

Public Procurement Reforms: An Analysis Of The Drivers of Procurement Irregularities in Ghana

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Disclaimer

This report is a deliverable of a partnership between the Africa Centre for Energy Policy and Imani Centre for Policy and Education. The report provides an analysis of the common methods of procurement by Ministries, Departments and Agencies, Public Boards, Corporations and other statutory institutions. It also examines the trend of procurement irregularities, and the drivers of procurement challenges despite the increased reforms.

The report is expected to throw more light on the flaws in the procurement process that lead to high procurement irregularities. The report does not in any way represent the views of the Africa Centre for Energy Policy and Imani Centre for Policy and Education. The analysis, conclusions and errors remain the sole responsibility of the authors¹.

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Abbreviations

AG	Auditor General
BOST	Bulk Oil Storage and Transportation
CEO	Chief Executive Officer
CHRAJ	Commission on Human Rights and Administrative Justice
CSO	Civil Society Organization
CTRC	Central Tender Review Committee
ETC	Entity Tender Committee
FAC	Financial Administration Court
GDP	Gross Domestic Product
GHANEPS	Ghana Electronic Procurement System
GIFMIS	Ghana Integrated Financial Management System
GNCC	Ghana National Construction Company
GPHA	Ghana Ports and Harbour Authority
GSC	Ghana Supply Company
MDA	Ministries, Department and Agencies
MMDA	Metropolitan, Municipal, and District Assembly
OECD	Organization for Economic Cooperation and Development
OSP	Office of the Special Prosecutor
PAC	Public Accounts Committee
PBCOSI	Public Boards, Corporations and Other Statutory Institutions
PPA	Public Procurement Authority
PWD	Public Works Department
RTRC	Regional Tender Review Committee
SIGA	State Interest and Governance Authority
SME	Small and Medium Enterprises
TEP	Tender Evaluation Panel

Executive Summary

Public procurement is a developmental tool used by governments to implement socio-economic programmes. Apart from interest payments and compensation, expenditure plans for goods and services, capital expenditure, and grants to other government institutions are effected through public procurement. This represents an average of about 11.6 percent of GDP in 2016 and about 10.4 percent of GDP in the 2022 expenditure plans of government. The socio-economic impact of these spending patterns depends on the efficiency of the procurement system to ensure value for money, transparency and accountability.

Notwithstanding the numerous reforms to Ghana's public procurement system, it remains vulnerable to political interference, and the overall weaknesses in the public financial management system. The current institutional framework centralizes key procurement decision making (single sourcing and restricted tendering) around the PPA Board, exposing the procurement process to political patronage and clientelism due to the excessive influence of the executive arm of government in the appointments of PPA board members. Similarly, the entity level is susceptible to political interference as majority of the members of the tender review committees/boards are political appointees or public servants. The lack of representation of demand-side accountability actors attest to the low appetite for accountabil-

ity in the public procurement system. Additionally, the weak monitoring and oversight of the PPA is worsened by the low utilization of the Ghana Electronic Procurement System (GHANEPS) by public institutions. The PPA reports that about 76 percent of the 335 public institutions enrolled do not use the GHANEPS.

The last decade has been marked by a steady rise in procurement related irregularities by MDAs and PBCOSI. The procurement irregularities reported by the AG for MDAs have increased by about sixteen times from GHC684,325 in 2010 to GHC10,667,174.60 in 2020. Over the same period, PBCOSIs have recorded about an 800 percent increase in procurement related irregularities from GHC1.4 million in 2010 to GHC846 million in 2020, representing about 42 percent of additional healthcare spending of GHC2 billion in 2020. The sharp rise in procurement irregularities in 2020 can be attributed to the effect of the Covid-19 pandemic on procurement plans, which led to relaxed requirements to facilitate the purchases of critical needs.

Open competitive tendering is the common method of procurement; however, it is the least preferred method for high financial value transactions. From the 339 transactions of 11 MDAs whose combined irregularities since 2010 constitute about 97 percent of the gross irregularities, 181 of the transactions were procured through open competitive tendering, however,

GHC18.7 billion of the total financial value of 339 transactions were procured through single sourcing. In the case of PBCOSI, open competitive tendering constituted 429 out of the total 832 transactions. Nonetheless, GHC7.80 billion and GHC3.12 billion out of the GHC14.04 billion of the gross financial value of the 832 transactions were procured using restricted tendering and single sourcing respectively. Single sourcing and restricted tendering appear to be the most preferred method by public institutions for high financial value contracts. Additionally, most of the reported procurement irregularities by the AG are linked to single sourcing and restricted tendering, indicating the vulnerabilities associated with non-competitive procurement methods. Crucially, the irregularities associated with these two methods are caused by failure of public institutions to comply with the requirement of the PPA laws.

A major threat to the public procurement regime is the poor enforcement of sanctions in the procurement law, resulting in tolerance for abuse of the procurement laws. The AGs report is replete with numerous abuses of the procurement laws, however, there is little political will and interest to enforce the sanctions in the PPA Act. The weak political will to exact accountabil-

ity by enforcing the laws are reinforced by the conflict of interest by politically exposed persons involved in procurement of public institutions. Essentially, the Attorney General's loyalty to the executive makes it practically impossible for him to prosecute culpable ministers of state or politically exposed persons. This is also compounded by the partisan politics affecting the effectiveness of the PAC to demand accountability from public institutions. Beyond the political economy issues, the public procurement system is not properly integrated with the public financial management and governance oversight frameworks to ensure value for money and transparency. Internal auditors have been excluded from the procurement process, and do not have actionable access to the GIFMIS to investigate or stop suspicious procurement arrangements. Additionally, SIGA has not demonstrated significant interest in the procurement measures of state agencies. These combined with the absence of professional standardization, ethics, and capacity building measures amplify the corruption risk of the existing public procurement regime.

A close-up, low-angle shot of a person's hand holding a dark pen with a gold-colored tip. The hand is positioned over a document, which is slightly out of focus. In the background, a person wearing a white lab coat is visible, also out of focus. The overall lighting is dim and moody, with a dark, almost black, overlay at the bottom of the image where the text is placed.

BACKGROUND AND HISTORY OF PUBLIC PROCUREMENT IN GHANA

Key Takeaways

The value of publicly procured goods and services constitutes about 10-11 percent of GDP in Ghana.

Reforms in the Public Procurement System have led to improvement in the legal framework and other standards; however, significant challenges remain leading to a growing trend in irregularities.

As was with the past, public procurement continues to be centralized at the PPA since all single sourcing and restricted tendering require the approval of the PPA board.

1.1 Background: Public Procurement Reforms in Ghana

Public procurement is a strategic component of resource allocation that, when done correctly, leads to efficient, transparent, and competitive delivery of public services. It has the potential to transform public finances into development outcomes. It is an essential part of governance that requires skillful execution by political leaders in fulfilling their promises and accomplishing the desired benefits for their citizens. The World Bank reports that public procurement accounts for around 13-20 percent of global GDP, 14.9 percent of GDP in Sub-Saharan Africa. An effective procurement system provides goods and services at competitive prices to ensure the best value for money. Governments are obliged to conduct public procurement efficiently and ethically in order to ensure effective service delivery and protect the public interest, as it represents a significant percentage of taxpayers' money. Thus, public procurement systems must deliver the expected social, economic and environmental value of government's priorities and programmes.

The procurement of goods and services has always been a central part of public administration in Ghana. It constitutes a significant portion of the national budget and represent about 11 percent of Gross Domestic Product (GDP).

Public procurement has become a critical area where efficiency, integrity and high standards are required to deliver value for the taxpayer. Historically, several efforts (regulations and policies) have been implemented to deliver a procurement regime that guarantees transparency, accountability, integrity, and non-discrimination. For instance, Article 7 of the 1979 constitution, while requiring the provision of adequate facilities for the free mobility of people, goods, and services throughout Ghana, mandated public office holders to take steps to "eradicate corrupt practices and abuse of power." More recently, Article 284 of the 1992 constitution enjoins a public officer not to put himself in a position where personal interests conflict or are likely to conflict with the performance of the functions of his office."

Public procurement system in Ghana has also evolved over the years, however, the institutional approach remains unchanged. Pre-independence procurement-related transactions were the prerogative of the British crown agents. They handled the procurement of goods, and the Public Works Department (PWD), which oversaw works and services-based procurements. Post-independence, the Ghana National Construction Corporation (GNCC) was formed as a substitute to the PWD. The crown agents

<https://www.worldbank.org/en/news/feature/2020/03/23/global-public-procurement-database-share-compare-improve>

<https://unstats.un.org/sdgs/report/2019/goal-09/>

<https://www.oecd.org/gov/public-procurement/>

<https://siga.gov.gh/sector/ghana-supply-company-limited/>

“ An analysis by the Ghana Institute of Procurement and Supply Chain estimates that from 2015-2019, Ghana lost about Ghc11.8bn due to procurement contract breaches and inefficiencies ”

continued to play a significant role in the procurement of goods way into the early 1970s. However, their role was gradually taken over by the Ghana Supply Company (GSC) in 1960 as the supplier of general goods to state institutions and subsequently the Ghana National Procurement Agency (GNPA) in 1976 to procure goods dubbed 'essential' by direct purchase and supply to Ghanaians including to Ministries, Departments and Agencies (MDAs). Although GNPA was required to employ competitive tendering in its procurements, it was allowed to vary this requirement at the discretion of the commissioner³. The period was characterized by over-concentration of decision making powers with regards to public procurement in a single institution without regulations and limited demand-side accountability to enhance openness and ensure value for money. These can be attributed to the political instability caused by military coup, which affected the structure of government and consistency of public administration. Also, the rules and regulations created opportunities for insider manipulation, corruption, and obstructed transparency and accountability of the public procurement system. Lack of regulations to guide public procurement, political risk, and excessive control of procurement by designated institutions led to poor procurement outcomes.

The late 1990's were marked by increased public sector reforms which involved the development of transparent and accountable public procurement systems. The government in 1996 undertook the Public Financial Management Reforms Program (PUFMARP), aimed mainly at regulating overall financial expenditure in the country, with public procurement the wheel to drive this. The reform program identified several challenges that needed to be resolved to build a more robust public procurement system. These challenges included the absence of a comprehensive legal regime to guarantee the integrity of a public procurement policy, the lack of a central administrative body with the requisite technical expertise to develop and oversee a systematic public procurement policy, the absence of an independent procurement auditing entity and ambiguous roles and responsibilities within the procurement value chain. At least two World Bank-led assessments subsequently corroborated these challenges and loopholes, i.e., the Country Procurement Assessment Review (CPAR) completed in 1996 and the Country Financial Accountability Assessment (CFAA) completed in 2001. The CPAR cited some additional issues of weak audit services and untimely audit reporting. The CFAA completed much later identified procurement among the top three areas of high risks to public funds in Ghana, besides payroll and pensions.

The Public Procurement Authority Act, 2003 (Act 663) was passed as part of recommendations of the Country Procurement Assessment Review. The Act was also driven by the need to harmonize the country's procurement legislation with international conventions such as the 1993 United Nations Commission on In-

<https://ppa.gov.gh/about-us/history-of-the-ppa/>

<https://bit.ly/3kL6bc0>

<https://www.cambridge.org/core/books/public-procurement-regulation-in-africa/regulatory-framework-for-public-procurement-in-ghana/A6EA07EA73B2B1C7BCD93A62AA1A0F51>

<https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/proc93.pdf>

https://ppa.gov.gh/wp-content/uploads/2019/01/Public-Procurement-Amendment-Act-2016-ACT663_RePrinted.pdf

<https://bit.ly/3obnBk0>

<https://ppa.gov.gh/wp-content/uploads/2019/01/20130506-PPA-E-Bulletin-May-Jun-2013.pdf>

<https://www.oecd.org/gov/public-procurement/methodology-assessing-procurement/>

ternational Trade Laws' (UNCITRAL) Model Law on Procurement of Goods and Construction. The UNCITRAL procurement model primarily seeks to enhance transparency, fairness, and increased confidence in public procurement systems and ensure that suppliers and contractors in the public procurement value chain were treated equitably. Act 914 takes much inspiration from these values of accountability, transparency and equal access.² Act 663 as amended by 914 established the Public Procurement Authority to streamline procurement processes within the public sector. The Act also admonishes prudent public finance management in the national interest. A critical provision of Act 914 to actualize this is the prescription of competitive tendering as the preferred procurement method [section 34A (1)], unless otherwise explicitly justified by the board of the Authority. Again, unlike earlier procurement regimes, Act 914 provides single sourcing to be employed only under "exceptional cases" such as emergencies,

World Bank's 2003 monitoring and evaluation toolkit for assessing the performance of member countries' procurement regimes. In 2007, the government, together with OECD and other development partners, assessed Ghana's public procurement system using the OECD-DAC methodology for assessing national procurement systems. The assessment pointed out, among other challenges, issues with the integrity of data fed into the PPME tool, inconsistencies in publishing the public procurement bulletin and the lack of a dedicated website to provide information on contracts and procurement plans.

Despite the reforms introduced to address integrity issues, the procurement system has become a channel of corruption by government officials and stewards of state funds through bid-rigging, conspiracies, and lobbying as well as inadequate due diligence in the award of contracts. In most cases, political actors have been identified as the main drivers of opaque

“ More recently, Article 284 of the 1992 constitution enjoins a public officer not to put himself in a position where personal interests conflict or are likely to conflict with the performance of the functions of his office. ”

where goods can be gotten from only one supplier or desired for national security purposes. The overall expectation is that the PPA will deliver recognizable savings to the public purse.

To encourage compliance with the PPA, the Authority in 2006 launched the Public Procurement Model of Excellence (PPME) tool, an online monitoring and evaluation platform for the public procurement entities in the country. The PPME tool was also partly driven by the

public procurement transactions, political clientelism, nepotism, and contract over-pricing. Major breaches of procurement process include; the Social Security and National Insurance Trust (SSNIT) OBS software scandal in the insurance sector, and the recent procurement of Covid-19 vaccines which were purchased at almost twice their factory price. Furthermore, Ghana's Public Procurement Authority (PPA) Chief Executive Officer was accused of sell-

<https://bit.ly/3m0OCE9>

<https://www.myjoyonline.com/judgement-debts-awarded-against-the-state-continues-to-persist-centre-for-social-justice/?param>

[GH¢11.8 billion lost to procurement breaches in five years - Report \(ghanaweb.com\)](#)

[Judgement debts awarded against the state continues to persist - Centre for Social Justice - MyJoyOnline.com](#)

[Ibid |](#)

[Microsoft Word - 2020 MDAs Report Final Reviewed.docx \(ghaudit.org\)](#)

[Microsoft Word - 2020 MDAs Report Final Reviewed.docx \(ghaudit.org\)](#)

<https://www.imf.org/-/media/Files/Publications/CR/..>

ing contracts. The 2021 report by the Centre for Social Justice suggest that, the persistence of these inefficiencies is mainly as a result of negligence, flagrant contempt for public procurement laws, and illegal contract abrogation by public officials in the course of their duties . An analysis by the Ghana Institute of Procurement and Supply Chain estimates that from 2015-2019, Ghana lost about Ghc11.8bn due to procurement contract breaches and inefficiencies . Additionally, the Centre for Social Justice reports that the recurring judgement debt menace can partly be attributed to the lack of pragmatism on the part of government agents in procurement activities . The report estimates that judgement debt arising out of contractual breaches since 2000 is GHC1.38bn, suggesting relatively weaker procurement systems . Furthermore, the 2020 Auditor General report identify procurement irregularities as the main financial weakness in Ghana. In 2020, the Ghana Audit Services reported that losses of GHC10.6million and GHC171.3million were incurred due to procurement irregularities and contractual breaches respectively . The report further revealed that procurement irregularities from 2016 to 2020 amounted to GHC115.7million and contractual irregularities amounted to GHC190.04million .

The weaknesses in the procurement systems has led to increased procurement related losses over the last decade. An analysis of the Auditor General's report from 2010 to 2020 indicates that losses associated with procurement and stores irregularities by Ministries, Departments, and Agencies (MDAS) have increased by about sixteen (16) times from GHC684,375 in 2010 to GHC10,667,174.60 in 2020. Over the same period procurement losses arising out of irregularities by Public Boards, Corporations, and other Statutory Institutions increased from GHC1,423,173 in 2011 to GHC846,134,269.00

in 2020, representing more than 800percent increase in irregularities. The procurement irregularities according to the Auditor General's report were as a result of lack of compliance with the Public Procurement Authority Act, and poor store keeping by state agencies. In 2020, the total procurement and stores related losses by public boards and corporations were about 42percent of the increased health-care spending of about GHC2 billion reported by the International Monetary Fund (IMF) .

