

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY

COLLEGE OF ARCHITECTURE AND PLANNING

DEPARTMENT OF BUILDING TECHNOLOGY

Topic

**IMPACT OF PUBLIC PROCUREMENT ACT, 2003
(ACT 663) ON PUBLIC PROCURMENT PRACTICE IN KORLE BU
TEACHING HOSPITAL.**

By

FOSTER AGYEKUM-KWATIAH (Bsc. Hons)

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REQUIREMENTS FOR THE AWARD OF MASTER OF SCIENCE DEGREE IN
PROCUREMENT MANAGEMENT

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DECLARATION

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

FOSTER AGYEKUM-KWATIAH
STUDENT (PG7171212)
SIGNATURE: DATE

CERTIFIED BY:
DR. THEOPHILOUS ADJEI-KUMI
(SUPERVISOR) SIGNATURE: DATE

CERTIFIED BY:
PROF. JOSHUA AYARKWA:
(HEAD OF DEPARTMENT) SIGNATURE DATE:

DEDICATION

This project work is dedicated to THE LORD GOD ALMIGHTY in whom I live and move and have my being; then to my beloved mother (Antie Nyamekye), Pearl Boamah Agyekum, Prof. Kenneth Agyekum and Hanna Mbir. I really appreciate their love and support.

KNUST



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Notwithstanding the support acknowledged by me, I am solely responsible for all errors and omissions found in this work.

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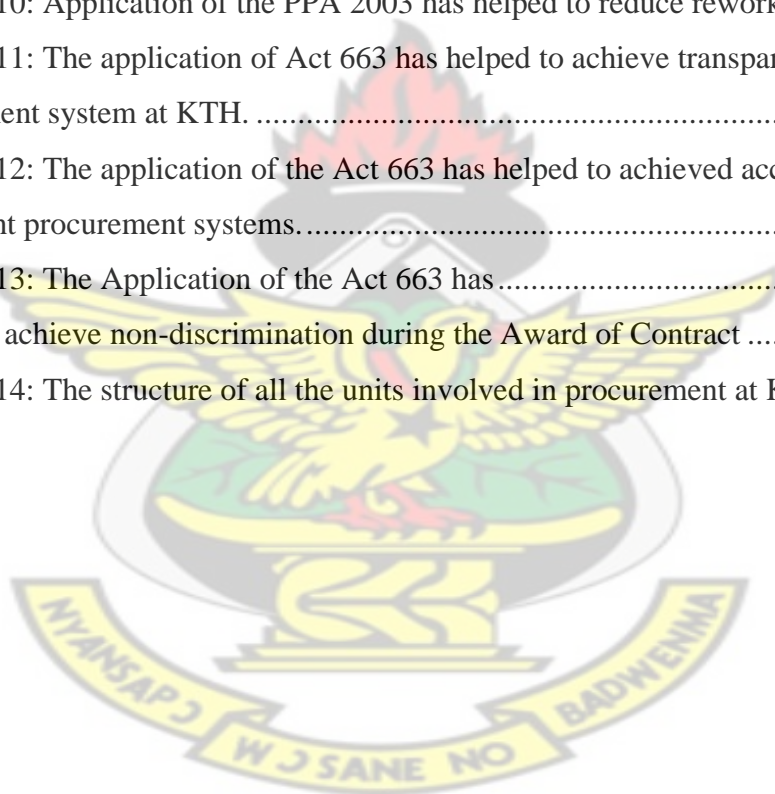
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LIST OF DEFINITION, ABBREVIATION AND MEANING:

- **DELIVERY TIME:** Within the context of this study, delivery time means procurement time (i.e. the time lap between the time of placing an order and the time the stock is delivered or replenished. In this sense it is synonymous to lead time.)
- **IMPACT:** from the point of view of this study impact means a combination of all the effects or influences on public procurement practice following the implementation of the Public Procurement Act (Act 663).
 - KTH: Korle-Bu Teaching Hospital
 - PPA: Public Procurement Act.2003 (Act 663)
 - PPL: Public Procurement Law
 - The Act: Public Procurement Act.2003 (Act 663)
 - PPB: Public Procurement Board
 - PUFMARF: Public Financial Management Reform Programmed
 - PPOG: Public Procurement Oversight Group
 - TC: Tender committees
 - TRB: Tender Review Board
 - GYEEDA: Ghana Youth Employment and Entrepreneurial Development Agency
 - HOE: Head of Entity
 - ETC: Entity Tender Committee
 - UNCITRAL: United Nations Commission on International Trade Law
 - STD's: Standard Tender Documents

ABSTRACT

The Public Procurement Act 2003 (Act 663) was introduced in Ghana to streamline the anomalies in public procurement. The objective of the law is to ensure cost effectiveness and efficiency and promote fairness, transparency and ensure that public procurement is non-discriminatory. The implementation of Act 663 has been quite challenging. The reactions to Act 663 from key stakeholders since its enactment about a decade ago have been both positive and negative. Some view it as a universal remedy to the numerous problems that bedevil public procurement in Ghana. On the other hand, others see it as an instrument that over rely on competition and is therefore inadequate and lack the needed strength to curb the various moral concerns that characterize public procurement practice. The aim of this study is to investigate the impact of the Public Procurement Act after exactly a decade of its enforcement in order to establish the extent to which the objectives of the law have been achieved. Korle Bu Teaching Hospital (KTH) was selected as a case study. The research relied on both primary and secondary data. Structured questionnaire and face-to-face interviews were used to obtain data for this study. The targeted population was 72 procurement staff of KTH which included the 3 top executives, 12 middle level personnel and 57 junior level staff. A sample size of 60 was chosen with the purposive and quota sampling technique and with the aid of a published table. The findings show that some benefits achieved from using Act 663 include reduction in rework, transparency, accountability, and non-discrimination all of which work together to reduce corruption and save some cost. The findings revealed that giving the checks and balances provided by the Act there is achievement of value for money. Also, it can be affirmed that with Act 663, there is uniformity in performing procurement activities, economic and efficient use of state resources and also greater

efficiency in the procurement process at the KTH. The study confirmed that Act 663 is offering some solutions but there exist some challenges such as lack of usage flexibility, the lack of independent procurement, difficulties in applying and implementing the Act due to political interference and uncooperative cultural attitudes to change, lack of proper record keeping and auditing function, and too small threshold for entities like KTH. In conclusion, the Act has been largely beneficial and effective. However, it needs to be amended to include provisions for electronic procurement and sustainable procurement issues. This will improve transparency, accountability, and compliance respectively, as well as ensure sustainable best practice in our public procurement system. The thresholds contained in the Act needs to be increased. Some level of decentralization of the procurement system is also necessary to ensure swift procurement. These concerns in fact call for an amendment to the current Act.

Key words: Public Procurement Act, Public Procurement, Procurement Law

CHAPTER ONE

GENERAL INTRODUCTION TO THE RESEARCH

1.1 BACKGROUND TO THE STUDY.

Increasing the effectiveness, efficiency and transparency of public procurement systems is an on-going concern of governments and of the international development community. It is generally recognized that increasing the effectiveness of the use of public funds requires the existence of an adequate national procurement system that meets international standards and that operates as intended.

Statistics show that public procurement account for 50-70% of the Ghanaian national budget, 14% of GDP and 24% of total import (World Bank CPAR 2003). Public procurement therefore has significant economic and social impact.

Public procurement is the act of providing goods, services or awarding work assignments by a state body, organization, institution or some other legal person regarded as a procuring entity in the manner and under the conditions prescribed by a nation's law (PPB, 2003). Public procurement is therefore the main means by which government spending is carried out and for that matter of great significance.

Emmanuelkumak (2012) noted that Public procurement accounts for about 80% of government expenditure in this country but regrettably, this is the area bedeviled with corrupt practices. Because public funds are used to procure goods, works and services, it becomes a big drain on the nation's coffers if public officers misappropriate the funds meant for development.

It has been reported that health services and hospitals do not have qualified procurement personnel resulting in corrupt behaviours running from the top management to employees (Verhage et al., 2002).

Besides, it is generally known that increased public resources do not always translate into better outcomes, because Budgets are mis-planned, misallocated, and/or misappropriated.

As part of the Government effort to improve Public Expenditure Management in order to achieve Macro fiscal discipline and stability, it became necessary to establish some institutional frameworks. The Public Procurement Authority among others like External Audit Department, Ghana Revenue Authority (VAT, IRS, Customs, etc) emerged as one of the institutional framework necessary for managing public procurement and for that matter public fund.

The Public Procurement Act, 2003 (Act 663) is the main law that governs public procurement practice in Ghana. It establishes the Public Procurement Board, Tender committees and Tender Review Boards; it specifies and outlines rules for the procurement methods, procedures, appeals by tenderers and disposal of stores; it defines offences and applicable penalties; it specifies thresholds in schedules to the Act; and finally, it authorises the issue of regulations which are enforceable under the Act. (PPA, 2003)

The Procurement Act was enacted to ensure efficiency, effectiveness, accountability and transparency. The main objectives of procurement include supplying organizations with stable flow of goods and services, aiding in efficient and effective purchasing and ethically obtaining the best value for money. Others include managing stock, enabling the service provider offer their best service at a low cost and at the same time protecting the government cost structure (Barly 1994) as cited by Gnanih (2012). In spite of the existence of the procurement law, there still appears to be loopholes in the procurement processes. Recent public outcry on corruption traced the source to the award of contracts in the operations of Ghana Youth Employment and

Entrepreneurial Development Agency (GYEEDA), (Duodu, 2013). It will therefore be interesting to find out how the law is impacting on public procurement practice.

The term impact from the point of view of this study means a combination of all the effects or influences on public procurement practice following the implementation of the Public Procurement Act (Act 663). This includes intended as well as unintended effects, negative as well as positive changes, long-term impact and short-term or interim benefits. .

