

Open Contracting Scoping Study

# GHANA

West Africa Open Contracting Assessment Project

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# Open Contracting Scoping Study: Ghana Country Report

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## Abbreviations

A-G	Auditor General
ASI	Association of Ghana Industries
GoG	Government of Ghana
MDAs	Ministries, Department, and Agencies
MMDA	Metropolitan, Municipal and District Assemblies
OGP	Open Government Partnership
PE	Procuring Entity
PPA	Public Procurement Authority
SMEs	Small and medium-sized enterprises
PFM	Public Financial Management
PFMA	Public Financial Management Act (Act 921 of 2016)
PRMA	The Petroleum Revenue Management Act 2011 (Act 815 of 2011)
MoF	Ministry of Finance
PE	Procurement Entity
NAP	National Action Plan
NACAP	National Anti-Corruption Action Plan
GACC	Ghana Anti Corruption Coalition
GII	Ghana Integrity Initiative
GHC	Ghanaian Cedi
CHRAJ	Commission for Human Rights and Administrative Justice
PPA	Public Procurement Act of Ghana (Act 663 of 2003)
GODI	Ghana Open Data Initiative
NITA	National Information Technology Authority
GCMG	Ghana Contracts Monitoring Group
NDPC	National Development and Planning Commission

## 1. Executive Summary and Key Recommendations<sup>1</sup>

Ghana's procurement regime is governed by the Public Procurement Act 663 (2003) and the new Public Financial Management (PFM) Act 921 (2016), which provides further guidance on public procurement. Act 663 sets forth the Public Procurement Authority (PPA) as the lead agency on procurement oversight and regulation, the Ministry of Finance (MOF) as the primary policy institution, and the Auditor-General (A-G) as the lead auditing body. The Parliament of Ghana's Public Account Committee reviews audited accounts of all public institutions and makes recommendations for redress or prosecution to the Attorney General. Each government ministry, department and agency on the national and sub-national level serves as a procuring entity (PE) and is tasked with carrying out its own procurement operations activity.

Albeit Ghana's has one of the more transparent procurement systems in the region,<sup>2</sup> there remain a number of challenges to data sharing and the effective conduct of procurement. Although Ghana has an electronic procurement planning system, not all PEs have the capacity or training to use it (PPA conducted a nation-wide training on the system in 2007/8 and continued to offer training to the PEs) and some PEs do not comply with the PPA's reporting standards. As not all payments are made through Ghana's financial management system (GIFMIS), there are significant delays that prevent smaller businesses from participating.

While the Government of Ghana (GoG) has adopted a commitment to implement open contracting as part of its engagement in the Open Government Partnership, many government officials interviewed for this report were unaware of this promise. The new administration, which was elected in December 2016, made combatting corruption through overpricing and opaque procurement practices a centerpiece of its campaign. It has given assurances of its intention to continue to combat corruption, particularly with respect to the awarding of public contracts, in part through implementation of open contracting and a business ownership registry. However, Ghana is considering the adoption of e-procurement, which presents an opportunity for engagement on open contracting principles. It has also adopted a law that would create a beneficial ownership registry, which has potential to make Ghana a leader with respect to business governance, particularly if this registry is linked to GIFMIS and an e-procurement system. There are also a number of opportunities to work with civil society and the private sector in support of an open contracting agenda.

### Key Recommendations

#### Institutional Arrangement

**Ensure the political independence of the PPA.** Key officials in institutions responsible for procurement oversight and auditing should be independent of political influence. ***Amendment of the Public Procurement Act to reduce political influence (strengthen independence) in the operations of the PPA is essential.*** In Senegal, the head of the regulatory authority is selected from a pool of candidates by an independent jury. In short, ***other models for the selection of the leader of the PPA's Board can be considered as a means of increasing the body's independence, and, therein, the confidence of citizens in GoG's ability to conduct fair and competitive procurement.*** The Auditor-General should also enjoy sufficient independence to effectively undertake the essential functioning of posteriori oversight.

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<sup>1</sup> This report was prepared with input by Penplusbytes.

<sup>2</sup> See the synthesis report created for this project.

**Adopt processes and/or technical improvements that reduce the capacity to shift funds to political priorities outside the scope of procurement plans.** At the tender initiation stage, *each new procurement should have a verified link to an approved procurement plan.* Additionally, sanctions backed by law should be introduced to ensure adherence to approved procurement plans. This process should include both a **technical component**, requiring each tender to explicitly reference (ideally by unique ID) its procurement plan, as well as an **oversight process component**, such as a review process by PPA to ensure that the focus of the tender matches the priorities outlined and approved in the procurement plan. Similar technical requirements and review mechanisms could be installed to monitor and ensure that planned procurement methods are used in practice.

**Enhance coordination between procurement oversight and controlling authorities, and Metropolitan, Municipal and District Assemblies (MMDAs), and increase training opportunities.** *Some PEs, particularly those at the MMDA level, lack sufficient resources to have dedicated staff for procurement functions.* Increasing training opportunities and coordination with those conducting procurement at the MMDA level is needed to begin to bring this situation under control. The Ministry of Finance (MOF) is making efforts to develop roles within the Ghana Civil Service that help to ensure that procurement personnel in the MMDA's are qualified and trained. Some staff, including the head of the PE, ought to be seconded for formal training at the Institute of Local Government Studies (ILGS) and the PPA on good procurement practices. **Supporting increased engagement and training opportunities at the MMDA level would help to bring PEs into compliance with the legal framework for procurement.**

**Address payment delays that prevent small and medium enterprises, international businesses and others from participating in the Ghanaian market.** Delays in payment are a symptom of a much larger problem of lack of adherence to procurement plans. For international contracts, there may be need for external assistance to prepare the technical specifications, scope of work or terms of reference. **There is need for PEs to be committed to making payments on time and adhering to the process of procurement - specifically, ensuring the availability of funds before commencing the public procurement process.**

**Strengthen the procurement tribunal to ensure follow through on judicial actions and proper sanctioning for those who violate rules.** Parliament's PAC has an essential oversight role in scrutinizing annual audited accounts of all MDAs. However, there is a lack of judicial follow-through when the PAC identifies irregularities that require further investigation or scrutiny. **Supporting the procurement tribunal to monitor irregularities and to impose penalties on violators is an unfulfilled OGP commitment.**<sup>3</sup> **Advocacy aimed at amending the Act to strengthen this tribunal would be an effective use of resources.**

**Create the Office of the Special Prosecutor.** During the recent electoral campaign, the current government championed the creation of a Special Prosecutor, which would be independent of the executive, to "investigate and prosecute certain categories of cases and allegations of corruption and other criminal wrongdoing, including those involving alleged violations of the Public Procurement Act and cases implicating political officeholders and politicians."<sup>4</sup> **The government should make good on this promise and create a Special Prosecutor with a specific mandate to work with the police and other**

<sup>3</sup> The Open Government Partnership Initiative. *National action plan for the republic of Ghana 2016-2017.* [viewed 2/01/2016] <http://www.opengovpartnership.org/sites/default/files/Ghana%20Plan%203.pdf>

<sup>4</sup> New Patriotic Party (NPP) "MANIFESTO FOR ELECTION 2016," Chapter 12, page 135.

*statutory investigatory agencies to prosecute public sector corruption and crimes committed under Ghana's procurement laws.*

## Legal Framework

**Reduce reliance on restrictive and sole-source procurement.** The reliance on restrictive forms of procurement may be particularly worrying to SMEs and to foreign/international businesses looking to enter into the Ghanaian market. *Efforts should be taken to reduce the use of these methods to a more appropriate (e.g. 15-25%) level, ensuring their use only where insufficient competitive options or urgency demand.* This could include *working with civil society monitors to analyze procurement data to understand who is winning, how much these contracts tend to be, and which PEs are most frequently engaging in restrictive tendering.*

**Review the legal framework in support of transparency and openness.** The Act requires the publication of an array of procurement information. However, *the scope of information required to be published, along with the completeness, frequency and format of collection and implementation are little discussed.* Revising the Act to enhance data collection and publication has potential to enhance access to procurement information and its use by the PPA and the public. *The potential benefits of improving the legal framework for disclosure and openness should be taken into consideration during efforts to implement e-procurement.*

**Publish laws open and online.** While Public Procurement Act 663 and PRMA 814, for example, are publicly available online, neither the PFMA 921 (2016) nor Public Procurement (Amendment) Act 914 (2016) are available online to the public. *The practice of requiring citizens to purchase the new laws in hard copy for a fee limits access to new legislation and can reduce compliance by citizens and even the government. Such barriers to public access should be removed by providing the Government's Assembly Press with alternative sources of funding to print.*

## Policy Context

**Identify and support policy champions.** There is a need to support policy champions who will promote transparency in procurement and open contracting principles, and who serve as change leaders in their respective MDAs and MMDAs. *Working with the PPA, there is an opportunity to identify these individuals and enhance their capacity through targeted trainings on procurement processes and good practice, and stimulate networking among them.* This could include the Chartered Institute of Procurement & Supply, a procurement officers association that is not fully registered as yet. *This group should be supported to be vibrant and lead in the advocacy drive towards best practices in both public and private procurement.*

**Ensure data release by MDAs for online publication.** *Stringent measures should be put in place by the PPA to ensure that MDAs adhere to the procurement policy and meet deadlines for releasing procurement plan data.* The PPA should consider providing incentives for compliance with its data collection policies, such as disclosing which PEs are compliant with its guidance. Adoption of e-procurement, which would require procurement processes to be undertaken through a centralized system, would increase the PPA's leverage over PEs.

**Encourage government compliance with OGP commitments.** Government officials interviewed for this report were largely unaware of OGP and the open contracting commitment. *Supporting demonstrative advocacy, such as the development of tools that can help the PPA understand the potential benefits of open contracting, can help facilitate uptake.*

## Technical Assessment

**Improve collection and publication of procurement data to meet the needs of PPA and other stakeholders.** At present, the PPA collects limited and incomplete data from PEs, which means it has a limited view on the procurement activities being conducted in Ghana. Even less information is available for public consumption. *Enhancing data collection and publication would enable all parties to benefit from increased knowledge of value for money (by comparing item amounts and vendor prices), of the efficacy of working under various procurement methods, and of service delivery. For the PPA and public to make full use of this information, it should be collected and published in an open format, such as CSV, and made available in bulk.*

**Adopt e-procurement to strengthen procurement implementation and data collection, and to build public trust.** Ghana is currently implementing the e-Transform Ghana project to enhance the use of technology in government's dealings with the public. There is currently an ongoing project (the Public Management Reform Project - PFMRP) to link the Procurement Planning with the Budget System (Hyperion) and GIFMIS, under the Ministry of Finance. It is anticipated that this project will improve transparency and minimize multiple reporting burdens for all stakeholders. *e-procurement will improve procurement implementation by requiring compliance with aspects of the legal framework.* By linking the e-procurement system to GIFMIS as well as business registries (under the Registrar of Companies, for example), GoG could improve payment tracking and reduce delays, while gaining insight into the companies benefiting from government contracts. *For e-procurement to be effective, GoG the success of the PFMRP will be key. Moreover, there will also be a need to build the capacity of PEs and other users through institutionalization of rigorous training programs to ensure uptake and compliance.*

## User Engagement

**Open up direct feedback mechanisms.** *The PPA should have electronic channels such as SMS, email, incident management and whistle-blower applications, which can record feedback that is helpful in all-year-round monitoring of public procurement.*

**Create consistent opportunities for citizens to participate in MDA and MMDA level tendering.** According to respondents, citizen engagement around procurement is normally handled by the project management team at the MDAs, but this differs from project to project. *The PPA and MOF should develop clear guidelines for PEs on procurement monitoring, such as enabling civil society to attend bid openings and creating mechanisms for third-party complaints.*

**Redouble efforts to collaborate with citizens and private businesses to facilitate understanding of procurement processes.** A lack of citizen interest in public markets - whether from private sector bidders or from civil society monitors - typically speaks to a lack of citizen trust in the procurement system. The PPA should strengthen its efforts to engage private business and civil society. *Training public stakeholders to serve on evaluation committees, as is done in Senegal, and enabling civil society to monitor bid openings, as in Nigeria, are ways to advance.* Creating a *standing working group with key stakeholders from the public would enable increased contact that can lead to improved relations, better bids, and the discovery of additional means of collaboration that have not yet been explored.*

**Support the Commission for Human Rights and Administrative Justice's (CHRAJ) efforts to investigate corruption.** Strengthening bodies that have an oversight role on matters related to financial oversight and corruption can help to strengthen Ghana's overall procurement and financial systems. Although not a primary actor with respect to procurement, it would be worthwhile to *consider supporting CHRAJ to investigate procurement activities and, possibly, to explore the role it could play in training procurement staff or others to combat corruption.*

## Stakeholder Identification

**Facilitate collaboration between international and domestic business associations to support increased openness of the procurement sector.** Local business representatives view international companies as key actors in efforts to increase public sector transparency. *Facilitating collaboration on this issue can help forge bonds and common understanding related to the mutual interests of Ghanaian and foreign businesses. This collaboration could also focus on mechanisms used by local and foreign companies to benchmark the procurement process and understand where opportunities and challenges exist using available data and engagement opportunities.*

**Enforce clauses of late payment in contracts through accrual of interest when payments become overdue.** Private businesses frequently raise the issue of delayed payments as a key issue preventing their unimpeded participation in public procurement. *The government should enforce clauses that allow for the accrual of interest when payments are overdue to provide incentive for the release of payments.*

**Encourage private sector actors to develop and sign a non-voluntary procurement code of ethics which will help maintain high standards.** One such example is the UN Global compact.

**Enhance civil society's role in the budget process.** The role of civil society in the budget process should also be enhanced and recognized by GoG. For example, Penplusbytes, in collaboration with FAT-Africa, have worked with MOF to prepare and launch a citizen's budget. There are a number of opportunities for civil society to engage in the budget process, as described in the figure below. *Supporting civil society to engage at each of these target points would help foster improved policy-making.*

**Consider following the model for GoG-civil society engagement with respect to environment and resource governance.** *Environment and resource governance processes now have a consultative framework with a memorandum that engages both GoG and CSO's effectively.* Examples of good practices in CSO participation in budget process include public expenditure tracking for Ugandan schools and citizen report cards in the Philippines to improve performance monitoring. *Lessons on collaboration from such initiatives can carry over to programs in Ghana.*

**Facilitate proactive media and civil society networking and coalition building.** The media and infomediaries should be encouraged to *specialise in the coverage of public financial management as a whole and specifically procurement issues.* The use of new digital technologies can also be leveraged to stimulate greater citizen participation in open contracting. *Civil Society actors should work at creating coalitions to have a unified voice to advocate for reforms, working hand-in-hand with the media and citizen groups.*

**Enable the private sector to play a greater role in advocating for procurement reform.** The private sector is a major actor in the procurement process and stands to gain most if there is transparency in the procurement process as a result of open contracting. *Both local and international firms have a key role in ensuring transparency in procurement through demanding open and competitive bidding which provides a level playing field for all players.*

## Broader Public Financial Management System

**Link GIFMIS and PPA portal.** In the nearer term (prior to adoption of e-procurement), this would help prevent PE's from spending outside of projected budgets and making purchases that are not in their approved procurement plans.

**Improve procurement financial transaction capture for monitoring and audit.** MDAs and MMDAs do not submit all transactions in GIFMIS, an issue raised in some of the A-G's reports. In the absence of these transactions, MDAs and MMDAs should prepare financial statements against which an audit can take place; but this is seldom the case. Consequently *many transactions are lost. The GIFMIS should be modified to mandatorily capture all transactions.*

**Support capacity building of procurement personnel.** *Training of all personnel involved in the procurement process, both at the national and subnational level, would enable them to submit procurement transactions in GIFMIS.* This would facilitate the provision of financial information on procurement activities at any time. In addition, enhancement of capacity would also force MDAs to electronically generate financial statements to help in the auditing process by the A-G's department.