Against this background, this study undertook an in-depth analysis of the drivers of high public procurement irregularities. The study aims to answer the following questions;

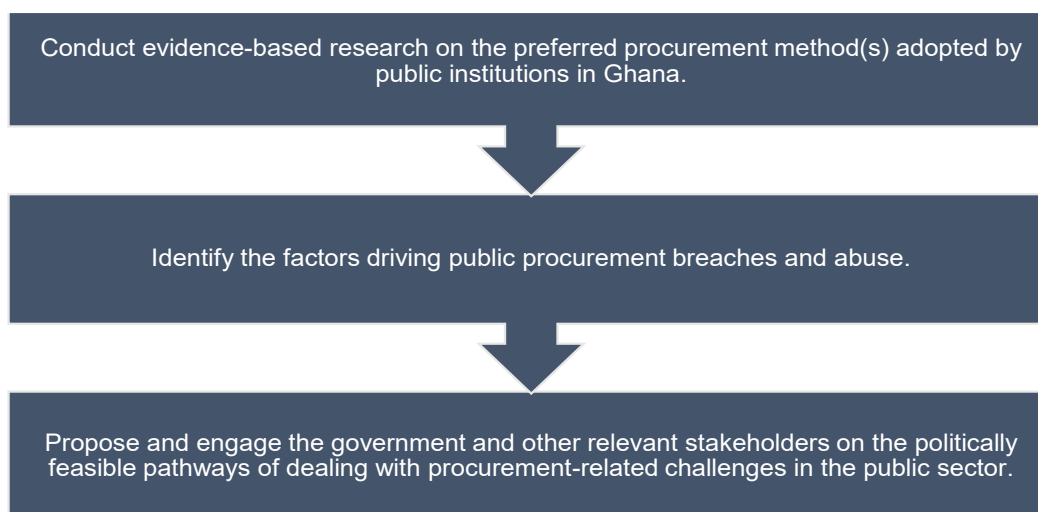
1. **What is the trend of public procurement irregularities in the last ten years?**
2. **What are the common methods public institutions use in procurement?**
3. **Is there a structural tolerance for procurement abuse and breaches?**
4. **Is there an appetite for reforms to the public procurement regime in Ghana?**

The findings of the report seek to provide empirical evidence to strengthen demand-side accountability which has been virtually absent after the 2016 reforms of the PPA Act. Additionally, the adverse effect of the pandemic on the fiscal health of the economy makes it crucial for government to consider policy alternatives to addressing the weak spots of the public financial management system

1.2 Objectives

The overarching aim of the project is to ensure increased public awareness of the waste arising out of the weaknesses in the public procurement system, and the implication for corruption and misuse of public resources. The project also seeks to plug the gaps in public procurement to improve the procurement system and reduce abuses in procurement processes. Specific objectives of the project are outlined in **Figure 1** below.

Figure 1: Objectives of the Project



1.3 Methodology

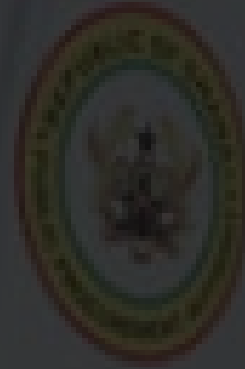
The annual Auditor-General's report of the Ministries, Departments and Agencies and Public Boards, Corporations and Other Statutory Bodies by the Ghana Audit Service was the main source document for collecting annual procurement irregularities. The analysis covers the public procurement irregularities from 2010 to 2020. The absolute monetary value of irregularities over this period was collected to establish a trend of the irregularities. The financial irregularities were adjusted for inflation over the period.

The analysis of procurement methods focused on 11 Ministries, Departments and Agencies. The MDAs were selected based on a threshold of cumulative procurement irregularities exceeding GHC1million. Also, the 11 MDAs accounted for 97percent of the total irregularities from 2010 to 2020. The procurement transactions of

the selected MDAs on the Public Procurement Authority website were used in the analysis. Key informant interviews were conducted with experts and public officials to understand the drivers of procurement irregularities.

1.4 Limitations

The analysis of the study is limited to the procurement irregularities reported by the Ghana Audit Service and does not include other independent assessments of procurement and financial irregularities in the public sector. Also, the analysis of the methods of procurement is limited to the number of contracts published by the selected MDAs and public corporations on the PPA website. Additionally, the analysis is not intended to compare the methods but to demonstrate the identified risks and mechanisms to mitigate the vulnerabilities.



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PUBLIC PROCURE- MENT GOVERNANCE IN GHANA

Key Takeaways

- PPA's oversight has been relatively ineffective due to excessive manual process operations, leading to delays in approving tenders and sanctions, and ineffective monitoring and evaluation.
- The Ghana Electronic Procurement system has not been seamless and remain under-utilized by the 335 public institutions enrolled on the platform.
- The 2016 reforms to the PPA legislation removed demand-side accountability partners from the public procurement regime.
- High integrity risk due to absence of anti-corruption agencies such as OSP, CHRAJ and EOCO in the procurement process, leading to post-audit approach to fighting procurement corruption.
- Excessive control of the procurement system by the executive and public officers
- Most of the reforms in the public procurement system have been donor-led.

2.1 Institutional Analysis and Core Influence Dynamics of Ghana's Public Procurement System

Strong oversight and accountability structures are essential to addressing the integrity risk and tendency of corruption in public procurement systems. More often, public procurement frameworks are characterized by multiple institutions due to the financial value of transactions and the effect on government activities. As a result, multiple agencies both at the national and sub-national levels interact in a public procurement transaction. Weak institutional systems and internal control mechanism may create incentives for non-compliance to the formal rules of procurement leading to breaches or irregularities. It is imperative to understand the institutional framework and core influence dynamics to effectively implement reforms.

2.2.1 Institutional Framework of Ghana's Public Procurement System

Public procurement system is governed by the Public Procurement Act 2003, (Act 663 Amended by Act 914, 2016). Act 914 establishes the Public Procurement Authority as a body corporate with its functions clearly indicated in Section 3 of Act 914. The Act also establishes a governing board, whose members are appointed by the President. The mandate of the board is to ensure the effective performance of the Public Procurement Authority. The Authority is headed by the Chief Executive officer, appointed by the President. The Finance Minister in consultation with the Board of PPA declares an entity as a Procurement Entity by notice in the Gazette. The procurement entity is responsible for undertaking procurement in accordance with Act 914. The procurement entity is required by the Act to establish an Entity Tender Committee (ETC), Tender Evaluation Panel (TEP), and a Procurement

[Corruption-Public-Procurement-Brochure.pdf \(oecd.org\)](#)

Photo Credit: [gettyimages.com](#)

<https://www.businessnewsdaily.com/4813-contract-management.html>

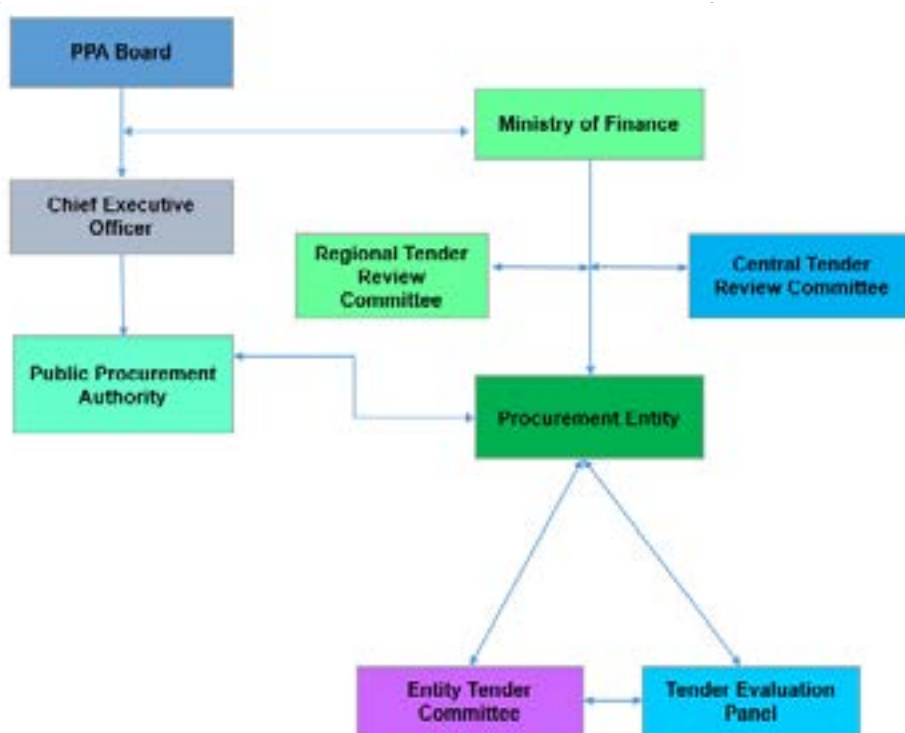
<https://hbr.org/2018/06/the-death-of-supply-chain-management>

Unit (PU) to guide the procurement activities. The ETCs primary responsibility is to ensure that the stages of procurement of the entity complies with Act 914, work within the stipulated thresholds, and refer to the central tender review committee, where the transaction exceeds the threshold of the ETC. The Tender Evaluation Panel ensures that the predetermined and published evaluation criteria is followed. The Act also requires the establishment of tender review committees with the mandate to ensure approval of procurement in accordance with the thresholds. There are three tender review committees, the Central Tender Review (CTR), Ministerial Tender Review, and Regional Tender Review (RTR) committees.

The current institutional framework of public procurement, significantly influenced by the 2003 and 2016 reforms among other things

aims to address issues relating to efficiency, value for money, transparency, accountability and predictability in procurement processes. It applies the tiered system of approval through the tender review committees which is a departure from the previous procurement system where the procedure was centralized in a single agency, opening it up to several forms of abuse. While these reforms demonstrate efforts towards improving transparency in the procurement system, decision making on key procurement activities related to (single sourced and restricted tendering) is complex, leading to breaches of the procurement law. There have been several instances of delays in the approval of procurement transactions by the PPA, and untimely publication of procurement plans by the entities on the PPA website. Additionally, there have been instances where head of entities have engaged directly with contractors on several procurements

Figure 2: Institutional Framework of Ghana's Public Procurement System



Source: Author's Construct- Public Procurement Act 2003, Act 914 (Amended 2016)

indicating the lack of oversight responsibility of the PPA and the other layers such as the regional tender review committees.

The oversight responsibility of the PPA has been affected by the weak decentralization of the Authority. With the current institutional framework, effective monitoring and evaluation of procurement processes of about 660 public institutions has been a challenge. Section 3 of Act 914, requires the PPA to undertake regular monitoring and evaluation of procurement processes despite the establishment of the entity tender committee and regional and central tender review committees. Taking cognizance of the decentralized procurement entities, the physical absence of the PPA at the MMDA levels continues to pose a risk to efficiency of the procurement process. This is worsened by the weak digital interconnection between the PPA and MMDAs, MDAs and Public Boards, Corporations and Other Statutory Institutions. Additionally, MMDAs in most cases do not have the benefit of experts as procurement officers, which further compound the efficiency risk associated with procurement at the sub-national level.

The low utilization of the Ghana Electronic Procurement System (GHANEPS) by public institutions also contributes to the weaknesses in the oversight responsibilities of the PPA.

“ PPA says 76% of 335 institutions on GHANEPS do not use the-procurement system

The Head of IT Support of the PPA revealed that only 79 out of the 335 institutions (24percent) were using the e-procurement platform . The manual process creates delays and opens the procedures to manipulation, and affects efforts to ensure disclosure of procurement information by public institutions. The relevance of stronger oversight activities of the PPA is to establish a risk analysis that provides information on the efficiency of government procurement processes and the appropriate strategies that enhance government procurement activities. Also, strong oversight institutions at all levels of procurement ensures efficient dispute resolution. The current institutional framework reserves administrative reviews as the function of the board. The high number of procurement transactions and potential associated disputes could place a heavy burden on the board and affect timely resolution of challenges. With a strong oversight institution, certain disputes can be handled at the sub-national level, and reduce the waiting time of an administrative review. Efficient dispute resolution mechanisms tend to improve the confidence of bidders in the procurement process.

Demand-side accountability actors have been excluded from the current procurement system. The tender review committees are largely dominated by public officials and public servants which leaves less room for independent opinions in procurement decisions. For the tender review committees to function efficiently, more independent members are needed to strengthen the accountability and transparency of the work of the review committees. In recent times, some countries have introduced direct controls by involving community groups, civil society organizations, and other demand-side accountability actors throughout the procurement process. For example, the Social Witness Policy in Mexico, where a social witness either from CSOs, media and individuals of the district are allowed to participate in the procurement process to ensure accountability.

[PPA says 76% of public entities do not use e-procurement system - Ghana Business News](#)

Absence of anti-corruption agencies in the procurement institutional framework points to high corruption and integrity risk.

Public procurement tends to be exposed to corruption due to bureaucratic procedures and competing interest of stakeholders involved in the procurement chain. As a result, the participation of anti-corruption agencies has become very important to identify and address possible sources of corruption and real incidence of corruption. A review of the institutional framework and the composition of the review committees shows that there is no representative of the core anti-corruption agencies involved in the procurement processes. In Ghana the Commission for Human Rights and Administrative Justice (CHRAJ) and the Economic and Organized Crime Organization are the core anti-corruption agencies established to collaborate with other relevant state agencies to identify and address all forms of corruption in the country. Recently, the Office of the Special Prosecutor has been established as an additional layer of anti-corruption agency to support the fight against corruption. However, none of these

agencies are represented on the ETC and all other review committees from the central government level to the subnational level. This raises critical concerns about the nature and scope of corruption risk conducted before procurement activities are approved by the review committees. The absence a clear Anti-Corruption Procurement Strategy by the PPA also suggest that little or no corruption risk assessment and other integrity test conducted to prior to award of contracts. For instance, the Anti-Corruption Strategy of the Australian Federal Procurement Agency constantly establish organizational procedures, integrates anti-corruption measures in the work-day, reassesses the strategy, raises awareness of corruption among staff and direct focus on the consequence of corruption. The post-contract corruption analysis leaves little room for rigorous scrutiny of the issues since most of the evidence pointing to corruption would have been lost. In most cases, the incidence of corruption has been flagged by media, civil society organizations and other anti-corruption groups.

Box 1: Cases indicating poor corruption intelligence analysis prior to award of contract

1

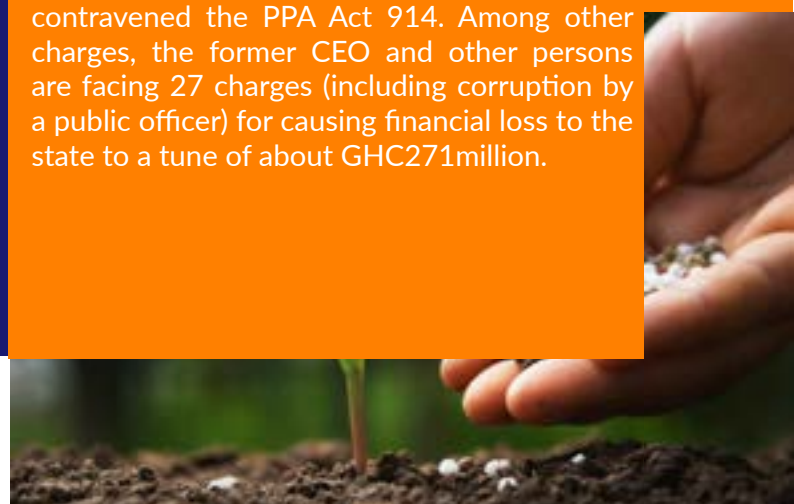
A. Bus Branding Contract:

In 2015, the procurement processes that led to the award of the bus branding contract to Smartty's Management and Production, a company owned by the wife of the brother of the former President Mahama, was found to have been compromised leading to an overpriced contract of US\$ 828,000. Till today, there are no publicly available reports on the factors that led to the overpriced contract, the penalties Smartty's suffered and any integrity risk report of the process.

B. Purchase of Lithovit Liquid Fertilizer:

The former Chief Executive Officer of COCOBOD is currently standing trial for the purchase of liquid fertilizer through sole sourcing. According to the Attorney General, the procedure contravened the PPA Act 914. Among other charges, the former CEO and other persons are facing 27 charges (including corruption by a public officer) for causing financial loss to the state to a tune of about GHC271million.