The purpose of this thesis is to investigate the impact of the public procurement law in the Korle-Bu Teaching Hospital with respect to procurement practice in order to establish the extent to which the objectives of the law have been met. The Health sector is one of the institutions that have had issues with corruption and bribery. Has the law increased corruption, has it helped reduce corruption, has it helped to improve or ameliorate the procurement process with respect to delivery time, cost efficiency, etc. What has it done?

1.2 Brief History of the Public Procurement Law in Ghana

In 1996, the Government launched the public financial management reform programmed (PUFMARP) to improve the overall public financial management in Ghana and identified weaknesses in the procurement system in Ghana.

Before (PUFMARP), procurement was guided by many different rules. Government officials struggled to identify which rules to follow, due to lack of existing policy framework for public procurement, lack of existing institutional arrangement, and the absence of a Central Body for Procurement (Suleiman, 2010). In 1999, the Public Procurement Oversight Group (PPOG) was formed to design and coordinate the

reform and also to oversee the improvement of public financial system in Ghana. “While the reform activity was on going, many shortcomings and organisational weaknesses were identified in the country’s procurement system (Osafo-Mafo, 2003). They include the absence of a comprehensive public procurement policy, the lack of a comprehensive legal regime to safeguard the integrity of the public procurement system, the absence of a central body with the technological and managerial expertise and competence to develop a coherent public procurement policy.

In 2003, the Government of Ghana enacted the Public Procurement Act, 2003 (Act 663) to address the inadequacies in the public financial system. This act came to replace the many different rules that guided procurement activities. The Act (Act 663) establishes the public procurement board, Tender committees and Tender Review Board; It specifies outlined rules for the procurement methods, procedures, appeals by tenderers and disposal of stores; It defines offences and applicable penalties; It specifies thresholds in schedules to the Act; and finally, it authorises the issue of regulations which are enforceable under the Act.

The Act is applicable to procurement financed from public fund- wholly or partly, procurement financed with government loans, including foreign aid funds, and disposal of public stores, plants and equipment (The Public Procurement Oversight Group, 2002)

The Act has put in place appropriate administrative and institutional arrangements to oversee the procurement system. However, some problems do still exist with the process. To what extent can we see the effect of the procurement law? Has it had a positive or negative effect on the nation as a whole?

1.3 PROBLEM STATEMENT

The integrity and sanctity of the existing procurement system has been compromised on grounds of lack of transparency, unfair practices, Lack of competition, over and under –invoicing and one man showmanship (Afotey-Walters, 2007)

The core objectives of public procurement legislation are not always realized. Several mitigating factors such as those cited above are capable of impeding the right practices and methods. This situation is capable of yielding undesirable outcomes like cost overrun, delayed delivery, and poor quality of service leading to a complete departure from the core objective of effectiveness, efficiency, transparency and accountability which the Public Procurement Law seeks to achieve.

In spite of the existence of the Public Procurement Act, some of these problems do still exist. From a series of annual surveys, the corruption perception index published by Transparency International shows an increase in the level of corruption in Ghana.

In 2002, the perception index was 3.9 but drastically dropped to 3.3 in 2003. However, from 2004 to 2010 it was generally on the increase. (Transparency International (2012) as cited by Gnanih (2012).

Furthermore, in 2012, Ghana ranked 64 with a score of 45 %, in the corruption perception index ranking published by transparency international on the perceived level of public sector corruption in 176 countries (Deborah, and Finn, 2013,). The perception index proves that corruption is still a problem in Ghana in spite of the existence of the Public Procurement Law. The public outcry on corruption in Ghana Youth Employment and Entrepreneurial Development Agency (GYEEDA) (Duodu, 2013) is another example of the problem on hand. If public procurement is accounting

for approximately 80% of government expenditure (Emmanuelkumak, 2012) then it can be deduced that it is contributing greatly to the problem of corruption.

This study seeks to identify the extent to which ethical issues and other concerns associated with public procurement have been addressed by the law by investigating the impact of the law on public procurement practice.

1.4 RESEARCH QUESTIONS

Key questions that this study seeks to answer include the following:

1. What was the nature of the procurement practices in the Korle-Bu Teaching Hospital, before the enactment of Act 663?
2. To what extent do procurement practitioners in Korle-Bu Teaching Hospital, understand the key provisions and the core objectives of the PPA?
3. To what extent does the outcome of current procurement practices within the Korle-Bu Teaching Hospital vary from the core objectives of the Act and what was practiced previously?
4. What are the benefits and challenges associated with the implementation of the Public Procurement Law?

1.5 RESEARCH AIM

The main aim of this study is to investigate the impact of the PPA, 2003 (ACT 663) on public procurement practice in terms of establishing the extent to which the objectives of the law have been achieved.

1.6 THE SPECIFIC OBJECTIVES

The specific objectives are:

1. To analyse the nature of procurement system conducted prior to the enactment of the PPA, 2003 (ACT 663) in Korle-Bu Teaching Hospital.
2. To assess the level of understanding of the core objectives and key provisions of Act 663 by procurement practitioners in Korle-Bu Teaching Hospital.
3. To establish the nature of the current procurement practices in the Korle-Bu Teaching Hospital, and compare it to the core objectives of Act 663.
4. To establish the benefits and challenges which the public procurement law has brought to bear on procurement practice in Korle-Bu Teaching Hospital.

1.7 SIGNIFICANCE OF THE STUDY:-

This study will provide an update of the influence of the Act on procurement practice.

This research will provide essential information to policy makers about the impact of the procurement law in the Health sector.

Achieving the aim of this study will also ultimately contribute to knowledge in procurement practices.

1.8 SCOPE:-

It was not possible to stretch this study to cover all identifiable stakeholders involved in the implementation of the public procurement act due to financial and time constraints. The study is therefore limited in terms of geographical area and content.

Geographically it is limited to the Korle-Bu Teaching Hospital, Accra.

In content, the study is confined to assessing the impact of the procurement law in terms of cost efficiency, benefits, challenges and ethical concerns in the procurement processes.

1.9 STRUCTURE OF THE REPORT: -

The study is structured into the Preliminary section, Main section and Supplementary section. The Preliminaries section contains the Title, Declaration, Certification, Dedication, Abstract, Acknowledgment, Table of content, and List of tables/figures/appendices/abbreviations/acronyms/ glossary of terms

The Main section is structured into five chapters.

Chapter 1 contains the introduction/Background of the study, Statement of the problem, Question, Aim and objectives of the study, Significance of the study, Scope/Delimitation, and the Structure of the report.

Chapter 2 consists of the literature review comprising definitions, concepts, details of legal provisions of the law (Act 663) and detailed expatiated account of related and existing relevant literature on the project topic. It also examines the work of recognized authorities and previous researches carried out on the subject.

Chapter 3 captures the details on methodology adopted for the study.

Chapter 4 consists of Presentation, Analysis and discussion of the study's findings.

Finally, Chapter 5 concludes the report with Summary, conclusion and recommendations.

Bibliographic References and a copy of the structured questionnaire are attached to the study and appear at the supplementary section.

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION

This chapter assembles relevant literature in connection with the project topic in order to provide theoretical foundation for the study. Issues discussed include the Overview of the Public Procurement Act 2003 (Act 663), Some Key Provisions of PPA 2003 (Act 663), The EU Public Procurement Rules, Procurement Challenges In South Africa Public Sector, and Comparison of The Objectives of Public Procurement Act 2003 (Act 663) to that of United Nations Commission on International Trade Law (Uncitral) Model Law on Procurement of Goods, works and Services and Conclusion to Literature Review.

2.2 OVERVIEW OF THE PUBLIC PROCUREMENT ACT, 2003(ACT 663)

The PPA 2003 (Act 663) provides the legal framework for the establishment of the procurement board, procurement structures, procurement rules, methods of procurement, tendering procedures, methods and procedures to engage the services of consultants, reviews, disposal of stores, plants and equipment, and other miscellaneous provisions (Acquaye, 2011)

Kumaraswamy (2006) as cited by Gnanih (2012), identified five basic pillars established by the PPA, 2003 (Act 663).

- One is the comprehensive transparent legal and institutional framework,
- Two is the standardized procurement procedures and standard tender documents,
- Three is the independent control system,
- Four is the proficient procurement staff and
- Five is the anti-corruption measures.

2.2.1. The legal and institutional framework: -

The PPA, 2003 (Act 663) establishes the Procurement Structures in respect of the Public Procurement Board and provides the administration and institutional arrangement for procurement in respect of Tender Committees, Tender Evaluating Panels and Tender Review Boards. Each of these structures has its designated function to ensure the smooth flow of the procurement processes. The object of the Board is to harmonize the processes of public procurement in the public service to secure a judicious, economic and efficient use of state resources in public procurement and ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner (Section 2, Act 663) (The Public Procurement Oversight Group, 2002).

The functions of the board amongst others are; to make proposals for the formulation of policies on procurement; ensure policy implementation and human resource development for public procurement; develop draft rules, instructions, other regulatory documentation on public procurement and formats for public procurement documentation; monitor and supervise public procurement and ensure compliance with statutory requirements; publish a monthly Public Procurement Bulletin ; maintain a data base of suppliers, contractors and consultants and a record of prices; investigate and debar from procurement practice under this 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 ; maintain a list of firms that have been debarred from participating in public procurement ; perform such other functions as are incidental to the attainment of the objects of this Act. (Section 3, Act 663). (The Public Procurement Oversight Group, 2002)

2.2.2 Standardized Procurement Procedures and Standard Tender Documents:-

The Act spells out Procurement rules and procedures for the preparations of procurement plan, Sizing of packages, Qualification of tenderers, Soliciting and evaluation of tenders and for the award of contracts. Pre-qualification proceedings, Documentary evidence in procurement proceedings, record of procurement proceedings, grounds for rejection of tenders, Proposals and quotations, Inducement from Suppliers, Contractors and Consultants, and Language.