**Bolster the watchdog authority of the Auditor General.** Improving the timeliness and scope of the A-G's report would enable other oversight institutions such as the Parliament to know offending institutions and individuals who could be used to inform future budget allocations, reducing allocations to institutions who abuse the use of restrictive and sole source procurement methods.

## 2. Purpose, Methodology, and Field Visit Information

### Purpose

This scoping study, supported by the UK Foreign & Commonwealth Office, aims to (i) gauge the state of openness of public procurement processes in Ghana, (ii) understand the capacities and interests of key procurement actors, and (iii) identify opportunities for procurement reform and the adoption of open contracting principles.

Open contracting refers to a set of [global principles](#) aimed at improving procurement data disclosure and recognizing the importance of public participation in the contracting process. This includes the publication of procurement data in open and structured formats that enable public use and reuse at the user's discretion. Procurement data must be "technologically" open (e.g. machine readable, free of proprietary software requirements, etc.) and "legally" open (e.g. published in the public domain or in accordance with copyleft principles). Furthermore, open contracting refers to the participation of citizens in the procurement process, including the creation and implementation of accountability and redress mechanisms that build trust between citizens and government. Ultimately, open contracting aims to deliver value for money, create a more level playing field for business, reduce fraud and corruption, and improve service delivery.

### Methodology

The methodology adopted by this study seeks to:

- Document current levels of openness in public contracting in targeted polities;
- Identify and assess existing systems and data sources (including non-public) within government for collecting, analyzing, and sharing procurement data;
- Map key stakeholders and their capacities and enthusiasm for advancing open contracting; and,
- Provide recommendations on realistic targets and use cases for open contracting moving forward.

The study is divided into seven sections: 1) institutional arrangement, 2) legal framework, 3) policy context, 4) technical analysis, 5) user engagement, 6) stakeholder identification, 7) broader public financial management environment.

### Field Visit Information

The survey was conducted through purposive sampling that targeted key public, private and civil society entities involved with the procurement process. In-depth interviews were conducted with individuals from eight Ministries, Departments and Agencies (MDAs), including MOF, Ministry of Lands and Natural Resources, Ministry of Education, Ghana Health Services, Ghana Statistical Services, Local Government Services Secretariat, Institute of Local Government Studies and the Public Procurement Authority (Annex 1). The sample included respondents from four civil society organizations: Ghana Anti-Corruption Coalition, Ghana Integrity Initiative, Integrated Social Development Center, Financial Accountability & Transparency-Africa (FAT-Africa), and SEND-Ghana. Lastly, the private sector was represented by a staff member of the Association of Ghana Industries (AGI). Each interview session took an average of 45 minutes to complete. Copious notes were taken during each semi-structured session.

### 3. Overview of the General Country Context

The history of publicly procured goods and services is marked by many problems and difficulties in Ghana. As part of the colonial legacy, post-independent Ghana continued to conduct public procurement through Crown Agents, Ministry Departments and Agencies, and the Ghana National Construction Corporation. In 1960, the Ghana Supply Commission was established to procure goods for all public institutions. This arrangement changed in 1976, when the Ghana National Procurement Agency was established to procure bulky items that were sold to both private and public institutions. These two key institutions, however, were not given clear legal frameworks beyond purchasing manuals that guided their activities. The Architectural and Engineering Services Corporation was established to oversee the consulting activities connected to procurement.

These three institutions functioned as the conduit through which public goods and services were procured in Ghana up to the 1980s. As advisory bodies for works and contracts, they established central, regional and district tender boards. In 1996, these boards became the contract awarding entities. Unfortunately, decentralization and the lack of standardization and oversight of these bodies enabled political interference and corruption to thrive.<sup>5</sup>

By the end of 1999, the Ghana Supply Commission and Architectural and Engineering Services Corporation were converted into limited companies. These two bodies lost the power to provide services to public institutions. To address the dual problem of inefficiency and corruption, reform became imminent to mainstream procurement activities. The reform started in 2000 with the use of the World Bank Procurement Procedures Manual, created to guide the Bank's projects. It was ultimately adopted through the Public Procurement Act of 2003 (Act 663), which sets forth the institutional and legal framework for procurement activities in Ghana today. Given the need to enable decentralized procurement, the Public Procurement Act was amended in 2016 to Act 914. This amendment also reflects the changing demand for openness.

Though the Public Procurement Act sets out the legal, institutional and regulatory frameworks for securing fiscal transparency and public accountability, its reliance on sole sourcing in procurement activities as the norm -- instead of as the exception, among other irregularities -- inhibits the larger scope of value for money. And despite the recognition for citizens' involvement in the fight against corruption, a missing critical factor in the empowerment of citizens in the area of public finance (budget preparation, approval, implementation and audit) is the lack of adequate skills and knowledge, high illiteracy and poverty rates, and lack of relevant information to engage continuously and constructively with the governance process.<sup>6</sup> This has manifested itself in the rise of corruption cases, including the rebranding of the public fleet of Metro Mass buses<sup>7</sup> and award of the Driver and Vehicle Licensing

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<sup>5</sup> Elhiraika, A. Corruption in public procurement: the case of infrastructure in Africa. United Nations Economic Commission for Africa. See: <https://www.chathamhouse.org/sites/files/chathamhouse/Adam%20Elhiraika%20presentation.pdf>. Accessed: 12.30.16.

<sup>6</sup> See: <http://www.imf.org/external/pubs/ft/scr/2012/cr12203.pdf>. Accessed: 01.09.17.

<sup>7</sup> See: <http://www.myjoyonline.com/news/2015/December-16th/govt-spends-over-36-million-on-re-branding-of-metro-mass-buses.php>

Authority (DVLA) contract,<sup>8</sup> among others. Sadly, these financial malpractices as catalogued in the annual Auditor-General's report are only detected after they have occurred.

Nevertheless, the Government of Ghana (GoG), through the Public Procurement Act, has made efforts to open up the procurement process for scrutiny by setting up the appeals and complaints panel, amending the original PPA to adopt new changes, provide training avenues for procurement practitioners, publish key contract information online, develop codes of conduct for state officials, and issue and monitor expenditure ceilings for each MDA. While authorities should be commended for these efforts, there is still much to be done; the fight for financial prudence, transparency, accountability and value for money requires developing shareable and timely data and deploying greater scrutiny of public procurement information.

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<sup>8</sup> See: <http://citifmonline.com/2015/11/05/dvla-fraud-a-g-orders-cancellation-of-foto-x-contract/>. Accessed: 01.09.17.

## 4. Institutional Arrangement

By analyzing the arrangement and functioning of the government's procurement institutions, we hope to better understand the decisions made throughout the procurement process and the opportunities available to conduct open contracting activities. Ultimately, this analysis aims to identify the institutional factors that may enable or hinder open contracting reform and implementation efforts.

### Procurement and Key Institutions in Ghana

Ghana has a highly decentralized procurement system supported by central regulatory institutions. At the central government level, the Public Procurement Authority (PPA), the Ministry of Finance (MOF) and the Auditor-General (A-G) are the main government institutions involved in the oversight and management of procurement. Individual procuring entities (PEs) are responsible for managing the individual contracts or procurements under their mandates. PEs include: the central management agencies, such as the Public Service Commission, Office of the President, and Office of head of Civil Service; Ministries, Departments and Agencies (MDAs); and Subvented Agencies (i.e. agencies that receive public funding to run), such as the Ghana Library Board, Ghana News Agency, and Ghana Statistical Service.

**The Public Procurement Authority (PPA)** has the mandate to regulate all procurement entities in accordance with the Public Procurement Act (Act 663 of 2003; amendment Act 914 of 2016), and approves all procurement activities. In particular, the PPA is supposed to ensure compliance in public procurement and prevent abuse of public funds.

The PPA's responsibilities include: (i) the development of standard tender documents for procurement, (ii) approval for use of Single Source and Restrictive Tendering Methods; which is actually done by the Board of PPA, (iii) capacity building and assessment of procurement activities as they occur in the entities, (iv) approval of all contracts emanating from various procuring entities (PE), (v) sanctioning of procurement entities and suppliers and (vi) running the web portal ([www.ppaghana.org](http://www.ppaghana.org)), which helps to manage the procurement process and interaction with PEs. However, some information, such as procurement plans, are not disclosed publicly.

The Board of the PPA, the institution's governing body, acts as the professional advisory and coordinating body on procurement. All procurement entities, tender committees and tender review boards are required to abide by the technical guidelines and regulatory instructions issued by this Board. According to the law (Act 663 section 9(1)), "the Chief Executive of the Board shall be appointed in accordance with article 195<sup>9</sup> of the Constitution and the members of the Board shall be appointed by the President acting in consultation with the Council of State."

**The Ministry of Finance (MOF)** is the key policy institution with respect to procurement, responsible for issuing procurement regulations, administrative instructions and other monitoring rules to PEs in

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<sup>9</sup> Article 195 of the 1992 Constitution of Ghana states: "(1) Subject to the provisions of this Constitution, the power to appoint persons to hold or to act in an office in the public services shall vest in the President, acting in accordance with the advice of the governing council of the service concerned given in consultation with the Public Services Commission. (2) The President may, subject to such conditions as he may think fit, delegate some of his functions under this article by directions in writing to the governing council concerned or to a committee of the council or to any member of that governing council or to any public officer. (3) The power to appoint persons to hold or act in an office in a body of higher education, research or professional training, shall vest in the council or other governing body of that institution or body."

consultation with the PPA's Board. In Section 97 (1) of the Public Procurement Act, the Minister of Finance, in consultation with the Procurement Board, may make regulations through legislative instruments.

**The Parliament** has oversight responsibility for public procurement, particularly through the Public Accounts Committee (PAC) of Parliament. Parliament has the constitutional mandate to summon any public official to explain procurement irregularity based on findings from the A-G and PPA. The PAC, whose chairperson is from the opposition bloc in accordance with parliamentary custom, annually receives the audited accounts of all MDA's from the Auditor-General. The PAC also holds public hearings and makes recommendations for sanctions and restitution where necessary. It must, however, be mentioned that Parliament lacks prosecutorial powers, thus making it difficult to build consensus or enact sanctions on breaches of the Public Procurement Act.

**The Auditor-General (A-G)** is mandated in Section 91 of the Public Procurement Act to conduct annual statutory audits of procurement activities. It is required to furnish copies of audit reports to the PPA Board upon request, though these reports are often behind schedule. The A-G, which falls under the Ghana Audit Service, is further mandated to carry out specific audits into the procurement activities of PEs, contractors, suppliers, and consultants within the procurement requirements. In addition, the statutory audit of procurement activities may be relied upon by the Board to institute measures to improve the procurement system. A search on the website of the Ghana Audit Service<sup>10</sup> has different categories of reports (financial audit, performance audit, information technology (IT) audit, etc.). However, its list does not include procurement audit reports. This supports a view by one of the interviewees, who stated that the A-G has seldom undertaken any procurement audits (the assessment team was not able to find evidence of any audits) since the promulgation of the Public Procurement Act. As the A-G is appointed by the President, the independence of this essential institution is questionable.<sup>11</sup>

**Procuring Entities (PEs):** Procurement of goods, works, and services is conducted in line with the decentralized system of administration in Ghana. In addition to the Ministries, Department, and Agencies (MDAs) at the central government level, there are procurement units in each of the 216 Metropolitan, Municipal and District Assemblies (MMDAs) with tender boxes for all competitive tendering..

Typically, procurement is the responsibility of the procurement unit within a procurement entity. The unit has a qualified procurement head (personnel appointed by the head of the procurement entity) with the responsibility to coordinate all procurement activities within the procurement entity.<sup>12</sup> Much of the day-to-day work, such as preparation of procurement plans, is conducted by a specialist within the PE. A record of the whole process is kept in hard copy for audit purposes.

Interviewees noted that, in practice, some local level institutions like as secondary schools are unable to properly conduct a procurement activity. This forces their central ministry to review and revise their tender documents, which can lead to falsification of information. Despite attempts to better coordinate the procurement processes, significant challenges remain.

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<sup>10</sup> See: <http://www.ghaudit.org/gas/site/reports>.

<sup>11</sup> Act 921 of 2016 section 8(1); Section 195 (1) of the Constitution of Ghana

<sup>12</sup> Where applicable, the PE's might supply a set of prequalification documents to potential tenderers, including the price for these documents that reflect the costs of printing them and supplying them to potential tenderers.

***The Procurement Process for a Competitive Procurement: From Planning to Delivery***

**Step 1 (Planning):** Each PE undertakes its own procurement planning based on a request from a ‘user’ - a unit or department - that has a justifiable need. The request must fall within the annual procurement plan and be covered by available funding in the national budget or through a development partner. Once a need is established, the preparation of the initial specification of the requirement and a procurement requisition are done. As stipulated in the Act, each public entity in Ghana has Entity Tender Committees to lead the process in considering submissions made before the Tender Review Committee approves or rejects a submission with reasons.<sup>13</sup> A unit or department makes a request to procure. Whether or not a review committee must review the tender (and which committee is responsible) depends on the amount of the tender and the procurement method in use.<sup>14</sup>

PEs’ annual procurement plans for subsequent years must be submitted for approval by the deadline of 30th November of the preceding year. Once annual procurement plans have been approved, PE's need not send plans on quarterly intervals for further approval, but PEs may update their plans with actuals on a quarterly basis. Reviews that lead to additions to the approved annual procurement plans must be approved.

**Step 2 (Tender):** The PE invites bidders by publishing a notice, in English, seeking expressions of interest in submission of requests for proposals. The notice is published on the PPA Bulletin<sup>15</sup> (which is available on the PPA Website) and national newspapers, such as, the Daily Graphic Newspaper and the Ghanaian Times, which is available electronically on the PPA website. Interested parties can purchase relevant bidding documents which are normally priced to simply recover printing costs.

**Step 3 (Award):** The PE forms a tender evaluation panel, which is responsible for ensuring that the evaluation criteria published in the tender documents are applied. The evaluation panel seeks the lowest evaluated bid in conjunction with additional criteria outlined.<sup>16</sup> PEs are responsible for all categories of procurement such as Goods, Works, or Services as defined in the Public Procurement Act. The award states price of goods, works or services being procured, delivery schedule and other contract terms stated in the tender.

**Step 4 (Contracting):** The PE and the supplier sign the contract and a copy is sent to the PPA, including information that may be uploaded in the PPA portal as part of the procurement plan (See more on the template from Technical assessment section).

**Step 5 (Implementation):** This happens between the PE and the tender contract awardee. The PPA and A-G’s office may ensure only that the contract document is well written. Others will also participate in oversight, for example, different sectoral parliamentary committees, among others.

In terms of ICT skills, interviewees indicated varied capacity to support procurement activities within PE’s in the public sector. While key personnel were trained in ICT skills such as uploading procurement plans onto the PPA portal, such trainings do not appear to reach local PEs such as schools. Personnel

<sup>13</sup> See: Act 419, Section 20.

<sup>14</sup> The thresholds for procurement methods for goods, works and consultancy services are outlined in the 5th Schedule of the Amendment Act 914 of 2016, which is currently available for purchase in hard copy only from the Assembly Press, Accra, Ghana.

<sup>15</sup> The PPA Electronic Bulletin is available at: <http://www.ppaghana.org/biddingmain.asp>. PE’s should also publish the notice in English in a newspaper of wide circulation or in a relevant trade or professional publication of wide circulation except where participation is limited solely to national consultants under section 44 (1) or where the procurement entity decides that only national consultants may submit proposals.

