

## **COMPLIANCE WITH THE PUBLIC PROCUREMENT ACT 2003, (ACT 663) AMONG PUBLIC ENTITIES IN THE ASANTE AKIM NORTH MUNICIPALITY**

**Eric Berko-Aidoo**\*

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### **Abstract**

Governments all over the world spend a lot on the procurement of public goods and services. Many countries have therefore, enacted procurement laws to achieve efficient and effective use of the state's resources. In Ghana, the Public Procurement Act, 2003 (Act 663) was enacted to address the real and perceived challenges of the public procurement of goods works and services. However, compliance with the act among entities remains a challenge. Attempts by many empirical studies to address the challenge have exclusively focused on areas outside the Asante Akim North Municipality. The objective of this study is to analyse the level of compliance and factors influencing compliance in the Asante Akim North Municipality. A mixed research approach was used to gather both primary and secondary data from public entities in the local government, health and education which are involved in procurement process. The results provide that local government institutions in the Municipality have overall best scores in compliance while educational institutions were observed to have low compliance level. Main determinants of compliance include professionalism, transparency, efficiency and value for money. The results of the study have implications for management of procurement activities in the Asante Akim North Municipality.

**Key words: Compliance, Public Procurement Act, Public Entities.**

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\* Department of Procurement and Marketing, School of Business and Law, University for Development Studies, Wa Campus.

## 1. Introduction

Sound public procurement policies are practices among the essential elements of good governance (PPA, 2013). In both developed and underdeveloped countries, governments spend a lot on public goods and services. Public procurement has therefore been introduced in these economies to achieve efficient and effective use of the state's resources. Prior to the enactment of the Public Procurement Act, 2003 (Act 663), Ghana National Procurement Agency (GNPA) and Ghana Supply Company Limited (GSCL) were the main agents that procured all public goods in Ghana (Anvuur and Kumaraswamy, 2006). Since there was no comprehensive procurement guidance, these bodies did not regulate procurement but purchase goods and services on behalf of public entities. The system was characterized by no comprehensive public procurement policy, no comprehensive legal regime to safeguard public procurement and absence of clearly defined roles, responsibilities and authority for procurement entities (World Bank, 1995).

The traditional procurement methods were used for public works with provisions for compulsory registration and classification of suppliers and contractors administered by the Ministry of Water Resources, Works and Housing. Contractors classified by the Ministry of Water Resources, Works and Housing were too general and outdated and their registration criterion were not regularly rationalized as indicated by the World Bank (1996). Besides, major contracts that were financed by the government through architectural consultancy services and project supervision were assigned to the Architectural and Engineering Services Limited (AESL) on single basis without recourse to fair competition (World Bank 1996). These uncoordinated and regulated systems of procurement were the consequences of poor procurement situation leading to the much acclaimed reform of public procurement practices to instill trust and confidence in the public and the donor community.

The public procurement Act, 2003 (Act 663) was enacted by government of Ghana to address the real and perceived challenges of the public procurement of goods works and services. The objective among other things is to harmonize the processes of procurement in public entities to secure a judicious, economic and efficient use of state resources in public procurement to ensure accountability, equitability and the integrity and non-discriminatory way while promoting a competitive local industry. Following the promulgation of the act, procurement process assumed

a significant importance towards economy development of Ghana. Research shows that the yearly value of public procurement for goods, work and consultancy services was almost US\$600 million (world Bank, 2003) which represent 14 percent of Ghana's (GDP).

In recent times, public procurement in Ghana utilizes 80% of national tax revenue and account for 17% of GDP (PPA, 2011). Public procurement appears to be one of government activities most vulnerable to waste, fraud and corruption. Key variables contributing to this weakness include its complexity, the size of financial resources and close interaction between public and private sectors. The Public Procurement Authority in its quest to introduce efficiency and innovation embark on a study tour to selected Public Procurement Regulatory institutions in Africa. The purpose was to draw useful experience that can be adopted for up scaling for the case of Ghana (PPA, 2014). The visit was made to Malawi, Kenya, Botswana, Tanzania, Uganda and Rwanda in 2014.