2.2.3 Method of procurement:-

According to the Act, the default method is Competitive tendering. This can be either National Competitive Tendering or International Competitive Tendering. Other methods like Restricted Tendering, Two-stage tendering, single source procurement , Request for Quotation and Request for Proposals are available for adoption depending on such condition like the need for prequalification and short listing, unclear specifications, proprietary rights, emergency and the need for consultancy services respectively. It must be noted that the choice of method also depends on the threshold.

2.2.4 Independent control system: -

This means that the board of directors of the Public Procurement Authority has no mandate to engage in Public Procurement Practice under the Act but have the powers to independently control all other procurement entities.

2.2.5 Proficient Procurement Staff: -

The Act empowers the Public Procurement Authority to develop, promote and support training and professional development of persons engaged in public procurement, and ensure adherence by the trained persons to ethical standards;

2.2.6 Anti-Corruption Measures:-

The Act also empowers the Public Procurement Authority to investigate and debar from procurement practice 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 contrary to the provisions of the Act. In addition, they are to maintain a list of firms that have been debarred from participating in public procurement and communicate the list to procurement entities on a regular basis. These are measures against corruption under the Act.

2.3 SOME KEY PROVISIONS OF PPA, 2003 (ACT663)

2.3.1 Evaluation of Tenders:

The law provides a fair ground for the evaluation of tenders under section 59. Evaluation is carried out in order to ascertain the successful tenderer in accordance with the procedures and criteria set out in the invitation documents.

In sub-section 3(a) (b) the Act states that the successful tenderer shall be the tenderer with the lowest evaluated tender price ascertained on the basis of criteria specified in the invitation documents which shall be objective and quantifiable.

Also in sub-section 4(a) (b) (c) (d) the Act stipulates that, to determine the lowest evaluated tender, the procurement entity shall consider the tender price, subject to any margin of preference applied under section 60(2), the cost of operating, maintaining and repairing the goods or works, the time for delivery of the goods, completion of works or provisions of the services, the functional characteristics of the goods or works, the terms of payment and of guarantees in respect of the goods, works or services, the effect the acceptance of the tender will have on the balance of payments position and foreign exchange reserves of the country; the countertrade arrangements

offered by suppliers or contractors; the extent of local content, including manufacturer, labour and materials, in goods, works or services being offered by suppliers or contractors; the economic-development potential offered by tenders, including domestic investment or other business activity; the encouragement of employment, the reservation of certain production for domestic suppliers; the transfer of technology; the development of managerial, scientific and operational skills; and national security considerations.

2.3.2 Fair practice, transparency, accountability and non-discrimination:

Under section 28 and 56(5), the Act encourages the keeping of procurement proceedings and the recording of the tender price immediately after opening in the record of tender proceedings. This is to ensure adherence to the principles of accountability.

There are clauses on Non-disclosure of tender evaluation details regarding information relating to the examination, clarification, evaluation and comparison of tenders and Prohibition of negotiations with suppliers or contractors in sections 63 and 64 respectively all with the motive to inculcate the principles of fair play and non-discrimination. There are also clauses relating to transparency such as that in section 56(3) which states that a supplier or contractor who has submitted a tender or a representative of that Supplier or contractor, shall be permitted by the procurement entity to be present at the opening of tenders.

2.4 THE EU PUBLIC PROCUREMENT RULES

The European Commission recently estimated that public procurement accounts for 16.3 per cent of the EU's GDP (Arrowsmith, 2010)

The EUs public procurement law sets out the regulations that govern the award of contracts. The law is rooted in the Treaty of Rome of 1957 established by the European Economic Community (EEC). The Maastricht Treaty of 1992 altered the name of the EEC to European Commission (EC). The European Commission is one of the four institutions of the EU and has three roles with respect to the public procurement law. First, the commission proposes legislation, and engages in related consultations. Secondly, it provides guidance on the law through publishing explanatory notes. Lastly, it enforces the law using its legal powers under the EC Treaty.

The “commission’s power to enforce is rooted in Article 226 of the EC Treaty and the procedure taken to implement the enforcement is referred to as the ‘infringement procedure’” (Matthew, 2010). When a country fails to comply with the rules, the commission demands an explanation and /or makes a formal request to the Member State to comply with the law within a fixed period. For extremely recalcitrant countries the commission has powers to summon that country before the ECJ for judgement on the matter. Member states under the article 228 of the EC treaty are obliged to comply with the ECJ judgement (Arrowsmith, 2010)

The rationale here is to draw a comparison between the punitive measures enshrined in PPA, 2003 (Act 663) and the enforcement mechanism of the EUs public procurement law. Act 663 empowers the public procurement board under **Section 3(q) (r)** to blacklist offenders of the law. Again, Section 92 and 93 of the PPA 2003(Act 663) spells out what constitute offences and corrupt practices related to procurement and a fine of 1000 penalty units or a term of imprisonment not exceeding five years or to both upon summary conviction. The EU public procurement rules

also empower it to prosecute offenders. The essence of the punitive measures is to make both laws effective and efficient so that the objectives of both laws can be achieved. However, there is a perception that the fine of 1000 penalty units enshrined in Act 663 is not biting enough to serve as a deterrent for most big time stakeholders like contractors, suppliers and consultants who might find it more lucrative to bend the rules than to pay the stipulated penalty.

2.5 PROCUREMENT CHALLENGES IN SOUTH AFRICA PUBLIC SECTOR

Currently, in South Africa, procurement is of particular significance in the public sector and has been used as a policy tool due to the discriminatory and unfair practices during apartheid (Bolton, 2006). Procurement is central to the government service delivery system, and promotes aims which are, arguably, secondary to the primary aim of procurement such as using procurement to promote social, industrial or environmental policies (Cane, 2004), prior to 1994, public procurement in South Africa was geared towards large and established contractor. However, public procurement in South Africa has been granted constitutional status and is recognized as a means of addressing past discriminatory policies and practices (Bolton, 2006: 193). Reforms in public procurement in South Africa were initiated to promote the principles of good governance, and the national Treasury introduced in preference system to address socio economic objectives. The reform processes were due to inconsistency in policy application.

2.5.1 Public Procurement Challenges in South Africa

It is important to note that Supply Chain Management (SCM) is an integral part of procurement in the South African public sector. Therefore, it is used as tool for the management of public procurement practices. However, despite the employment of

SCM as a strategic tool, public procurement in South Africa still faces enormous predicaments. These include, among others:

- Unethical behaviour.
- Non-compliance with policy and regulations.
- Too much decentralization of the procurement system
- Lack of proper knowledge, skills and capacity
- Inadequate measures for monitoring and evaluation of SCM
- Ineffectiveness of broad-based black economic empowerment

(Ambe and Badenhorst-Weiss, 2012)

2.5.2 Unethical behavior

Ethics is the study of moral judgments and right and wrong conduct. Ethics and conflict of interest greatly affect SCM implementation. Enormous power is wielded by some chief financial officers but there is also a lack of proper consultation with other senior officials. While the National Treasury's guide to accounting officers prescribes a standard approach towards SCM procedure, in many instances there is lack of compliance and application of the guidelines. This has resulted in differentiation in approaches and a lack of standardization. According to McCarthy (2006), the completeness of tender documents in many municipalities is difficult to verify. (Ambe and Badenhorst-Weiss, 2012)

2.5.3 Non-compliance with policy and regulations.

Despite the reform processes in the public procurement and the employment of SCM as a strategic tool, there are predicaments in South African public procurement practices. For example, non-compliance with procurement and SCM related legislation and policies as well as tender irregularities. According to De Lange

(2011), Taxpayers were fleeced of huge sums due to Corruption, Incompetence and Negligence by public servants. The South African government spent R26.4 billion in 2010 to procure in ways that contravened laws and regulations (Ambe and Badenhorst-Weiss, 2012). This is likely to lead to misprocurement which will not result in the achievement of value for money.

2.5.4 Too much decentralization of the procurement system

In South Africa, government procurement of own or local requirements (materials, equipment and services) is to a large extent decentralized to departments, provinces and municipalities. Due to this there are a number of cases of tender fraud and lack of services on all level of government and the best value for the tax-payer's money is not achieved. Arguments for centralization of procurement activities in order to limit it to knowledgeable, accountable procurement officials/agents or procurement consortiums could be put forward. Centralization leverages scales to reduce costs. Decentralization relies on local knowledge to build relationships (Fawcett, Ellram & Ogden, 2007). Centralization offers advantages such as leverage due to volumes, reduction of duplication of purchasing effort, better control and development of specialized expertise of purchasing personnel (Handfield et al, 2011,). On the other, decentralization often leads to better responsiveness to purchasing needs, a better understanding of unique local needs, and is closer to suppliers and taking ownership of decisions that impart on one's own budget (Handfield et al. 2011,). However, if the advantages of centralization are to be realized, efficient contract management and supplier relationship management is a pre-condition, the schoolbook saga in various provinces of South Africa in 2012, where textbooks had not been delivered to schools by the third term of the school year is an example of what can happen without proper contract management.