<sup>16</sup> See: Section 59. This includes a variety of criteria related to ensuring maintenance and operations remain at low cost and the ramifications of the purchase on the fiscal environment.

handling the PPA portal are able to activate built-in mechanisms that track visitors, receive comments and grievances.

### Implementation challenges for the Public Procurement Act

Interviews and research conducted for this project noted a number of challenges to enhancing the procurement process. These include:

- **Politicization of procurement:** Numerous interviewees flagged the possibility of government interference in procurement, which prevents the professional conduct of procurement processes. Despite clear-cut guidelines, appointments to the PPA Board sometimes seem to have political motivations. It was also noted that funds appropriated for procurements that have not been requested are sometimes diverted from the typical planning process. Such procurements can lead to a lack of funds for planned procurements and lead to payment delays.
- **Sole source contracting:** An analysis of all contracts awarded on the PPA website over a 24 month period reveals that just 51% of procurement is undertaken via open competition, while 49% occurs through sole sourcing and restricted tendering. Given its role in the approval of sole sourcing, the PPA wields considerable power in this area (see section 5).
- **Advertising costs:** PEs also listed the high cost of advertisement as an inhibitor to the implementation of the Public Procurement Act.
- **Payment delays:** Delays on the part of government to make payment for goods and services can have an adverse effect on the cash flow of firms, especially small firms. Interviewees inside and outside of government cited this as one of the reasons why tenderers - particularly small and medium-size enterprises (SMEs) - shy away from participating in the public market. Sometimes payment is delayed for as long as 8 months, forcing firms to seek extension of their overdraft facilities or increase borrowing (with credit access also becoming more restricted and expensive). For this reason, businesses prefer participating in international tenders where a development partner is providing funds.
- **Drastic changes to budget requests:** The importance of procurement planning is undermined by the uncertainty of budget requests. MOF facilitates cross-sectoral meetings of MDAs to discuss sectoral issues and scrutinize activities, and all plans by the MDAs and MMDAs are submitted to the MOF<sup>17</sup> for the annual budget. MOF's review process aims to avoid duplication and overlap of activities and programs, but during this process the MDAs and MMDAs sometimes add on unrealistic requisitions in the hopes that MOF will not remove these items. The Executive arm of Government may also get further downward adjustments from the Legislative arm (parliament) after budget approval. The end result is increased uncertainty in the availability of funds for the procurement process.
- **Need for additional attention to contract management:** The PPA, through Act 914 and the establishment of Contract Administration Manuals, has some authority to oversee contract management. Nevertheless, there remain gaps in the supervision of contract management, including additional review and understanding of risks and difficulties communicating contract terms and changes, that would benefit from enhanced oversight.

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<sup>17</sup> MOF, guided by the Medium Term Expenditure Framework (MTEF), prepares the budget before undertaking a revision of the macroeconomic framework taking into consideration provisions of the National Development Plan (NDP), cabinet/executive directives and other policy paper(s) of Government and international agreements.

## Recommendations

**Ensure the political independence of the PPA.** Key officials in institutions responsible for procurement oversight and auditing should be independent of political influence. ***Amendment of the Public Procurement Act to reduce political influence (strengthen independence) in the operations of the PPA is essential.*** In Senegal, the head of the regulatory authority is selected from a pool of candidates by an independent jury. In short, ***other models for the selection of the leader of the PPA's Board can be considered as a means of increasing the body's independence, and, therein, the confidence of citizens in GoG's ability to conduct fair and competitive procurement.*** The Auditor-General should also enjoy sufficient independence to effectively undertake the essential functioning of posteriori oversight.

**Adopt processes and/or technical improvements that reduce the capacity to shift funds to political priorities outside the scope of procurement plans.** At the tender initiation stage, ***each new procurement should have a verified link to an approved procurement plan.*** Additionally, sanctions backed by law should be introduced to ensure adherence to approved procurement plans. This process should include both a ***technical component***, requiring each tender to explicitly reference (ideally by unique ID) its procurement plan, as well as an ***oversight process component***, such as a review process by PPA to ensure that the focus of the tender matches the priorities outlined and approved in the procurement plan. Similar technical requirements and review mechanisms could be installed to monitor and ensure that planned procurement methods are used in practice.

**Enhance coordination between procurement oversight and controlling authorities, and Metropolitan, Municipal and District Assemblies (MMDAs), and increase training opportunities.** ***Some PEs, particularly those at the MMDA level, lack sufficient resources to have dedicated staff for procurement functions.*** Increasing training opportunities and coordination with those conducting procurement at the MMDA level is needed to begin to bring this situation under control. The MOF is making efforts to develop roles within the Ghana Civil Service that help to ensure that procurement personnel in the MMDA's are qualified and trained. Some staff, including the head of the PE, ought to be seconded for formal training at the Institute of Local Government Studies (ILGS) and the PPA on good procurement practices. ***Supporting increased engagement and training opportunities at the MMDA level would help to bring PEs into compliance with the legal framework for procurement.***

**Address payment delays that prevent small and medium enterprises, international businesses and others from participating in the Ghanaian market.** Delays in payment are a symptom of a much larger problem of lack of adherence to procurement plans. For international contracts, there may be need for external assistance to prepare the technical specifications, scope of work or terms of reference. ***There is need for PEs to be committed to making payments on time and adhering to the process of procurement - specifically, ensuring the availability of funds before commencing the public procurement process.***

**Strengthen the procurement tribunal to ensure follow through on judicial actions and proper sanctioning for those who violate rules.** Parliament's PAC has an essential oversight role in scrutinizing annual audited accounts of all MDAs. However, there is a lack of judicial follow-through when the PAC identifies irregularities that require further investigation or scrutiny. ***Supporting the procurement tribunal to monitor irregularities and to impose penalties on violators is an unfulfilled OGP***

*commitment.<sup>18</sup> Advocacy aimed at amending the Act to strengthen this tribunal would be an effective use of resources.*

**Create the Office of the Special Prosecutor.** During the recent electoral campaign, the current government championed the creation of a Special Prosecutor, which would be independent of the executive, to “investigate and prosecute certain categories of cases and allegations of corruption and other criminal wrongdoing, including those involving alleged violations of the Public Procurement Act and cases implicating political officeholders and politicians.”<sup>19</sup> ***The government should make good on this promise and create a Special Prosecutor with a specific mandate to work with the police and other statutory investigatory agencies to prosecute public sector corruption and crimes committed under Ghana's procurement laws.***

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<sup>18</sup> The Open Government Partnership Initiative. *National action plan for the republic of Ghana 2016-2017*. [viewed 2/01/2016] <http://www.opengovpartnership.org/sites/default/files/Ghana%20Plan%203.pdf>

<sup>19</sup> New Patriotic Party (NPP) “MANIFESTO FOR ELECTION 2016,” Chapter 12, page 135.

## 5. Legal Framework

Public procurement is governed by the **Public Procurement Act of Ghana (Act 663 of 2003) (the Act)**. It designates the PPA as a supervisory body with the responsibility to coordinate all procurement activities in Ghana and sets forth the PPAs' duties and responsibilities.<sup>20</sup> This act creates the PPA and its mandate, and provides guidelines for the entire public procurement process. The thresholds for procurement methods for goods, works and consultancy services are outlined in the 5th Schedule of the Amendment Act 914 of 2016, which is only available for sale in hard copy.

In a joint evaluation conducted in 2012 to examine the period from 2001 to 2010, it was concluded that Public Finance Management (PFM) reform over the study period had been largely disappointing, despite huge investments, including poor budget credibility, the build-up of expenditure arrears, and non-compliance with expenditure controls<sup>21</sup>. In August 2016, Parliament passed the **Public Financial Management Act (PFMA) (Act 921 of 2016)** which defines "... responsibilities of persons entrusted with the management and control of public funds, assets, liabilities and resources, to ensure that public funds are sustainable and consistent with the level of public debt; to provide for accounting and audit of public funds and to provide for related matters."<sup>22</sup> The PFMA's objectives include addressing past PFM weaknesses in: fiscal policy formulation, budgeting, commitment control, transparency and accountability, debt management, and results monitoring to improve service delivery, among others.

**The Petroleum Revenue Management Act (PRMA) 2011 (Act 815) was enacted** "...to provide the framework for the collection, allocation and management of petroleum revenue in a responsible, transparent, accountable and sustainable manner for the benefit of the citizens of Ghana."<sup>23</sup> Specifically, Act 815 speaks to regulations and guidelines on the establishment of the Ghana Petroleum Holding Fund, Stabilization Fund and Heritage Fund (collectively called the Ghana Petroleum Funds), an Investment Advisory Committee (and how these interact with other government agencies such as the MoF), and the Bank of Ghana. It also sets forth requirements for payments related to petroleum operations.

While Act 663 and Act 921<sup>24</sup> are publicly available online, Act 815 is available only in hard copy and for a fee.

### Tendering and Procurement Methods

**Competitive Tendering:** According to Section 35 (1) of the Act, a procurement entity shall procure goods, services or works by competitive tendering unless the procurement entity determines that it has enough grounds for adopting other methods of procurement, which are more appropriate for taking into account the nature of the services to be procured. Competitive tendering may either be national or

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<sup>20</sup> The Public Procurement Act of Ghana (Act 663), 2003.

<sup>21</sup> Betley, M., Bird, A. and Ghartey, A. (2012). *Evaluation of Public Financial Management Reform in Ghana 2001–2010 Final Country Case Study Report*. Joint Evaluation 2012:8 Commissioned by Sida, Danida and AfDB. [Viewed 4/01/2016]. <https://www.oecd.org/countries/ghana/ghana.pdf>. Accessed: 01.09.17.

<sup>22</sup> Public Financial Management Act, 2016

<sup>23</sup> The Petroleum Revenue Management Act (2011)

<sup>24</sup> Act 921 is available online, <http://www.mofep.gov.gh/?q=content/new-public-financial-management-act-2016-pfma-act-921>

international, although PEs can include a preference for domestic contractors or for domestically produced goods or suppliers.<sup>25</sup>

According to Section 44 (1), when the PE decides that only domestic suppliers or contractors may submit tenders, the PE shall employ national competitive tendering (NCT) procedures and stipulate in the tender documents that tenderers must quote only in the local currency and that payments will be made wholly in the local currency.<sup>26</sup> The tender period is four weeks under NTC. International competitive tendering is often used when it is established that there is no local expertise to supply requisite goods, works or services. Statistics on how frequently national and international competitive tendering methods are used were unavailable at the time of writing.

The competitive thresholds for procurement methods for goods, works and consultancy services differ depending on the PE conducting the procurement and on the amount. Generally, PEs do not seek permission to use international or national tendering methods, however, based on the amount involved, the Central Tender Review Committee may need to approve the project. A ministry, for instance, must only seek permission to conduct international tendering for the purchase of goods worth GHC 10,000,000 or greater, while permission must be sought for national tendering of goods worth GHC 25,000 or more. For decentralized PEs, the committee whose permission must be sought depends on the amount of the tender.<sup>27</sup> Where a donor funds a project, the Public Procurement Act allows the guidelines provided by the donor to be used in that procurement.<sup>28</sup>

#### **International Tendering**

Under Section 45 (1) of the Public Procurement Act of 2003, Act 663, "International competitive tendering shall be used whenever open competitive tendering is used and effective competition cannot be obtained unless foreign firms are invited to tender." While no shorter than a six-week tender period is required, the law does not specify when the tender period begins in relation to the issuance of advertisement. As best practice, PEs need to advertise in both local and international newspapers, though international advertising is generally expensive.<sup>29</sup> Thus advertising is typically done locally, denying international entities the opportunity to participate in Ghana's procurement process.

Although competitive tendering is not the 'default' procurement method in Ghana, PEs are required to justify the use of all other procurement methods, signaling the intention for competitive tendering to be the predominant procurement method.<sup>30</sup> However, only 33% of contracts awarded have been through open competition over the last 12 months.

<sup>25</sup> See Act 663, section 60.

<sup>26</sup> <http://www.graphic.com.gh/business/business-news/no-single-source-procurement-entities-warned.html>

<sup>27</sup> The specific details of this framework are outlined in the 5th Schedule of the Amendment Act 914 of 2016 published in June 2016, and which presently is only available for purchase in hard copy.

<sup>28</sup> Frequently Asked Questions - PPA Website: <https://www.ppaghana.org/ppaguide.asp>. Accessed: 01.09.17.

<sup>29</sup> Act 663 only requires publication of advertisements in "newspapers with adequate circulation to attract foreign companies" (Section 45(b)).

<sup>30</sup> See Act 663, Section 35(3).



Figure 1: Contracts awarded (by procurement method) - last 12 months

**Restricted tendering:** Under section 38 of the Public Procurement Amendment Act of 2016 (Act 914), a procurement entity may engage in procurement by means of restricted tendering “(a) if goods, works or services are available only from a limited number of suppliers or contractors; or (b) if the time and cost required to examine and evaluate a large number of tenders is disproportionate to the value of the goods, works or services to be procured.”<sup>31</sup> Restricted tendering and single-sourcing are only justifiable on the grounds that they provide greater economy and efficiency. Nevertheless, 44% of contracts signed in 2016 used the restricted procurement method (a greater percentage than those using open procurement), which requires approval by the PPA Board (section 38).

**Single source procurement:** According to the Public Procurement Act, the Procurement Board must approve both procurement and selection of the tenderer in cases where a PE desires to engage in single source, or direct, procurement.<sup>32</sup> A PE may engage in single source procurement under section 41 of the Act with the approval of the Board on limited grounds. These can include cases in which only a particular supplier can provide the good, work or service; when there is an urgent need; or when a catastrophic event has occurred. In practice, interviewees cited blatant abuse of this method, contributing to many instances of corruption in Ghana. Single sourcing has been found to be susceptible to manipulation in favour of a particular bidder. Other authors similarly note that the evaluation team of the tendering process may be vulnerable in the face of bidders’ influence.<sup>33</sup>

### Procurement Method Statistics

An analysis of all contracts awarded on the PPA website (covering approximately 5 years) reveals that 51% of procurement is undertaken by the open contracting method, while a combined 49% occur

<sup>31</sup> Public Procurement Act, 2003 (Act 663), Section 38.

<sup>32</sup> All provisions of single source procurement are outlined in Section 40 and 41 of Act 663.

<sup>33</sup> Ameyaw, C., Mensah, S. and Osei-Tutu, E. (2012). *Public procurement in Ghana: The implementation challenges to the Public Procurement Law 2003 (Act 663)*. International Journal of Construction Supply Chain Management. 2(2). (pp. 55-65)

through sole sourcing and restricted tendering.<sup>34</sup> In addition, over the past 12 months, 23% of awarded contracts used the sole source method, while 44% were awarded using restricted tenders. This corroborates the view from some informants that sole sourcing is on the increase, even though by law it should be used only in exceptional circumstances. This is notable given that 2016 was also an election year and public procurement could have been unduly influenced by other political processes.

It is also notable that, as of the time of writing, an examination of planned procurement reveals that international competitive tenders should account for 82.25% of all procurement methods. Procurement plans point to only 0.58% of all planned procurement as being via the sole sourced method.<sup>35</sup> The discrepancy between the planned procurement (which is forward looking and based on readily available data on the PPA website) and the actual practice (backward looking and based on the past 12 months) alludes to a major weakness in implementation of planned procurement activities, especially the adherence to budgets through linking with GIFMIS and/or e-procurement systems.