2

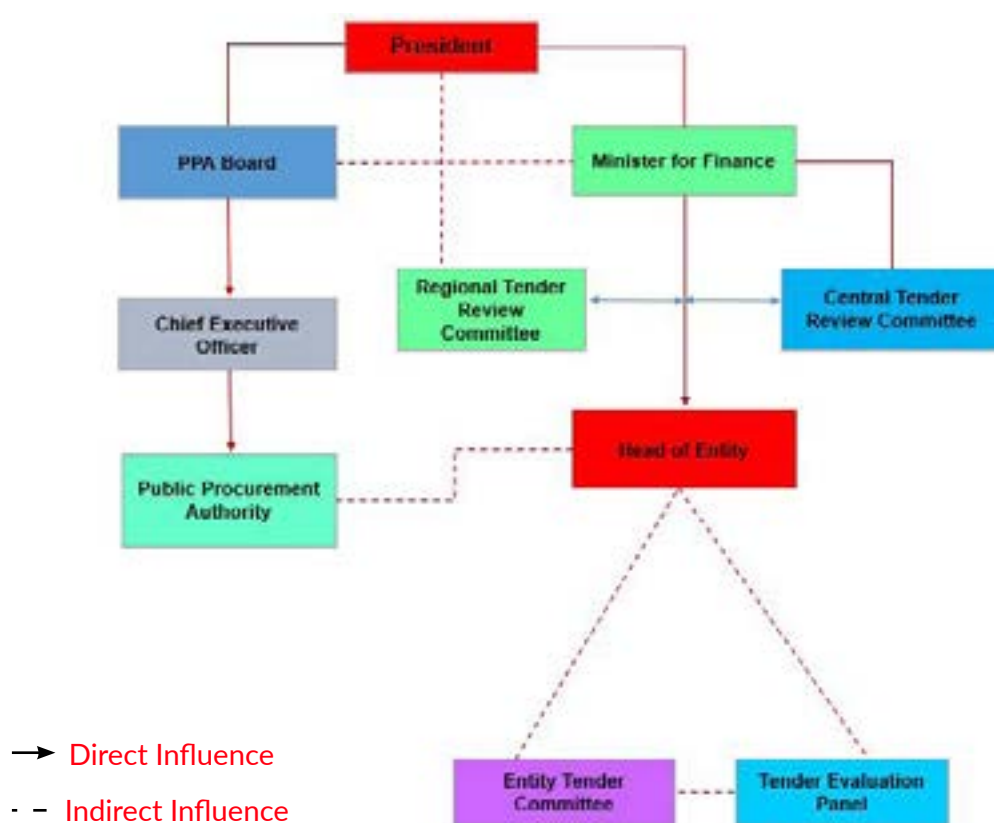


2.2 Core Influence Dynamics

The current institutional framework of the PPA demonstrate excessive influence of the executive arm of government over the overall public procurement systems. This is characteristic of Ghana's Fourth Republic where the President has excessive control over public institutions. The President appoints the members of the PPA Board, Chief Executive Officer, and the Minister for Finance, who are key actors in the public procurement system. The Minister for Finance working with the Board declares an entity as a Procurement entity. Such an architecture creates opportunities for political actors to exert significant influence over the procurement entities and results in manipulation of procurement process.

For example, the sale of PPA contracts to friends and companies of the former PPA Chief Executive. More recently, the CEO of the Northern Development Authority was alleged to have demanded money from contractors to support the campaign activities of the political party in 2020. In 2021, the Community Development Alliance reported several instances where government procurement during the pandemic for items such as the Covid-19 Tracking App, \$10million project for manufacturing PPEs, and the Frontiers airport PCR and antigen tests and Zoomlion fumigation contracts breached the Public Procurement Act

Figure 3: Core Influence Dynamics of Ghana's Public Procurement System



Source: Authors Construct- Public Procurement Act 2003, Act 914 (Amended 2016)

CEO of Northern Dev't Authority exonerated on contract breaches - Eagle Ghana News (eghnews.com)
 Contracts awarded to Zoomlion, Frontiers Healthcare Solution, others were in breach of procurement practices - Report - MyJoyOnline.com

The excessive political control of public procurement at the central government level is also seen at the entity level. The entity heads tend to have excessive control and influence over the procurement process through their influence over the tender evaluation panel and the entity tender committee. More than 80percent of the members are public service workers of the MDAs. In the case of the MMDAs, there are no external members such as professional groups and demand side actors. Moreover, the Act does not indicate the membership of the tender evaluation panel, which is a key component of the procurement process. As a result, entity heads can potentially influence the tender review processes, and the selection of tenderers for final awards of contract. It is expected that the entity tender committee would enhance accountability, ensure value for money and full enforcement of the procurement laws, however, the continuous breach of the procurement laws and more recently deliberate disregard of the procurement laws and regulations by some public officials (head of entity) have further raised questions about the relevance of the entity tender committees, whose primary responsibility is to ensure that the procurement laws are upheld at all times. Also in 2016, the 3.6million cedi contract to brand 116 Metro Mass Transit Buses clearly breached procurement laws because the agreement was signed before the procurement processes began¹.

Increased political control over public procurement systems in the long term weaken established institutions to address procurement inefficiencies and corruption risk. It encourages political clientelism and patronage system, where political actors manipulate procurement outcomes to favour party members in exchange for some benefits. Relationship based on clientelism go deeper into issues such as political party financing, and incentivize business owners to fund the political activities of the ruling administration in exchange for contracts. As a result, value for money is sacrificed for the financial and political interest of actors. In the end, SMEs are unable to compete effectively for contracts in public procurement systems.

2.3 Donor Supports for Public Procurement Reforms in Ghana

Ghana continues to benefit from donor-led interventions to reform the public procurement system. In 2008, Ghana was enlisted for the World Bank' "Use of Country Procurement Systems in Bank-supported Operations: Proposed Piloting Program." This was a three-stage national procurement evaluation to identify opportunities to enhance the capacity and effectiveness of national institutions in World Bank-supported countries to sustain the World Bank's development efforts in these countries. The first stage of this assessment, centered on the broader quality of Ghana's procurement system (employing the OECD-DAC methodology), was completed in August 2010. The recommendations bordered mainly on the scope of applicability of Act 914 which led to the amendment of section 14(1) of the principal Act 914. Section 14(1) hitherto vested some discretionary power in the finance minister over procurement methods as stated: [the PPA] "...applies to the procurement of goods, works, and services, financed in whole or in part from public funds except where the Minister decides that it is in the national interest to use a different procedure." This section was to take away the discretionary power from the Minister over the scope of applicability of the PPA. In addition to the donor-led interventions, the PPA has recently introduced some measures which seek to address the non-compliance and waste arising out of the procurement activities of public institutions.

The recent intervention is the US\$4million Ghana E-procurement System (GHANEPS), launched in 2019². This intervention aims to reduce procurement-related corruption by automating all hitherto manual procedures, thus eliminating face-to-face contacts. The GHANEPS also hosts information on procurement plans and opportunities. However, the e-Government Procurement initiative which was designed to facilitate procurement processes and reduce human interaction is fraught with delays, poor awareness, and weaknesses in design.

¹[Bus branding deal signed before procurement process began - Citi 97.3 FM - Relevant Radio. Always \(citifmonline.com\)](#)

²[GHANEPS support from the e-transform project \\$4m not \\$97m- PPA – PPA Ghana](#)

Also, the establishment of the Procurement Audit and Value for Money/Due Diligence Units by the Public Procurement Authority in 2017, has not been effective in addressing the corruption risk associated with public procurement, since all the Talent Discovery Limited colluded contracts occurred at the time the unit was established. Despite being introduced to assess the reasonableness of justifications provided by entities in their applications for sole sourcing and restrictive tendering, some non-competitive contracts have failed the requirement of the law. In the long run, the procurement irregularities have resulted in significant financial losses to the state, established clientelism and political patronage that compromise on quality, and negatively affects the delivery of optimal services to citizens. Additionally, the promise by the NPP in 2016 to setup a procurement unit at the Ghana Audit Service to serve as additional oversight to control the wastage was less useful because it had no responsibility under the PPA law.



We do not own the right to the cover images used in this report. Appropriate references are provided in the footnote

A magnifying glass with a black handle and a silver rim is positioned over a grid background. The lens is focused on a yellow line graph that starts at the top left, moves down, then right, then down, then right, and finally down. A white arrow points upwards from the top left towards the start of the yellow line. The background is a dark grid with a subtle pattern of white lines.

**ANALYSIS OF
PROCUREMENT
IRREGULARITIES AND
PREFERRED PROCURE-
MENT METHODS BY
PUBLIC INSTITUTIONS**

Key Takeaways

- The trend of financial value of procurement irregularities have not changed compared to the value in 2020 in the case of public boards and corporations, however, inflation had a significant impact on the financial value of irregularities of MDAs between 2015 and 2019.
- Infrastructure-based ministries and public corporations are more associated with high procurement irregularities. Ministry of Energy and Ministry of Roads and Highways account for nearly 75percent of overall procurement irregularities by public corporations.
- The common procurement method swings in favour of open competitive tender, however, single sourcing and restricted tendering account for more than 80% of the financial value of public procurement.
- Excessive abuse of procurement laws and weak/ineffective contract management by public institutions was the major driver of procurement irregularities.

3.1 Analysis of Procurement Irregularities

The analysis of procurement irregularities focused on a ten-year period from 2010 to 2020. The data collected from the Auditor General's (AG) report in the case of the MDAs included stores irregularities because the AG does not disaggregate procurement from stores. However, the analysis of irregularities for Public Boards, Corporations and other Statutory Agencies used only the procurement irregularities. Over the period, the AG reported an absolute cumulative procurement/stores irregularities of GHC143.7million (GHC143,737,891.55) in the case of MDAs.

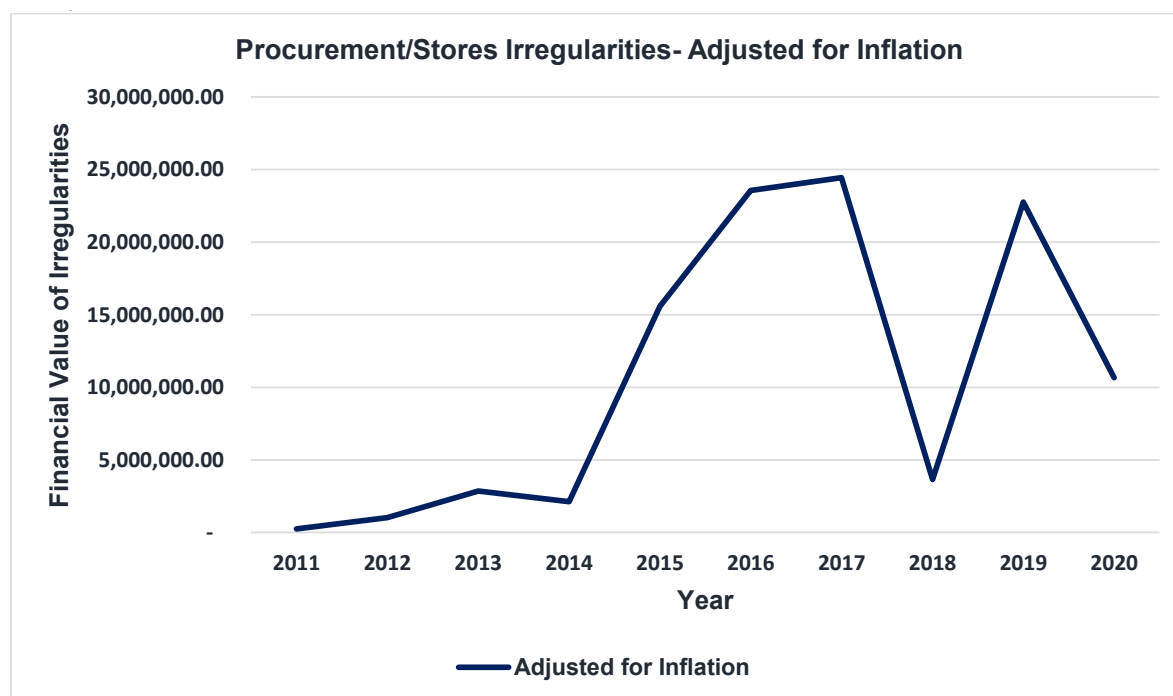
The data was adjusted for inflation to cater for the effect of price changes on the spending and the recorded monetary irregularities. The adjustment was undertaken with reference to the Consumer Price Index of 2020. This was to understand if the procurement irregularities recorded in the past were higher than current irregularities and vice versa. When the data is adjusted for inflation, the cumulative irregularities decline from GHC143.7million to GHC106.9million.

The analysis also further reveals that high pro-

curement/stores irregularities of MDAs were recorded from 2015 to 2017, and declined in 2020 primarily due to the pandemic. The analysis also shows that the years before and during elections record relatively high levels of irregularities. While there are no empirical reasons to explain the high irregularities in these periods, it can be argued that election years are mostly characterized by numerous projects, and procurement systems are more likely to be sidestepped. As such, the distorted spending influenced by political decisions to win the vote tends to result in improper planning occasioned by relaxed procurement rules.

“ Over the period, the AG reported an absolute cumulative procurement/stores irregularities of GHC143.7million (GHC143,737,891.55) in the case of MDAs.

Figure 4: Trend of Procurement Irregularities of Ministries, Department and Agencies (2010 to 2020)



Data Source: Ghana Audit Service Chart: IMANI & ACEP

An institutional procurement irregularity ranking was conducted to rank MDAs with the highest procurement irregularities from 2010 to 2020. The analysis in Table 1 shows that the Ministry of Finance contributed significantly to the total procurement irregularity recorded over the period. The cumulative procurement irregularity was GHC49.2million representing about 34.3percent of the total procurement/stores irregularities recorded over the period. This is followed by the Ministry of Health and Ministry of Local Government, Decentralization and Rural Development with a cumulative procure-

ment/stores irregularity of GHC33.3million and GHC23.5million, representing 23.2percent and 16.4percent respectively. These three ministries over the period accounted for 74percent of the cumulative procurement stores irregularities. Overall, the 11 MDAs (highlighted in blue) used for this analysis contributed about 97percent of the cumulative procurement/stores irregularities over the period of study.

Table 1: Ministries, Departments and Agencies Procurement Irregularity Ranking (2010-2020)

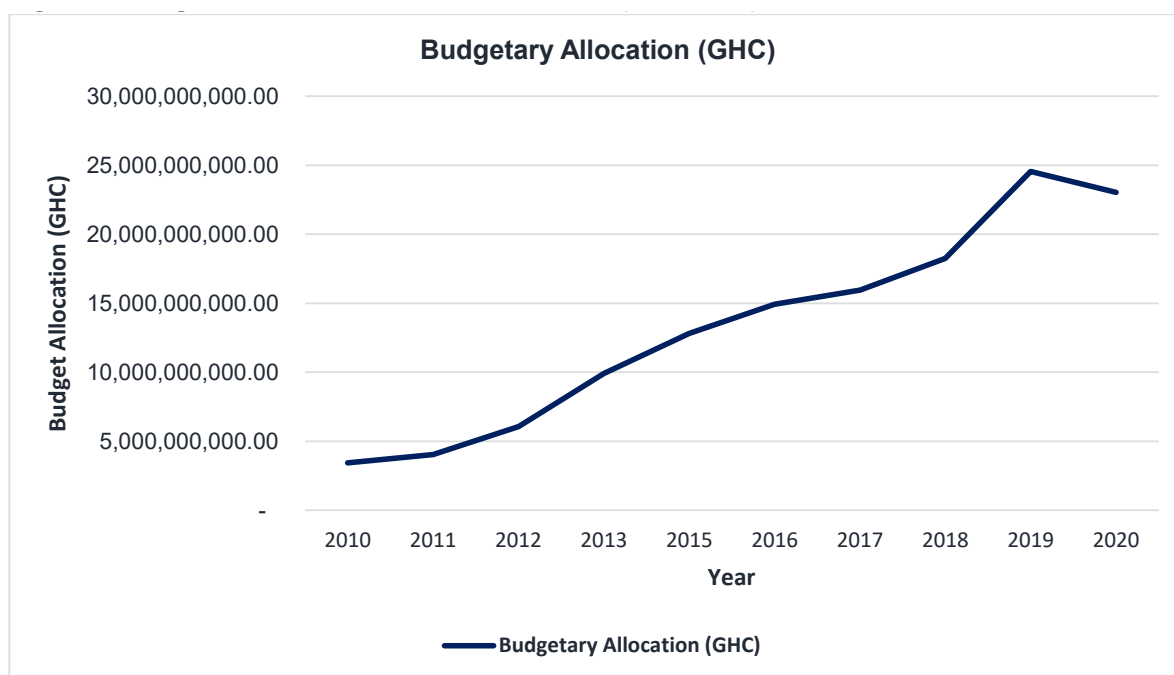
Institution	Value of Irregularities (GHC)	%
Ministry of Finance	49,249,461.69	34.3
Ministry of Health	33,318,826.46	23.2
Ministry of Local Government, Decentralization & Rural Development	23,545,147.43	16.4
Ministry of Education	8,977,765.20	6.2
Ministry of Environment, Sci. & Tech	6,394,875.00	4.4
Ministry of Defence	6,147,549.64	4.3
Ministry of Tourism, Arts & Culture	5,362,431.00	3.7
Ministry of Special Development Initiative	1,932,554.00	1.3
Ministry of Food and Agriculture	1,917,211.21	1.3
Ministry of Transport	1,673,648.00	1.2
Ministry of Justice and Attorney General Department	1,221,747.24	0.8
Ministry of Roads and Highways	701,607.69	0.5
Ministry of Interior	645,323.92	0.4
Other Agencies/Gov't Machinery	502,558.96	0.3
Ministry of Youth and Sports	493,003.65	0.3
Ministry of Works and Housing	390,138.30	0.3
Ministry of Employment and Labour Relations	353,891.83	0.2
Ministry of Gender, Children and Social Protection	329,555.19	0.2
Ministry of Trade and Industry	278,684.00	0.2
Ministry of Chieftaincy	151,572.65	0.1
Ministry of Lands and Natural Resources	120,762.50	0.1
Ministry of Fisheries	23,264.00	0.0
Ministry of Information	6,312.00	0.0
Ministry of Communication	0	0.0
Ministry of Creative Arts	0	0.0
Ministry of Foreign Affairs & Regional Integration	0	0.0
Total	143,737,891.55	100.0

Source: IMANI & ACEP, 2021

Typically, MDAs spending increase when there is an increase in budgetary allocation. The increased spending arising out of new and existing programmes by the government could possibly affect the level of irregularities. The budgetary allocation of the 11 MDAs used in this study was tracked and analysed to ascertain the trend of budgetary allocation for the MDAs. The analysis shows that since 2010, the total budgetary

allocation to the 11 MDAs have increased consistently. However, this does not suggest that MDAs procurement irregularities increase when the budgetary allocation increases. Nonetheless, it suggests that without stronger internal systems, MDAs are more likely to experience increase in irregularities when budget allocations increase. This is illustrated in **Figure 2**.

