solicit for a sustainable source of funding from Ghana's development partners for their monitoring responsibilities. The Authority will therefore ensure that appropriate sanctions are initiated against Procurement Officials in the Assemblies found to be operating outside their annual procurement plans and other procurement requirements.
2. The Ministry for Local Government and Rural Development (MLGRD) must come out with a policy document which will prevent the Assemblies from awarding contracts when it is clear that the contract sum cannot be paid in good time. It must be noted that the more a project delays, the more the cost implications. It will definitely not allow the private sector to grow because the service providers are likely to go into bankrupt when they are not paid on schedule.

3. The Director General of the Audit Service must ensure that quarterly audit submissions by the Assemblies contain procurement audit segments. He must as well ensure that recommendations made are fully complied with. Where the Procurement Officials fail to comply, the Director General must initiate appropriate sanctions. By so doing, Ghana will be seen to be promoting as far as public procurement and local development is concerned, will be seen as promoting good governance.
4. The DACF Secretariat must withhold funds of Assemblies which fail to operate according to the DACF Guideline for Utilization. In addition, the DACF Secretariat must ensure that they publish this conduct of the leadership of the Assemblies in widely circulated newspapers for the information of the stakeholders of these Assemblies. it will enable the stakeholders to demand accountability
5. The Local Government Ministry must make a policy for the payment of DACF contract sums exceeding one hundred thousand Ghana Cedis (GHS100,000.00) to be deducted at source. This will enhance the completion of DACF Projects on schedule.
6. Service Providers must be encouraged by the Private Sector Minister and their Trade Unions/Associations to live off the fear of being blacklisted by the Assemblies. Rather, they must be bold to apply for interest on delayed payment. This will challenge the Assemblies to comply with agreed contract payment terms rather than paying unnecessary interest on delayed payment.

7. Under no circumstance must the DACF Secretariat deduct funds from the Assemblies without their written authorization, approval or even knowledge. In addition, stakeholders of the Assemblies must be able to demand explanations for non-prioritized procurements often made with payments also deducted at source.

The study is recommended for further Research. That is to say other Researchers may build on this piece of work on a wider scope by covering more of the 216 District Assemblies in the country. This may involve a wider stakeholder participation such as Assembly Members, Community Interest Groups and Civil Society Organizations where findings and recommendations will add up to available data on the impact of the PPA on DACF Projects.

REFERENCES

- Agaba, E & Shipman N. (2007). Public Procurement Reform in Developing Countries: The Ugandan Experience. In G. Piga & K. V. Thai (Eds.), *Advancing Public procurement. Practices, Innovation and KnowledgeSharing*, 373-391.
- Alhassan, S., Adzahlie-Mensah, V. (2010a) Teachers and Access to Schooling in Ghana.
- Amedahe, F. K. (2002). *Fundamentals of educational research methods*. (Mimeograph).
- Ameyaw, C., Mensah, S, & Osei-Tutu, E. (2011). Challenges facing the smooth implementation of Ghana,,s
- Anvuur, A. and Kumaraswamy, M. (2006) Taking Forward Public Procurement Reforms in Ghana CIB W107 Construction in Developing Economies International Symposium, "Construction in Developing Economies: New Issues and Challenges" January 18th 20th Santiago Chile
- Banful, A. 2010. "Old Problems in the New Solutions? Politically Motivated Allocation of Program Benefits and the New Fertilizer Subsidies." IFPRI Discussion Paper 01002; July.