Ten years following the promulgation of the Public Procurement Act, compliance has become a major challenge among public entities despite government consistent effort (Kusiet *al.*, 2014). Low compliance level limits the degree of transparency, reduces value for money, increase risk, compromise standards (Kusiet *al.*, 2014) and deters away foreign investors (Ameyawet *al.*, 2012). Past studies observed instances of non-compliance in different places. The Republic of Ghana (2012) noticed significant cases of non-compliance and willful violation of the Public Procurement Act in various forms. This draws the attention of many empirical studies (e.g Osei-Tutu, 2011; Ameyawet *al.*, 2012; Gnanih, 2012; Kissiet *al.*, 2014; Kusiet *al.*, 2014; Adsei and Awunyo-Victor, 2015) on the subject of compliance with the Public Procurement Act in different places over the years. However, none of these studies is conducted in the Asante Akim North Municipality with a focus on estimating the level of compliance. This brings to the fore the need for assessing the level of compliance and factors influencing compliance in the Asante Akim North Municipality.

## **2.Review of Past Studies**

According to Lyson, (1996) organizational procurement is a function responsible for obtaining

by purchase, lease or other legal means, equipment, materials, supplies and services required by an undertaking for use in satisfying wants. The definition of the overall purchasing task is "to obtain materials, goods and services at the right quality, in the right quantity from the right source delivered to the right place at the right time at the right price, to achieve an organizational objective". Public procurement, according to the Public Procurement Act, 2003 (Act 663), is the acquisition of goods, works and services at the best possible total cost of ownership, in the right quantity and quality, at the right time, in the right place for the direct benefit or use of governments, corporations, or individuals, generally via a contract' (PPA, 2007). In other words, Public Procurement is the process by which organizations acquire goods works and services using public funds. It is a comprehensive process that runs from proper procurement planning, budget allocation, bids invitation, bids evaluation, award of contract, contract management, performance measurement, monitoring.

The procurement process should be characterized by professionalism and transparency. Professionalism is the discipline whereby educated, experienced and responsible procurement officers' make- informed decisions regarding procurement operations (Adjei, 2006). It is in the recognition of this fact that the Public Procurement Authority focuses its resources on the training, professional development, promotion and support: for individuals that are engaged in public procurement to ensure adherence to professional and ethical standard. Transparency serves as the mirror for the process of public procurement of which trust is created for the process. Thus, Act 663 endorse the use of Standard Tender Documents (STDS), advertising procurement opportunities, public opening, publication of contract awards, resolving disputes and complaints, and effective, monitoring.

Implementation of the Act over time revealed certain operational challenges, particularly arising from the interplay of the hierarchical procurement structures specifically designed to ensure efficiency, transparency and value for money in the public procurement system. Extensive amendments have therefore been proposed (see Table 1) to revise the hierarchy of approving structures under the Act, to strengthen the composition and functions of both Entity Tender Committees (ETCs) and Tender Review Boards (TRBs), and increase thresholds across board.

**Table 1: Proposed amendment by PPA**

| <b>High spending entities</b> |             |           |             |           |                |           |
|-------------------------------|-------------|-----------|-------------|-----------|----------------|-----------|
| Head of Entity                | Goods (GH₵) |           | Works (GH₵) |           | Services (GH₵) |           |
|                               | Current     | Proposes  | Current     | Proposed  | Current        | Proposed  |
|                               | 5,000       | 10,000    | 10,000      | 25,000    | 5,000          | 10,000    |
| Entity Tender Committee(ECT)  | 100,000     | 1,000,000 | 200,000     | 2,000,000 | 50,000         | 1,000,000 |

Source: PPA Annual report (2007)

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

Following the amendment, there emerge a number of challenges on compliance among public and private entities that are often involve in the procurement process. The Public Procurement Authority is mandated to periodically assess the conduct of public procurement in Ghana. The exercise often covers all the known public procurement entities. The selection of entities for assessment is based on schedule of the public procurement Act, 2003 (Act 663) which groups the procurement entities into eight broad categories: (1) Central Management Agencies/Ministry/Sub-vented Agencies, (2) Regional Coordinating Councils, (3) Metropolitan/Municipal/District Assemblies, (4) State Enterprises, (5) Tertiary Institutions, (6) Schools and Colleges, (7) Hospitals and Health Institutions and (7) Financial Institutions (PPA, 2011).