Figure 5: Budget Allocation of the Selected MDAs (2010-2020)



Source: National Budget and Economic Policy, Ministry of Finance

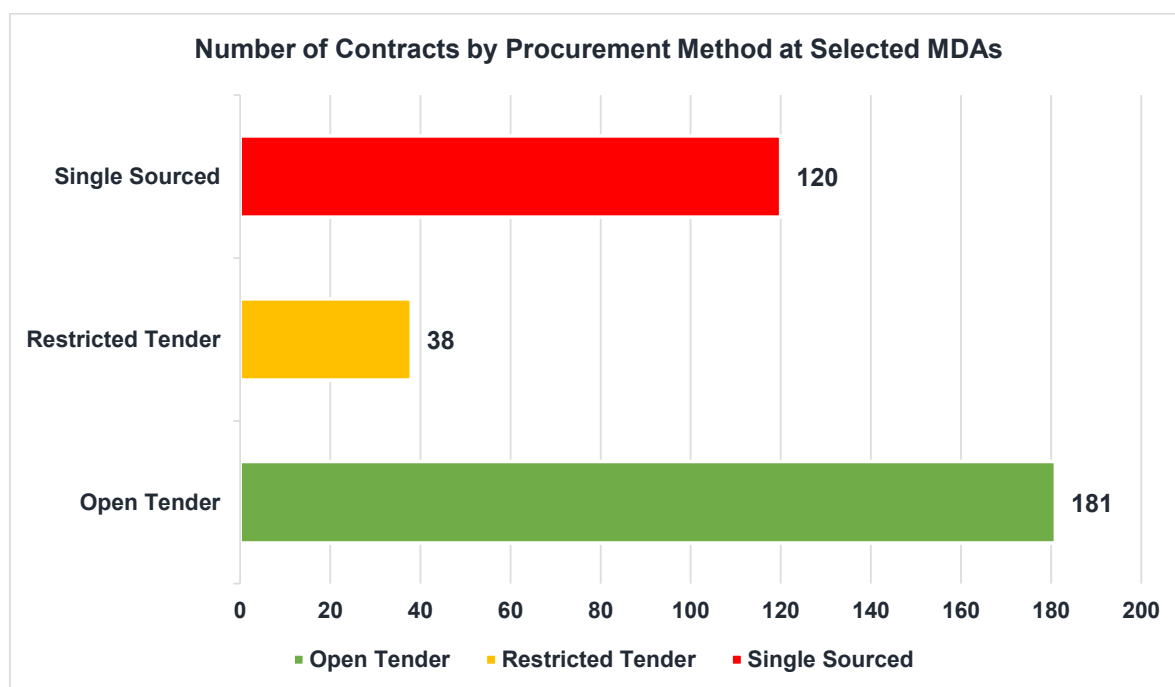
3.2 Analysis of the Procurement Methods of Ministries, Departments and Agencies

This section focused on analysing the common or preferred method of procurement by the selected MDAs. The procurement contract summaries published on the PPA website were used to collect data on the common methods used by the MDAs and the financial value of the contracts. In the case of the selected MDAs, a total of 339 transactions were published by the 11 MDAs on the PPA website. The total financial value of all the contracts of the respective MDAs was GHC19.9billion. Out of the 339 transactions published, 181 were procured through

open competitive tender, 120 procured through single sourcing and 38 used restricted tendering. This suggests that the common or most preferred method by the selected MDAs was open competitive tender.

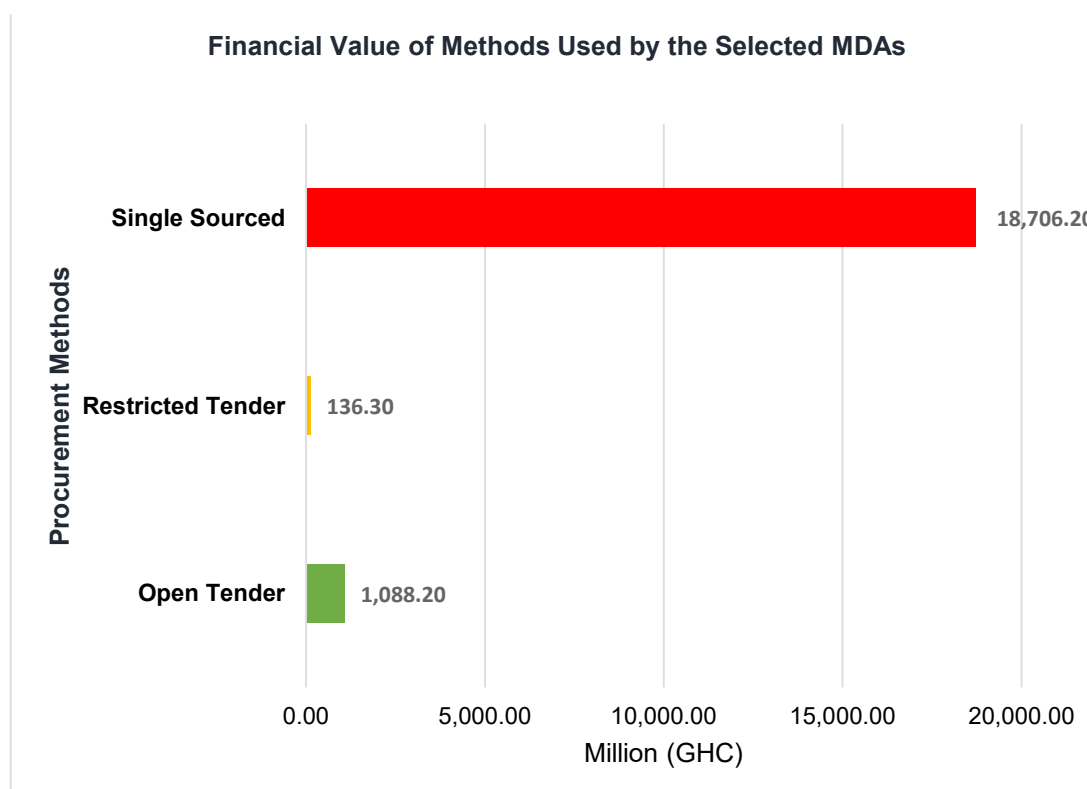
However, an analysis of the financial value of the transactions procured using these three methods reveal that out of the GHC19.9billion, GHC18.6billion was procured using single sourcing, GHC1.09billion was procured through open competitive tendering, and 136.3million was transacted using restricted tender. This indicates that the single-sourcing method was mostly used for high financial value transaction since the combined financial value is almost nine (9) times the financial value of open competitive tender.

Figure 6: Procurement Methods by the Selected Ministries, Department and Agencies



Source: [PPA](#)

Figure 7: Financial Value of the Methods Used by the Selected MDAs



Source: [PPA](#)



Table 2: Procurement Methods of Selected Ministries, Department and Agencies

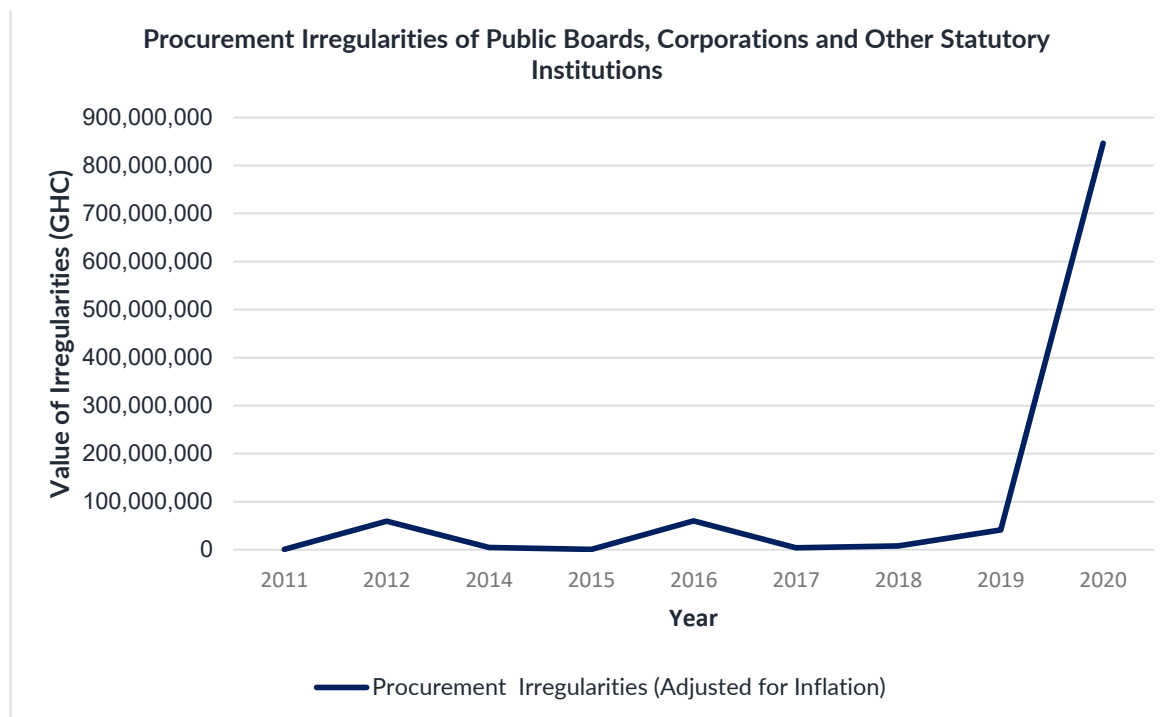
Institution	Open Competitive Tender	Single Sourcing	Restricted Tender	Total
Ministry of Environment Science & Technology	9	1	-	1
Ministry of Local Government, Decentralization and Rural Development	21	8	-	29
Ministry of Defense	-	-	1	1
Ministry of Tourism and Creative Arts	2	-	4	6
Ministry of Transport	2	4	1	6
Ministry of Justice and Attorney General	1	-	-	1
Ministry of Finance	11	21	1	33
Ministry of Education	50	11	7	68
Ministry of Health	69	83	9	161
Ministry of Food and Agriculture	16	-	6	22
Ministry of Interior	-	2	-	2

Source: PPA

In the case of the Public Boards, Corporations and other Statutory Institutions, the analysis of irregularities covered a nine-year period from 2011-2020, except 2013 where data on the report of the AG was not publicly available. The analysis shows that the cumulative irregularities by public boards, corporations and other statutory institutions of the MDAs was GHC1.05billion

(GHC1, 054,083,435.04). The highest irregularities was recorded in 2020, which can be attributed to the emergency pressures occasioned by the pandemic leading to relaxed regulatory oversight in public procurement. The irregularities were adjusted for inflation using the CPI of 2020 as reference, but the trend of irregularities does not change markedly from the past.

Figure 8: Procurement Irregularities by Public Boards, Corporations and Other Statutory Institutions



Source: Ghana Audit Service

The high irregularities in 2020 was hugely driven by the Ministry of Energy where GHC224.6million (US\$39million) was attributed to the award of contracts by the Bulk Oil Storage and Transportation to Rolider Company in 2015 towards the construction of its head office complex without the approval of by the PPA board to use restricted tendering. Also, BOST awarded contracts of about US\$5.13million through restricted tendering without approval from the central tender review committee. Moreover, Ghana National Petroleum Corporation awarded five international business contracts total-

ling US\$34,165,235.15 (GHC159,209,995.80) without parliamentary approval. Although these examples occurred before the pandemic, they point to the existing vulnerabilities in regulatory oversight, which can further deteriorate under these emergency times.

The Ministry of Energy, Ministry of Roads and Highways, and Ministry of Education accounted for 75percent of the cumulative irregularities recorded by public boards and corporations related to them. The ranking of the sector ministries are presented in Table 3 below.



Table 3: Ranking of Sector Ministries based on Procurement Irregularities by Public Boards, Corporation and Other Statutory Institutions (2010-2020)

Institutions	Value of Procurement Irregularities (GHC)	%
Ministry of Energy	440,084,570.87	41.75
Ministry of Roads and Highways	353,811,195.96	33.57
Ministry of Education	116,474,660.43	11.05
Ministry of Interior	53,927,877.00	5.12
Ministry of Food and Agriculture	42,973,024.49	4.08
Ministry of Transport	18,160,386.81	1.72
Ministry of Local Governance	9,200,000.00	0.87
Extra Ministries	7,806,664.00	0.74
Ministry of Communication	3,920,401.54	0.37
Ministry of Health	2,029,884.80	0.19
Ministry of Works and Housing	1,297,154.00	0.12
Ministry of Employment, Labour and Man-power	1,213,517.00	0.12
Ministry of Trade and Industry	1,173,085.20	0.11
Ministry of Justice and Attorney General	856,277.50	0.08
Ministry of Information	449,084.85	0.04
Ministry of Land and Natural Resources	210,201.59	0.02
Ministry of Finance	159,874.40	0.02
Ministry of Chieftaincy and Culture	146,499.60	0.01
Ministry of Tourism, Culture and Creative Art	138,295.00	0.01
Ministry of Youth and Sport	50,780.00	0.00
Total	1, 054,083,435.04	100

Source: Ghana Audit Service

The data also suggest that the procurement irregularities were concentrated around the Ministries involved in capital intensive projects such as the Ministry of Energy, Ministry of Roads and Highways, and the Ministry of Transport. This can be attributed to the bureaucratic process involved in securing such high-value projects, which may lead to violation of the rules of procedure. Nonetheless, some of the violations can be attributed to negligence or wilful non-compliance with the rules. For example, Ghana Maritime Authority awarded a contract through single-source without approval of the PPA Board, which is a clear breach of Section 40 of Act 663³. Another instance of clear violation of the law is the case of Ghana Ports and Harbour Authority initially awarding a contract to PKF Scientific Limited to supply chemistry analyser. However the contract was executed by a non-tenderer, DCL at an additional cost of GHC23,427.42.

Over the period of the analysis, the study found critical social sectors such as the Ministry of Education and Health recording high procurement irregularities. The Ministry of Health's irregularities constitute more than one-fifth of the total irregularities of MDAS, and the Ministry of Education accounts for 11percent of the total irregularities of public boards and corporations. This trend raises significant concerns about the efficiency of services delivered by these agencies as they play crucial roles that impacts directly on the welfare of citizens. Therefore, high procurement irregularities imply uncompetitive purchases which could lead to products delivered at relatively higher prices. In 2018, the AG reported that the Ministry of Education's procurements were uncompetitive because they failed to receive more quotations from many suppliers⁴. Similarly, the 2020 AG report reveals about GHC5.8million uncompetitive procurement by the Ministry of Health for the purchase of 26 Budget Management Centres⁵.

3.3 Analysis of Common Procurement Methods by Selected Public Boards, Corporations and Other Statutory Institutions

The analysis of the common procurement methods of the public boards and corporations focused on seven (7) sector ministries. These Ministries were selected based on their contribution to the cumulative procurement irregularities and access to transactions published on the PPA websites. A total of 832 transactions of the public boards and corporations under the selected Ministries were accessible on the PPA website. Out of the 832 transactions accessed, 429 were awarded through open competitive tender, 160 through restricted tender, and 243 through single sourcing method. This suggests that the common method used by public boards and corporations of the selected Ministries is open competitive tender. The financial value of the 832 transactions was GHC14.04billion. Contracts awarded through restricted tendering constituted about 56percent (GHC7.8billion) of the total financial value of the transactions and more than twice of the financial value of open tendered contracts, and 22percent (GHC3.1billion) each for single-sourced and open competitive methods. This suggests that high financial value transactions are less likely to be transacted through open competitive tender.

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Over the period of the analysis, the study found critical social sectors such as the Ministry of Education and Health recording high procurement irregularities.