2.5.5 Lack of proper knowledge, skills and capacity.

Most of the public servants in South Africa who are assigned to practice procurement procedures lack requisite knowledge, skills and capacity to undertake proper procurement procedures. This is due to the fact that procurement courses were not introduced in the tertiary institutions prior to the enactment of the Procurement Act in 2003. Therefore public officers executing procurement activities are doing it with little or no knowledge. (Ambe and Badenhorst-Weiss, 2012)

2.5.6 Inadequate measures for monitoring and evaluation of SCM

Effective policy-making requires information on whether governments are doing things right and whether they achieve the results intended (Acevedo et al, 2010). Strong monitoring and evaluation systems provide the means to compile and integrate this valuable information into the policy cycle, thus providing the basis for sound governance and accountable public policies (Acevedo et al, 2010). Inadequate monitoring and evaluation lead to poor control, and makes it difficult for the government entities to implement SCM procedures as required by policy. Hence, deviations or non-compliance goes undetected. According to the Business Day report (2011), government procurement practitioners have spent millions of rand in ways that contravened laws and regulations. The national and provincial governments and their entities have noticed irregular, unauthorized, fruitless and wasteful expenditures that contravene laws and regulations. There is lack of proper monitoring and evaluation as required (Stemele, 2009).

2.5.7 Ineffectiveness of broad-based black economic empowerment

The South Africa government adopted the provision of Broad-Based Black Economic Empowerment (BEE) to empower all historically disadvantaged people rather than only a small group of black investors. To this end, it adopted the Broad-Based Black

Economic Empowerment Act (BBBEEA), which calls for expanded opportunities for workers and smaller enterprises as well as give them more representation in ownership and management. Current BEE provisions have, however, in many instances failed to ensure a broad-based approach, instead imposing significant costs on the economy without supporting employment creation or growth. The present BEE model remains excessively focused on transactions that involve existing assets and which benefit a relatively small number of individuals. The following shortcomings have emerged in the implementation of BEE: First, ownership and senior management issues receive disproportionate emphasis. The unintended consequences of this trend include fronting, speculation and tender abuse. Secondly, the regulations do not adequately encourage employment creation, support for small enterprises and local procurement. The preferential procurement regulations aggravate this situation by privileging ownership over local production. Finally, the BBBEE regulations penalize public entities as suppliers. The democratic state owns public entities on behalf of the people yet the regulations do not count them as black empowered (Zuma, 2009)

In conclusion, one can draw some similarities and differences between the public procurement challenges in South Africa and Ghana. It is crystal clear that aside from Ineffectiveness of broad-based black economic empowerment and the issue of too much decentralization of the procurement system (this is rather the opposite in Ghana), all the other challenges are very much the same as pertains in Ghana.

2.6 COMPARISON OF THE OBJECTIVES OF THE PUBLIC PROCUREMENT ACT, 2003 (ACT 663) TO THAT OF UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL) MODEL LAW ON PROCUREMENT OF GOODS, CONSTRUCTION AND SERVICES

UNCITRAL is an organ of the United Nations General Assembly established to promote the harmonization and unification of international trade law. According to the preamble of UNCITRAL Model Law on Procurement of Goods, Construction and Services, it was adopted by the United Nations Commission on International Trade Law (UNCITRAL) at its twenty-seventh session. It consists of provisions on procurement of goods, construction and services. It also contains a guide on the enactment of the UNCITRAL Model Law. The decision by UNCITRAL to formulate model legislation on procurement was taken in response to the fact that in a number of member countries the existing legislation governing procurement was inadequate. (Ulrich, 2004)

2.6.1 Comparison of Objectives

The UNCITRAL Model Law lists six objectives to be promoted by a government or parliament that considers it desirable to regulate the procurement of goods, construction and services. These objectives are to maximize economy and efficiency in procurement; foster and encourage participation in procurement proceedings by suppliers and contractors, encourage participation by suppliers and contractors regardless of nationality thereby promoting international trade; promote competition among suppliers and contractors for the supply of the goods, construction or services to be procured; provide for the fair and equitable treatment of all suppliers and contractors; promote the integrity of, and fairness and public confidence in, the

procurement process; and achieving transparency in the procedures relating to procurement, (Ulrich, 2004). The public procurement law of Ghana has similar objectives; to harmonize the processes of public procurement in the public service to secure a judicious, economic and efficient use of state resources in public procurement and ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner (Section 2). International trade and competition among suppliers and contractors is not captured in the general objective of the Ghanaian law, however provision is made for this under the international competitive tendering method (Section 45). (The Public Procurement Oversight Group, 2002)



CHAPTER THREE

RESEARCH METHODOLOGY

3.1 INTRODUCTION

Chapter three gives the details of research methods. It touches on the method chosen and the reason for choosing the method. Development and design of questionnaire was discussed. The sampling size was stated with explanation of the method and figures used. Modalities for selection of respondents and how the research will be implemented will be explained.

3.2 THE RESEARCH AREA:

The research area for the purpose of this study is the entire procurement unit of Korle Bu Teaching Hospital (KTH).

3.3 METHOD:-

The research design is Descriptive. It is aimed at combining relevance of the purpose of the study with economy of procedure. The research approach combines narration (qualitative) with numerical (quantitative) interpretations.

The study conducts a review of literature to identify the existing body of knowledge on the project topic. The review sources credible and scientific data from existing literature through journals, newspapers, electronic sources and books. The study seeks to sample views from a number of workers in the selected Procurement entity (Korle-Bu Teaching Hospital) to make an enquiry into how the objectives of PPA, 2003 (Act 663) is being achieved and to what extent it is impacting on public procurement

practice. The enquiry largely depended on survey questionnaires to assemble empirical data from the field.

3.3.1 METHOD OF DATA COLLECTION

The study collects data from both primary and secondary sources. The primary sources are the responses to questionnaires and interviews sampled from the target audience. The secondary data refers to the data sourced from the print media such as published works, journals, and books as well as from the electronic media, on related procurement practices.

3.3.2 Research Method

The method chosen for this study, which was appropriate for the research questions, was quantitative method. Quantitative study is used to measure how the target audience (i.e. procurement practitioners in Korle Bu Teaching Hospital (KTH) feel, think or act. It involves the use of questionnaire that asks mostly closed questions (DJS Research Ltd 2009). The research questions aimed to explore the knowledge, cost and fairness relating to public procurement practice. Quantitative study was conducted because the study involved collecting facts and examining the relationship of one set of facts to another (Bell 2007).

3.3.3 Development and Design of Questionnaire

The questionnaire was designed as close ended questions with allowance made for personal comment. Closed ended questions would normally require Yes or No options. In this case study participants were requested to choose from specific range of percentage figures that represented options for little, fair, good and very good. Ethical and safety guidelines were adhered to.

3.3.4 Questionnaire

The questionnaire was designed to reflect lessons drawn from the literature review. It also integrates the central themes of the research questions and the project objectives. The aim was to generate information on what procurement practitioners at KTH know about the key objectives and provisions of the Public Procurement Act 2003 (Act 663) (PPA), and how this knowledge has affected the outcome of the practice of public procurement in the target population. The design took into consideration the peculiar and technical nature of the target audience (procurement practitioners) and their level of education. A total of 13 questions were asked. Close ended questions were used because they are easier to analyse, and answers could be given weight to ease statistical interpretation. Making provision for personal comment allowed participants to express their views and feelings. This gives a better understanding of participants. A copy of the questionnaire is in the appendix section.

(See Appendix 2)

3.3.5 Selection of Respondents

The total population of procurement staff in KTH (the study population) is 72 and the distribution structure is in the ratio of 4:17:79 representing 3 top executives, 12 middle level personnel and 57 junior level staff respectively. The categories of respondents selected are in direct proportion to the procurement staff distribution structure (i.e. in the same ratio of 4:17:79).

3.3.6 SAMPLING TECHNIQUE:

A combination of purposive sampling and Quota Sampling was used in this study.

3.3.6.1 Purposive Sampling:

This is the most appropriate method when it comes to choosing people whose views are relevant to an issue. The limitation is that the basis for seeing people as typical could be changing without your notice (Jankowicz, 2000)

Given the technical nature and Proficiency requirement for procurement practice and in order to ensure that the sample selected accurately samples the population, purposive sampling was used to identify the target population and key informants with long years of practice. It is thought that the longer the years of service served the more likely it is for informant to supply accurate information. In this respect, the purposive sampling is the most appropriate approach that is likely to provide the necessary condition for the establishment of a high confidence level and low margin of sampling error.

3.3.6.2 Quota Sampling:

This involves the choice of respondents who represent the diversity in the population in the same proportion as the diversity itself. The categories of respondents selected were in the same proportion as the existing procurement staff distribution structure which is classified into top executive, middle and junior level staff in a ratio 1:17:79. The drawback of this method is that it does not give each person in the population an equal chance of being selected into the sample. (Jankowicz, 2000)

3.3.7 SAMPLING SIZE:

Reference was made to standard published table to determine the sample size required for this study. The process was to first estimate the margin of sampling error (i.e. precision level), and confidence Level. The former was estimated to be $\pm 5\%$ and

the latter 95% respectively. An allowance of $p = 0.5$ was made for maximum variability. The published table does not contain a population equivalent to the subject population (i.e. 72 people) so the nearest population which is 100 people was used. Hence, a sample size of 81 people was obtained from the table for 100 people. This was rationalized to 58 people for this study by prorata. To allow for the risk of non response 4 people were added to obtain a sample size of 62 people for the purpose of this study. Extracts from the relevant portion of the Published Table is shown below as table 3.1:

TABLE 3.1: EXTRACT FROM PUBLISHED TABLE FOR SELECTING SAMPLING SIZE

Sample Size for $\pm 5\%$, $\pm 7\%$ and 10% Precision Levels where confidence Level is 95% and Maximum Variability ($p=0.5$)			
SIZE OF	Sample Size(n) for Precision Level (e) of:		
Population	$\pm 5\%$	$\pm 7\%$	$\pm 10\%$
100	81	67	51

Source: Institute of Food and Agriculture Science (IFAS),
University of Florida, (<http://edis.ifas.ufl.edu>)

3.3.8 RESPONSE RATE: Out of the sample size of 62 people, 60 people responded, given a response rate of approx. 96.77% (i.e. $60/62 \times 100$)

3.3.9 DATA COLLECTION:

Primary data collection (i.e. interviewing) took place from 1st October to 9th October at the Korle-Bu Teaching Hospital, Accra. Permission was sought from management and individuals. Due to time constraints the questionnaire was not pretested.