The procurement methods often used by institution include international competitive tender, restricted tender, single source, national competitive tender, price quotation, low/minor value procurement and in some cases none of these methods. Assessment is often done using the Public Procurement Model of Excellent (PPME) tool. The process has a focus on some indicators: management system, information communication, procurement process, and contract management (PPA, 2011). This gives a quantitative assessment of compliance level among the entities in question. The PPME tool rates the performance of entities from excellence, matured, maturing, conforming and the lowest; non-conforming (PPA, 2013). Based on the performance

rating of an entity, it is motivated to improve on its performance to move to the next level. Kusiet *al.*, (2014) argue that the benefits of compliance include; transparency, value for money, assessment of credibility of suppliers, risk reduction and meeting of public standards. Ghana recorded poor performance on the level of compliance over the years (see Table 2).

**Table 2: Compliance level (percent) of public entities in Ghana**

| Description                   | 2007         | 2008         | 2009         | 2010         | 2011           |
|-------------------------------|--------------|--------------|--------------|--------------|----------------|
| Management System             | 34.84        | 34.62        | 54.93        | 57.04        | 46.16          |
| Information and communication | 43.15        | 39.82        | 56.03        | 60.88        | 44.13          |
| Procurement Process           | 44.34        | 42.65        | 67.73        | 70.04        | 48.91          |
| Contract Management           | 33.52        | 30.66        | 53.98        | 55.66        | 36.95          |
| <b>Total</b>                  | <b>38.96</b> | <b>36.94</b> | <b>59.00</b> | <b>60.91</b> | <b>44.0375</b> |

**Source: PPA Annual Report, 2008, 2009, 2010, 2011**

However, there appear to be a significant improvement in the level of compliance in 2009 and 2010. Within these years most entities showed good performance in contract process. The general low compliance level results from a number of factors. Osei-Tutu (2011) and Kissiet *al.*, (2014) all confirm the low compliance level in their empirical studies in Ghana. Kissiet *al.*, (2014) study in selected educational district offices provides that average compliance level is 45%, 43%, 54.72% and 27.6% for Management System, Information and communication, Procurement Process and Contract Management respectively. Specifically, Osei-Tutu (2011) points out that overall compliance level in the Ashanti region is 19.58% and that of Brong-Ahafo region is 17.8%. He added that educational institutions have relatively lower compliance level.

Several factors are believed to have influence on the level of compliance with the public procurement Act 2003 (Act 663). Osei-Tutu (2011) discovered that lack of human resources, financial resources in bulk and understanding of the law are the main causes of low performance in terms of compliance. Consistent with this observation, Ameyawet *al.*, (2012) pinpoint low capacity of procurement staff as the main challenge. Their empirical observation provides that only 5% of 49 entities studied had procurement staff with qualification in procurement. Their argument further revealed that there is deliberate effort by procurement officials in Ghana to split procurement contracts into small packages. This deliberately controls competition in tendering. Gnanih (2012) pinpoints high level of bureaucracy in the procurement process as a factor

resulting in non-compliance. Adusei and Awunyo-Victor (2015) identified political interference and weak monitoring in the procurement process as factors leading to non-compliance.

Gelderman *et al.*, (2006) proposed a framework in the context of examining the influences upon compliance with procurement directives and, given its relatively general framing, provide a useful context for inspecting the degree to which any aspect of public procurement policy translates into practice. Compliance determinants outlined include: familiarity with the procurement rules; the perceived inefficiencies in the public procurement systems; the organizational goal achievement and suppliers resistance.

Consistent with Gelderman *et al.*, (2006) proposition, De Boer and Telgen (1998) in a study reported that many public institutions were not conversant with the legal obligations to follow the stipulations of the public procurement laws thereby leading to non-compliance with the law. Further, Jensen and Meckling (1976) also argued that both the principal and agent are motivated by their own self-interest when entering into contractual relationship and aim to maximize benefits or utility for themselves only. To many practitioners, the procurement laws are not exactly clear. Therefore, familiarity of the rules by both purchasers and suppliers will influence the chance that public agents will comply with the rules. This leads to the notion that there exist a relationship between familiarity with the procurement rules and its compliance that leads to positive impact of the public procurement in particular and the economy of Ghana in general. The observation made by Adusei and Awunyo-Victor (2015) supports this element of Gelderman *et al.*, (2006) proposition. They observed in the Ashanti region that procurement committee members could not explain some sections of the Act. This demonstrates lack of knowledge in the process.