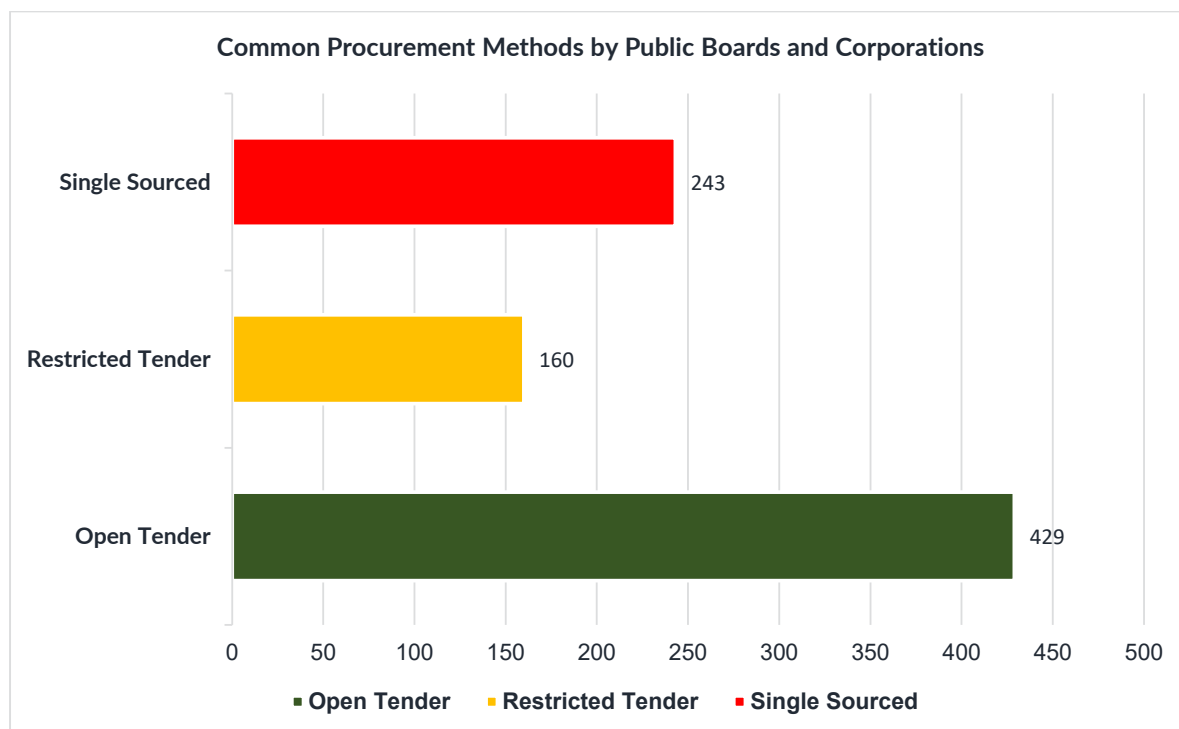
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³*[Audit-Service 2020-PUBLIC-BOARDS_17_06_21.pdf \(ghaudit.org\)](#)

⁴ [MDA.cdr \(ghaudit.org\)](#)

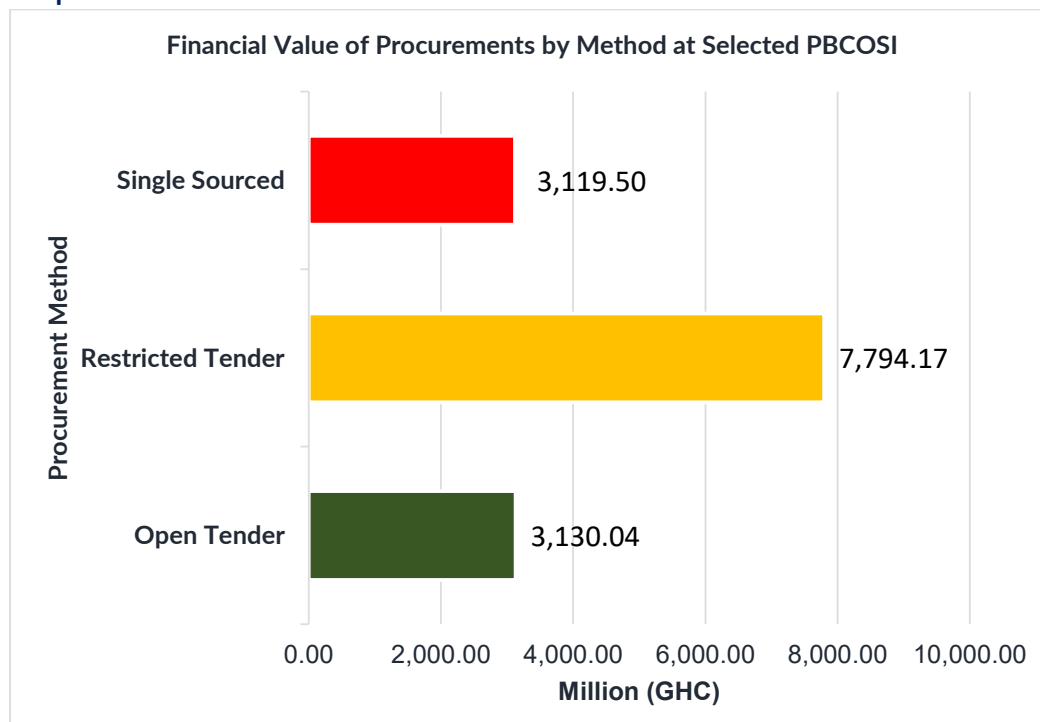
⁵ [Microsoft Word - 2020 MDAs Report Final Reviewed.docx \(ghaudit.org\)](#)

Figure 9: Common Procurement Method Used by Selected Public Boards and Corporations



Source: [PPA Ghana](#)

Figure 10: Financial Value of the Common Procurement Methods by Public Boards and Corporations



Source: PPA

Table 4: Procurement Methods of Selected Public Boards and Corporations

Institution	Open Competitive Tender	Restricted Tender	Single Sourcing
Ministry of Education	289	17	43
Ministry of Transport	28	30	27
Ministry of Energy	45	32	34
Ministry of Food & Agriculture	5	47	131
Ministry of Roads and Highways	36	0	3
Ministry of Lands and Natural Resources	13	3	0
Ministry of Justice and Attorney General	0	0	3
Ministry of Communication	13	31	2

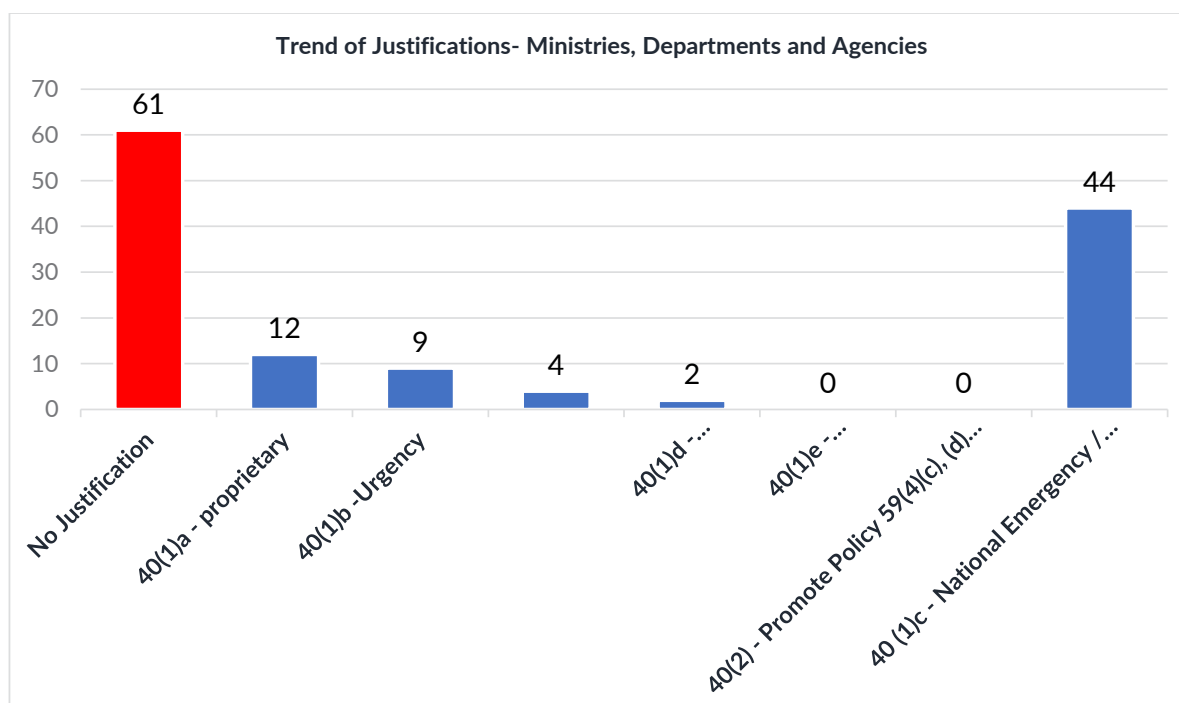
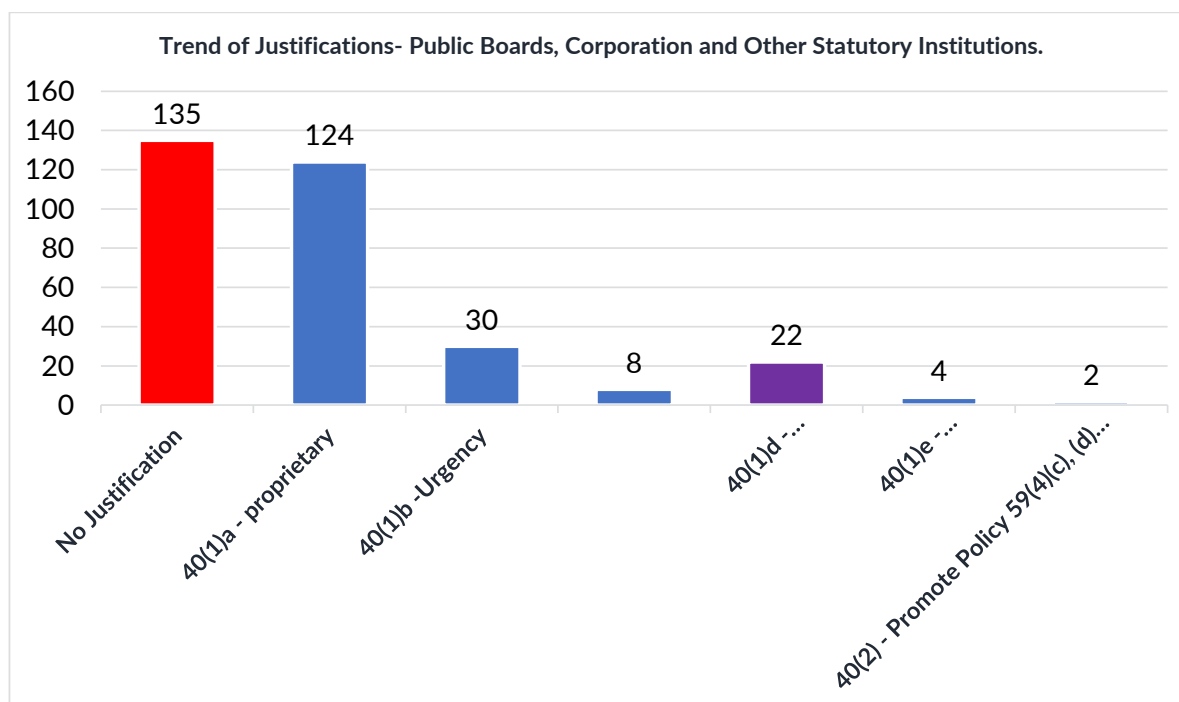
Source: PPA Ghana

The analysis of the justifications for the use of single sourcing or restricted tendering as required by the PPA Act, revealed that no justifications were provided for about 42percent of the transactions procured using these methods by the selected public boards and corporations. This makes it difficult to ascertain whether the circumstances under which the methods were used are in line with the PPA Act. Additionally,

it is to prevent demand-side actors from holding public institutions accountable for their procurement decisions. In the case of the MDAs, no justification for the use of single sourcing and restricted method was provided for 46percent of the transactions procured using these methods. These contravene Sections 3(g) and 28(1)(i) of the PPA Act.

Figure 11: Trend of Justifications for Using Single Sourcing and Restricted Tendering

The high financial value of single source transaction in the case of the MDAs and the high value of



restricted tendering contracts of public boards and corporations can also be explained by the nature or form of the transactions the PPA Act permits. According to the PPA law, these methods are designed to be used for goods and services where there are limited suppliers, proprietary products, in cases of emergency, an additional supplier to a previous transaction, and urgency. Products that are proprietary are mostly premium products, thus the prices are more likely to be high compared to goods and services that have multiple suppliers, and thus the aim is to use open competitive tender to secure low prices and high quality. Nonetheless, the trend of high spending on non-competitive procurement methods raises concern about the extent to which public institutions are strategic in ensuring competitive procurement, especially in goods, services, and works where suppliers are limited.

Generally, the analysis of mapping the transactions to the suitability of method does not clearly indicate a rampant breach of choice of method, although there were several instances where the choice of method did not meet the requirement of the law. For example, the Ministry of Finance used single sourcing to purchase

Christmas rice and other package for staff. This transaction does not satisfy any of the conditions under Section 40(1) of the PPA Act. Nor does the use of single-source or restricted tender to purchase office stationary. Additionally, the analysis of the transactions reveal rampant use of Section 40(1)(b) as justification for choosing a non-competitive procurement method due to urgent need of the good or service. This raises questions about the nature of need analysis undertaken by the procurement entities. The right need analysis helps to forecast future goods and services needed, and help to adopt a competitive method to achieve value for money.

On the other hand, the analysis of the transactions revealed rampant abuse of the procurement law. The analysis identified multiple cases of non-compliance with the law. This was supported by a thorough analysis of the AG's report where most of the irregularities reported by the AG were linked to non-compliance with the law. Between 2010 and 2020, the analysis identified about 30 procurement irregularities reported by the AG which are linked to non-compliance with the PPA Act (See Box 2- for examples). In almost all the cases reported by the AG, the method used for procurements leading to irregularity was single sourcing or restricted tendering. Although there is insufficient information to conclude that contracts awarded through single sourcing or restricted tendering are more likely to be abused or result in irregularity, the consistent report of procurement infractions by the AG were largely linked to single sourced contracts that were awarded without approval of the PPA board. These point to weaknesses in the safeguard measures implemented when single source or restricted tender methods are used.

“ Between 2010 and 2020, the analysis identified about 30 procurement irregularities reported by the AG which are linked to non-compliance with the PPA Act

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Box 2: Cases of Abuse of the Procurement Law

1

Construction of Bulk Oil Storage and Transportation Company Head Office Complex:

BOST requested to use single sourcing from the PPA in November 2015 (letter referenced: BOST/SCR.35/PPA/PRO/SF.1/17569) after it has awarded the contract in June 2015 to Rolider Company for the construction of its Head Office Complex. The contract price reported by the AG was US\$39million. In December 2015, the PPA granted approval for BOST to use restricted tendering to select any of the companies; Amandi Holding Ltd, Rolider Company, Greycrest Construction Ltd and Projectual Engineering Services in a letter referenced PPA/CEO/12/2474/15 dated December 23, 2015. Clearly, the contract was awarded before BOST requested approval from the PPA which contravenes Section 38(1) of the PPA Act which says that a procurement entity may engage in restricted tender subject to approval by the PPA. Also, Section 39(2) requires entities choosing to engage through restricted tender to publish the notice in the PPA's bulletin, however, this agreement was not published in the 2015 e-bulletin of the PPA and the link provided to restricted contracts from Jan-Dec 2015 are not accessible. The engagement between BOST and Rolider Company contravenes Section 92 of the PPA Act, however, there are no publicly available document sighting sanctions by the PPA.

In the 2020 audit review by the AG, BOST also awarded a contract of US\$5,129,170.05 through restricted tendering without approval from the Central Tender Review Board. No sanctions were issued against BOST or the personnel involved.

2

2. Ghana Maritime Authority- Installation of Vessel Information Traffic Management System:

In 2010, the Ghana Maritime Authority awarded a contract to Zeni Maritime Technology of Finland for the installation of Vessel Traffic Information Management System for coastal surveillance in Ghana and Automatic Identification System for Lake Volta. Subsequently, Zeni Maritime Technology recommended to the Government of Ghana (in a letter referenced ZL/Ghana/26-08-10 (1) of 26th August, 2010), Eltel Networks Corporation as the suitable replacement to provide the same services. The Ghana Maritime Authority signed a contract with Eltel Networks Corporation to that effect in December 2010. However, in 2014, the same contract for installation of Vessel Traffic Information Management System for coastal surveillance in Ghana and Automatic Identification System for Lake Volta was awarded to Zeni Lite Buoy Co. at a sum of £647,815 (GHC3,232,596.85) through single sourcing without approval of the PPA Board, contravening Section 40 and 87 of the PPA Act. The Ghana Maritime Authority wrote to the PPA (letter referenced GMA5/1/05 of 30th January, 2019) in 2019 to seek approval for using single sourcing and ratification of the contract. The Ghana Maritime Authority is yet to receive approval from the PPA. The investigation by the PPA is yet to be conducted.



Similarly, the Ghana Maritime Authority between 2015 and 2018 awarded contracts beyond the threshold allowable to use Request for Quotation. The Fifth Schedule of the PPA Act 663 as amended sets the threshold for price quotation of goods and services at GHC100,000 and GHC200,000 respectively. However, the

transactions in Table 5 below shows that the Ghana Maritime Authority used an inappropriate method to award contracts at a total sum of GHC1,333,520.93, and violated Sections 42 and 43 of the PPA Act 663 as amended. No sanctions have been published by the PPA.