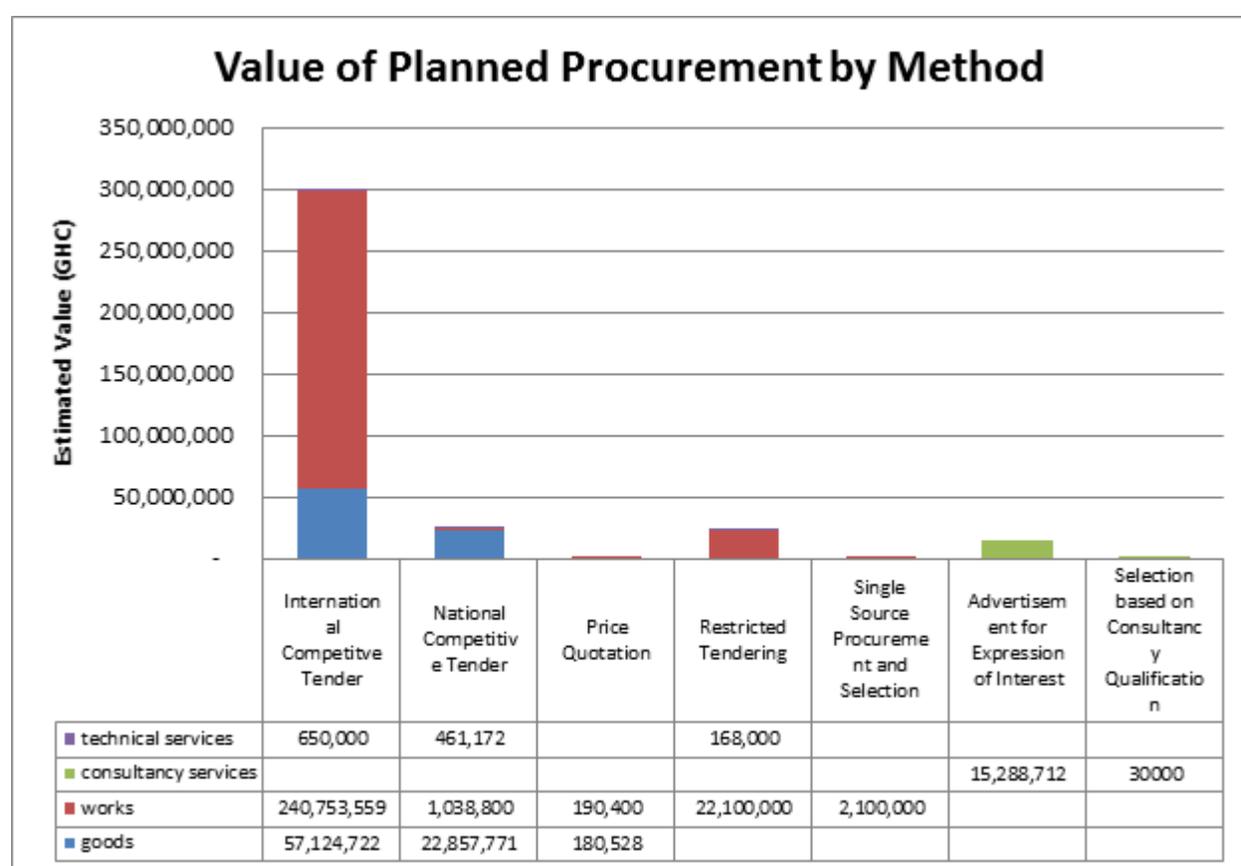


Figure 2: Value of planned procurement by method

<sup>34</sup> Unfortunately by the time of writing this report, we had not received disaggregated contract award information (by type of procurement method)

<sup>35</sup> These are discrepancies between planning and actuals (based on last 12 months of awarded contracts)

## The Complaints Procedure

If a tenderer feels aggrieved during the procurement process (for example, because new criteria is introduced midway), it can file a complaint with the PPA.<sup>36</sup> How complaints are treated depends on when they are made - for instance, whether they were made before or after contract signing. Complaints are first considered by the Appeals & Complaints Panel within the PPA, a “team of seven (7) legal and procurement experts.”<sup>37</sup> The PPA may suspend the procurement process during investigation of the complaint. In all cases, the PPA seeks to resolve complaints within 21 days, with the final decision ultimately falling on its Board. According to the PPA, it has resolved complaints related to a variety of issues, including manipulation of specifications, declaration of winners at bid opening contrary to procurement rules, and the timely release of tender security, among others. The ultimate decision “may” be published on the PPA’s website or the Public Procurement Bulletin.<sup>38</sup>

## Legal Requirements for Disclosure

Disclosure is meant to enhance transparency and accountability in the procurement process, which broadly entails procurement planning, supplier engagement and managing actual supply arrangements during actual implementation. Where confidential information is concerned, disclosure also comes with associated responsibilities. A summary of the most relevant/significant legal requirements for disclosure follows.

**Public Procurement Act (663 of 2003 and Amendment 914 of 2016):** Throughout the procurement process, the Act requires the publication of relevant information (e.g. tender announcements) until the final award of the tender. However, even if contract information or information about payments and milestones are available on request to a tenderer who has submitted a response, this information -- including evaluation information -- is not disclosed. For example, Section 31 of Act 663 permits the publication of contract awards on the website of the PPA, while section 3(g) requires the PPA Board to publish a monthly Bulletin with “information germane to public procurement,” even though limited details are provided.<sup>39</sup> The clause in section 31(2) of 914 makes it possible for other modes of publication outside of the PPA website, but does not explicitly state when, how and whom to publish to.

The Act does not permit the disclosure of information under the following conditions stated under section 4(a) of Act 914, such as information that may: “(i) Impede law enforcement; (ii) Not be in the public interest; (iii) Prejudice the legitimate commercial interests of the tenderer or consultant; and (iv) Inhibit fair competition as provided under the Protection Against Unfair Competition Act of 2000 (Act 589), unless the disclosure is ordered by a court or the Board in which case the procurement entity shall comply with the conditions of the order.”

Section 32A of the Amendment Act 914 provides other grounds for non-disclosure by a PE to the public. The Act makes a provision for tenderers to request evaluation reports for tenders they have participated in.

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<sup>36</sup> The full appeals and complaints procedure can be found: <http://www.ppaghana.org/documents/FinalAandCPublication.doc>. Accessed: 01.09.17.

<sup>37</sup> The full appeals and complaints procedure can be found here: <http://www.ppaghana.org/documents/FinalAandCPublication.doc>. Accessed: 01.09.16.

<sup>38</sup> The law does not specify whether or not decisions are required to be published. The PPA’s guidelines state that these decisions “may” be published. See: <http://www.ppaghana.org/documents/FinalAandCPublication.doc>. Accessed: 01.09.16.

<sup>39</sup> Section 39(2) requires the publication of reasons that restricted tendering methods are used.

The law also supports that officials should, on request, promptly provide documentation to potential eligible suppliers, including all information necessary to permit the potential supplier to prepare and lodge tenders (although tenderers must pay for printing costs).<sup>40</sup> In practice, PEs provide the PPA with notices for tenders whenever there are such opportunities. These are published on the PPA website,<sup>41</sup> a one-stop resource for public procurement opportunities in Ghana.

**Petroleum Revenue Management Act (PRMA) 2011 (Act 815):** An important feature of this law is that it provides for transparency and accountability whenever payments through petroleum operations are received (Section 8). The Minister must publish receipts in at least two state owned newspapers and the Gazette within 30 calendar days. This is essential not only for the purpose of tracking revenue streams, but also for ensuring the sustainable exploitation of natural resources by all stakeholders.

Further, the general section of Act 815 dealing with transparency (Section 49) also has inconsistencies. Subsection (3) undermines transparency by granting the Minister the authority to withhold any information or data that, in his discretion, could “prejudice significantly” the performance of the Ghana Petroleum Funds. Thus the law might seem to err on the side of secrecy and protecting political or business interests. Nevertheless, the broad discretion is somewhat mitigated by the requirement that the Minister prepares a written explanation. However, this explanation must not be released to the public. In fact, it appears that the explanation itself may be kept confidential until three years after the decision is made, according to section 49(6).

**Public Financial Management Act of 2016 (Act 921):** The various roles and responsibilities of the key actors (appointed by the President) responsible for receiving, using and managing public funds are specified in this law. A key tenet of these roles includes documentation and record keeping, which may from time to time be subject to inspection.<sup>42</sup> This means that, by law, PE’s must furnish the A-G with the records needed to facilitate a procurement audit.<sup>43</sup>

Furthermore, in July 2016, the **Companies Act of 1962** was amended with respect to registration of companies, which includes a provision on beneficial ownership. This is expected to increase contract transparency since beneficial ownership of contracts will be revealed.

### Disclosure versus confidentiality

There is a real need for confidentiality, which should always be balanced against the need for public accountability and transparency. Tenderer submission documents should certainly be treated as confidential before the award of a contract, in order to avoid disclosing their information to competing suppliers (outlined in the Act 663 Section 77). Blanket disclosure restrictions are sometimes applied; for example, in matters of national security, procurement information may not be disclosed at any time. However, bid and disclosure contracts may articulate disclosure requirements by the PE. The passage of the Right to Information Bill will aid citizens in gaining access to information like procurement plans, which are not currently available publically but not prohibited by law.

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<sup>40</sup> The Right to Information Bill which was still in debate in parliament before December 2016 elections, if enacted, will compel public officials to furnish information on request to citizens or risk jail.

<sup>41</sup> See: <http://www.ppaghana.org/>. Accessed: 01.09.17.

<sup>42</sup> Reporting responsibilities are outlined in PFM Act 921 5(1)(a) for Minister; 6(2)(a) for Chief Director; 7(2) Principal Spending Officer; 8(4)(a) Controller and Accountant General.

<sup>43</sup> Unfortunately, in practice, this remains weak.

## Recommendations

**Reduce reliance on restrictive and sole-source procurement.** The reliance on restrictive forms of procurement may be particularly worrying to SMEs and to foreign/international businesses looking to enter into the Ghanaian market. *Efforts should be taken to reduce the use of these methods to a more appropriate (e.g. 15-25%) level, ensuring their use only where insufficient competitive options or urgency demand.* This could include *working with civil society monitors to analyze procurement data to understand who is winning, how much these contracts tend to be, and which PEs are most frequently engaging in restrictive tendering.*

**Review the legal framework in support of transparency and openness.** The Act requires the publication of an array of procurement information. However, *the scope of information required to be published, along with the completeness, frequency and format of collection and implementation are little discussed.* Revising the Act to enhance data collection and publication has potential to enhance access to procurement information and its use by the PPA and the public. *The potential benefits of improving the legal framework for disclosure and openness should be taken into consideration during efforts to implement e-procurement.*

**Publish laws open and online.** While Public Procurement Act 663 and PRMA 814, for example, are publicly available online, neither the PFMA 921 (2016) nor Public Procurement (Amendment) Act 914 (2016) are available online to the public. *The practice of requiring citizens to purchase the new laws in hard copy for a fee limits access to new legislation and can reduce compliance by citizens and even the government. Such barriers to public access should be removed by providing the Government's Assembly Press with alternative sources of funding to print.*

## 6. Policy Context

Various laws and policies on public financial management in Ghana have been formulated with the intention of battling corruption, which has been a challenge for Ghana since independence. These policies focus on the preparation, approval and implementation of budgets, along with auditing and creating other accountability mechanisms for prudent public financial management. Through its participation in OGP, the government has identified open contracting as a priority, although its implementation has not yet begun. Many government officials interviewed were unaware of the commitment to open contracting.

### Open Government Partnership

In the estimation of several interviewees from civil society and international institutions, OGP is not vibrant in Ghana. It is felt that GoG's commitment to OGP has not been backed by action to implement the key principles of OGP. This situation means that the promise of OGP for enabling transparency is not being realized as fast as anticipated.

GoG has specifically targeted open contracting and contract monitoring as areas of focus within its Open Government Partnership (OGP) National Action Plan (NAP). OGP is a voluntary international initiative that was launched in 2011 with the aim of improving transparent and accountable governance, including through the use of new technology and by securing commitments from governments to create NAPs in collaboration with their citizens.

In its 2016-2017 NAP, GoG has undertaken to "... adopt Open Contracting and Contract Monitoring to ensure value for money on all transactions and also as a means of providing information to citizens on all contracts entered into by Government. In addition, all stakeholders including Parliament will be brought together with the view to reaching a consensus that all government contracts should be subject to the Public Procurement Act."<sup>44</sup> To date, it is not clear that there has been any initiative taken towards implementing this commitment.

Ghana signed onto OGP in 2011, and has since made several commitments to increase transparency in government revenue and expenditure. However, these commitments have been delayed and limited in scope. For instance, though the government finally passed the Fiscal Responsibility Act and Petroleum Sector Revenue Management Act, they left out a critical provision of the NAP requiring the MOF to work with Parliament to develop a legislative instrument for the Act. Many other commitments have made minimal progress,<sup>45</sup> and GoG's absence at a recent Africa OGP regional meeting reinforced the common view that GoG lacks commitment to OGP.<sup>46</sup>

### National Anti-Corruption Action Plan

The Parliament of Ghana has approved the National Anti-Corruption Action Plan (2012-2021) (NACAP) for implementation, the centerpiece of the government's efforts to combat corruption and promote national development. The NACAP is a product of stakeholder consensus that was reached through nationwide consultations. According to GoG's policy documents, "the greatest strength of the NACAP is

<sup>44</sup> OGP National Action Plan for the Republic of Ghana 2016-2017. p. 11.

<sup>45</sup> This is according to the OGP Independent Reporting Mechanism. See the 2013-14 report: [http://www.opengovpartnership.org/sites/default/files/Ghana\\_EoT\\_2013\\_2014.pdf](http://www.opengovpartnership.org/sites/default/files/Ghana_EoT_2013_2014.pdf). 01.10.17.

<sup>46</sup> See: <http://www.opengovpartnership.org/blog/ugonna-ukaigwe/2015/05/29/ghanas-absence-ogp-africa-regional-meeting-did-it-matter>. Accessed: 01.10.17.

that it is to be directly integrated into national development planning, making the plan an integral part of the regular annual activities of public institutions including the Ministries, Departments and Agencies” (GoG, 2011. p7).<sup>47</sup> NACAP is expected to mobilize the needed efforts and resources of stakeholders in the fight against corruption through the promotion of ethics and integrity. This includes vigorous enforcement of applicable laws with a special focus on causes, effects and measures to control corruption, as well as measures for strengthening key anti-corruption and law enforcement agencies to improve investigation and prosecution.

### The Ghana Open Data Initiative

GoG’s open data efforts center on the Ghana Open Data Initiative (GODI), which aims to foster an open data community that encompasses stakeholders among multiple state and non-state actors. The initiative was started in January 2012 under the watch of the National Information Technology Authority (NITA) and in partnership with the World Wide Web Foundation. A first version of the Open Data Portal was launched with 100 datasets in November 2012.<sup>48</sup> Unfortunately, by mid-2013, the project suffered from a lack of resources and remained stalled for a period. In 2016, the team at NITA kick-started the initiative by adding 15 datasets from the Ministry of Food and Agriculture, Ghana Statistical Service, Ministry of Health and Ghana Immigration Service. During the 2016-2017 OGP action plan period, NITA, the Ghana News Agency (GNA) and the Public Sector Reform Secretariat (PSRS) will take the lead on collecting data and demonstrating impact in four sectors -- health, education, energy and agriculture.<sup>49</sup>

### Procurement Data Release Policies

During this study there were few noteworthy examples of policy leadership in the area of procurement openness and reform. We recognize that the PPA is taking steps like publishing procurement data online, using electronic means of verification, holding annual forums on procurement, and conducting procurement reviews. These reports are shared with the Parliament for their role in oversight. The PPA also publishes all contracts entered into by GoG on a quarterly basis.