Additionally, Gelderman *et al.*, (2006) proposition indicates that there is a perceived inefficiency in the procurement rules. The public procurement Act, 2003 (Act 663) specifies a number of rules, legal and ethical of conduct for the whole procurement process. These rules aim to avoid discrimination in the award of contracts and to ensure transparency and accountability through the procurement process. However, the rules have been criticized on the premises that they are

not in line with best practices in relation to procurement practices in the private sector (Cox and Furlong, 1995).

Furthermore, organizational incentives can result in non-compliance with the procurement rules. It is further argued by Teutemann (1990) that bureaucrats in the public sector try to exhaust fully their procurement budget so as to avoid reductions in their future budget. To these bureaucrats, cost reductions due to competitive procurement procedures in one year do not necessarily result in increase in subsequent budgets. Lack of procurement professionalism in the public sector is a hindrance for compliance with the public procurement law (De Boer and Telgen, 1998). From this, public entities are not likely to comply with the directives of the procurement law. In the public sector, procurement officers are the agents who act on behalf of the principal (the state) to realize the goals and objectives of the state. Therefore, the goals of the agent must be in conformity with that of the principal (the state) in order to achieve efficient reform in the public procurement programme.

In addition, recognition of supplier resistance is essential for compliance with the procurement rules. To avoid non-compliance with the Procurement Act, 2003, the law enjoins all suppliers to report instances of abuses if they feel aggrieved at the award of contract. On the other hand, the willingness of public entities to listen and effectively address the concerns of aggrieved suppliers/contractors as well as the opportunity to take action against public purchasers is likely to influence private sector participation and compliance with the procurement rules (Gelderman *et al.*, 2006).

Finally, compliance with the public procurement Act, 2003 (Act 663) can be achieved when public sector agents behave in a manner that is consistent with the objectives and goals with their principal (the state); when procurement professionals and suppliers are familiar with the procurement rules and when suppliers are knowledgeable and courageous to resist any abuse in the procurement process. This element has not often been followed in Ghana. Empirical evidence include failure to prepare procurement plan, awarding contracts in excess of the lowest evaluated tender price, purchase of goods and works in excess of entity's tender committee's threshold and failure to advertise for procurement of goods and services (Republic of Ghana, 2012).

The principal-agency theory is the underpinning framework used for this study. The theory concerns with the arrangement that exists when one person or entity (called the agent) acts on behalf of another (called the Principal). In this case the government of Ghana (Principal) engages public enterprises and Public Procurement Authority (agents) to undertake public procurement and enforcing the Public Procurement Act 2003 (Act 663) on its behalf. Agency relationships are enacted in a broader social context for the adoption of policies about aligning incentives in order to discourage self-interested behaviour by managers and reducing agency costs.

### **3. Methodology**

#### **3.1 The research design**

Research design according to Leary (2001) is a blueprint or set of plans for carrying out the study. It forms the architecture of every study (Kerlinger, 1986) and explains how the study is going to be constructed (Kumar, 2011). Research design is a “mapping strategy” (Singh, 2007), and hence represent plans and procedures for research that span the decisions from broad assumptions to detailed methods of data collection and analysis (Creswell, 2009). Creswell (2009) clearly identified three types of research approaches: quantitative, qualitative and mixed methods approach.

Bacho (2001) point out that, the main problem confronting social scientist is the choice of appropriate research design. The mixed approach which combines the two approaches was used. According to Creswell and Plano Clark (2007), the mix method strengthens more the use of either quantitative or qualitative. Employing both qualitative and quantitative approaches in this study is expected to increase the comprehensiveness of the overall findings, by showing how the qualitative data provides explanations for statistical data to increase the methodological rigour as findings in both phases could be checked for consistency. According to Green *et al* (2003), qualitative and quantitative methods when combined complement each other and allow for more complete analysis.