3.3.10 DATA ANALYSIS

The data collected was quantitatively analyzed by means of computation and graphical representations to illustrate the main objective of the study. Besides, basic qualitative and descriptive statistical methods were also used to bring home relevant points for clarification purpose. The data has been processed using the Statistical Package for Social Sciences (SPSS) 2009 version. This involves preparation of a coding scheme, data entry and analysis. Data has been presented using the Pie charts as well as Tables.



CHAPTER FOUR

PRESENTATION OF DATA AND DATA ANALYSIS

4.1 INTRODUCTION

In this chapter, the questionnaire was analyzed, findings discussed and results evaluated. A summary of the analysis was given as well as the conclusion of the study. For ease of understanding, the analysis was done in accordance with the order of arrangements of items on the questionnaire (see Appendix 2).

The chapter presents the findings of the survey conducted to elicit information from a mix of public procurement staff from the Korle-Bu Teaching hospital (KTH) using questionnaires.

Table 1: Procurement Staff Distribution Structure in KTH

Categories	Frequency	Percentage
Top Executive	3	4.17%=4
Middle Level Personnel	12	16.67%=17
Junior Level Personnel	57	79.16%=79
Total	72	100%=100

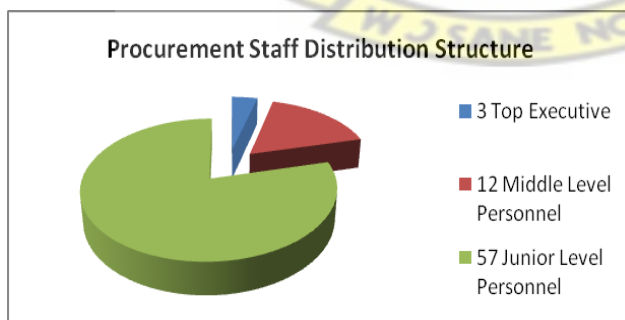


Figure 4.1: Procurement Staff Distribution Structure in KTH

The total population of procurement staff obtained is 72. Out of this number 3 come from the top executive category, 12 from the middle level personnel and 57 from the junior level. These work out to an approx. ratio of 4:17:79 as shown in the table above

The categories of respondents selected were in the similar proportion as the procurement staff distribution structure. The category with the least population has the least number of respondents while the one with the highest population had the highest number of respondents.

4.2 Sampling Profile

A total of 60 respondents (participants) completed the questionnaires. They were from varied age groups, educational background and status and from various procurement sections of KTH. Some key procurement staff with long years of experience and service were also identified for interviewing.

The categories of respondents selected are shown in Table 2 below:

Table 2: Categories of Respondents:

Categories	Frequency	Percentage
Top Executive	1	1.67%
Middle Level Personnel	6	10%
Junior Level Personnel	53	88.33%
Total	60	100%

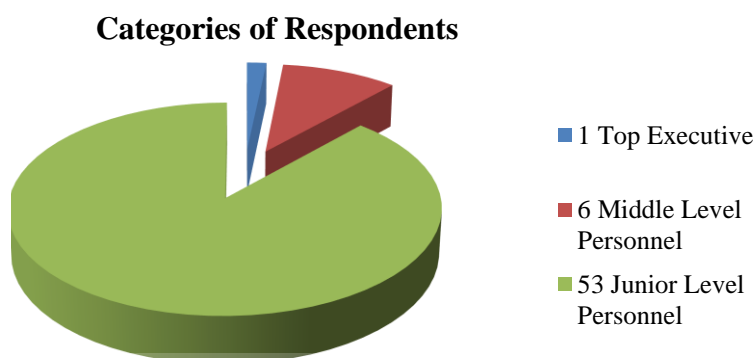


Figure 4.2: Categories of Respondents

4.3 Analysis of Questionnaire:

From table 2, the Top Executive Personnel constitute 1.67% of the respondents, Middle Level 10% and junior level 88.33% respectively.

Table 3: Educational Background of Respondents

Categories	Frequency	Percentage
Primary	5	8.30%
Secondary	6	8.30%
Tertiary	50	83.40%
Total	60	100%

} 91.7%

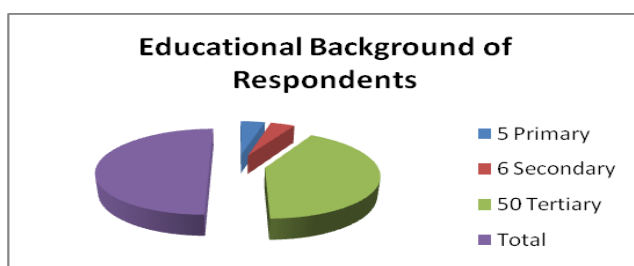


Figure 4.3: Educational Background of Respondents

Table 3 shows that respondents with Primary Education constituted 8.3%. Those with Secondary were 8.3% and Tertiary were 83.4%. This suggests that 91.7% of them have attained at least Secondary level education. The caliber of people in the target population can therefore be said to be generally high.

Table 4: Number of Years of Service

Categories	Frequency	Percentage
0-5years	2	3.3%
6 – 10 years	8	13.3%
More than 10 years	50	83.4%
Total	60	100%



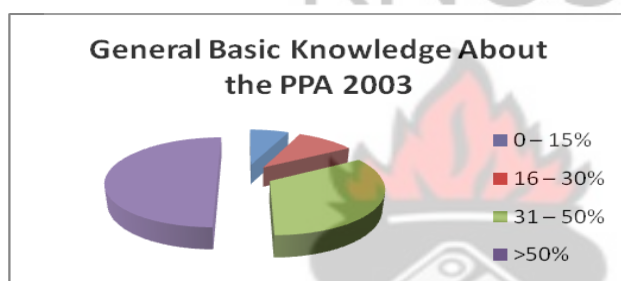
Figure 4.4: Number of Years of Service

From the table above, 83.4% of the respondents have worked for more than 10years at KTH. The relevance of establishing this fact stem from the need to know the outcome of procurement practice that existed before the enactment of the Act in 2003 (i.e. Barely 10 years now). Consequently, a population of people with longer years of the service than the period of existence of the Act are in a better position to help establish impact than those with little working experience.

Table 5: General Basic knowledge about the PPA 2003

Description	Rating	Frequency	Percentage
little	0 – 15%	4	6.67%
Fair	16 – 30%	6	10.00%
Good	31 – 50%	20	33.33%
Very good	>50%	30	50.00%
	Total	60	100%

83.33

**Figure 4.5: General Basic knowledge about the PPA 2003**

From table 5, it can be seen that a total of approximately 83.33% of the respondents have good knowledge of the Public Procurement Act (PPA 2003). The remaining 16.67% have only a fair to no knowledge at all.

Table 6: Knowledge about the Objectives of the PPA 2003

Description	Rating	Frequency	Percentage
little	0 – 15%	15	25%
Fair	16 – 30%	30	50%
Good	31 – 50%	10	16.67%
Very good	>50%	5	8.33%
	Total	60	100%

75%

25%

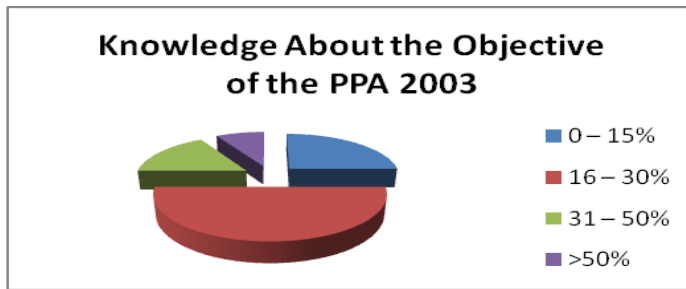


Figure 4.6: Knowledge about the Objectives of the PPA 2003

Deductions from the table above shows that when it comes to the knowledge about the objectives of the Procurement Law majority of the respondents, approximately 75% have little to fair knowledge. Only about 25% are conscious about the objectives of the Act. This implies that fewer people are conscious about the detailed objectives of the law (ie to harmonize the procedures and processes in public procurement practices, 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 discrimination manner -section 2 Act663.) this is the object of setting up the PPB and as such the objectives of the PPA2003.

The potential influence of low knowledge levels of the objectives of the Act on implementation is that the very people involve in the implementation process will lack a clear picture in their minds as to the exact direction to go in order to achieve the desired results. The likely challenges are that this could lead to lack of understanding and loss of focus. Above all, the goodwill and the drive to achieve results will also be missing and possibly give way to negative cultural tendencies which could all work together to impede the implementation process. Critical education and orientation of participants is therefore always necessary before the introduction of new laws and policies such as Act 663.

Table 7:

Knowledge about cost and fair competition in the Act.

Description	Rating	Frequency	Percentage
little	0 – 15%	4	3.34%
fair	16 – 30%	6	33.33%
Good	31 – 50%	27	33.33%
Very good	>59%	23	30.00%
	Total	60	100%

96.66%

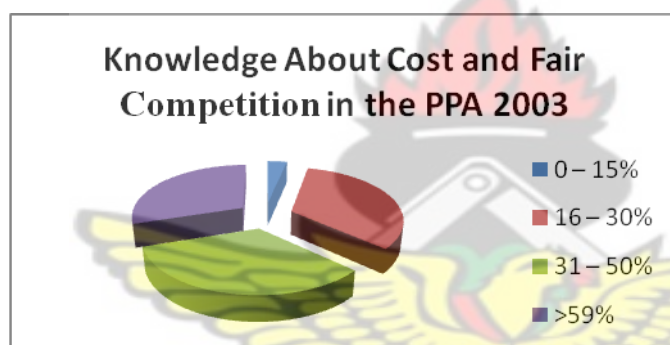


Figure 4.7: Knowledge about cost and fair competition in the Act.