- Bavere J.S. (2011) The Role of The District Assemblies Common Fund in Local Development: A Comparative Study of The Jaman North And South Districts, Ghana
- Borio C and Lowe P. (2002) Asset prices, financial and monetary stability:
- Botchway, K. (2001) Paradox of Empowerment Reflection on a Case Study from Northern Ghana. *World Development* 29 (1), 135-153.
- CREATE Pathways to Access. Research Monograph No 43. CREATE
- De-Boer, L. & Telgen, J. (1998). Purchasing practice in Dutch municipalities. *International Journal of Purchasing and Materials Management*, 34(2), 3136.
- Dza, M., Fisher, R., Gapp, R. (2013) —Procurement reforms in Africa: The strides, challenges, and improvement opportunities Public Administration Research; Vol. 2, No. 2; 2013 ISSN 1927-517x E-ISSN 1927-5188 Federal Acquisition Institute (1999).
- Ghana Public Procurement Act, 2003 (Act 663). Republic of Ghana. Accra Ghana Publishing Corporation, Ghana, 2013
- King, A. et. al. (2003): A Report on Tracking of the District Assemblies“ Common Fund, A Pilot Study of Four District Assemblies. Unpublished Report
- National Development Policy Commission (2009): The Implementation of the Growth and Poverty Reduction Strategy (GPRS II) 2006 – 2009: 2008 Annual Progress Report. Accra
- Odhiambo, W. & Kamau, P. 2003. Public procurement: Lessons from Kenya, Tanzania and Uganda. OECD Development Centre Working Paper No. 208. Oregon: Harvest Publishing
- Organization for Economic Cooperation and Development, 2001.27 P.L. 105-366,
- Osei-Asibey D. (2005) Commentary on Procurement Act, 2003 (Act 663) (Selected District Assemblies in Ashanti Region, Ghana
- Owusu, M.D. and Badu, E. (2009), “Determinants of Contractors” Investment Finance Strategy in Ghana: Conceptual and Empirical Explanations”, *Journal of Financial Management of Property and Construction*, Vol. 14 (1), Pp. 21 – 33, ISSN: 1366-4387 DOI: 10.1108/13664380910942626 Publisher: Emerald Group Publishing Limited
- Public Procurement Authority Annual Report. (2007). National Public Procurement Authority Annual Report 2007. Ghana.
- Public Procurement Board (2007), Procurement planning, short term training manual on the Public.

Public Procurement Board: The Role of Public Procurement and Legal Framework, Module 1

Public Procurement Law, 2003, Act 663. In S. Laryea, R. Leiringer, & W. Hughes (Eds), Paper presented at the West Africa Built Environment Research (WABER)

Sarfo, E. (2011). Variations in Ways of Refusing Requests in English among Members of a College Community in Ghana. *African Nebula*, 3, pp.1-15 Secretariat.

Smith-Deighton, R. (2004) Regulatory transparency in OECD countries: overview, trends and challenges, *Australian Journal of Public Administration*, Vol. 63

Thai, K.V. (2001). Public Procurement Re-Examined, *Journal of Public Procurement*,

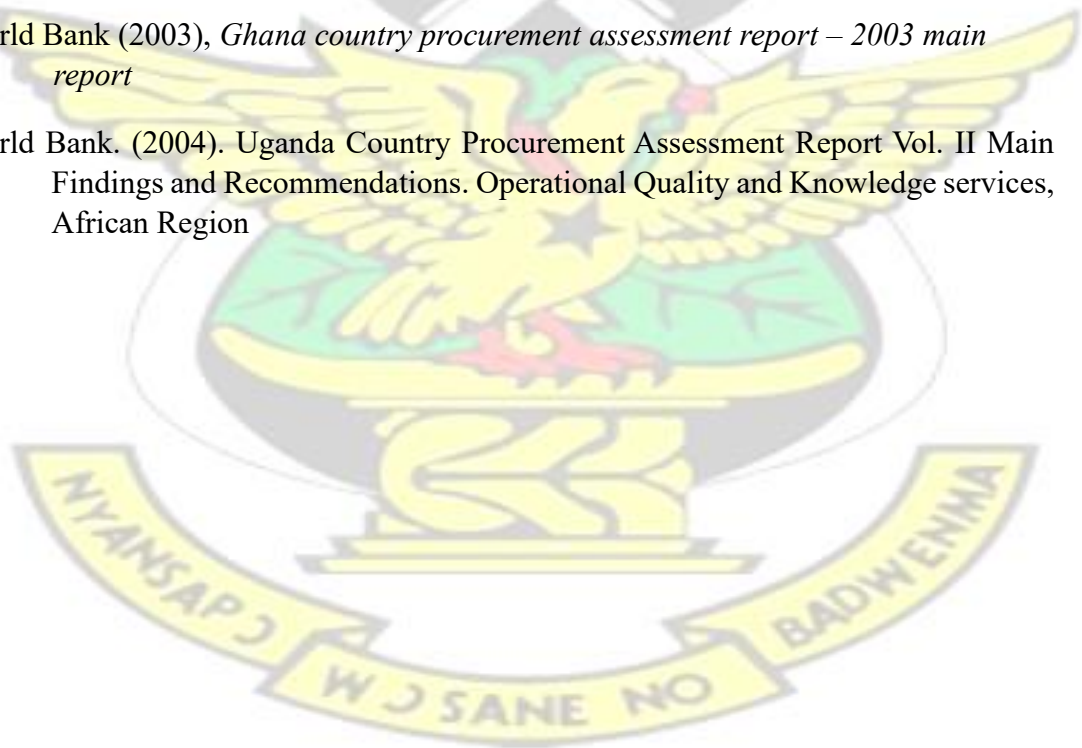
UNDP (2007). Supporting Capacities for Integrated Local Development. Practice Note. www.capacity.undp.org. Retrieved on 28/02/2011. 3:58 p.m.