#### **3.2 Study area**

The Asante Akim North Municipal Assembly is one of the 27 Districts in the Ashanti Region. It was carved out of erstwhile Asante Akim District Council in 1988 as part of the Ghana’s

Decentralization Process. It has Konogo- Odumasi as its twin capital town. The Municipality is located in the Eastern part of Ashanti Region and lies between latitude 6° 30' North and longitude 0° 15' West 1° 20' West. It covers a land area of 1,600sq.km with an estimated population of 169,976 in 2010 (Projection from 2000 Population Census). The Municipality shares boundaries with Sekyere East at the North, Kwahu South at East Asante Akim South at the South and EjisuJuaben at the West.

### **3.3 Data**

Both primary and secondary data were obtained from four main sectors within the public organizations and the private sector that are directly affected by the Public Procurement Act, 2003 (Act 663) in the Asante Akim North Municipal. These include Local Government (Municipal Assembly), Health Institutions (Teaching Hospitals), Educational Institutions (Schools, Colleges, and University) as well as the contractors, suppliers and Consultants.

The primary data were obtained via interview conducted on members of entity tender committees, tender evaluation panel, procurement and management staff of Public Entities (PEs), suppliers/contractors and consultants as well as staff of the Public Procurement Authority. The data covers issues of non-compliance among public entities in the Asante Akim North Municipal. Secondary data were also obtained from the Procurement Departments of public institutions in the Asante Akim North Municipal covering compliance assessment scores of various public institutions in the local government, health and educational sector.

### **3.4 Sampling procedure**

The study purposively targeted selected public entities in the local government, education and health institutions to represent procurement activities in the Asante Akim North Municipality. Respondents include members of entity tender committees, tender evaluation panel, procurement and management staff of Public Entities (PEs), suppliers/contractors and consultants as well as staff of the Public Procurement Authority. At least one respondent was selected from these groups of people. Secondary data were obtained on assessment performance covering various educational, local government and health institutions as provided in Table 3.

**Table 3: Sampled institutions**

| <b>Educational Institutions</b>                    | <b>Local Government Institutions</b> | <b>Health Institutions</b>         |
|--|--------------------------------------|------------------------------------|
| Konog-Odumasi Senior High                          | Asante Akim North                    | Agogo Presbyterian                 |
| Presbyterian Nurses Training College               | Konogo-Odumasi                       | Konogo-Odumasi Government Hospital |
| Presbyterian College of Education                  | Agogo                                | Juansa Health Center               |
| Wesley Senior High School-Konogo                   | JuansaDomeabra                       | Dwease Health Centre               |
| Presbyterian University                            | Dwease-Praso                         | Praso Health Center                |
| Integrated Community for Employment Centres Skills | Patiensa                             |                                    |
| Agogo Senior High School                           |                                      |                                    |
| Agogo Secondary Technical School                   |                                      |                                    |
| Agogo State College                                |                                      |                                    |

### 3.5 Data analysis

Both quantitative and qualitative methods were employed in the data analysis. The secondary data were transformed and level of compliance estimated using descriptive statistics. Interviews conducted were summarized, organised and presented to explanations in support of the statistical data.

### 4. Results and Discussions

The survey results reveals that all the respondents selected were educated, this was expected, since the respondents were already working in the departments which have a required educational level for its minimum qualification. It was found that about 13.33% of respondents had post graduate degree, 40% of respondents acquired first degree, besides, about 34.67% of them had Diploma degree and 12% of them had certificates below Diploma degree. All the respondents are regular participants in public procurement activity and can really give good assessment of the effect of the procurement reform and how to improve on the compliance of the reform.

**Table 4: Compliance level of the three sectors**

| Description                   | Local Government Institutions | Health Institutions | Educational Institution | Overall (%)  |
|-------------------------------|-------------------------------|---------------------|-------------------------|--------------|
| Management Systems            | 56.84                         | 51.71               | 42.67                   | 50.4         |
| Information and Communication | 54.33                         | 56.26               | 48.89                   | 53.16        |
| Procurement Process           | 71.89                         | 73.98               | 57.56                   | 67.81        |
| Contract Management           | 60.75                         | 55.55               | 32.22                   | 49.51        |
| <b>Total</b>                  | <b>60.95</b>                  | <b>59.38</b>        | <b>45.34</b>            | <b>55.22</b> |

According to Schapper, Veiga, and Gilbert (2006) assessment of public procurement management performance must be defined in terms of compliance with the set procurement rules. In line with this assertion Table 4 presents the summary of the compliance level of the three sectors using four (4) performance indicators. The performance of Procurement Process is 67.81%, Information and Communication scored 53.16%, Management Systems performance scored 50.41% and Contract Management recorded the worst level of performance of 49.51%.