Table 5: Inappropriate Methods Used by the Ghana Maritime Authority

Transaction	Method Used	Appropriate Method	Supplier	Value (GHC)	Threshold (GHC)
1. Contract for the renovation of the DG's bungalow	Request for Quotation	National Competitive Tender	Mills Sarfo Co. Ltd	278,204.00	200,000
2. Contract for the development of Accounting Polices and Procedure Manual	Request for Quotation	National Competitive Tender	SWQ Consulting Limited	262,998.40	200,000
3. Procurement of storage Solution	Request for Quotation	National Competitive Tender	Radius Consulting Ghana Ltd	171,939.74	100,000
4. Procurement of IT Devices	Request for Quotation	National Competitive Tender	EMAT Technology	142,346.00	100,000
5. Procurement of IT Devices	Request for quotations	National Competitive Tender	IT Market	125,115.00	100,000
6. Procurement of backup Solution	Request for quotations	National Competitive Tender	Radius Consulting Ghana Ltd	115,204.79	100,000
7. Supply of Generator Set for Tema Office	Request for quotations	National Competitive	G & J Technical Services Ltd	102,588.00	100,000
8. Supply of food, drinks and music for end of year dinner	Request for quotations	National Competitive	Luxe Suites hotel	135,125.00	100,000
Total				1,333,520.93	

Source: [Audit-Service_2020-PUBLIC-BOARDS_17_06_21.pdf](#) (ghaudit.org)

3 The Ghana Ports and Harbour Authority- Award of Contract to Non-tenderer:

In 2018, the Ghana Ports and Harbour Authority advertised to use a national competitive tender to award contract for the supply of chemistry analyser. Four (4) tenders were purchased and two were found to be responsive by the close of the tender; PKF Scientific Limited and Namarka Medicals Limited with price quotations GHC248,246.87 and GHC363,510.00 respectively. The Tender Evaluation Panel recommended to the Entity Tender Committee, PKF Scientific Limited as the suitable and responsive supplier. However, the tender was awarded to DCL, a company that did not participate in the competitive tender at a price quotation of GHC276,674.27, which is higher than the price quotation of PKF Scientific Limited by about GHC28,427.40. The Committee's reasons for awarding the contract to DCL, a non-tenderer was that the chemical analyser that would be supplied by PKF Scientific Limited would require more distilled water compared to the type supplied by DCL according to the Head of Laboratory at the Takoradi Port. However, DCL did not participate in the tender. This raises two key questions; 1. On what grounds did the Tender Evaluation Panel conclude the tender of PKF as responsive in accordance with the definition of a responsive tender by Section 58(1) of the PPA Act 663 as amended? 2. Why didn't the ETC recommend PKF to

demonstrate its qualification again based on the response from the head of laboratory as stipulated in Section 62 of Act 663 as amended? Ghana Ports and Harbour Authority awarded the contract to DCL that had participated in a different national competitive tender. These indicate that the requirements used to select DCL were not part of the pre-qualification conditions, thus the tender was compromised by using different conditions and selecting a non-tenderer.

A review of the AGs report further shows that between 2017 and 2019, the Ghana Ports and Harbour Authority engaged in several single source and restricted tendering contracting of almost GHC6,308,886.14 without the approval of the PPA. The list of awards and financial value are shown in Table 6 below. Cumulatively, GPHA awarded six different contracts to the same company (Toyota Ghana Co. Ltd) at a sum of GHC4,542,577.47 between March 2017 to November 2018 without approval from the PPA. Also, GPHA awarded contract of GHC1,193,398.67 to Atlantic Measures Atlantic Climate Control Ltd in 2019 without approval from the PPA. The PPA is yet to publish sanctions against the management of GPHA despite the recommendation by the AG for sanctions to be meted to the officers involved in the procurement transactions discussed in this case study.



Table 6: Single Sourcing and Restricted Tendering Contracts Awarded without Approval of the PPA

Transaction Details	Date	Company	Amount (GHC)	Method Used
1. Supply of one (1) Toyota Land Cruiser-GX 1945- 17	10/01/2018	Toyota Ghana Co. Ltd	558,643.36	Single Sourcing
2. Supply of Saloon Car (3 Unit Toyota Camry)	01/11/2018	Toyota Ghana Co. Ltd	799,580.76	Single Sourcing
3. Supply of Saloon Car (4 Unit Toyota Camry)	01/04/2018	Toyota Ghana Co. Ltd	999,999.80	Single Sourcing
4. Supply of Saloon Car (4 Unit Toyota Camry)	01/04/2018	Toyota Ghana Co. Ltd	999,999.81	Single Sourcing
5. Training & Certification of Plant operators	15/03/2017	CITPaterson Simons Company	177,660.00	Single Sourcing
6. Supply of 1No Toyota Land cruiser for the director of port-Takoradi	09/07/2018	Toyota Ghana Co. Ltd	592,176.87	Single Sourcing
7. Supply of 1No Toyota Land cruiser for the director of port-Tema	13/06/2018	Toyota Ghana Co. Ltd	592,176.87	Single Sourcing
8. Supply of 1No. Audi A6 vehicle	11/01/2018	Stallion Motors Gh. Ltd	395,250.00	Single Sourcing
9. Construction of Central Stores and Electrical Engineering offices for GPHA-Air conditioning works	23/05/2019	Atlantic Measures Atlantic Climate Control Ltd	1,193,398.67	Restricted Tendering
Total			6,308,886.14	

Source: [Audit-Service_2020-PUBLIC-BOARDS_17_06_21.pdf](#) (ghaudit.org)

These cases are a few of the multiple flagrant violations of the PPA law without any form of sanctions meted to the agencies. In all the three cases demonstrated above, the AG recommended sanctions on the agencies and the individuals involved in the transaction, however, the PPA and Attorney General is yet to implement the sanctions recommended by the AG. These also suggest growing tolerance of violations of the PPA Act by the Authority, and further demonstrate the weaknesses in the oversight functions of the PPA. Additionally, the State Interest and Governance Authority, responsible for ensuring public institutions deliver high value for money and dividend to government has not responded to the growing abuse of procurement laws by

public corporations. The irregularities and deliberate violation of the procurement laws at the institutional level raises concerns about the internal audit functions and controls in the institutions. The analysis of procurement irregularities over the period also revealed weak or ineffective contract management systems leading to loss of money or waste of goods procured. The analysis uncovered multiple instances where payments have been completed but the goods were not supplied, indicating ineffective contract management to ensure fulfilment on the part of the supplier. Also, the analysis revealed instances where works or services were fully paid but the construction never happened.

Box 3: Case Studies Illustrating Weak/Ineffective Contract Management

1 Ministry of Foreign Affairs and Regional Integration (Riyadh Missions)⁶- Payment for No Work Done:

In 2017, the Riyadh Mission awarded a contract to Glinco Construction and Engineering Services for consultancy services in respect of the construction of Residency. According to the AG's analysis, H. E. Alhaji Said Sinare and the Head of Chancery, Mr. Martin Adu Ago paid an amount of US\$60,000 with PV No. 0591921 of 3 January 2017 into an Account No. 0850415167915 with the Royal Bank Ltd. in Accra. Several checks revealed that Glinco Construction and Engineering Services was awarded the contract and subsequently received payment on the 3rd of January 2017, however, the company was registered on 7th January 2017. This implies that the contract was awarded to an unregistered entity which lacked the legal status to enter into a contract, which is a violation of Section 21(b) of the PPA Act 663 as amended. This was a clear case of collusion between the actors involved because the Ministry of Foreign Affairs' response to the AG indicated that they were unaware of any engagement with Glinco Construction and Engineering Services. The PPA is yet to publish any sanctions meted to the persons named in this fictitious transaction.

2 Unplanned Purchase of Value Books for MDAs by the Controller and Accountant General⁷:

Consistently the Controller and Accountant-General's Department purchased value books without consulting the MDAs, leading to unused value books. In 2018, value books amounting to GHC3,539,858 for eight MDAs remained unused due to poor stock management on the part of the Controller & Accountant-General. In 2017, the AGs report cited the purchase of over 10million value books costing about GHC17,779,500 between 2000 and 2009 remained unused and wasting. Similarly, over 14million booklets procured for some Ministries at a cost of GHC21,568,386 were not in use, resulting in a procurement loss of GHC39,437,886 on value books wasted. Despite the clear financial loss to the state, no sanctions were charged to the institution.

⁶ [MDA.cdr\(ghaudit.org\)](http://MDA.cdr(ghaudit.org))

⁷

These cases and many others such as the uncompetitive and abuse of the PPA Act 663 as amended by the Ministry of Health lead to irregularities and losses of GHC11,910,073. Clearly, most of the procurement violations arise out of MDAs and public corporations blatantly ignoring mandatory procurement laws. This unlawful behaviour on the part of public institutions is reinforced by the weaknesses of the oversight regulatory agency, the PPA, to fully implement sanctions against the agencies. The analysis reveal significant internal control lapses and inefficiencies on the part of the entity tender committees. Section 20A of Act 663 as amended establishes the ETCs as safeguards to ensure that at every stage of the process, the laws are highly adhered to. However, most of the irregularities were linked to failure to seek approval from the PPA, wrong application of procurement methods, and deliberately ignoring applicable laws.

“ The analysis of procurement irregularities over the period also revealed weak or ineffective contract management systems leading to loss of money or waste of goods procured. ”



A hand holding a pen over a stack of papers, with a blue overlay.

DRIVERS OF PUBLIC PROCUREMENT IRREGULARITIES IN GHANA

Key Takeaways

- Lack of enforcement of the PPA laws remains the major driver of procurement irregularities in Ghana.
- The public procurement regime is open to abuse due to the absence of the internal audit function in the overall procurement chain. This is compounded by the ineffectiveness of the ETC and other safeguards to perform high level due diligence.
- Conflict of interest is the main political economy driver of the low integrity of the procurement process. This is largely driven by absence of standards and professionalism of the procurement practice.
- The regulatory oversight function of PPA is weak and ineffective to ensure integrity of the procurement process.

4.1 Introduction

The public procurement system operates within a broader public financial management framework that is expected to identify, investigate and address irregular and unlawful use of public funds and encourage compliance with the guiding legal frameworks and principles. However, the continuous violation of the procurement laws raises critical concerns about the efficiency of the public financial management system to complement the procurement laws.

4.2 Identified drivers of the public procurement irregularities

Five main drivers come up strongly as the core drivers of the increasing trend of public procurement irregularities based on analysis of the AG report and interviews with procurement professionals and experts. The main drivers centered around;

- i. Enforcement
- ii. Internal Audit Functions,
- iii. Standards and professional excellence
- iv. Regulatory Performance
- v. Safeguards.

These factors are considered critical to identify, investigate, and prevent transactions that contravene the PPA laws.

4.2.1 Enforcement

Application of proportional sanctions to public officials for violating the PPA laws are critical to strengthening oversight and control of the entire public procurement system, and ensure deterrence from actions that deliberately abuse the law. The current public procurement laws provide several avenues for the PPA to sanction violations of the law. Sections 89 of Act 663 allows the PPA Board to appoint a person to conduct investigation into a procurement process, and apply sanctions including annulment of procurement, cancel contracts and rectify any errors as stipulated under Section 90. Additionally, Section 92 of the Act 663 as amended spells out the sanctions to be applied where aspects of the PPA process are violated. The Act provides in Section 92(1) that a person shall be liable for a summary conviction to a fine not exceeding two thousand five hundred penalty units or a term of imprisonment not exceeding five years. In spite of the numerous reports by the Auditor General on violation of the PPA laws, these sections of the Act have not been consistently enforced. The problem with the law in its current state is that it is only the Attorney General and Minister of Justice that has the mandate to prosecute financial

misappropriations cited in the AGs report. Being a member of the executive arm and a representative of the ETC, the Attorney General's role to lead government to hold public officers responsible are often overshadowed by its loyalty to the executive as a Minister, hence less likely to pursue politically incriminating findings.

That notwithstanding, Section 90(3) of the PPA Act offers the PPA Board an administrative channel to apply sanctions including annulling a procurement activity, cancelling a procurement contract or rectifying the challenge where they have evidence that the PPA Act has been contravened. However, this avenue remain underutilized by the PPA.

Poor monitoring and control over the entire procurement system also accounts for the weak enforcement of procurement laws. Consistently, procurement irregularities associated with restricted tendering and single sourcing have been linked to awarding contracts without approval of the PPA. The PPA is unable to have control over all entity procurement activities unless, they are published in the monthly bulletins. Also, there is a low utilization of the GHANEPS among public institutions. Currently, only 24percent of the 335 public institutions enrolled use the GHANEPS to procure⁸. Thus, PPA has become less proactive on issues of violations.

Over the years, parliamentary oversight and enforcement of laws to ensure effective and efficient use of public funds has been unsatisfactory. Parliament through its Public Accounts Committee has the responsibility to interrogate the findings of the AG, though public hearings involving public officials against whom adverse audit findings have been made. The Committee would then make recommendations for adoption by the House. This oversight function has been infected by partisan politics, preventing the Committee from laying incriminating reports about the executive arm of government.

This is captured in a paper by Dr. Albert Kan Dapaah⁹, a former Chairman of the Public Accounts Committee;

“Although, most of the reports are discussed without partisan politics, the Committee has not been able to avoid partisanship in discussing politically tainted reports thus defeating the purpose of the work of the Committee. Another major challenge has been the unwillingness of the House leadership to lay reports of the Committee which are perceived to be embarrassing to the government in the house for debate. The result is that some reports are kept until after the four year term of the Parliament when, under the Standing Orders of Parliament, such reports can no longer be laid.”-

***Dr. Albert Kan Dapaah,
Former Chairman of the Public Accounts
Committee.***

Dr. Kan Dapaah further adds that;

“there is too much sycophancy in Parliament. This is encouraged by the constitutional obligation of the President to choose majority of his ministers from Parliament. Parliamentarians are a very ambitious set of people and for the MPs in the Government party their constant prayers are that they be named as ministers. Naturally, they dare not challenge the President on the floor of parliament. Clearly, unless we discontinue the practice of appointing ministers from Parliament, there can be no effective oversight by parliamentarians.”-

***Dr. Albert Kan Dapaah,
Former Chairman of the Public Accounts
Committee.***

⁸ [PPA says 76% of public entities do not use e-procurement system - Ghana Business News](#)

⁹ Monograph - Parliaments role in the fight against corruption | IEA Ghana

The weak parliamentary oversight to ensure enforcement of the AGs findings on procurement irregularities are compounded by the flawed composition of the Audit Report Implementation Committees (ARIC) in the various MDAs. Section 30(1) of the Audit Service Act (584) establishes the ARIC to be composed by the board or governing council of the institution, a Ministerial Committee or a Special Committee of the MMDAs. It is practically impossible for the same people who the AG's report makes adverse findings against to fully implement the recommendations which often include sanctions.

Failure on the part of the Chief Justice to formally establish the Financial Administration Tribunal as stipulated under the Financial Administration Act 2003 (Act 654) also contributes to the lack of enforcement of the findings of the AG and any other sanctions for violation of the PPA Act. The Financial Administration Tribunal has the powers of the High Court and it is the formal institution with the powers to enforce the recommendations by the Public Accounts Committee. Apart from the Financial Administration Tribunal, other financial crime courts with the powers to investigate and hear cases related to procurement law violations are underutilized. A typical example is the Financial and Economic Crime Court of the High Court. The establishment of the Financial Administration Tribunal will be an effective mechanism since it is tasked to focus on the report of the Public Accounts Committee and enforce any sanctions thereof. Also, the Office of the Special Prosecutor has not demonstrated significant interest in pursuing public procurement irregularities that lead to corruption or financial loss to the state. Section 3(1)(a) of the Office of the Special Prosecutor Act 2017 (Act 959) gives the OSP the power to investigate corrupt offences related to the Public Procurement Act 2003 (Act 663 amended by 914, 2016). However, the most recent statutory report¹⁰ on the OSP's website does not include any case related to abuse of the Procurement Act despite numerous sanctions recommended by the AG

These lapses in the overall oversight regime of public institutions negatively impact enforcement of sanctions for violating public procurement laws. Dr. Kan Dapaah concludes that;

“The question of sanctions is very important. An audit must end up with a commendation or a sanction. The many cases of financial indiscipline and corruption contained in the Auditor General’s Report are because of our inability to sanction public officials who engage in such activities. Sanctions have worked well in the private sector in Ghana and should be made to work in the public sector.”-

***Dr. Albert Kan Dapaah,
Former Chairman of the Public
Accounts Committee.***

4.2.2 Internal Audit Functions

The risk of corruption is common in every public procurement system, and as such an internal auditing is needed to mitigate the tendency to violate regulations. The Internal Audit Agency Act 2003 (Act 658¹¹) established the Internal Audit Agency as the responsible entity to coordinate, facilitate, and provide quality assurance for internal audit activities in the MDAs, MMDAs and other public institutions. Among other things, the Internal Audit Agency is mandated to ensure that financial activities (including procurement) of MDAs and MMDAs are compliant with the law, policies, standards, regulations and procedures, and guarantee the safeguard of national resources. Despite the establishment of the Internal Audit Agency (IAA) and systems, their role has been ineffective in reducing unlawful procurement agreements and blatant violations of the PPA Act. This is because the workers of the IAA do not have actionable access to the Ghana Integrated Financial Management System (GIFMIS), and as a result, they can only read the transactions going through the GIFMIS but cannot stop questionable transactions.

10 [Half Yearly Report 02112021.indd \(influencetec.co\)](#)

11 [C:\DOCUME~1\ALLUSE~1\DOCUME~1\P \(gaccgh.org\)](#)

Essentially, the internal audit function is non-existent in public institutions.