United Nations (2002) *World Urbanization Prospects*. The 2001 Revision. Department of Economic and Social Affairs, Population Division. New York: UN.

Woolcock, S. (2008). Public Procurement and the Economic Partnership Agreements: assessing the potential impact on ACP procurement policies Commonwealth

World Bank (2003), *Ghana country procurement assessment report – 2003 main report*

World Bank. (2004). Uganda Country Procurement Assessment Report Vol. II Main Findings and Recommendations. Operational Quality and Knowledge services, African Region



APPENDIX 1

QUESTIONNAIRE

QUESTIONNAIRE FOR DISTRICT ASSEMBLY STAFF INVOLVED IN PROCUREMENT ACTIVITIES

This is a Research questionnaire designed by a Student from the Department of Building Technology, Kwame Nkrumah University of Science and Technology, Kumasi, seeking your assistance to complete the under-listed questionnaire in order to fulfil an academic research requirement in partial fulfilment towards the award of Master of Science in Procurement Management. You are assured that any information provided is purely for academic purposes and would be treated as confidential. Thanks for your kind co-operation

SECTION A

Please tick ✓ the right option(s)

Occupational Data

1. Position

- | | |
|---|------------------------------------|
| [a] District/ Municipal Chief Executive | [b] District Coordinating Director |
| [c] Procurement Officer | [d] District Planning Officer |
| [e] District Budget Officer | [f] District Finance Officer |
| [g] District internal Auditor | [h] District Works Engineer |

2. Number of years in your current entity

- [a] 1-5 years [b] 6-10 years [c] Above 10 years

3. Number of years you have occupied your current position

- [a] 6mths-1 year [b] 2-5 years [c] Above 6 years

4. Level of knowledge of the Public Procurement law, Manual and Guide

- [a] very High [b] High [c] Low [d] Very Low

5. Level of Knowledge of the DACF Law and Guideline for Utilization

[a] very High [b] High [c] Low [d] Very Low

Level of Compliance with the Procurement Law

6. The Public Procurement Law requires all Public Procurement Entities to comply with the regulations under the Law. The table below shows some of the compliance requirements. Kindly tick the compliance status of your entity.

No.	Requirement	Compliance status		
		Yes	No	
1	Existence of a Procurement Unit	Yes	No	
2	Existence of Qualified Procurement Officers	Yes	No	
3	Preparation of Annual Procurement Plan	Always	Not always	Not at all
4	Plan approved before December every year	Always	Not Always	Not at all
5	Submission of Plan to PPA for action	Always	Not Always	Not at all
6	Quarterly Review of Plan	Always	Not Always	Not at all
7	Adherence to methods of Procurement	Always	Not Always	Not at all
8	Approval from PPA before sole/Single sourcing	Always	Not Always	Not at all
9	Quarterly Internal Procurement Audit Exercise	Always	Not Always	Not at all
10	Availability of funds before procurement	Always	Not Always	Not at all
11	Transparency in Competitive Tendering process	Yes	No	Sometimes
12	Equity & Fairness in Competitive Tendering process	Yes	No	Sometimes
13	Competitive Tendering process devoid of conflict of interest			Sometimes
14	The most substantially responsive bidder awarded the contract	Yes	No	Sometimes