According to the Ghana Health Services, all procurement entities place a high value on openness and fairness in the procurement process. The PPA website remains a centralized platform for publishing the procurement data of all public organizations in Ghana. However, not all MDAs submit procurement plans, which means that PPA cannot publish all data on its website. Beyond publication of the data itself, face-to-face forums for civil society to demand accountability and serve in an oversight role is importantly lacking; these are usually not open to the general public, and the few institutions that are invited are charged a participation fee of GHC 1000 (approximately USD 250).

One good practice currently undertaken by the PPA is the publication of planned procurement activities of PEs, making procurement data accessible to citizens and allowing interested parties to plan ahead for responding to proposals.

### Recommendations

**Identify and support policy champions.** There is a need to support policy champions who will promote transparency in procurement and open contracting principles, and who serve as change leaders in their

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<sup>47</sup> Government of Ghana (2011). National Anti-Corruption Action Plan (NACAP). Policy Document.

<sup>48</sup> See: <http://data.gov.gh/>. Accessed: 01.10.17.

<sup>49</sup> Government of Ghana (2011).

respective MDAs and MMDAs. ***Working with the PPA, there is an opportunity to identify these individuals and enhance their capacity through targeted trainings on procurement processes and good practice, and stimulate networking among them.*** This could include the Chartered Institute of Procurement & Supply, a procurement officers association that is not fully registered as yet. ***This group should be supported to be vibrant and lead in the advocacy drive towards best practices in both public and private procurement.***

**Ensure data release by MDAs for online publication: *Stringent measures should be put in place by the PPA to ensure that MDAs adhere to the procurement policy and meet deadlines for releasing procurement plan data.*** The PPA should consider providing incentives for compliance with its data collection policies, such as disclosing which PEs are compliant with its guidance. Adoption of e-procurement, which would require procurement processes to be undertaken through a centralized system, would increase the PPA's leverage over PEs.

**Encourage government compliance with OGP commitments.** Government officials interviewed for this report were largely unaware of OGP and the open contracting commitment. ***Supporting demonstrative advocacy, such as the development of tools that can help the PPA understand the potential benefits of open contracting, can help facilitate uptake.***

## 7. Technical Assessment

This section describes the systems in use to manage and facilitate the procurement process, along with the information that is collected and disclosed by the PPA and PEs.

### Systems in Use

**Procurement Planning System:** PE's submit their procurement plans on the PPA Procurement Planning System portal<sup>50</sup> ahead of the national budget cycle. This is a web portal that was designed to help increase transparency of tendering processes, improve coordination between government ministries and agencies to develop uniform standards, and increase competition between private sector firms for public sector contracts. This system ensures that PPA and other supervisory bodies are able to monitor in real time the public procurement taking place during the financial year, as mandated by law. Since the procurement plan is a confidential document to the PE, only authorised bodies such as the PPA and the supervisory bodies can log into the system and view plans on the online portal. The PPA trains different PE's periodically on how to use the system to prepare and send their annual procurement plans, using a Microsoft Excel template. This template is often just used as a guide with important dates being keyed into forms on the online procurement planning system.<sup>51</sup>

The procurement planning system's public interface is the PPA website, located at the following web address: [www.ppaghana.org](http://www.ppaghana.org). This is seen as a one-stop resource for public procurement information in Ghana. Although the website does not provide the full procurement plans, it contains published tender notices, award information, and other key data about each individual procurement process as described below. Beyond this, the website contains information about the Public Procurement Act 663 (although it does not provide the full text of Amendment 914 of 2016), access to over 20 templates used by PEs for conducting procurements, and resources for private companies (including how to file a complaint), among other resources. The website has a built-in mechanism that tracks site visitors (i.e. web page hits) and other information about site usage.

**Tender Preparation and Evaluation Templates:** The PPA has issued more than 20 templates to facilitate standardization of procurement processes across PEs.<sup>52</sup> These templates are provided in Portable Document Format (PDF) and Microsoft Office format for public download and are used by PEs to conduct their procurement work. These include tender document templates for small, medium and large procurements of different types (lump sum contracts, admeasurement, short duration and low risk, etc.).

Despite the existence of templates that aim to systematize procurement processes, many of these processes are manual and 'hidden' from tenderers as well as the public. There is no publication of data or information management system to track these processes (including tender evaluation, contract finalization, and contract implementation). These are the least transparent phases of procurement, where the human interface of the process is believed to be most susceptible to denying participation of genuine suppliers.

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<sup>50</sup> See: <http://www.ppaghana.org/tenderadmin/default.asp>. Accessed: 01.09.17.

<sup>51</sup> The limited version of these plans as published by the PPA can be found at: <http://www.ppaghana.org/planning.asp> for stakeholders and public to be aware of what is planned.

<sup>52</sup> Available on the PPA website <https://www.ppaghana.org/ppafilepage.asp?Category=6&SubCategory=18>

The Ghana Integrated Financial Management Information System (GIFMIS) was launched in September 2009 as part of the Public Financial Management (PFM) Reforms in Ghana.<sup>53</sup> GIFMIS generates useful data for planning and monitoring processes, especially for disseminating timely information for financial management, improving the efficiency and effectiveness of revenue collection, assessing budgetary performance through feedback mechanisms, and modernizing the management of budgeting and public expenditures. More importantly, GIFMIS provides data for expenditure and commitment control, feedback mechanisms for assessing budgetary performance, and a uniform Chart of Accounts (COA) that eases budgeting across different entities. GIFMIS also provides data for budgeting, project monitoring and tracking,<sup>54</sup> which is covered in greater detail by Section 10.

### Data Collection

The PPA uses both paper-based and electronic systems for data collection, processing and storage. In the creation of procurement plans, procurement units and departments mostly rely on a Microsoft Excel template (See [sample template](#) with three sheets for goods, works and services) provided by the PPA. Updates to the procurement plans should be submitted to the PPA quarterly by PEs for all goods, works and services, although not all PE's comply. The procurement planning spreadsheet, which covers all phases of the procurement process, is updated throughout the procurement cycle for each contracting package, including the data categories identified below:

Information type	Data submitted
Header Information	<ol style="list-style-type: none"> <li>1. Procurement Entity</li> <li>2. Budget Period</li> <li>3. Source of funding</li> <li>4. Package Number</li> <li>5. Estimated amount (in GHC)</li> <li>6. Procurement Method</li> <li>7. Final Authority for contract award (e.g. GoG MDA or MMDA, Development Partner, among others)</li> </ol>
Tender Period information	<ol style="list-style-type: none"> <li>1. Preparation of tender documents by the executing agency (Yes/No)</li> <li>2. Tender invitation date</li> <li>3. Tender closing date</li> </ol>
Tender Evaluation Information	<ol style="list-style-type: none"> <li>1. Tender evaluation report</li> <li>2. Tender approval by final authority</li> </ol>
Contract finalization	<ol style="list-style-type: none"> <li>1. Contract amount (in GHC)</li> <li>2. Date of contract award</li> <li>3. Date of contract signature</li> </ol>
Contract implementation	<ol style="list-style-type: none"> <li>1. Supply of goods               <ol style="list-style-type: none"> <li>a. Date of arrival of goods</li> <li>b. Final acceptance of goods</li> </ol> </li> <li>2. Works               <ol style="list-style-type: none"> <li>a. Mobilization advance payment (in GHC)</li> <li>b. Substantial completion</li> </ol> </li> </ol>

<sup>53</sup> GIFMIS is being implemented jointly by the Controller and Accountant General's Department, Ministry of Finance with a funding support from the World Bank, DFID of UK, European Commission-EU and Danish International Development Agency-DANIDA. GIFMIS basically involves the use of Enterprise Resource Planning (ERP) to improve on public financial management in Ghana (<http://cagd.gov.gh/gifmis/>)

<sup>54</sup> See: <http://cagd.gov.gh/gifmis/>. Accessed: 01.09.17.

	<ul style="list-style-type: none"> <li>c. Final acceptance</li> <li>d. Last installment (in GHC)</li> </ul> <p>3. Services</p> <ul style="list-style-type: none"> <li>a. Mobilization advance payment (in GHC)</li> <li>b. Draft report</li> <li>c. Final Report</li> <li>d. Last installment(in GHC)</li> </ul>
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*Table 1: Procurement plan details*

According to interviews, there is limited capacity to prepare detailed procurement plans at the sub-national level, particularly below the level of MMDA's, such as at schools (which are also separate PE's from the Ghana Education Service). Interviewees noted that paper-based processes are the norm at this level, and that they are riddled with errors. In practice, MMDAs may not submit procurement plans for the next financial year to the PPA. As described above, PEs use a variety of forms provided by the PPA during the conduct of procurements, but which are not collected by the PPA.

### Data Disclosure

The table below summarizes the key documentation/data available online at different stages of the procurement process.

<b>Key Data Categories</b>			
The following information types are among those that procuring entities made public online for January-June, 2016. (A = Always; S = Sometimes; N = Never)			
<b>Planning</b>	<b>Online</b>	<b>Award (cont.)</b>	<b>Online</b>
- Unique IDs for contracting process	A	- Award Amount	A
		- Reasons for award	A (non-competitive) N (competitive)
- Procurement plans	S	- Complaints procedure	A
- Consultation documents	S	<b>Contract</b>	
<b>Tender</b>		- Contract documents	N
- Tender document	A	- Contract amount	A
- Bidding document	S	- Contract dates	A
- Bidder names	A	<b>Implementation</b>	
- Tender dates	A	- Milestones	N
- Bidder blacklist	N	- Payments	N
<b>Award</b>		- Evaluation results	N
- Supplier(s)	A	- Procurement process statistics	N

*Table 2: Key data categories*

The PPA makes some information available about all phases of the procurement process, with the exception of the implementation phase. While the PPA collects information about contract implementation through the procurement plan system, it does not release this information publicly. Nevertheless, tenderers are legally entitled to request evaluation reports. Without a right to information act, civil society and other interested actors may not have recourse to this information, unless they are

able to act as bidders. Notably, tender notices are published with package numbers, which may serve as unique identifiers. Most of this information is available on the PPA website in HTML format.

The PPA strives to ensure that all procurement opportunities, invitations to tender and contract awards are published quarterly on the public portal.<sup>55</sup> Although this information is accessible, it cannot be downloaded or exported in bulk for further analysis. Below is a sample of the award information as published on the PPA website in HTML format:

**Contract Details for Restricted Tender: CONTRACT FOR THE SUPPLY OF OVERCOATS**

<b>Tender Package No.</b>	GCB/PU/CRIG/CHED/SPD/RT/V.5/2016/21
<b>Tender Lot Number(s)</b>	1
<b>Contract Awarded To:</b>	TUKWAD ENTERPRISE
<b>Address:</b>	P.O. BOX AN 10498 ACCRA-GHANA
<b>Contract Signed on:</b>	October 3, 2016
<b>Estimated Contract Completion Date:</b>	January 3, 2017
<b>Currency:</b>	New Ghana Cedi
<b>Contract Award Price :</b>	GH¢ 52,710
<b>Contract Awarding Authority:</b>	Ghana Cocoa Board PPA/ETC
<b>Tender Type:</b>	Restricted tender

Table 3: Sample award information published on the PPA website.

## Recommendations

**Improve collection and publication of procurement data to meet the needs of PPA and other stakeholders.** At present, the PPA collects limited and incomplete data from PEs, which means it has a limited view on the procurement activities being conducted in Ghana. Even less information is available for public consumption. *Enhancing data collection and publication would enable all parties to benefit from increased knowledge of value for money (by comparing item amounts and vendor prices), of the efficacy of working under various procurement methods, and of service delivery. For the PPA and public to make full use of this information, it should be collected and published in an open format, such as CSV, and made available in bulk.*

**Adopt e-procurement to strengthen procurement implementation and data collection, and to build public trust.** Ghana is currently implementing the e-Transform Ghana project to enhance the use of technology in government's dealings with the public. An e-procurement system is one of the applications that is soon anticipated to be implemented with the hope that it will improve transparency and minimize multiple reporting burdens for all stakeholders. *e-procurement could improve procurement implementation by requiring compliance with aspects of the legal framework.* By linking the e-procurement system to GIFMIS and business registries, GoG could improve payment tracking and reduce delays, while gaining insight into the companies benefiting from government contracts. *For e-procurement to be effective, GoG must ensure technical compliance and integration of key systems. Moreover, it will also need to build the capacity of PEs and other users through institutionalization of rigorous training programs to ensure uptake and compliance.*

<sup>55</sup> See: <http://ppaghana.org>. Accessed: 01.09.17.

## 8. User Engagement

Citizen participation in the procurement process, and any mechanism or system that allows for such participation, is important to ensure transparency in the process. Unfortunately, national sub-structures created for participation of people at the local level are not functioning effectively and existing laws designed to facilitate participation are not consistently enforced.<sup>56</sup> The research for this study indicates that engagement of citizens in the procurement process occurs, but that there is room for improvement.

During interviews, it was felt that citizens and civil society most often engage in the procurement process during the monitoring of projects at the implementation stage. Rarely are citizens consulted during the procurement planning phase to understand their needs or desires. Respondents felt that because there are no clear mechanisms, laws, or instruments to enforce citizen engagement and participation in the procurement process, PE's are not obliged to involve citizens. Typically, information sharing happens through noticeboards, the PPA<sup>57</sup> and PE websites, and newspaper advertisements.

Nevertheless, there are some pockets of limited engagement in the public sector. The Ghana Health Service holds a suppliers forum once a year to educate their suppliers - especially those who have missed out on the tendering process. In the past, the PPA also held an annual review forum that was free for participants. Since 2015, the PPA has charged a fee (GHC 1000) for participation, which has discouraged participation (by multiple stakeholders) in the annual review of procurement processes.

According to the Institute of Local Government Studies, "procurement at the District Assemblies might be different from what happens in the ministries. The District Assemblies discuss procurement activities with the assembly members... but are not legally obligated, in this process, to be transparent to the public...". This is to say that district-level representatives have some amount of opportunity to engage in the procurement process within their districts, but the citizens' direct participation is limited.

In addition to engagement opportunities, some valuable information is available for public use to enable other use cases to be met. The PPA publishes a bulletin on its website<sup>58</sup> on a bimonthly basis and one of the sections outlines PEs that have submitted procurement plan, which is very helpful for identifying the transparent actors in procurement. Citizens can also access various audit reports from the website of the Ghana Audit Service<sup>59</sup> for different audits (financial audits, performance audits, environmental audits, payroll audits, etc.) that have been conducted for various public funds and institutions (for example, the Bank of Ghana, Pre University Educational institutions, the Petroleum Fund, among others). The Ghana Audit Service also publishes a bi-annual newsletter, which reports on various activities of the services as well as topical issues that enhance good governance. These reports enable citizens to advocate for improved use of public funds.

### Challenges to Citizen Engagement

According to the PPA and MOF, apathy amongst citizens greatly impacts their participation in the procurement process. It is important that citizens understand that they are the direct beneficiaries of

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<sup>56</sup> The National Development Planning Commission Act 1994, Act 479 mandates a bottom-up approach to national development planning, including a requirement for citizen consultation during this process.

<sup>57</sup> The PPA also takes time to respond to Frequently Asked Questions on its website - to different questions which have been posed to the PPA (through the website and public forums): <https://www.ppaghana.org/ppaguide.asp>. Accessed: 01.09.17.

<sup>58</sup> See: <http://www.ppaghana.org/ppapage.asp?Category=8&SubCategory=17>. Accessed: 01.09.17.

<sup>59</sup> See: <http://www.ghaudit.org/gas/site/reports>. Accessed: 01.09.17.

the outcome of the procurement process, and their active participation can hold duty bearers accountable and ensure that they receive the intended goods, works, services and public benefits. Yet, informants from government suggested that when citizens' expectations of securing business opportunities as a result of their participation in the public procurement forums and processes were not met, participation was adversely affected.