When it comes to the knowledge on cost and fair competition, it is obvious from the table above that quite a substantial number of people (i.e. approx. 96.66%) think that they have fair to very good knowledge. This perception appears to run contrary to the earlier perception on objective of the law. However it could be that participants are conscious of certain things which they practice on a daily routine bases but do not even know that it forms part of the objectives of the procurement law.

Table 8:

Reduction in the direct cost of procured Goods, Works or Services

Description	Rating	Frequency	Percentage
little	0 – 15%	8	16.67%
fair	16 – 30%	18	30.00%
Good	31 – 50%	20	33.33%
Very good	>59%	14	20.00%
	Total	60	100%



Figure 4.8: Reduction in the direct cost of procured Goods, Works or Services

From Table 8, it is clear that approximately a total of 83.33% of respondents agree to a large extent that there is some cost savings when the PPA, 2003 (ACT 663) is employed to carry out procurement. Only 16.67% think that there is little or no cost savings in this respect. This goes to affirm the earlier perception held by participants that they are conscious of matters on cost and fair competition. In practical terms, it can be understood that once the law was being practiced people are bound to experience the effect and of course become conversant with some of its provisions whether they are aware of the objectives or not.

Table 9:

Reduction in delivery time for items procured through the application of the PPA, 2003

Description	Rating	Frequency	Percentage
little	0 – 15%	30	50.00%
fair	16– 30%	20	33.33%
Good	31– 50%	10	1.67%
Very good	>59%	0	0.00%
	Total	60	100%

} 83.33%

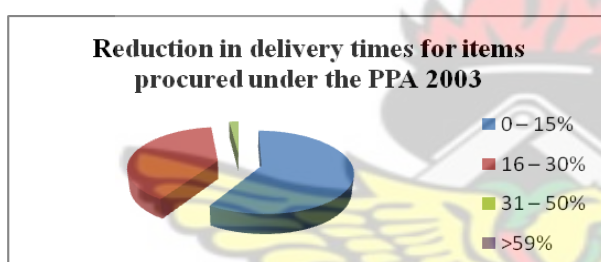


Figure 4.9: Reduction in delivery time for items procured through the application of the PPA 2003

The Table above shows that approximately a total of 83.33% of respondents (majority) disagree to the assertion that the PPA, 2003 has led to decrease delivery time for items procured. In other words, they gave a low rating to this assertion. Only 1.67% thinks that the law ensures quick delivery time. This could be due to the low value of the thresholds contained in schedule 3 of the Act. It is thought that as a result of inflation in the country over the 10 year period since the inception of the act values of items procured have risen considerably while the thresholds have remained the same. Consequently the bulks (majority) of items procured have become subjected to approval from a higher body due to their high value. This situation has resulted in

bureaucracy and longer delivery time. Only minority of items with small quantities and low bulk value that falls within the threshold of the procurement entity can be procured swiftly. This conclusion can be reached bearing in mind the precaution stated in section 21(5) to the effect that procurement entities are required to aggregate requirement to achieve economy of scale where appropriate.

Table 10: Application of the PPA 2003 has helped to reduce rework

Description	Rating	Frequency	Percentage
little	0 – 15%	8	13.33%
fair	16 – 30%	10	16.67%
Good	31 – 50%	27	45%
Very good	>59%	15	25%
	Total	60	100%

30%
 70%

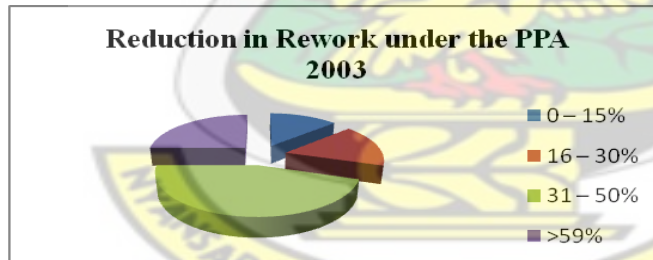


Figure 4.10: Application of the PPA, 2003 has helped to reduce rework

From table 10, the indication is that a greater percentage of the respondents (approx. 70%) agree that the application of the PPA, 2003 has helped to curtail rework to a large extent. The cost of rework can lead to increased cost of procurement. Rework may arise whenever there is cancellation or rejection of tender on grounds of budget limitation, poor response to tender, corruption and/or fraud, and mis-procurement (i.e. procurement or contract with proceedings found to be in contravention of the Act).

Section 89(2)(a) empowers the public procurement board to cancel or annul any such proceeding. Also section 91(1) requires that annual statutory audits are conducted on procurement entities and on compliance by contractors to check offences. This can also lead to cancellation and call for rework. From the foregoing, it can be inferred that strict adherence to the procurement Act could enable procurement entities reduce the tendency for rework and thereby save some cost.

Table 11: Fairness

The application of Act 663 has helped to achieve transparency in the procurement system at KTH.

Description	Rating	Frequency	Percentage
little	0– 15%	2	3.33%
fair	16 – 30%	5	8.33%
Good	31 – 50%	10	16.67%
Very good	>59%	43	71.67%
	Total	60	100%

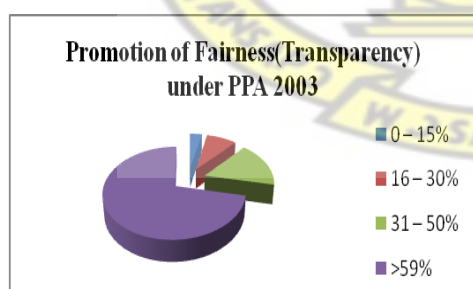


Figure 4.11: The application of Act 663 has helped to achieve transparency in the procurement system at KTH.

From table 11, approximately 88.34% of respondents agree to a large extent that the application of Act 2003 has helped to achieve transparency in the current procurement system. Only 11.66% think that transparency has not been achieved to a noticeable extent. Section 56(3) of the procurement law enjoins all tenderers who have submitted a tender to be present during tender opening and proceeding are required to be recorded. In section 59, Evaluation is carried out in order to ascertain the successful tenderer in accordance with the procedures and criteria set out in the invitation documents. This suggests that all tenderers are provided with the same basic information in a transparent manner. Kumaraswamy, (2006) cited the comprehensive transparent legal and institutional framework as one the five pillars established by the public procurement Act. The findings of this study, backed by the relevant literature therefore suggest that this objective of the law has been achieved to a large extent.

Table 12:

The application of the Act 663 has helped to achieved accountability in the current procurement systems.

Description	Rating	Frequency	Percentage	
little	0 – 15%	4	6.67%	} 11.67%
fair	16 – 30%	3	5.00%	
Good	31 – 50%	12	20%	} 88.33%
Very good	>59%	41	68.33%	
	Total	60	100%	

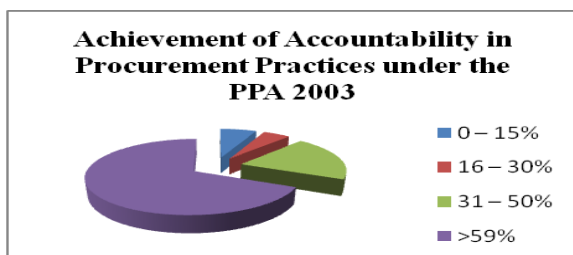


Figure 4.12: The application of the Act 663 has helped to achieved accountability in the current procurement systems.

From the above table, majority of the respondents i.e. approximately 88.33% agreed to a large extent to the assertion that the application of Act 663 has helped to achieve accountability in Korle-Bu Teaching Hospital. Those who did not agree are in the minority of 11.67%

Table 13:

The Application of the Act 663 has helped to achieve non-discrimination during the Award of Contract

Description	Rating	Frequency	Percentage	
little	0 – 15%	2	3.33%	} 11.66%
fair	16–30%	5	8.33%	
Good	31–50%	8	13.33%	} 88.34%
Very good	>59%	45	75.00%	
	Total	60	100%	

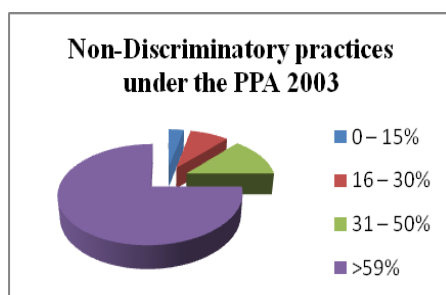


Figure 4.13: The Application of the Act 663 has helped to achieve non-discrimination during the Award of Contract

From table 13, majority (i.e., 88.34%) of the respondents said a resounding yes to the assertion that non-discrimination has been achieved by the application of the PPA 2003. However there was a minority few (i.e. 11.66) who think non-discrimination has only been slightly curtailed by the coming into effect of the Act. Sections 63 and 64 of the act have the motive to inculcate the principles of fair play and non-discrimination in the procurement processes and practice. This is deemed to have been achieved to an appreciable degree per the result of this study.

4.4 FINDINGS FROM INTERVIEWS

4.4.1 The History Of Procurement In Korle-Bu Teaching Hospital (Kth).

The law that establishes the Korle bu Teaching Hospitals is the Ghana Health Service and Teaching Hospitals Act of 1996 (Act525). According to Ackon, (1996) this act together with the Public Procurement Act 2003 (Act 663) were both fully implemented in the year 2003. This implies that, Procurement activities carried out in various health institutions and hospitals across the country before 2003 were done by the Ministry of Health.