Recently the government implemented a policy called 'Procure to Pay' where an MDA can transact a procurement process through the GIFMIS and pay the client/supplier directly. While this process appear to streamline procurement at the MDA level, the absence of the internal auditor in the procurement process creates an opportunity for MDAs to transact on the blind side of internal auditors leading to procurement infractions. With 'read-only' access by internal auditors, their effectiveness is curtailed. The Head of the IAA laments;

“Internal audit is to quality assure the process basically. However, the challenges have been many. The first one from the Internal Auditor’s point of view was the GIFMIS. As a country, we decided to automate government business by introducing the Ghana Integrated Financial Management Information System (GIFMIS). This by implication automate the procurement processes. The internal auditor or the agency that is required to work through the network of internal auditors to provide quality assurance was not given the opportunity of quality assuring procurement using the GIFMIS. To the extent that now, internal auditors can have read-only access to the GIFMIS. They can see the transaction passing through but they cannot stop the transaction if it is irregular, especially if it is on procurement. This is a challenge. So if you want to reduce procurement irregularities and ensure that the procurement system works, the first point is to open up the GIFMIS system to internal auditors and give them the mandate to stop any irregular transaction

midstream before it ends. Because now under the GIFMIS, we are applying something we call “procure to pay”. Now with “procure to pay” system, they can undertake a whole transaction on the GIFMIS system and nobody will have a single voucher to audit, the funds will move straight into the client’s account by means of a transfer.”-

Head of Internal Audit Agency.

Secondly, the IAA is not part of the Entity Tender Committee and the Tender Evaluation Panel in the various MDAs. The ETC and TEP are the safeguards at the institutional level, thus the absence of internal auditors from the ETC and TEP means that they cannot quality-assure the process. In this study, we argue that the IAA quality assurance roles can only be effective if they have the power to stop suspicious transactions by gaining full access to the GIFMIS.

The internal audit problems are further compounded by the organizational structure and associated power imbalances. The internal auditor position is not a senior management position, and as such comes with little power during decision making. The Internal Auditor is only informed of the actions of management, and can only offer advice. The near powerlessness of the Internal Auditor is corroborated by the statement below by the head of IAA;

“I think there is something wrong with the structure. Even though the PFM act establishes audit committees, the position of internal auditors on the structure of public boards and corporations is a challenge because, in some public boards and corporations, the terminal grade for internal auditors will be either a deputy director or a head. But the game is played in the board room or at the management level where all of them are directors. If they write a bad

internal audit report which exposes the weaknesses in the system, they can then be transferred to a remote area as a form of punishment. So unless we revise the structure and then allow the internal auditor to be the director position where the internal auditor will be in the management meetings and give on the spot advisory and assurance services, we will continue to have challenges.

In fact, internal auditors in the country are the worst paid even though they have the same qualification with their colleagues. How can they prevent procurement irregularity? Because if somebody knows they are not well paid, they can easily influence them.”-

Head of the Internal Audit Agency

A procurement expert also added that;

“You (Public Services Commission) have made the people subservient, paid them paltry, so it is easy for anybody to bait them, with a brown envelope. So they don’t have the motivation to do the right thing, either in terms of reward or in terms of position, rank. And deliberately, capacity is not built, to the point where they can challenge the status quo. And even if capacity is built, you try, standing up to your boss to get the right things done. If you are not transferred, you’ll be sacked. So if you want,--if you love your life, you take your pay, do what they say, and have your peace.”-

Procurement Expert

The complexities surrounding the management of internal auditors make it difficult to coordinate the work of the IAA. This is as a result of the weakness in the existing IAA law Act 658. The internal auditors in MMDAs are managed by the local government service, the internal auditors in MDAs are managed by the civil service, and the rest in public corporations are managed by SIGA. Lack of harmonization means that they work with different standards of procedure, and their reporting lines are uncoordinated, making it difficult ensure consistency in the output of their work. Also, the internal auditors are paid or promoted by the agency they are auditing. The lack of freedom and control over their jobs affects their ability to be transparent, ethical, and effectively undertake quality assurance.

“The only function of the internal audit agency is to technically guide them with no administrative function. So now their salaries, their conditions for service are managed by these three institutions. So you the internal audit agency that is setting the standards and even when you set the standards they do not apply it to prevent corruption, you have no power to sanction. However, there is a good news, the good news is that currently an internal audit bill developed so that they will put all these internal auditors under one umbrella. This will allow for one internal audit agency that will have administrative and technical control over internal auditors and the service will lead the charge towards rationalizing their salaries.”-

Head of the Internal Audit Agency

Clearly, the internal audit functions have been

disabled due to uncoordinated public institutional arrangements, weaknesses in the existing procurement law to recognize the role of internal audit, lack of actionable access to the GIFMIS, and overall institutional power dynamics. The abuse of the procurement laws by public institutions can be avoided by the internal audit function if it is strengthened. To avoid abuse of the procurement law and ensure value for money, the internal audit must given the power they require to undertake the quality assurance process effectively.

4.2.3 Standards and Professional Excellence

Safeguarding the public procurement process from corruption, conflict of interest, and maximizing integrity require that officials involved in the process are guided by standards that keep them committed to professionalism and excellence. Looking at the power imbalances and political interference in the functions of public institutions, the code of ethics of the Civil Services Commission, Local Government Service, and Public Service Commission have failed to deliver professional excellence in the performance of the work of public officers. In Ghana, procurement officers do not have any formal or legally-backed body that regulates the actions of procurement officers. For example, accountants and finance officers adhere to the ethics of the Institute of Chartered Accountants Ghana (ICAG) or the Association of Certified Chartered Accountants (ACCA). These bodies exert more professional influence on the actions of their members. The absence of such a body for procurement professionals makes it difficult to hold them against any standards. A procurement experts that;

“In my view I think people get into procurement by default through the finance and administration route. In most of the public institutions, they do not have procurement directorate or departments with heads who are professionals. In most cases, the head of finance and administration does the recruitment and post people to procurement. Therefore, majority of the people in procurement have accounting or finance background and not necessarily procurement. I know the PPA has some training modules but what I found out is that the people with little training in procurement (from the polytechnics) are posted to the stores. As a result, the procurement people are working with no guiding ethics, and sort of free for all.”-

Procurement Expert

Ensuring high levels of integrity and professionalism from public officials without any standardized codes of practice is difficult, and opens the procurement practice to abuse. The lack of standards can be attributed to the multiplicity of procurement certification agencies. There is the Chartered Institute of Procurement and Supply, Ghana Institute of Procurement and Supply, and other groups providing certificates to people as professionals. Although, the Registrar General acknowledges the Chartered Institute of Procurement and Supply as the procurement professional body, it has not been recognized by public institutions. Moreover, most of the local certification bodies are not backed by any parliamentary promulgation that attest to the standards of training and practice. Another procurement experts adds that;

“It is important for us to license the profession to ensure that people uphold the right standards. In the past we use to hear bursars embezzling monies in their organizations. Today, we no longer hear such issues because the accounting profession in Ghana has been standardized and licensed. Thus, the behavior of the people has changed. -

Procurement Expert

The lack of standards and professional excellence also explains the multiple reports of conflict of interest among public officers. In the past, several officers have failed to declare conflict of interest and awarded contracts to organizations or entities they are affiliated to. Severally, members of the procurement board have been involved in approving single sourcing and restricted tendering to companies they affiliated to. Failure to declare conflict of interest is a violation of Article 284 of the Constitution. The Due Diligence Unit at the PPA has not been efficient in conducting beneficial ownership analysis on companies participating in government bids.

Box 4: Case Studies of Conflict of Interest

1

Purchase of Pickup Vehicles by Ministry of Education from Kantanka Automobile:

In 2019, the Ministry of Education used single sourcing to procure pickup vehicles for senior high schools at a price of GHC27million. The Ministry of Education sent a request to the PPA for approval. The request was made after a review by the Due Diligence Unit and subsequently forwarded to the Board. Dr. Emmanuel Yaw Boakye was a member of the PPA Board and participated in the meeting that approved the use of single sourcing to procure the vehicles from Kantanka Automobile. Dr. Emmanuel Yaw Boakye at the time was the Deputy Secretary of the Kristo Asafo Church, whose leader, Apostle Kwadwo Safo is the owner of Kantanka Automobile. Also, Dr Emmanuel Yaw Boakye was the Technical Director at the Ministry of Procurement, where the daughter of Apostle Kwadwo Safo, Sarah Adwoa Safo was the Minister. These relations of Dr Emmanuel Yaw Boakye places him a situation where his personal interest conflicted his duties as a public officer. In statement to CHRAJ he admitted that;

“On his relationship with the founder of the Kristo Asafo Church and Kantanka Group of Companies,

Dr Boakye said that he is a member of the Kristo Asafo Church and that the founder, Apostle Kwadwo Safo Kantanka, took care of him. He also said that he considers Apostle Kwadwo Safo as his father and Apostle Kwadwo Safo's children as siblings¹².”-

Dr Emmanuel Yaw Boakye, Statement captured in CHRAJ Investigative Report.

The contract was awarded to Kantanka Automobile despite the conflict of interest issues, which raises questions about the nature of due diligence conducted by the PPA before approval by the board.

Contract for the Supply of Mobile Column Lift at Takoradi Ports- Talents Discovery Limited:

2

In 2018, the Director General of the Ghana Ports and Harbours Authority wrote to the PPA requesting approval for the use of restricted tendering to procure Mobile Column Lift for the Takoradi Ports for GHC160,000. The companies shortlisted included Talent Discovery Limited, owned by the CEO of the PPA. The request letter was sent to the CEO and forwarded to the Due Diligence Unit and subsequently to the board. Mr. Agyenim Boateng Adjei participated in the

board meeting that approved the use of restricted tendering for the GPHA to procure the Mobile Column Lift. The Ghana Ports and Harbour Authority proceeded to invite the companies, and awarded the contract to Talent Discovery Limited. Throughout the process, Mr. A.B. Adjei failed to disclose issues of conflict of interest and recuse himself from the deliberation. In a later expose by investigative journalist Mannasseh Azuri Awuni, Talent Discovery Limited was found to be involved in sale of government contracts, and had no capacity to deliver the contracts it won. After an investigation by CHRAJ, Mr. A.B. Adjei has been banned for 10 years from holding any public office, and return an amount of GH¢5.7 million he made while in public office. This further shows that conflict of interest remains a major problem in the public procurement regime.

The conflict of interest issues are worsened by politically exposed persons whose businesses participate in government procurement. Most politicians who participate in government procurements, do not consider conflict of interest as a risk to the integrity of the process. For example, a key financier of the NPP, Kennedy Agyapong has consistently chastised the ruling government for failing to give him contracts. He is reported to have complained that he begs like a kid to get government contracts despite his contributions. He is quoted to have said;

“I beg like a kid if I want a contract before they give me something, and when they do, if you ask for 200 they give you 20. I look at them and say; Lord forgive them for they do not know what they are doing, but we are still surviving. It is not all rosy as you see it out there. We all have problems but party first¹³.”-

Kennedy Agyapong, Member of Parliament

This statement suggest that politically exposed persons do not consider using their positions and influence to secure government contracts as conflict of interest. It also suggest the tendency of procurement rules to be bypassed for such persons to secure contracts. The same Member of Parliament was reported to have recommended to government that MPs who are challenged financially need contracts to continue to support the party. To him, Members of Parliament who are not ministers or heads of agencies tend to lose their seat to new faces who were chief executives of public corporations.

“Akufo-Addo has given you people positions as Ministers and CEOs don’t wait for him to tell you to give the contracts to the party’s MPs so that monies they make will be used to address the challenges at the constituencies. Don’t give them to businessmen for MPs to be chasing them for GH¢20,000 and less.” He stated adding “if the party had protected the MPs by giving them contracts, they would have not lost the elections¹⁴.”-

Kennedy Agyapong, Member of Parliament.

Similarly, the general secretary of the opposition National Democratic Congress in 2011 was selling blocks to the contractors of the Bui Power Project, a hydroelectric dam project while he was a board member of the Bui Power Authority. In a media interview, he admitted selling blocks to the contractors and did not consider it as conflict of interest, since he was only providing a need. He admitted that;

“He said he noticed the seeming difficulties by subcontractors of the Bui project in buying blocks and therefore decided to extend his block factory, which was originally in his hometown, closer to the project site so the subcontractors could benefit¹⁵.”-

Johnson Asiedu Nketiah, General Secretary, National Democratic Congress.

¹³ [I beg like a kid to get government contracts – Ken Agyapong \(ghanaweb.com\)](#)

¹⁴ [Broke MPs need contracts to take care of constituents – Kennedy Agyapong \(ghanaweb.com\)](#)

¹⁵ [Asiedu Nketia admits selling blocks to Bui contractors but rejects conflict of interest allegations - MyJoyOnline.com](#)

Clearly, the integrity of the public procurement regime can be compromised by the cultural attitude of disregarding issues of conflict of interest and deliberate violations of Article 284 of Constitution. It also points to the overall integrity and corruption risk of the public procurement system.

4.3.4 Regulatory Performance

The E-procurement module was expected to provide and end-to-end procurement processes that reduces cost and time, and facilitate the oversight activities of the procurement authority. However, the violations of the procurement law attest to the low utilization of the e-procurement platform. A check of the website shows that since 2020, only 100 contracts have been published on the GHANEPS¹⁶ platform. Also, some of the tenders reported in the AGs report in some instances were not found on the e-procurement platform. It appears that the supply-side that is the businesses or suppliers are not conversant with using the platform, leading to the increased use of the manual processes. An expert we spoke to said;

“Currently, the public procurement authority has introduced an e-procurement system. This e-procurement system has been introduced to the effect that all procurement issues will have to be uploaded to the e-procurement. The interesting thing is that the suppliers who will supply or who will pay for government contracts, have not been well informed or they even do not have the ICT skills to be able to upload their proposals on the e-procurement system. So again, the demand side is good that is the government side. We are aware of what is happening. People cannot upload to the e-procurement system. However, the supply side is weak. So again it is also increasing the time interval between procurement and supply.”-

Head of the Internal Audit Agency

Also, several concerns have been raised about the process of appointment to the Board of the PPA. The President has the mandate to appoint the members of the board and the CEO. The law requires that the Chairman of the PPA Board be a person competent and experienced in public procurement. However, the current chairman's background does not show any experience in procurement. The current chairman is also contesting for the Chairmanship position of the NPP. Having established that politically exposed persons are able to use their influence to get contracts, these appointments without recognizing the tendency of conflict of interest create opportunities for political interference in the work of the board.

The government passed in 2019, the State Interest and Governance Authority Act 2019 (Act 990) which established the State Interest and Governance Authority to oversee the state's interest in state-owned companies, joint ventures and other state entities. Section 27 of Act 990 requires the AG to submit the audited accounts of state agencies to SIGA not later than two months after each financial year. Since 2019, there are no publicly available reports that show SIGA took action on any of the AG's reports.

4.2.5 Safeguards

The Entity Tender Committee, Central, Regional and Ministerial Tender review boards are examples of the main safeguards provided by the law to protect the integrity of the procurement process. However, the composition of the ETC has raised several questions about the capacity of the ETC and the various boards to ensure compliance to the procurement rules and procedure. Since 2010, the Auditor General has reported several transactions that were approved by the ETC but were later found to be in contravention of the PPA law. For example, the ETC of the Ghana Maritime Authority approved eight transactions worth over GHC1.3million by request for quotation when all the contract sums exceeded the threshold for using price quotation in Schedule five (See Table 5)¹⁷. In similar instances the ETC at the Ghana Port and Harbour Authority approved the award of a contract to supply chemical analyzer to a non-tenderer. These have raised questions about the effectiveness of the ETC to quality assure the procurement process.

Public procurement involves significant amounts of money, which exposes it to multiple interest by competing parties. As a result, a more independent body is required to quality assure the process and ensure accountability. The current composition of the ETC, CTCR and RTRC does not ensure accountability and transparency. Currently, the ETC of the MDAs is made of the minister or head of institution as the chairman, head of finance, a lawyer from the Attorney General's office, department heads, the Chief Director, and two members from professional bodies. The head of procurement unit is not a member of the ETC but acts as its secretary. This further shows how procurement officers are absent from procurement decisions. Also, the two members of professional bodies are not enough social witnesses, and do not effectively represent the presence of demand-side accountability actors.