Ultimately, there is limited ongoing work in this space by civil society. Moreover, beyond seminars, conferences and workshops, there are no substantive public-facing engagements such as ICT applications, radio or TV programs to stimulate greater year-round citizen participation. One reason cited by government officials for the lack civil society participation in PE tender committees is that civil society, private sector associations, and citizens do not generally have enough technical expertise in public procurement. Altogether, this presents a good opportunity for non-state actors to join forces and tackle these challenges whilst participating in public procurement processes.

### Complaint Processes

The Commission for Human Rights and Administrative Justice (CHRAJ) was established by the Constitution with anti-corruption and administrative justice mandates that allows for citizens (including businesses and civil society) to report on offenses related to abuse of public office, conflict of interest, or misuse of public funds. PPA also has an appeals and complaints process, which has been outlined in Section 5. Unfortunately, the ability to investigate and follow up on some of the reported cases of corruption remains constrained by a lack of resources and inadequate staffing.<sup>60</sup> These are some of the challenges that may help explain the apathy in reporting cases by citizens.

### Recommendations

**Open up direct feedback mechanisms.** *The PPA should have electronic channels such as SMS, email, incident management and whistle-blower applications, which can record feedback that is helpful in all-year-round monitoring of public procurement.*

**Create consistent opportunities for citizens to participate in MDA and MMDA level tendering.** According to respondents, citizen engagement around procurement is normally handled by the project management team at the MDAs, but this differs from project to project. *The PPA and MOF should develop clear guidelines for PEs on procurement monitoring, such as enabling civil society to attend bid openings and creating mechanisms for third-party complaints.*

**Redouble efforts to collaborate with citizens and private businesses to facilitate understanding of procurement processes.** A lack of citizen interest in public markets - whether from private sector bidders or from civil society monitors - typically speaks to a lack of citizen trust in the procurement system. The PPA should strengthen its efforts to engage private business and civil society. *Training public stakeholders to serve on evaluation committees, as is done in Senegal, and enabling civil society to monitor bid openings, as in Nigeria, are ways to advance.* Creating a *standing working group with key stakeholders from the public would enable increased contact that can lead to improved relations, better bids, and the discovery of additional means of collaboration that have not yet been explored.*

**Support the Commission for Human Rights and Administrative Justice's (CHRAJ) efforts to investigate corruption.** Strengthening bodies that have an oversight role on matters related to financial oversight and corruption can help to strengthen Ghana's overall procurement and financial systems. Although not

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<sup>60</sup> Ibid.

a primary actor with respect to procurement, it would be worthwhile to ***consider supporting CHRAJ to investigate procurement activities and, possibly, to explore the role it could play in training procurement staff or others to combat corruption.***

## 9. Stakeholder Identification

### Government

All the respondents highlighted PPA as the most important government agency for procurement data publication, analysis, and use; followed closely by the A-G. Section 4 on Institutional Arrangement above has already provided a thorough mapping of public sector stakeholders.

### Key Civil Society, Networks, Infomediaries, and Media institutions

There are a number of ongoing activities related to open contracting among civil society and infomediaries. As key institutions cited by the Ghana OGP National Action Plan, the Ghana Anti-Corruption Coalition (GACC), Ghana Integrity Initiative (GII) and Commission for Human Rights and Administrative Justice's (CHRAJ) should work to ensure full implementation of the National Anti-Corruption Action Plan by 2017.

The Ghana Anti-Corruption Coalition (GACC) is a cross-sectoral grouping of public, private and civil society organizations (CSOs) which are focusing on promoting good governance and fighting corruption. There are eight members of the GACC who include:

- **Centre for Democratic Development, Ghana (CDD):** A well-established non-profit organization that promotes the rule of law in government through appropriate checks on the power of the state, and integrity in public administration.
- **Commission on Human Rights and Administrative Justice (CHRAJ):** A state institution with a three core mandate of Anti-Corruption, Human Rights and Administrative Justice
- **Economic and Organized Crime Office (EOCO):** A state agency set up to monitor, investigate and, on the authority of the Attorney-General, prosecute any offence involving serious financial and economic loss to the state
- **Ghana Conference of Religions for Peace (GCRP):** A body of religious associations including Christian Council of Ghana; Ahmadiya Muslim Mission, Federation of Muslim Councils of Ghana, National Catholic Secretariat and Ghana Pentecostal Council
- **Ghana Integrity Initiative (GII):** the local chapter of Transparency International
- **Ghana Journalists Association (GJA):** The umbrella organization of journalists in Ghana
- **Institute of Economic Affairs (IEA):** A public policy non-profit organization that seeks to broaden the debate on public policy and private-sector-led economic growth
- **Private Enterprise Federation (PEF):** Comprised of Association of Ghana Industries (AGI), Ghana National Chamber of Commerce (GNCC), Ghana Employers Association (GEA) and the Federation of Associations of Ghanaian Exporters (FAGE).

GACC has created the Dialogue on Open Contracting<sup>61</sup> aimed at raising the voices of stakeholders with an interest in open contracting, and identifying ways to promote open contracting in Ghana.<sup>62</sup>

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<sup>61</sup> See:

[http://www.gaccgh.org/details.cfm?corpnews\\_scetid=7&corpnews\\_catid=7&corpnews\\_scatlinkid=35#.WE7Ov\\_mLTIU](http://www.gaccgh.org/details.cfm?corpnews_scetid=7&corpnews_catid=7&corpnews_scatlinkid=35#.WE7Ov_mLTIU). Accessed: 01.09.17.

<sup>62</sup> Current funders include United Nations Development Program (UNDP), United States Agency for International Development (USAID), and Disability Rights Fund. Over the years, funders have included the Open Society Initiative for West Africa (OSIWA), United Nations Office on Drugs and Crime (UNODC), USAID (LOGODEP/MSI), British High Commission, Commonwealth Business Council, STAR-Ghana, World Bank, Canadian Fund for Local Initiatives (CFLI),

GII is the Ghana Chapter of Transparency International (TI), a global, non-profit civil society organization which is leading in the fight against corruption. In line with this mandate, GII strives to empower other institutions working on anti-corruption and work directly with citizens to demand transparency and accountability. It has also been at the forefront in lobbying for changes in anti-corruption legislation such as the Freedom of information bill, whistle blower law, and assets declaration laws. One important consideration is the opening up of data sets<sup>63</sup> that can be used to fight corruption, as GII cites the concept of open governance as being dependent on the right to access information, citizen participation, accountability and government transparency -- all of which must rely on an ICT infrastructure. To demonstrate this, they have an application called "I Paid a Bribe"<sup>64</sup> that allows every person who comes across corruption in their daily lives to share their experiences - whether a bribe was paid, demanded, refused and even when they have met an honest public official. Information shared remains confidential but is publicly available to view.

With respect to general financial engagement, infomediaries such as Penplusbytes,<sup>65</sup> in partnership with FAT-Africa and SEND-Ghana, develop and distribute (via hard and soft copy versions) funding opportunities to citizens,<sup>66</sup> opening up government budgets to help improve public understanding of budget issues. MOF also provides its own version of the citizen's budget in various languages to promote transparency and public ownership. Nevertheless, there is not much publicity around both of these activities.

The Ghana Contracts Monitoring Group (GCMG) is an active coalition that was established in 2010. The GCMG comprises civil society, the media, government officials and other private organizations, and their main function is to oversee the construction of roads and school projects, buildings and mineral concessions.

Another notable institution is IMANI Center for Policy & Education, a non-profit which conducts objective, independent analysis and critiques across different disciplines such as defense and security, development, economics and finance, education, among others. They work with the media and civil society, with the aim to foster citizen participation including in governance processes.

The media does not show specialization in reporting on open contracting or procurement processes. These issues are covered as general news, without any follow through or in-depth analysis<sup>67</sup>. But whilst there are no specific initiatives by civil society and media that focus solely on promoting open contracting or greater transparency in public procurement processes, overall there is a lot of room for

INDIGO Trust, CIVICUS, Ghana Research and Advocacy Programme (G-RAP), German Technical Cooperation (now GIZ) and Netherlands development Organization (SNV).

<sup>63</sup> Examples include company registry, lobbying registry, beneficial ownership, directories of public officials, government budget and expenditure, public procurement, political financing, voter records and land registers.

<sup>64</sup> The website <http://ipaidabribe.org.gh/> runs on the Ushahidi platform and accepts reports via SMS as well as online on the web.

<sup>65</sup> Penplusbytes is a partner in the development of this report.

<sup>66</sup> <http://www.mofep.gov.gh/sites/default/files/budget/2016%20BUDGET%20-%20CITIZEN%20VERSION.pdf>.

Accessed: 01.09.17.

<sup>67</sup> This example highlights a lack of in-depth analysis on the 'Explosive exposé on Smarttys bus branding deal'. Beyond dates, the article sensationalizes the issue without revealing data, procurement plans to substantiate further the procurement irregularities. See: <http://www.myjoyonline.com/news/2016/May-9th/explosive-expos-on-smarttys-bus-branding-deal-by-occupyghana.php>. Accessed: 01.09.17.

civil society actors/networks and the media to infuse general procurement thinking into public discourse and agenda setting.

The national resources and environment sector in particular is much more advanced on civil society engagement. GoG has been willing to adopt a more transparent and participatory model with respect to policy-making and implementation by both state and non-state actors. In 2008, Ghana signed onto the the Natural Resource and Environmental Governance (NREG) program. There has been further streamlining of civil society engagement with GoG in this sector, including the creation of a guide that has helped to streamline public engagement.<sup>68</sup> A number of interviewees, particularly those from the public sector, noted that it has been difficult for GoG to engage with such a diverse and fragmented civil society (including concerns of being multi-sectoral and not well defined).

### International Organizations and Development Agencies

The World Bank, the UK's Department for International Development (DFID), the European Union (EU) and the African Development Bank (AfDB) have all been active in supporting procurement reform and capacity building in Ghana. Over time, these donor organizations have developed procurement guidelines, which guide their procurement of goods, services, works, etc.

The World Bank has been supportive of Ghanaian reform efforts, including adoption of Act 663 in 2003. It is presently collaborating with the PPA to support adoption of an e-procurement system, and is supporting public-private partnership implementation, including technology adoption by the Ghana Revenue Authority.<sup>69</sup> AfDB has also supported procurement clinics, including trainings for procurement officials to strengthen their capacity to execute procurement activities using AfDB funds.

Interviewees noted that donors and international bodies tend to bring their own procurement guidelines, which invariably add value to the procurement process by ensuring transparency and value for money. In the implementation of European development funds, there is a decentralized manager who works in the Ministry of Finance and is responsible for the rules within the MOF.<sup>70</sup> This officer chairs Tender Evaluation meetings. Ultimately donors and international organizations are very influential in the procurement process, pushing for transparency and ensuring resources for development are used judiciously.

### Private Sector

This study found that the private sector is not currently actively involved in procurement reforms or open contracting. The biggest concern of the Association of Ghana Industries (AGI) -- a membership based association of businesses which is made up of small, medium and large scale manufacturing and services industries in agro-processing -- was how to ensure local participation of its members in government business opportunities. For instance, the AGI is concerned about how textbook printing is procured outside Ghana, disadvantaging local firms through awarding contracts to foreign-based companies without the participation of local industries or firms. According to an AGI respondent, a key

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<sup>68</sup> See:

<http://www.mofep.gov.gh/sites/default/files/publications/Consultation%20Guidelines%20for%20GOG%20and%20CSO%20Engagement.pdf>. Accessed: 01.09.17.

<sup>69</sup> See, for example; <http://blogs.worldbank.org/ppps/ghana-s-e-government-public-private-partnership-and-value-long-term-strategies>. Accessed: 01.10.17.

<sup>70</sup> In some cases, the procurement process is centralized within the office of EU delegation in this case all the processes are handled by the EU offices in Ghana.

objective of the AGI is to advocate for policies that advance the growth and development of industries in Ghana. The AGI has also participated in forums organized by the Alliance for Integrity, a business-driven multi-stakeholder initiative that is calling for transparency in procurement in Ghana.

The private sector is fully aware of the need for increased transparency in public procurement and can leverage its influence to bring about change in this regard. However, international firms have the biggest influence to ensure openness and disclosure over procurement data because they benchmark the process in Ghana with international procedures, and also because they control greater financial resources.

In instances where private businesses have entered into contracts with the public sector, bureaucracy in the public sector is viewed as a substantial challenge. One of the examples already cited is prolonged delays in payment by PE's after successful delivery of goods, works or services, which has rippling effects on cash-flow. If steps are not taken, firms might actually run out of business and this will hamper economic growth.<sup>71</sup> In spite of this, some foreign companies continue to collaborate with or provide support to private sector firms. For instance, the Business Sector Advocacy Challenge (BUSAC) Fund aims at contributing to the creation of a more enabling business environment for development and growth of the Ghanaian private sector through participating in policy making and policy implementation; strengthening capacity of member organizations, removing administrative bottlenecks, both in the private sector and lobbying the public sector; and sensitizing the public more broadly on the role of business for tackling challenges such as poverty reduction.

There is some existing capacity within the sector, but there is a need for improvement in small and medium-sized enterprises (SMEs). The areas of personnel and ICT training in particular call for capacity building programs.

## Recommendations

**Facilitate collaboration between international and domestic business associations to support increased openness of the procurement sector.** Local business representatives view international companies as key actors in efforts to increase public sector transparency. *Facilitating collaboration on this issue can help forge bonds and common understanding related to the mutual interests of Ghanaian and foreign businesses. This collaboration could also focus on mechanisms used by local and foreign companies to benchmark the procurement process and understand where opportunities and challenges exist using available data and engagement opportunities.*

**Enforce clauses of late payment in contracts through accrual of interest when payments become overdue.** Private businesses frequently raise the issue of delayed payments as a key issue preventing their unimpeded participation in public procurement. *The government should enforce clauses that allow for the accrual of interest when payments are overdue to provide incentive for the release of payments.*

**Encourage private sector actors to develop and sign a non-voluntary procurement code of ethics which will help maintain high standards.** One such example is the UN Global compact.