A procurement staff interviewed at the Korle-Bu Teaching Hospital hinted that getting to the end of the financial year, request was sent to all the health institutions to

submit their budget for the ensuing year. The Ministry of Health collated the budgets received from the health institutions and submitted to the Ministry of Finance for onward submission to Parliament for Approval. Once approved, the Ministry of Finance was to forward the budget allocations to the Health Institutions through the Ministry of Health.

4.4.2 Procurement of Goods, Works and Services in the Past:

Before the enactment of the Procurement Law it was the Minister, the Chief Executive, the Director of Finance and the Chief Supply Officer who were undertaking procurement without passing through any definite legally established procurement procedures. It is said that the Ministry of Health and its agencies gradually rose through procurement reforms from 1999 Until 2003 when the PPA,2003 (Act 663) was passed. However, the implementation of the Act faced a lot of challenges due the fact that heads of departments and various administrators were still doing Ad hoc purchasing.

Information from the capital investment unit of the MOH was however different because most of the items procured at that level were imported from foreign countries and the world bank guidelines were said to have been used for the Procurement as far back as 1997(World Bank, 1997). Nevertheless, most of the regional and district health centers were still practicing the old system of procurement elaborated above until the passage of the procurement Law in 2003.

4.4.3 Procurement of Drugs and Non-Drug Consumables:

For the procurement of drugs and non-drug consumables like, gauze, plaster, cannula syringes and needles etc. The Ministry of Health established Central Medical Stores which the drugs and non drug consumables imported into the Country were kept. The

Ministry also established Regional Medical Stores in all the Regions and made it mandatory that all drugs and non drug consumables should be purchased from the Central Medical Stores into the Regional Medical Stores and the various Health facilities were also to purchase from the Regional Medical Stores. When a hospital needed to purchase drugs or non-drug consumables, requisitions were written and sent to the Regional Medical Stores for purchase. Items that were not available in the Regional Medical stores were obtained from the open market after a non-availability certificate had been issued from the regional stores. The procedure was for the Administrator to ask the Storekeeper to go to the open market and request for invoice to which he/she attaches a memo and forward to the Accountant for release of Cash for payment.

The items so procured were kept at the Stores but the receipts were submitted to the Accountant for records purpose. Issues coming from the stores were subjected to approval by the Administrator. This was the system of procurement until 1999 when reformation started.

4.5 CURRENT PROCUREMENT STRUCTURES AT KORLE-BU TEACHING HOSPITAL (KTH)

The procurement structure at korle Bu Teaching Hospital (KTH) is headed by the Chief Executive with two directors namely Director of Administration and Director of Medical Affairs serving directly under him. This three-man team constitutes the top executives who see to the overall procurement practice at KTH.

In brief, the procurement structure is managed by the three (3) top executives namely the chief executive (spending officer), Director of Administration (Manager of procurement) and Director of Medical affairs (Head of the Tender Committee); twelve (12) middle level personnel's and fifty seven (57) junior level staff. In total,

the entire procurement staff strength of 72 constitutes the target population for this study. Below is a comprehensive list of the procurement work force of KTH

4.5.1 TOTAL POPULATION:

Top Executives	=	3 Nos.
Tender Committee	=	5 Nos.
Procurement Unit	=	4 Nos.
Storekeepers	=	24 Nos.
Supply Officer	=	20 Nos.
Estate Officers	=	2 Nos.
Accountant	=	1 Nos.
Costing Officer	=	3 Nos.
Internal Audit	=	2 Nos.
Reconciliation	=	2 Nos.
Pharmacists	=	3 Nos.
<u>General Service</u>	=	<u>3 Nos.</u>
<u>TOTAL population</u>	=	<u>72 Nos.</u>

PROCUREMENT STRUCTURES IN KTH

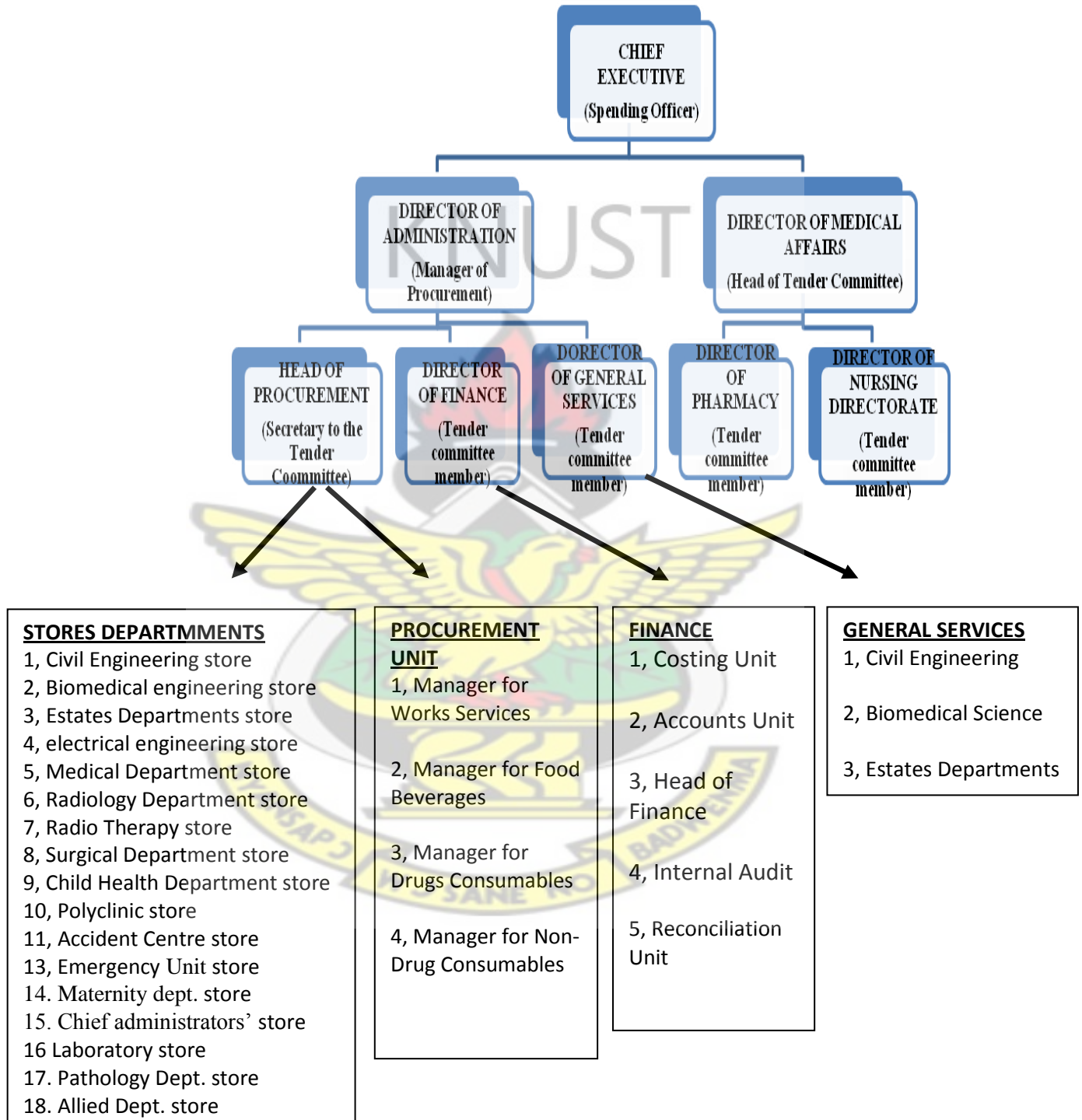


Figure 4.14: The structure of all the units involved in procurement at KTH

(Source: Researcher's field book)

4.6 Current Procurement Practice in Korle Bu Teaching Hospital

The current procurement practice is strictly in accordance with the procedures and processes prescribed in the public procurement Act 2003 (Act 663) herein after called the Act. Procurement of Goods, works and services with threshold up to GH¢50,000.00 is handled by the procurement unit. Anything above this figure goes to the tender committee and ultimately to the chief executive (Head of entity) for final approval. Also, values above limits prescribed by the law for the HOE go to the Tender Review Board for approval.

According to information from the procurement department, close to the end of the financial year, the Procurement entity prepares a Procurement Plan after collating all the needs from the user departments in accordance with section 21 of the Act and submits it to the Tender committee for approval. The HOE also approves the plan and a copy is lodged with the public procurement board (PPB). The processes then enters the solicitation stage.

4.6.1 Solicitation: - After the receipt of approval the method for procurement is determined by the threshold, urgency, or by other conditions specified by the Act. Standard Tender Documents (STD's) are prepared and invitation is sent out to bidders by means of advertisement.

4.6.2 Competitive tendering: this could be international competitive tendering or national competitive tendering. It is the default method often used. Quotations are requested from a minimum of three bidders as per the Act. However, other methods including Restricted tendering, Negotiation and Sole sourcing could also be used subject to approval from the public procurement board (PPB). The tenders may also be pre-qualified from a list of known registered tenderers.

4.6.3 Tender opening: Tender opening is done immediately after close of tender and tenderers are required to be present to witness the tender opening event.

4.6.4 Evaluation: Evaluation panel is formed with members drawn from various units/departments to evaluate the received tenders based on the criteria contained in the tender invitation document.

4.6.5 Approval: Depending on the Threshold approval for the evaluated tender is given by the Entity tender committee (ETC), Head of entity (HOE) or by the Tender review board (TRB) as per schedule 3 of the Act but the HOE assumes ultimate responsibility for the procurement. The TRBs are of various levels including District, Regional, Ministerial and Central TRB. They review and give concurrent approval when convinced that the processes have been transparent, fair, competitive and the outcome is likely to result in value for money.