Also, 7 out of the 9 members are public officers. Looking at the high power imbalance in public institutions, it is unlikely for the members to disagree with the head of agency. Additionally, the ETC does not interrogate the content of procurement bid or request but only checks to see if the processes have been marked. Thus, if everything about the bid ticks the boxes, they approve for it to pass. An expert explained that;

"I sit on entity tender committee, to tell you the truth, when it gets there, usually we look at quality of the procedures, okay, did you tender, yes we've picked it, err, did you do public opening, yes, have you evaluated, and there are evaluation criteria there, we've done all that, so when the report comes, and it comes and they've ticked all the boxes and they have picked the lowest evaluated, you've gone according to the law. I will give you an example like that, so they have, they have specified, 20 hours battery latency, and the meaning is they were buying a laptop, which when there's no power, the battery can stay for 20 hours, and it was in the specs. None of the competitors, were able to meet a laptop with a battery latency of 20 hours but it was in the specs, right, so all other suppliers, except one were disqualified on that grounds, okay, and the price differential, was about triple of the others"-

Procurement Expert

Another procurement expert added that;

"From structural perspective, and the spirit of the letter, the right provisions were made, in the law. If they were filling it with the right people, the right controls will be in place. On the entity tender committee that I sit, the whole of last year, they had about only, --they invited me for only one meeting. And at the last meeting, I told the Director General point blank, I am not approving this, it will not go the way it is, and if they try to go the way it is everybody will hear about us. The point is that, these director generals and managing

17 [Audit-Service_2020-PUBLIC-BOARDS_17_06_21.pdf \(ghaudit.org\)](#)

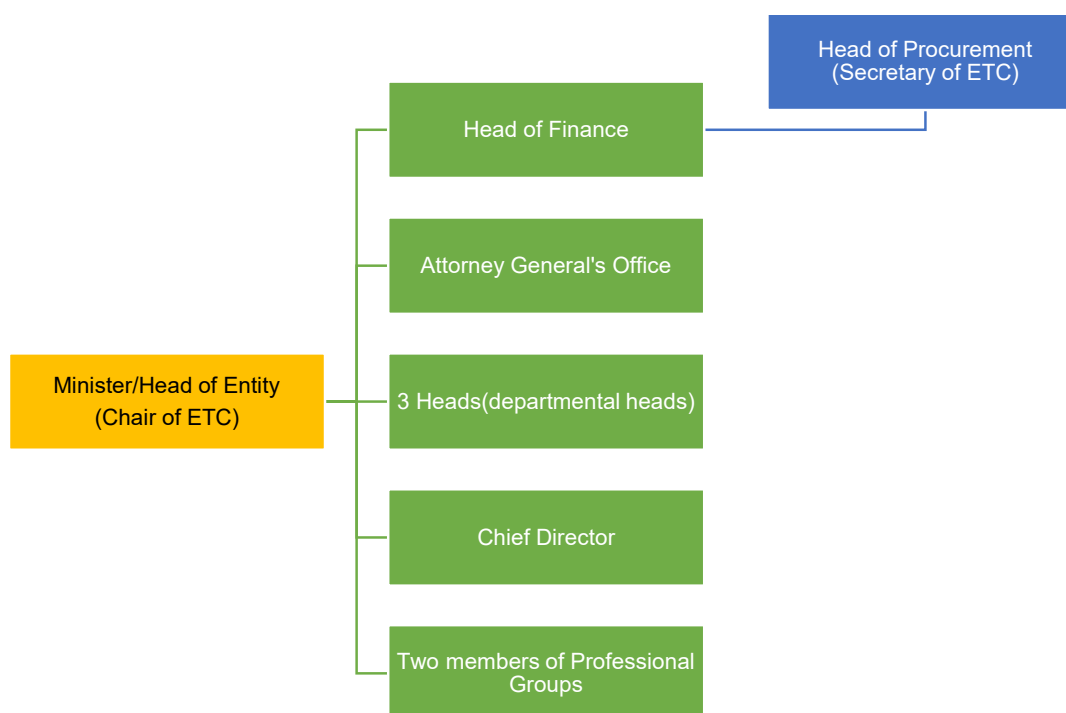
directors and whoever,-head of entities; within those organizations they are like gods. When their staff comes to sit on the entity, they don't speak. They follow the direction of the director general. You dare not descend. So most of the time they look up to us, those from outside the control. Now, this is because, I, am like this, and I'm an-I'm- I behave like a civil society activist. So I take this position but not every one of my colleagues is like me, and what happens is-if-, just like how the directors do to the board members, once they know that they can buy you off with trips, and gifts and whatever, you will always approve what they want, so they have their way. And I don't blame them, sometimes, the strings, -the puppeteers are way remote. And they are telling you that, this my person is coming, this contract, give it to him. So he the director general, is

coming to the ETC to reverse this for it to go here. So if he doesn't meet the right people who can stand up to them, it will be passed. And once the entity has—and the good thing is this, if the ETC approves it, it is not an individual so you can't hold an individual responsible. The ETC cannot be tried...if it goes to the central tender review board—it is the board that approved, it legitimizes it. So that is how come I started off by saying that, the law was passed to legitimize corruption.

So let's look at one thing that we also identified that, the ETC, the tender review panel and err--the other committees were used as, let me say, some backstop to ensure, compliance, value for money. But over the years, these irregularities demonstrate that their work is less meaningful.”-

Procurement Expert

Figure 12: Composition of the Entity Tender Committee for MDAs



Source: Author's Construct, 2022

The Due Diligence Unit established at the PPA in 2017 to safeguard the procurement process and minimize conflict of interest has not been effective in delivering its mandates. In the recent CHRAJ investigation of the former PPA CEO, it was found that almost all the contracts Talent Discovery Limited participated in and won, went through the Due Diligence Unit and were recommended to the CEO and the Board for consideration¹⁸. There was never an instance where conflict of interest and beneficial ownership issues were examined by the Due Diligence Unit. These

raise questions about the quality of due diligence being undertaken at the PPA despite the work of the ETC, CTCR and RTRC. While the idea is laudable, it appears to be a duplication of the work of the ETC and other tender review committees.

Clearly, the safeguards established by the law have not worked effectively to address abuse of the law. Consistently, the procurement irregularities arising from failure to comply with the PPA law clearly reveal the weaknesses in the ETC and other safeguards in the procurement system.

18 [CHRAJ-report-on-ceo-of-ppa \(1\).pdf - Google Drive](#)

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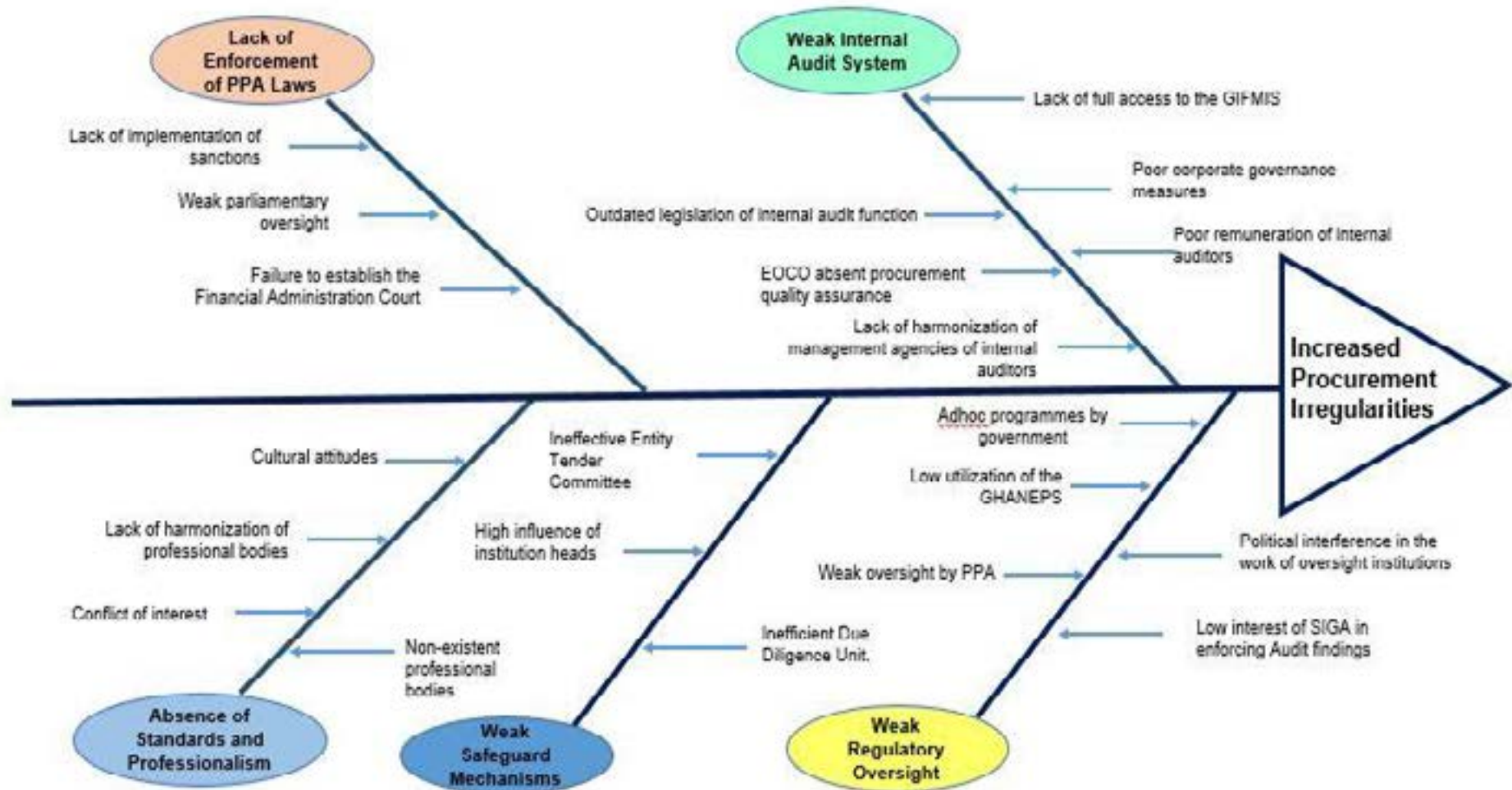
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Figure 13: Fishbone Analysis of the Identified Causes of Increased Procurement Irregularities



Source: Author's Construct



HIGH LEVEL FINDINGS, CONCLUSION AND RECOMMENDATIONS

The study sought answer four key questions;

1. **What is the trend of public procurement irregularities in the last ten years?**
2. **What are the common methods public institutions use in procurement?**
3. **Is there a structural tolerance for procurement abuse and breaches?**
4. **Is there an appetite for reforms to the public procurement regime in Ghana?**

5.1 High Level Findings

The high level findings of the study are presented below;

A. Procurement Governance and Core Influence Dynamics

1. The study identified weak decentralization of the PPA as a major institutional deficiency affecting effective monitoring and oversight activities, particularly at the MMDA level.
2. The weak monitoring and evaluation was largely as a result of the under-utilization of the GHANEPS framework, leading to delays in approval request from the PPA Board.
3. Demand-side accountability actors have been taken out of quality assurance committees such as the ETC and the central and regional review committees. As a result, the effectiveness of CSOs and communities to hold public institutions accountable continue to be undermined.
4. Moreover, the absence of anti-corruption agencies in the procurement systems increase the corruption risk in public procurement.
5. As characteristic of the Fourth Republic, we find excessive influence of the executive over the procurement regime. Similarly, we found high power imbalance at the institutional level, thus internal controls have not worked effectively to curtail violation of procurement laws.
6. Evidence of political patronage networks and clientelism also demonstrate the influence of politically exposed persons in procurement awards.

B. Analysis of Procurement irregularities and Common Methods Used by MDAs

7. Cumulatively, procurement irregularities by MDAs and public boards and corporations have more than doubled since 2010. The irregulari-

ties of MDAs in the last ten years have increased about 16times and about 800percent increase in the case of public boards and corporations.

8. Over the period, the effect of inflation on the public irregularities was minimal except in the case of MDAs where inflation influenced the trend of irregularities between 2015 and 2019.

9. High irregularities were associated with infrastructure related MDAs and public boards and corporations. Overall, the Ministry of Finance contributed more than 40percent of the total irregularities from 2010 to 2020. Similarly, the Ministry of Energy accounted for more than 30percent of the procurement irregularities by public boards and corporations.

10. In both cases of MDAs and Public boards and corporations, the common procurement method swings in favor of open competitive tendering. However, the financial value of contracts awarded through single sourcing constituted more than 80percent of the total contracts tracked. In the case of public boards and corporations, the restricted tendering was the method with the largest financial value of all contracts awarded.

11. The study identified flagrant abuse of the procurement laws by the MDAs and public boards and corporation. Also, most of the irregularities reported were associated with single sourcing and restricted, indicating some level of challenges associated with these methods.

C. Drivers of Procurement Irregularities by Public Institutions

12. Lack of willingness on the part of PPA to enforce the PPA laws was the main drivers of procurement irregularities. The study found low enforcement of the sanctions in the Act, leading to a culture of tolerance for procurement losses by public institutions.

13. Lack of enforcement of complementary legislations such as the Financial Administration Court continue constrain oversight agencies from acting on the recommendations of the AG.

14. There is weak parliamentary oversight and lack of political will to enforce the report of the Public Accounts Committee. The weak parliamentary oversight is largely driven by the political interest being placed ahead of the state interest.

15. The internal audit system is inefficient to address the irregularities since internal auditors do not have actionable access to the GIFMIS, and remain outside the procurement decision making.

5.2 Conclusion

The achievement of government's socio-economic policies and the SDGs critically depends on how the public procurement system efficiently allocates government revenue to maximize value for money, increase savings, and reduce waste in the broader public financial management system. It is increasingly clear that the public procurement system will hurt the public purse if we continue business as usual. This is because the integrity of the procurement process has been compromised by weak institutional and regulatory frameworks, inefficient quality assurance measures, and cultural tolerance for abuse and unethical behavior of public officials.

Specifically, the weak oversight of the PPA and lack of political will to fully enforce the sanctions regime in the Public Procurement Authority Act 2016 (Act 914) is the major driver of the increased procurement irregularities among public institutions. This creates an incentive and tolerance for procurement losses in public institutions. Heads of entities are not afraid to be cited for procurement irregularities since the naming and shaming only ends in the Auditor General's report. The declining effectiveness of backstop measures such as the ETC create more integri-

ty risk in the public procurement process. Presently, the internal audit functions are broken, which leaves the entire process to no external supervision. This is also compounded by the loose organization of the internal audit management mechanisms.

16. Lack of harmonization of the procurement professional standards and professional groups continue to create a deficit in licensing the practice.

17. The regulatory oversight of PPA remains weak. Other regulators such as SIGA have paid less attention to the outcome of the AG's reports. The weakness in the oversight is worsened by the flaws in the institutional safeguards.

With the high influence of the executive over the procurement system, political patronage networks, clientelism and interference will be inevitable. Even worse, the growing demand of political actors to be awarded public contracts with no consideration of conflict of interest increases the corruption risk associated with Ghana's public procurement system. Although, recent public sector reforms including the passage of the SIGA Act, appointment of Public Enterprise Minister, and the development of Code of Corporate Governance suggest some room for reforms to the inefficiencies in the public sector. However, these institutional reforms have paid little attention to the Auditor General's report.

5.3 Recommendations

An efficient public procurement regime guarantees transparency, accountability, effectively engages stakeholders, and leverages technology to minimize the integrity risk associated physical interaction between public officials and businesses. In view of the issues raised in the analysis, we recommend that;

1. The PPA must ensure effective use of the GHANEPS platform to enhance the oversight function of the PPA.

Through the GHANEPS, the PPA will have timely access to information on the procurement activities of public institutions, query and address any violation of the PPA laws. Since corruption and integrity risk can occur at any stage of the process, a digitization of the process would ensure that there are records on every activity undertaken by every organization, which can also assist in terms of corruption or conflict of interest investigation by anti-corruption agencies. Also, effective implementation of the GHANEPS would provide access to anti-corruption agencies and demand-side actors to the procurement system without being physically present in tender review committees.

2. The Ministry of Finance must ensure that Internal Auditors have full access to the GIFMIS, and link the GHANEPS to the GIFMIS.

Internal auditors play a critical role in ensuring that deviations at the institutional level are addressed before they result in financial loss to the country. Currently, the internal auditors can see irregularities but have no resources to stop the transactions. Thus, to ensure that the internal audit agency provide efficient quality assurance services, the Ministry must not only give them full access, but their independence must be guaranteed by reviewing the Internal Audit Agency Act.

3. The PPA must collaborate with the Office of the Chief Justice to establish the Financial Administration Court.

The PPA is limited to providing only administration sanctions since it is only the Attorney General who can prosecute on issues related to financial (procurement) irregularities. However, the Financial Administration Court was purposely setup to investigate and implement the sanctions based on the Auditor

General's report. Through this, the PPA can issue more biting sanctions to public officials for violating procurement laws. The establishment of the FAC will strengthen parliament's oversight in public procurement since the FAC can implement the recommendations of the Public Accounts Committee. Moreover, the OSP must demonstrate high interest in the procurement irregularities reported by the AG, and ensure that sanctions for breaches of the law are enforced.

4. The PPA must work with independent professional groups to develop a harmonized ethical code to guide procurement practice in Ghana.

Public procurement requires public officials who work with high integrity and ethical behavior to guarantee the integrity and transparency of the process. Currently, the professional procurement groups are uncoordinated and appear to be competing over who has the best standards. The Chartered Institute of Procurement and Supply (CIPS) is registered as the procurement professional organization but it is not recognized by practitioners and the PPA in Ghana. The PPA must facilitate the formalization of procurement practice in Ghana by bringing all the groups, especially the local bodies together to form a single procurement professional institute backed by law. This would ensure that the right capacity is built and ensure the consistent application of an industry accepted ethics.

5. The Due Diligence Unit at the PPA must be resourced to consider critical issues such as beneficial ownership when evaluating applications.

Disclosure of beneficial owners must be mandatory in every procurement transaction. Many of the corruption cases associated with procurement have been linked to conflict of interest. Thus, a thorough beneficial ownership checks granted by the New Companies Act would ensure that the corruption risk are addressed to secure a transparent process.



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