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<sup>71</sup> Amoako, K.B. (2011). *The effects of Delayed Payment on Cash flow forecasting of Ghanaian Road contractors*. Masters thesis submitted to the Institute of Distance Learning - Kwame Nkrumah University of Science and Technology

**Enhance civil society's role in the budget process.** The role of civil society in the budget process should also be enhanced and recognized by GoG. For example, Penplusbytes, in collaboration with FAT-Africa, have worked with MoF to prepare and launch a citizen's budget. There are a number of opportunities for civil society to engage in the budget process, as described in the figure below. **Supporting civil society to engage at each of these target points would help foster improved policy-making.**

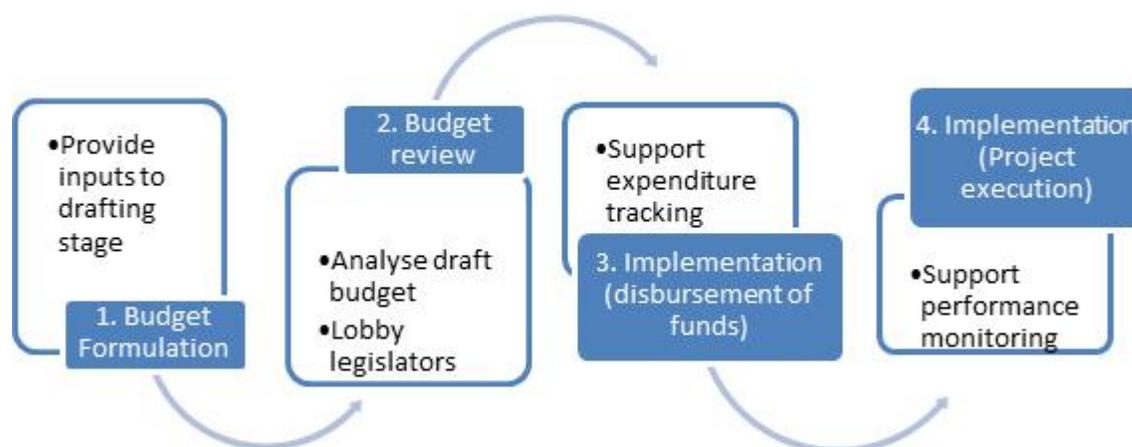


Figure 3: possible areas of intervention by CSO's in the budget process<sup>72</sup>

**Consider following the model for GoG-civil society engagement with respect to environment and resource governance. Environment and resource governance processes now have a consultative framework with a memorandum that engages both GoG and CSO's effectively.** Examples of good practices in CSO participation in budget process include public expenditure tracking for Ugandan schools and citizen report cards in the Philippines to improve performance monitoring. **Lessons on collaboration from such initiatives can carry over to programs in Ghana.**

**Facilitate proactive media and civil society networking and coalition building.** The media and infomediaries should be encouraged to **specialise in the coverage of public financial management as a whole and specifically procurement issues.** The use of new digital technologies can also be leveraged to stimulate greater citizen participation in open contracting. **Civil Society actors should work at creating coalitions to have a unified voice to advocate for reforms, working hand-in-hand with the media and citizen groups.**

**Enable the private sector to play a greater role in advocating for procurement reform.** The private sector is a major actor in the procurement process and stands to gain most if there is transparency in the procurement process as a result of open contracting. **Both local and international firms have a key role in ensuring transparency in procurement through demanding open and competitive bidding which provides a level playing field for all players.**

<sup>72</sup> Okonjo-Iweala, N. and Osafo-Kwaako, P. The Role of Civil Society Organizations in Supporting Fiscal Transparency in African Countries. [viewed 3/01/2017]

[http://www.resultsfordevelopment.org/sites/resultsfordevelopment.org/files/resources/Ngozi-CSO\\_Paper\\_Revised\\_Version.pdf](http://www.resultsfordevelopment.org/sites/resultsfordevelopment.org/files/resources/Ngozi-CSO_Paper_Revised_Version.pdf). Accessed: 01.09.17.

## 10. Broader Public Financial Management System

GoG relies on loans, grants and taxes to operate its economy. The Public Financial Management (PFM) system is set up to ensure that all revenues are properly accounted for and made readily available for government use. Without accountability of financial management, funds earmarked for public expenditure will not be available. The PFM system was originally designed so that the budget can be aligned to the national development plans of the National Development and Planning Commission (NDPC). The PFM system has embedded accountability mechanisms to ensure prudent accounting and financial management.

Ghana has adopted the Westminster model of external auditing, with a PFM system that revolves around annual budgets. These are broken down into four phases: preparation, approval, implementation, and audit. The system's accountability mechanisms are built into each of the four phases, described below, for robust checks and adherence to the rules. Thus if funds are lost, then it indicates a failure in the accountability mechanisms; in this direction there is a need to review the system.

### The Budget Cycle

The **preparation phase** consists of initially determining the macro-economic framework for the country, after which budget circulars on the guidelines for the preparation of sectoral budgets are formulated and distributed. MDAs are requested to submit their draft estimates at budget hearings, after which the conclusions are sent to the Cabinet. The MOF then consolidates all sector budgets into one national budget document, which officially becomes the Government's budget proposals for the fiscal year.

After Cabinet has approved the budget, it is then submitted to Parliament for **approval**. The budget is usually a bulky document, and Parliament is expected to deliberate and approve it over a period of one month. Following its deliberations, the budget is voted and becomes law.

During the **implementation phase**, funds are disbursed. Almost all persons in key disbursement roles (such as Heads of PE's) in MDAs and MMDAs are presidential appointees without parliamentary confirmation, including the A-G and Governor of Central Bank. Therefore, the President has a strong influence on spending, which leads to items being funded that are not found in the budget, and a lack of MDA financial statements made available for audit. As a result, the audit reports as contained in the annual A-G's report do not reflect the true state of financial malfeasance in Ghana's public sector. Also, the A-G is mandated by law (section 91) to undertake procurement audits, but interviewees suggested that this seldom (if ever) happens.

During implementation, there are intended to be two key accountability mechanisms. First, there are parliamentary select committees<sup>73</sup> with a sectoral focus that have an obligation to also monitor spending, but which do not often have the logistical capacity and requisite funding to execute this task. Secondly, although internal audit units of MDAs are required to check internal transactions, most government internal audit units are not well resourced or are compromised due to their political leaning, failing to hold duty bearers or spending officers to account.

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<sup>73</sup> See: <http://www.parliament.gh/committees>. Accessed: 01.09.17.

## GIFMIS

The Ghana Integrated Financial Management Information System (GIFMIS) was launched in September 2009 as part of the Public Financial Management (PFM) Reforms in Ghana<sup>74</sup>. GIFMIS generates useful data for planning and monitoring processes, especially in the area of timely dissemination of information for financial management, improving the efficiency and effectiveness of revenue collection, feedback mechanism for assessing budgetary performance, and modernization of budgeting and public expenditure management. More importantly, GIFMIS provides data for expenditure and commitment control; a feedback mechanism for assessing budgetary performance; and a uniform Chart of Accounts (COA) which makes performance of different budgets from entities easy. It also provides data for budgeting, project monitoring and tracking.<sup>75</sup>

There is a major reform expected to change Ghana's budget classification, moving from an activities-based approach to program-based budget, which is expected to enhance efficiency and create better linkages between public spending and a results-based framework. This reform is also expected to improve accuracy of budget information, leading to better budget planning and execution within the framework of GIFMIS.

The legal framework guiding GIFMIS is Public Financial Management ACT, 2016 (ACT 921). It has provision on key areas in public financial management such as: Responsibilities and Roles for Public Financial Management; Macroeconomic and Fiscal Policies; Budget Preparation, Approval and Management; Contingency Fund; Sinking Fund and Debt Servicing; Cash and Asset Management; Public Debt Management; Accounts and Audit; Audit Committees; and Miscellaneous Provisions. The PFM aims at ensuring that all revenues (obtained through taxes, loans and grants) are properly accounted for (including expenditure). The key achievements of GIFMIS implementation relevant to procurement include:

**Public Financial Management (PFM) Information Systems.** A harmonized Chart of Accounts (CoA) developed in 2011, based on the Government Finance Statistics (GFS 2001). Under GIFMIS, there is a chart of accounts arranged under organizations including sub-national levels.<sup>76</sup> This has fund classifications including donor and development partner's funds<sup>77</sup> and is classified under revenue, expenditure, asset and liability.<sup>78</sup> Currently in Ghana, the chart of accounts is used for both budget preparation and execution phases by all government Ministries, Departments and Agencies as well as local government entities.

**Procure to Pay (P2P) Rollout.** All 33 MDAs and 10 Regional Treasuries are using P2P for the consolidated funds. P2P is able to track and capture the arrears attributable to the consolidated funds more accurately than in the previous years, when there was no P2P system.

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<sup>74</sup> GIFMIS is being implemented jointly by the Controller and Accountant General's Department, Ministry of Finance with a funding support from the World Bank, DFID of UK, European Commission-EU and Danish International Development Agency-DANIDA. GIFMIS basically involves the use of Enterprise Resource Planning (ERP) to improve on public financial management in Ghana (<http://cagd.gov.gh/gifmis/>)

<sup>75</sup> See: <http://cagd.gov.gh/gifmis/>. Accessed: 01.09.17.

<sup>76</sup> See: <http://cagd.gov.gh/gifmis/index.php/component/content/article/10-programmes-modules/42-chart-of-accounts>. Accessed: 01.09.17.

<sup>77</sup> See Annex 2 of [Budget preparation guidelines of 2015/2017](#) pages 23-30

<sup>78</sup> See Annex 2 of [Budget preparation guidelines of 2015/2017](#) pages 31-99

**Linkage of Spending Units (SUs).** Almost all Spending Units (250 SUs) have been connected to the GIFMIS system. This is a 110 percent increase over 2012. The system has also been rolled out to some MMDA's (at least 50) to record all funds (IGF, Statutory, and Donor funds).

**Installation and deployment of hardware and Oracle software infrastructure.** Integrating Payroll, Human Resource Management Information System (HRMIS), and PBB into GIFMIS to help in efficient budget and expenditure management, which is one of the key goals of PFM reform. Budget reform especially using the PBB will ensure transparency in the government budget process.

**Interface with other public systems.** SWIFT and EFT have been rolled out to all MDAs and regional treasuries with the Bank of Ghana. The system also interfaces with Ghana Revenue Authority (GRA) System. The Ghana Customs Management System (GCMS) is at various stages of development and implementation.

### Recommendations

**Link GIFMIS and PPA portal.** In the nearer term (prior to adoption of e-procurement), this would help prevent PE's from spending outside of projected budgets and making purchases that are not in their approved procurement plans.

**Improve procurement financial transaction capture for monitoring and audit.** MDAs and MMDAs do not submit all transactions in GIFMIS, an issue raised in some of the A-G's reports. In the absence of these transactions, MDAs and MMDAs should prepare financial statements against which an audit can take place; but this is seldom the case. Consequently *many transactions are lost. The GIFMIS should be modified to capture all transactions.*

**Support capacity building of procurement personnel.** *Training of all personnel involved in the procurement process, both at the national and subnational level, would enable them to submit procurement transactions in GIFMIS.* This would facilitate the provision of financial information on procurement activities at any time. In addition, enhancement of capacity would also force MDAs to electronically generate financial statements to help in the auditing process by the A-G's department.

**Bolster the watchdog authority of the Auditor General.** Improving the timeliness and scope of the A-G's report would enable other oversight institutions such as the Parliament to know offending institutions and individuals who could be used to inform future budget allocations, reducing allocations to institutions who abuse the use of restrictive and sole source procurement methods.

## Annex 1: List of Interviews

Name	Position	Organization/Institution	Meeting Day
Ms Cynthia Arthur	Director, Public Affairs	Ministry of Finance	10/21/2016
Mr Joe Abbey	Deputy Dir. Procurement	Ministry of Lands & Natural Resource	10/24/2016
Mr Ben Ankrah	Director of Dir. Procurement	Local Government Service Secretariat	10/26/2016
Mr Mabruk Fuseini	Deputy Dir. Procurement	Ghana Statistical Service	20/26/2016
Ms Araba Kudiabor	Director of Procurement	Ghana Health Service	10/27/2016
Mr Samuel Bokor	Dean of Management Training & Development	Institute of Local Government Service	10/27/2016
Mr Daniel Foli	Director of Procurement	Ministry of Education	10/27/2016
Ms Rhoda Appiah	Head of Public Affairs	Public Procurement Authority	10/27/2016
Ms Beauty Emefa-Nartey	Ag. Executive Secretary	Ghana Anti Corruption Coalition	10/25/2016
Mr Shaifu Shaibu	Procurement Officer	SEND-Ghana	10/25/2016
Rushaiya Ibrahim Tanko	Africa Program Assistant	Natural Resource Governance Institute	11/3/2016
Ms Rachel Gyabaah	Programme Officer	SEND-Ghana	10/25/2016
Ms Linda Ofori Kwafo	Executive Secretary	Ghana Integrity Initiative	10/26/2016
Mr Bernard Anaba	Policy Analyst (Extractives)	Integrated Social Devt Centre	10/26/2016
Dr Albert Kan Dapaah	FAT-Africa; Dir Centre for Accountability and Transparency, UPSA	Director, Centre for Transparency & Accountability	10/28/2016
Nic Lee	DFID	Governance Advisor	11/3/2016
Maria Luisa Troncoso	EU Delegation	Head of Governance & Civil Society	11/10/2016
Benoist Bazin	EU Delegation	Head of Infrastructure & Sustainable Devt	11/10/2016
Nathaniel O. Quarcoopome	Director (Finance & Administration)	Association of Ghana Industries	11/3/2016

Agencies & Systems:		PPA Ghana Portal		By: Public Procurement Agency - Ghana						
		INFO IS:	<a href="http://www.ppaghana.org/planning.asp">http://www.ppaghana.org/planning.asp</a>							
DATA CATEGORY		Complete	Collected	Public	Online	Published as Open Data	Published in Bulk/API	Timely	Proactively Published	Notes
<b>Planning</b>										
	Procurement Plans (plans de passation)	Sometimes	Sometimes	Sometimes	Sometimes	Never	Never	Sometimes	Always	Sometimes
	Budgets	Always	Always	Always	Always	Never	Never	Sometimes	Sometimes	Budgets are posted in PDF format online after being read by the Minister
	Project identifiers & approvals	Always	Always	Always	Sometimes	Never	Never	Sometimes	Sometimes	
	Consultation docs	Never	Always	Always	Never	Never	Never	Never	Sometimes	
	Other data types	Sometimes	Sometimes	Sometimes	Sometimes	Never	Never	Never	Never	
	Notes/URLs	Sometimes	Sometimes	Sometimes	Sometimes	Never	Never	Never	Never	
<b>Tender</b>										
	Tender Identifier	Always	Always	Always	Always	Sometimes	Never	Always	Sometimes	
	Tender document	Always	Always	Always	Always	Sometimes	Never	Always	Sometimes	
	Bidding documents	Always	Always	Always	Sometimes	Never	Never	Never	Sometimes	Often the bidding docs have to be physically printed and the tenderer will pick them up
	Names of bidders	Always	Always	Always	Never	Never	Never	Never	Sometimes	Names of tenderers are not shared before publication
	Tender dates	Always	Always	Always	Always	Always	Never	Always	Sometimes	
	Other data types	Sometimes	Sometimes	Sometimes	Sometimes	Sometimes	Never	Sometimes	Sometimes	Other information may include background information, who the funders are, among others
<b>Award</b>										
	Evaluation dates	Never	Never	Never	Never	Never	Never	Never	Never	
	Award identifier	Never	Never	Never	Sometimes	Sometimes	Never	Sometimes	Sometimes	
	Award winner	Always	Always	Always	Always	Sometimes	Never	Sometimes	Sometimes	
	Reasons for award	Sometimes	Sometimes	Never	Never	Never	Never	Never	Never	There is a justification field where data should be submitted.
	Other data types	Never	Sometimes	Never	Never	Never	Never	Never	Never	None have been encountered
	Notes/URLs	Never	Sometimes	Never	Never	Never	Never	Never	Never	
<b>Contract</b>										
	Info on winning suppliers	Always	Always	Always	Always	Never	Never	Sometimes	Sometimes	Contact addresses are shared
	Supplier identifier	Never	Sometimes	Always	Always	Sometimes	Sometimes	Sometimes	Sometimes	
	Contract amount	Always	Sometimes	Sometimes	Always	Never	Never	Always	Always	
	Contract dates	Always	Always	Always	Always	Never	Never	Always	Always	A completion date
	Other data types	Never	Sometimes	Sometimes	Sometimes	Never	Never	Sometimes	Sometimes	
	Notes/URLs	Never	Never	Never	Sometimes	Never	Never	Never	Never	
<b>Implementation</b>										
	Physical progress of contract (e.g. reaching milestones)	Never	Sometimes	Sometimes	Sometimes	Never	Never	Never	Never	
	Financial progress(e.g. payments to suppliers)	Never	Always	Sometimes	Sometimes	Never	Never	Never	Never	
	Contract amendments	Sometimes	Sometimes	Never	Sometimes	Never	Never	Never	Never	This does happen during the implementation
	Termination(how a contract ended)	Never	Sometimes	Sometimes	Sometimes	Never	Never	Never	Never	



Procurement Entity: \_\_\_\_\_

Budget Period: \_\_\_\_\_

Procurement Plan-Goods

Source of Funding

BASIC DATA

Contract Package*	Plan vs. Actual	Package Number	Estimated Amount (Cedis)	Procurement Method	Final Authority for Contract Award
1.	Plan				
	Actual				
2.	Plan				
	Actual				
3	Plan				
	Actual				
4	Plan				
	Actual				
5	Plan				
	Actual				
6	Plan				
	Actual				
7	Plan				
	Actual				
8	Plan				
	Actual				
9	Plan				
	Actual				
<b>Total Cost</b>	Plan		0.00		
	Actual		0.00		

Fill gray cells only!