4.6.6 Award Notification: Once approved, the successful tendered is given an award notification stating the tender validity period and requesting him to confirm his acceptance of the contract. He is also requested to produce a Performance Guarantee with value equivalent to 10% of the contract sum and invited to sign the contract at a specified date and venue. Once the contract is signed it enters the contract management stage.

4.6.7 Contract Management: This is the process that enables both parties to the contract to meet their obligations in order to deliver the objectives required from the contract. It is also meant to build a good relationship between customer and provider.

4.6.8 Procurement of Works:

For procurement of works, the form of Procurement usually used is the Two Stage Tendering, where the contractor or the consultant would be asked to submit proposal of the works to be provided without price quotations. This is done when the procurement entity is not certain about the actual work to be undertaken (ie. unclear technical specification of the works). When the contractors/consultants submit their

proposal, the Procurement Committee will then meet and assess the proposals and select those proposals which is feasible and write to the Contractors or the Consultants whose proposal were selected to submit their tender documents with price quotations. When the contractor/consultants submit their tender documents, a date is then fixed for the tender opening and evaluation by the tender evaluation panel. Upon completion of the work, an expert is then sent to assess the work and after assessing the work, a certificate of completion is then issued by the expert to inform the Director of Finance to effect payment.

4.7 CONCLUSION:

The study revealed that even though Korle Bu Teaching Hospital has high caliber procurement staff only a few (25%) of them are conversant with the basic objectives of the act. Nonetheless, majority of responses suggested that participants have basic knowledge in some of the key provisions of the act such as knowledge on cost and fair competition probably as a result of regular on-the-job procurement practice.

The findings show that even though most of the objectives of the procurement Act have been achieved to a large extent there still remain some of the objectives which are still facing implementation challenges. In essence, it is generally established that the act is currently having a negative effect on delivery time due to numerous approval processes on account of the low threshold levels. In conclusion, the PPA has been largely beneficial and effective. However, it needs to be amended to include provisions for electronic procurement and sustainable procurement issues. This will improve transparency, accountability, and compliance as well as ensure sustainable best practice in our public procurement system. The thresholds contained in schedule 3 of the act needs to be increased to reflect prevailing market trends. Some level of

decentralization of the procurement system is also necessary to ensure swift procurement. These concerns in fact call for an amendment to the current Act.

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CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATION

INTRODUCTION

This chapter provides the summary of work done, conclusion drawn and recommendations offered to help amend some of the provisions of the Public Procurement Act. The recommendations offered are as much applicable to the research area (KTH) as any other organization as far as procurement practice is concerned, a further study is however recommended to support the findings of this study.

The study looked at the history of procurement practice as well as the current procurement practice in KTH in an attempt to carry out an investigation on the impact of public procurement act on public procurement practice. In doing so, the study traced and established the profile of the procurement staff structure in KTH; their level of working experience, education and their knowledge about the public procurement act, its objectives and some key Provisions of the act.

Finally, the study sought to establish the extent to which the objectives of the public procurement Act has been achieved and what impact it has brought to augment the procurement function in KTH

5.2 SUMMARY OF FINDINGS:

KTH is endowed with high caliber of procurement staff. Approx 91.70% of them have attained at least secondary level education and majority of them (approx. 83.40%) have more than 10 years work experience and are conscious of the existence of the PPA, 2003. However, only 25% of the staff responses suggested that they have full knowledge about the objectives of the PPA, 2003 (ACT 663). In spite of this, majority of the respondents who profess not to be conversant with the objectives of

the law indicated that they have basic knowledge on some of the key provisions of the law, probably on account of their regular procurement practice.

On cost, It was detected that 83.33% of respondents are of the opinion that the direct cost of items procured through the use of the PPA 2003 has reduced, given all the checks and balances provided by the act in ensuring the selection of a competitive bidder who can provide goods works or services at a competitive price. Majority of the respondents (approx. 70%) agreed that the PPA, 2003 has helped to reduce the incidence of rework by way of retendering occasioned by arbitrary procurement practices but 83.33% of them were of the view that the law is impacting negatively on procurement delivery time. Supporting evidence from literature review traced the cause of this situation to extremely low threshold levels in schedule 3 of the act which has fallen out of line with market trends leading to procurement packages having to cue for approval from higher authorities and thereby creating frustration and bureaucratic tendencies.

On issues of fairness, participants unanimously agreed that transparency, accountability and non-discrimination have been largely achieved by the implementation of the Act. 88.34%, 88.33%, and 88.34% respondents respectively testified to this assertion.

Some implementation challenges were also cited by 65% of participant when given the chance to indicate further comments and express themselves freely under section 5 of the questionnaire. These include the following:

- Delay of payment to contractors leading to delay in the completion of works procured.
- Frustration experienced by procurement professional seeking approval from higher authorities.

- Conflict emanating from cultural attitudes exhibited by some procurement professional unwilling to adapt to the new procurement law. (e.g. Onemanshow attitude exhibited by some top executives.
- Political interference in procurement processes leading to favoritism mis-procurement, and victimization of some procurement staff.

5.3 CONCLUSIONS:

Some important conclusions could be drawn from the study which could help to craft some recommendations that can benefit public procurement practice. From the foregoing analysis the following conclusions are hereby drawn:

The current procurement system in use at KTH (i.e. the system prescribed by Act 663) is better than the one used prior to the enactment of Act 663. The procurement Act (Act 663) has impacted positively on public procurement practice in the area of transparency, accountability and non-discrimination. These laudable objectives of the Act can be said to have been achieved to a large extent in KTH. Consequently, corruption in public procurement practice in the study area can be said to have been reduce to a level lower than what it used to be in periods proceeding the enactment and implementation of the Act.

On the level of understanding of the core objectives and the key provisions of Act 663 it can be concluded that even though the people in the study area understand what they are practicing majority of them did not know that what they are practicing constitute the core objective of Act 663.

Regarding cost, the study established that the PPA, 2003(Act 663) has helped to reduce the incidence of rework by way of retendering occasioned by arbitrary procurement practices which are done normally in contravention to the law. Such

practices were at least rampant in the past than now. The likely cost of rework can therefore be deemed to have come down.

However, indications from the study suggest that the delivery time for most procurement packages (except that for small packages) have been extended on account of low threshold limits contained in the act resulting in bureaucratic tendencies.

Finally, it is clear from the points raised above that some level of cost effectiveness and efficiency has been achieved by the passage of the PPA, 2003 (ACT 663) even if not to its full limit.

5.4 RECOMMENDATION:

In the light of the above conclusion, it is recommended that further studies on impact of the law on public procurement practice should be carried out to confirm the findings of this study. The PPA, 2003 (ACT 663) has been largely beneficial and effective. However, it needs to be amended to include provisions for electronic procurement and sustainable procurement issues. This will improve transparency, accountability, and compliance respectively as well as ensure sustainable best practice in our public procurement system. The threshold contained in schedule three of the PPA 2003 (ACT663) must be increased to be in tune with prevailing market trends. This will allow more flexibility in decision making and permit procurement entities to procure more swiftly. Some level of decentralization of the procurement system is also necessary to ensure swift procurement. These concerns in fact call for an amendment to the current Act.

Finally, the challenges expressed by the procurement staff of KTH indicated above need to be addressed through the adoption of appropriate solutions and an effective enforcement mechanism for the PPA, 2003 (ACT 663) such as the 'infringement

procedure' practiced by the EU under the EU public procurement laws in which offenders of the law are actively prosecuted to serve as a deterrent.

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APPENDIX
ACADEMIC RESEARCH QUESTIONNAIRE

Knowledge, cost and fairness related to public procurement practice

This survey is to find out what you know about the key objective of the Public Procurement Act 2003 (PPA 2003, also known as the Act 663), and how this knowledge has affected/affects the outcome of the practice of public procurement in your institution. The information you give is for academic purpose only, it is strictly confidential and will not be shared. No one will know whether or not you participated.

If an option does not suit you, please go for the nearest one.

PLEASE DO NOT WRITE YOUR NAME ON THE FORM.

Section 1: BACKGROUND DATA (Please tick as appropriate)

1. Level of education: ☐ Primary ☐ Secondary ☐ Tertiary
2. Designation/position: ☐ Junior staff ☐ Manager/Supervisor ☐ Executive/Director
3. Number of years of experience: ☐ 0-5yrs ☐ 6-10yrs ☐ More than 20yrs

Section 2 KNOWLEDGE (Please tick as appropriate)

4. How would you rate your general knowledge about the PPA 2003?
- ☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%
5. How would you rate your knowledge about the objectives of the PPA 2003?
- ☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%
6. How would you rate your knowledge about matters on cost, and fair competition in the Act?
- ☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%

Section3 COST (Please indicate **your agreement** by ticking the appropriate box)

7. The application of the PPA 2003 has helped your department to reduce direct procurement cost

☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%

8. The application of the PPA 2003 has helped to reduce the delivery time for items procured

☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%

9. The application of the PPA 2003 has helped to reduce rework

☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%

Section 4 FAIRNESS (Please indicate **your agreement** by ticking the appropriate box)

10. The application of the PPA 2003 has helped to achieve transparency in your procurement system

☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%

11. The application of the PPA 2003 has helped to achieve accountability in your procurement system

☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%

12. The application of the PPA 2003 has helped to achieve nondiscrimination during the award of contracts in your procurement system

☐ 0-15% ☐ 16-30% ☐ 31-50% ☐ >50%

Section 5 ADDITIONAL COMMENTS

13. Please indicate below any further comments on how the application of the PPA2003 has impacted on procurement practice in your organization, and any correctional measures /ideas

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Thank you for your participation

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