For any organization to become more competitive Amaratunga and Baldry (2002) suggest that absolute performance is a key driver to improving quality of services while its absence or use of inappropriate procedures can lead to non-compliance with purchasing function. The analysis showed that contract management and management control systems in public entities in the Asante Akim Municipal have been poorly handled. Kannan *et al* (2003) argue that one of the ways to ensure effective contract management is through information interaction and communication. However, the case of entities in the Asante Akim North Municipality failed to meet this criterion.

Comparing the performance or compliance level of the three sectors, it was found that the educational institutions have the worst compliance level among the three sectors chosen, whereas local government performance is the best. The overall average compliance of public entities in the local government, education and health sectors in the municipality is 55.22%. This overall performance reveals weak management and control systems, lack of management commitment, ineffective contract management, weak procurement structures, and lack of qualified staff to

effectively supervise the procurement operations of entities. Respondents admitted the low level of compliance among the institutions. They explain that many entities often fail to post annual procurement plan and contract awards at PPA website. The failure is blamed on lack of access to internet facility for entities to benefit from e-procurement. Respondents however, think that public entities in the Municipality comply with the public procurement Act by applying the appropriate procurement methods and the use of Standard Tender Documents from PPA in procurement. Similarly, Kusiet *al.*, reported that from their case study that Takoradi polytechnic use the PPA Act in its procurements of goods, works and services even though high compliance level was not achieved. These findings suggest that there are challenges associated with the implementation of Public Procurement Act that affects compliance. Compliance with the Public Procurement Act (Act 663) is supreme in the execution of duties of those individuals entrusted with procurement functions. The study undertake the assessment of entities in the Municipality to find out how the procurement 'good practices' enshrined in the Act 663 and its accompanying documents are being employed in the public entities in order to determine performance or compliance levels of public entities in the three sectors of the Municipality. Different compliance levels were observed among different sectors. Among the educational institutions only procurement process was observed to have achieved a relatively higher compliance level of 57.56%. The remaining indicators achieve a score less than 50%. Despite the improved performance in procurement process, some institutions were observed to have good performance in this indicator. They include Konog-Odumasi Senior High, Agogo Senior High School and Agogo Secondary Technical School. Among the indicators contract management recorded the poorest compliance score of 32.22%. Integrated Community for Employment Centre Skills and Konog-Odumasi Senior High all scored a compliance level of less than 20% in contract management. The overall performance among the schools were ranked and the results provide that Wesley Senior High School-Konogo, Presbyterian College of Education, Agogo State College are the top three performance institutions in terms of compliance with the Procurement Act (See Table 5).

**Table 5: Compliance level among educational institutions**

| Entity   | Management Systems | Information And Communication | Procurement Process | Contract Management | Performance Rating | Performance Raking |
|--|--------------------|-------------------------------|---------------------|---------------------|--------------------|--------------------|
| Konog-Odumasi Senior High                          | 21.05              | 44.82                         | 40.83               | 15.63               | 30.36              | 8 <sup>th</sup>    |
| Presbyterian Nurses Training College               | 29.82              | 37.41                         | 60.03               | 43.87               | 42.56              | 5 <sup>th</sup>    |
| Presbyterian College of Education                  | 59.33              | 67.04                         | 69.12               | 26.14               | 55.18              | 2 <sup>nd</sup>    |
| Wesley Senior High School-Konogo                   | 55.99              | 61.48                         | 66.09               | 55.9                | 59.64              | 1 <sup>st</sup>    |
| Presbyterian University                            | 44.44              | 39.26                         | 58.01               | 34.08               | 43.72              | 4 <sup>th</sup>    |
| Integrated Community for Employment Centres Skills | 33.46              | 37.41                         | 57                  | 14.24               | 35.3               | 7 <sup>th</sup>    |
| Agogo Senior High School                           | 29.76              | 31.86                         | 42.85               | 13.44               | 29.25              | 9 <sup>th</sup>    |
| Agogo Secondary Technical School                   | 46.2               | 50.37                         | 41.84               | 30.9                | 42.1               | 6 <sup>th</sup>    |
| Agogo State College                                | 40.01              | 46.21                         | 54.47               | 29.28               | 42.26              | 3 <sup>rd</sup>    |
| <b>Total Average Score</b>                         | <b>21.05</b>       | <b>44.82</b>                  | <b>40.83</b>        | <b>15.63</b>        | <b>30.36</b>       |                    |