SECTION B

Effect of the PPA on DACF Projects

7. Does your entity disburse the DACF in accordance with the guideline?

- [a] Yes [b] No
8. If no, can you explain why?
- [a] The percentage of funds allocated for procurement items are diverted or reduced for non – procurement items
- [b] Net receipt from the DACF Secretariat after deductions are small and that makes it difficult to follow the guideline
9. Does the entity feature deductions at the DACF Secretariat in the Annual Procurement Plan? [a] Yes [b] No
10. If no are the said deductions (items) factored in the Procurement Plan during reviews? [a] Yes [b] No
11. If no, will that amount to misprocurement? [a] Yes [b] No [c] Can't tell
12. Who authorizes the procurement / deductions (tick as many as applicable)
- [a] Minister for Local Government & Rural Development
- [b] The DACF Administrator
- [c] The Head of Entity
- [d] The Service Providers
- [e] Can't determine at times

SECTION C

Challenges with the Implementation of DACF Projects

13. Do you seek explanations for deductions not authorized by the entity?
- [a] Yes [b] No
14. If no can you explain why?
- [a] Fear of having political appointments revoked
- [b] Fear of being labelled a saboteur of the ruling Government
- [c] Fear of being transferred intermittently
- [e] Head of Entity will not endorse the action

15. Do they said items form part of the prioritized procurement needs of your Entity?

[a] Yes [b] No [c] Not Always

16. If no or not always, does it affect your Procurement plan?

[a] Badly [b] Not at all [c] Sometimes

17. Do you conform to the terms of payment for DACF procurements?

[a] Yes [b] No

18. If no, are you saddled with interest on delayed payment?

[a] Yes [b] No [c] Sometimes

19. If no, can you explain why?

[a] Service Providers are afraid of being blacklisted

[b] Service Providers try as much as possible to avoid legal actions

[c] Service Providers prefer to maintain a good relationship with their clients

20. Do you have DACF Projects that are stalled for over three years as a result of delayed payment? [a] Yes [b] No

21. Do you add on new DACF projects when existing ones are not fully paid? [a] Yes [b] No

22. If yes can you explain the rationale behind this action considering the fact you have on-going projects which are stalled with payments outstanding for years (tick as many as applicable)

[a] They come in the form of government priority projects

[b] They come in a form of protocol request

[c] Under emergency situations

[d] To satisfy political ambitions

23. Do you have challenges with Price fluctuations [a] Yes [b] No
24. Does the Public Procurement Authority (PPA) carry out periodic procurement audit in your entity? [a] Yes [b] No
25. Identify areas your entity was found to have failed by the PPA
- [a] Failure to approve procurement plan on schedule
 - [b] Failure to conduct quarterly review of the procurement plan
 - [c] Failure to open tender on tender closing date without issuing addendum [d] Failure to write to notify unsuccessful tenderers about the outcome of tenders they took part in
 - [e] Failure to dispose of assets which are no longer useful
 - [f] Failure to have funding available before procuring
 - [g] Failure to establish a procurement unit
 - [l] Failure to have a contract Register
 - [j] Failure to maintain Suppliers register
 - [k] Engagement in Bulk breaking
26. Identify any procurement challenges you encounter as an entity with respect to DACF projects (Tick as many as are applicable)
- [a] Contractors are discouraged to bid for DACF projects due to lack of prompt payment
 - [b] Misapplication of the DACF procurement related allocations in the Guideline
 - [c] Frequent procurement which are outside the procurement plan
 - [d] Frequent deduction of unauthorized procurements at source throws both the composite budget and the procurement plan out of gear
27. Identify ways to address DACF challenges in general

.....

.....

KNUST