**Table 6: Compliance level among local government institutions**

| Entity | Management Systems | Information and communication | Procurement Process | Contract Management | Performance Rating | Performance Raking |
|--------|--------------------|-------------------------------|---------------------|---------------------|--------------------|--------------------|
|--------|--------------------|-------------------------------|---------------------|---------------------|--------------------|--------------------|

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|                            |              |              |              |              |              |                 |
|----------------------------|--------------|--------------|--------------|--------------|--------------|-----------------|
| Asante Akim North          | 48.58        | 42.98        | 70.75        | 62.4         | 55.43        | 5th             |
| Konogo-Odumasi             | 53.26        | 61.49        | 71.76        | 58.69        | 60.56        | 1 <sup>st</sup> |
| Agogo                      | 54.43        | 44.83        | 70.75        | 60.7         | 56.93        | 4 <sup>th</sup> |
| JuansaDomeabra             | 61.19        | 59.64        | 62.67        | 56.22        | 59.19        | 2 <sup>nd</sup> |
| Dwease-Praso               | 53.87        | 52.24        | 64.69        | 66.1         | 58.48        | 3 <sup>rd</sup> |
| Patiensa                   | 55.59        | 44.83        | 66.71        | 49.59        | 53.44        | 6 <sup>th</sup> |
| <b>Total Average Score</b> | <b>54.49</b> | <b>51.00</b> | <b>67.89</b> | <b>58.95</b> | <b>57.34</b> |                 |

The results in Table 6 provide the performance score for local government institutions. The overall performance shows that all the indicators have achieved more than 50% compliance level. This suggests high level of compliances among local government institutions. Procurement process has the highest score of 71.89% and information and communication recorded the lowest score of 54.33%. With the exception of Agogo which scored 48.15% in information and communication, all the studied intuitions in the local government sector scored more than 50% in all the performance indicators.

The overall performance of the studied health institution is quite impressive. Apart from Praso Health Center which scored (46.58%), all the health institutions score above 50% to represent a good compliance score. Among the indicators compliance with management systems is the lowest (51.71%) and that of procurement process is the highest (73.98%). Agogo Presbyterian for instance scored as high as 88.89% in this indicator (see Table 7).

Among the institutions Agogo Presbyterian, Konogo-Odumasi Government Hospital and Juansa Health Center were observed to be the top three performance institutions in terms of compliance with the Public Procurement Act. Various reasons might have accounted for the variations in compliance level among the institutions.

**Table 7: Compliance scores for health institutions**

| ENTITY  | Managem<br>ent Systems | Information<br>and<br>Communicatio<br>n | Procureme<br>nt Process | Contract<br>Managem<br>ent | Performanc<br>e Rating | Performanc<br>e Raking |
|---|------------------------|---|-------------------------|----------------------------|------------------------|------------------------|
| Agogo<br>Presbyteria<br>n                     | 76.19                  | 81.48                                   | 88.89                   | 83.33                      | 82.47                  | 1st                    |
| Konogo-<br>Odumasi<br>Governme<br>nt Hospital | 50.73                  | 60.52                                   | 74.80                   | 61.28                      | 61.08                  | 2nd                    |
| Juansa<br>Health<br>Center                    | 46.63                  | 48.00                                   | 71.76                   | 56.94                      | 55.84                  | 3rd                    |

|                            |              |              |              |              |              |     |
|----------------------------|--------------|--------------|--------------|--------------|--------------|-----|
| Dwease Health Centre       | 43.25        | 48.67        | 70.80        | 42.86        | 51.40        | 4th |
| Praso Health Center        | 46.75        | 42.59        | 63.64        | 33.33        | 46.58        | 5th |
| <b>Total Average Score</b> | <b>51.71</b> | <b>56.26</b> | <b>73.98</b> | <b>55.55</b> | <b>59.38</b> |     |

The results of the study provide some factors influencing compliance level among the various institutions. Respondents pinpoint main variables that include professionalism, transparency, efficiency, value for money, competitiveness and fairness.

Professionalism discusses the education/training and capacity development of personnel to make informed decisions regarding procurement operations. Respondents generally agree that procurement staff do not have the qualification and experience to handle procurement process effectively. This confirms the position held by (EOCD/DAC, 2007) in a study that some procurement officials lack some level of skills and knowledge to manage the procurement cycle effectively. Thus simple issues like bid evaluation and selection were only based on lowest price and not the lowest evaluated price. Osei-Tutu (2011) Ameyawet *al.*, (2012), Adsei and Awunyo-Victor (2015) all observed similar findings in Ghana.

Transparency serves as the mirror for the process of public procurement of which trust is created for the process. Thus, Act 663 endorse the use of Standard Tender Documents (STDs), advertising procurement opportunities, public opening, publication of contract awards, resolving disputes and complains, and effective monitoring. The analysis reveals some efforts of transparency such as advertising using the appropriate medium such as utilization of the PPA website for notice and debriefing of unsuccessful bidders. Respondents however maintained that there is effective monitoring and auditing of procurement activities.

Respondents put forward a strong argument against efficiency in public procurement in the Asante Akim North Municipality. They indicated that there have not been effective contract management and projects are not completed on schedules and within cost respectively.

Respondents also disagree that there is Value for Money in procurement. This confirms a general non-commitment towards achieving efficiency and value for money. Though Knudsen, (1999) agree with the procurement Act that procurement regulatory framework must specify purchasing efficiency and effectiveness in order to change from being reactive to being proactive to attain set performance levels in an entities, compliance level shows that entities are reactive rather than being proactive in meeting their procurement needs.

Competitiveness and fairness stand to be the hallmark of the Public Procurement Act, to allow as many legal entities to compete for public project in order to instill competition for bidders. The analysis established that more companies compete for public contracts with an average participation of four (4) bids per each tender opportunity advertised. This finding has been confirmed in the PPA Annual Report (2009) that there is an improved participation rate of four (4) tenders and responsive rate of three (3) per tender notice by the private sector.

## **5. Conclusions**

The Public Procurement Act, 2003 (Act 663) specify the establishment of procurement structures that will support and strengthen the execution and supervision of the procurement functions. The study confirms that procurement Act, 2003 (Act 663) is observed to proffer solutions which in the view of this study attained some level of compliance. However this achievement is not without challenges. It pencils out weaknesses and threats of the various sectors. It is discovered that some entities use inappropriate alternative procurement procedures. Instead of using the Standard Tender Documents (STDs), public institutions instead go for three (3) pro-forma invoices. Some entities refused to advertise procurements that were supposed to be advertised while others do not follow evaluation procedures. Some entities also failed to post their tenders and contract awards on PPA website.

Monitoring and evaluation of procurement process by PPA have not been effective over the years. Emphasis is concentrated on monitoring tender opening and Annual Procurement Assessment. This has the potential of entities abusing the process. There is greater confidence and trust in Public Procurement Institutions in the procurement process hence the improved

participation rate of four (4) tenders and responsive average rate of three (3) per tender notice by the private sector.

## 6.Recommendations

In the pursuit to improve compliance public entities must establish the required structures and engage procurement professionals to manage them. Coverage of monitoring activities must be increased to cover more low spend entities across all sectors in the region. Short/long term training must be continued and improved so as to improve capacity of entities, service providers, and other key stakeholders to operate efficiently and effectively in the procurement system. PPA, Cabinet and Parliament must hasten to amend the Act to ensure smooth implementation and compliance. To curb corruption and unethical behaviour in public procurement PPA should enforce blacklisting bidders who have contravened the provisions of the Act and hold public officials who engage in irregularities accountable.

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