Procurement Entity: \_\_\_\_\_

Budget Period: \_\_\_\_\_

Source of Funding \_\_\_\_\_

Procurement Plan-Goods

Contract Package*	Plan vs. Actual	Tender Documents	Tendering Period		Tender Evaluation	
		Prep & Submission by Ex Agency	Tender Invitation Date	Tender Closing	Submission of Tender Eval Report	Approval by Final Authority
	Duration					
1.	Plan					
	Actual					
2.	Plan					
	Actual					
3	Plan					
	Actual					
4	Plan					
	Actual					
5	Plan					
	Actual					
6	Plan					
	Actual					
7	Plan					
	Actual					
8	Plan					
	Actual					
9	Plan					
	Actual					
<b>Total Cost</b>	Plan					
	Actual					

Fill gray cells only!

Procurement Entity: \_\_\_\_\_

Budget Period: \_\_\_\_\_

**Procurement Plan-Goods**

Source of Funding		Contract Finalization			Goods Delivery	
Contract Package*	Plan vs. Actual	Contract Amount (Cedis)	Date Contract Award	Date Contract Signature	Arrival of Goods	Inspection Final Acceptance
	Duration					
1.	Plan					
	Actual					
2.	Plan					
	Actual					
3.	Plan					
	Actual					
4.	Plan					
	Actual					
5.	Plan					
	Actual					
6.	Plan					
	Actual					
7.	Plan					
	Actual					
8.	Plan					
	Actual					
9.	Plan					
	Actual					
<b>Total Cost</b>	Plan	0.00				
	Actual	0.00				

Fill gray cells only!

## Priority Recommendations List

Theme	Recommendation	Text	Difficulty Level	Priority Level	Financial Burden	Lead Stakeholder	Other Stakeholder Involvement	Monitoring & Sustainability	Additional Resources/ Initiatives
Obj. 1: Improving technical capacity and joint working among oversight agencies - increasing the likelihood of detection and punishment if committing corruption	Enhance coordination between procurement oversight and controlling authorities, and Metropolitan, Municipal and District Assemblies (MMDAs), and increase training opportunities. Some PEs, particularly those at the MMDA level, lack sufficient resources to have dedicated staff for procurement functions.	Increasing training opportunities and coordination with those conducting procurement at the MMDA level is needed to begin to bring this situation under control. The Ministry of Finance (MOF) is making efforts to develop roles within the Ghana Civil Service that help to ensure that procurement personnel in the MMDA's are qualified and trained. Some staff, including the head of the PE, ought to be seconded for formal training at the Institute of Local Government Studies (ILGS) and the PPA on good procurement practices. Supporting increased engagement and training opportunities at the MMDA level would help to bring PEs into compliance with the legal framework for procurement.	High. There are 216 MMDA's in Ghana and coordinating engagement between these and central line ministries (specifically the Procurement Units in the PE) can be challenging. More importantly, it should begin with focused support to train Procurement Unit Staff at MMDA's level	High. This is because Ghana is structurally decentralized and a lot of procurement activity occurs at the subnational level for key service delivery functions. MMDA's are mandated by Act 462 (1993) to initiate programmes for the development of basic infrastructure and provide municipal works and services in the district	High. It involves training hundreds of officers and also working with the right structures to convene technical working groups that foster information sharing	PPA. This is because they oversee all procurement activities and have a mandate in law	The MMDA's are tasked not just to initiate, but also implement and monitor development plans (Act 462, 1993). Development Partners and Civil society Organization working in monitoring should coordinate with MMDA's in the area of monitoring in order to build capacities there - using skills, tools that improve the efficiency and quality of monitoring data for the MMDA. This will facilitate meaningful discourse for the joint technical working groups.	Automation would help to realize better quality, timely data that is currently available from MMDA's to the PPA and to line Ministries with which MMDA's should be coordinating with	The new Procurement System will be one such source of centralized data for all Public Procurement when adopted. MMDA's should also comply with usage of this tool once it is developed.
Obj. 1: Improving technical capacity and joint working among oversight agencies - increasing the likelihood of detection and punishment if committing corruption	Ensure data release by MDAs for online publication.	Stringent measures should be put in place by the PPA to ensure that MDAs adhere to the procurement policy and meet deadlines for releasing procurement plan data. The PPA should consider providing incentives for compliance with its data collection policies, such as disclosing which PEs are compliant with its guidance. Adoption of e-procurement, which would require procurement processes to be undertaken through a centralized system, would increase the PPA's leverage over PEs.	Low-Medium. PPA should be able to require compliance with its directives.	High	Low	PPA	PEs, public	Publication of MMDA data on PPA website.	OCDS, Open Contracting Principles
Obj. 2: Supporting government reforms that reduce opportunities for corruption	Ensure the political independence of the PPA, the Auditor General, as well as strengthen Parliament who provide approval to budget.	Key officials in institutions responsible for procurement oversight and auditing should be independent of political influence. Amendment of the Public Procurement Act to reduce political influence (strengthen independence) in the operations of the PPA is essential. In Senegal, the head of the regulatory authority is selected from a pool of candidates by an independent jury. In short, other models for the selection of the head of the PPA's board can be considered as a means of increasing the body's independence, and, therein, the confidence of citizens in GoG's ability to conduct fair and competitive procurement. The Auditor-General should also enjoy sufficient independence to effectively undertake the essential functioning of posteriori oversight.	Medium-to-high. The political will needs to exist during procurement reform discussions to include these changes.	High. This will help ensure that distance remains between the new administration and procurement professionals, helping to insulate the government from wrongdoing.	Low.	Decision-makers, including lawmakers and government officials discussing procurement law.	Civil society can help advocate for increased barriers between political and professional actors.	Provisions are adopted into law that provide for increased independence of professional procurement officials from elected officials and political appointees.	Procurement laws from Senegal and other countries with strong independence of procurement officials, including UNCITRAL Model Law on Public Procurement.
Obj. 2: Supporting government reforms that reduce opportunities for corruption	Review the legal framework in support of transparency and openness.	The Act requires the publication of an array of procurement information. However, the scope of information required to be published, along with the completeness, frequency and format of collection and implementation are little discussed. Revising the Act to enhance data collection and publication has potential to enhance access to procurement information and its use by the PPA and the public. The potential benefits of improving the legal framework for disclosure and openness should be taken into consideration during efforts to implement e-procurement.	Hard. Revising legislation and ensuring that necessary data is collected and published in an open format has political implications. While this may not be easy to do, the current administration should codify its stated desires to fight corruption into law by undertaking such efforts as this.	Medium	Low	PPA	Civil society, private sector	Increase in the number of data categories available to the public. Monitor the frequency of data publication, format, and other key elements of data quality	Tools, such as Open Data Watch's Open Data Inventory, can provide useful frameworks for monitoring data openness. OCDS provides a helpful framework for considering what data should be made publicly available.
Obj. 2: Supporting government reforms that reduce opportunities for corruption	Adopt e-procurement to strengthen procurement implementation and data collection, and to build public trust.	Ghana is currently implementing the e-Transform Ghana project to enhance the use of technology in government's dealings with the public. An e-procurement system is one of the applications that is soon anticipated to be implemented with the hope that it will improve transparency and minimize multiple reporting burdens for all stakeholders. e-procurement could improve procurement implementation by requiring compliance with aspects of the legal framework. By linking the e-procurement system to GIFMIS and business registries, GoG could improve payment tracking and reduce delays, while gaining insight into the companies benefiting from government contracts. For e-procurement to be effective, GoG must ensure technical compliance and integration of key systems. Moreover, it will also need to build the capacity of PEs and other users through institutionalization of rigorous training programs to ensure uptake and compliance.	High	High	High	PPA, MoF	PEs, MDAs, MMDAs, public	Sustainability can be ensured through continued engagement of lead and/or local developers capable of maintaining the system.	World Bank e-government procurement practice
Obj. 2: Supporting government reforms that reduce opportunities for corruption	Support the Commission for Human Rights and Administrative Justice's (CHRAJ) efforts to investigate corruption.	Strengthening bodies that have an oversight role on matters related to financial oversight and corruption can help to strengthen Ghana's overall procurement and financial systems. Although not a primary actor with respect to procurement, it would be worthwhile to consider supporting CHRAJ to investigate procurement activities and, possibly, to explore the role it could play in training procurement staff or others to combat corruption.	Medium	Low	Low	CHRAJ, MoF, PPA. The Legal officers at CHRAJ should also investigate such cases to the extent that rights of different communities are infringed upon during procurement processes.	CSO's, Citizens	CHRAJ whistle-blowing mechanisms can be exploited to receive complaints from the public for investigation.	
Obj. 2: Supporting government reforms that reduce opportunities for corruption	Link GIFMIS and PPA portal.	In the nearer term (prior to adoption of e-procurement), this would help prevent PE's from spending outside of projected budgets and making purchases that are not in their approved procurement plans.	High. This is because some PE's such as schools do not even submit a procurement plan as they do not have the requisite skills.	High	High	PPA, MoF, MMDA's, MDA's	ILGS which should be involved in training public institutions on procurement instruments (tools and practices)	PPA should monitor compliance of all PE's	Development Gateway
Obj. 2: Supporting government reforms that reduce opportunities for corruption	Improve procurement financial transaction capture for monitoring and audit.	MDAs and MMDAs do not submit all transactions in GIFMIS, an issue raised in some of the A-G's reports. In the absence of these transactions, MDAs and MMDAs should prepare financial statements against which an audit can take place; but this is seldom the case. Consequently many transactions are lost. The GIFMIS should be modified to capture all transactions.	High	High	High	PPA, MoF, MMDA's, MDA's	ILGS which should be involved in training public institutions on procurement instruments (tools and practices)	PPA should monitor compliance of all PE's	Development Gateway

Priority Recommendations List									
Theme	Recommendation	Text	Difficulty Level	Priority Level	Financial Burden	Lead Stakeholder	Other Stakeholder Involvement	Monitoring & Sustainability	Additional Resources/ Initiatives
Obj. 2: Supporting government reforms that reduce opportunities for corruption	Bolster the watchdog authority of the Auditor General.	Improving the timeliness and scope of the A-G's report would enable other oversight institutions such as the Parliament to know offending institutions and individuals who could be used to inform future budget allocations, reducing allocations to institutions who abuse the use of restrictive and sole source procurement methods.	High	High	High	Office of Auditor General, Parliament, MDA's, MMDA's. Parliament particularly should be involved in strengthening the independence of the office of the Auditor General.	MoF should allocate timely funds for activities of the A-G's office		
Obj. 3: Increase domestic accountability	Adopt processes and/or technical improvements that reduce the capacity to shift funds to political priorities outside the scope of procurement plans as well as national priorities outlined in the the National Development plan.Long Term National Development Plan (2018-2057)	At the tender initiation stage, each new procurement should have a verified link to an approved procurement plan. Additionally, sanctions backed by law should be introduced to ensure adherence to approved procurement plans. This process should include both a technical component, requiring each tender to explicitly reference (ideally by unique ID) its procurement plan, as well as an oversight process component, such as a review process by PPA to ensure that the focus of the tender matches the priorities outlined and approved in the procurement plan. Further, this review should ensure that procurement plans align to Medium Term and Long Term plans of the Government. Similar technical requirements and review mechanisms could be installed to monitor and ensure that planned procurement methods are used in practice.	Medium.	High.	Low-to-medium. As Ghana considers adopting e-procurement, the use of unique identifiers should be a key component. PPA staff may need to spend additional time reviewing procurements against newly developed criteria aimed at ensuring that tenders match approved procurement plans.	PPA staff, Procurement Units Heads, Staff monitoring implementation of the national budget (in PFM); NDPC staff, technical staff & consultants focusing on e-procurement.	International institutions working with the PPA can help ensure that e-procurement adoption includes the use of unique identifiers, an essential component of OCDS	The PPA can monitor the number and percent of all tenders that undergo review against procurement plans. NDPC and PFM staff can also ensure that procurement planning components do not prefer political expediency to national and subnational development commitments. A random sampling could be conducted to select tenders to review and procurement audits. If the PPA rejects such procurements, it would send a strong message to PEs and buyers that they must obey procurement plans.	Open Contracting Principles; OCDS.
Obj. 3: Increase domestic accountability	Encourage private sector actors to develop and sign a non-voluntary procurement code of ethics which will help maintain high standards.	One such example is the UN Global compact.	Low	Low	Low	AGI, GCCI	Business reporters and investigative journalists		
Obj. 4: Improve understanding of corruption	Publish laws open and online.	While Public Procurement Act 663 and PRMA 814, for example, are publicly available online, neither the PFMA 921 (2016) nor Public Procurement (Amendment) Act 914 (2016) are available online to the public. The practice of requiring citizens to purchase the new laws in hard copy for a fee limits access to new legislation and can reduce compliance by citizens and even the government. Such barriers to public access should be removed by providing the Government's Assembly Press with alternative sources of funding to print.	Low. All laws should be published online for free. It is likely that this can be achieved through a directive. The parliament may also be able to required publication of all final legislation.	High	Low	GoG, Parliament	Civil society advocacy	Searching public repositories to ensure availability of laws.	The Declaration on Parliamentary Openness is an international standard that requires that all laws be published online and at no cost to citizens.
Obj. 4: Improve understanding of corruption	Improve collection and publication of procurement data to meet the needs of PPA and other stakeholders.	At present, the PPA collects limited and incomplete data from PEs, which means it has a limited view on the procurement activities being conducted in Ghana. Even less information is available for public consumption. Enhancing data collection and publication would enable all parties to benefit from increased knowledge of value for money (by comparing item amounts and vendor prices), of the efficacy of working under various procurement methods, and of service delivery. For the PPA and public to make full use of this information, it should be collected and published in an open format, such as CSV, and made available in bulk.	Low. PPA can audit the data it collects against OCDS and other tools that help define data needs for PPA's use cases	High	Low	PPA	Civil society, International institutions	Increase in collection and availability of key data categories	OCDS. Open Contracting Partnership/Development Gateway red flags publication: <a href="http://www.open-contracting.org/2016/11/30/red-flags-integrity-giving-green-light-open-data-solutions/">http://www.open-contracting.org/2016/11/30/red-flags-integrity-giving-green-light-open-data-solutions/</a>
Obj. 4: Improve understanding of corruption	Open up direct feedback mechanisms.	The PPA should have electronic channels such as SMS, email, incident management and whistle-blower applications, which can record feedback that is helpful in all-year-round monitoring of public procurement.	Medium. Some can be built into e-procurement system	High	Medium	PPA, MoF	private sector, government employees	Creation of a complaint review committee can help ensure that complaints and feedback are addressed appropriately in a sustainable fashion.	World Bank Benchmarking Public Procurement
Obj. 4: Improve understanding of corruption	Redouble efforts to collaborate with citizens and private businesses to facilitate understanding of procurement processes.	A lack of citizen interest in public markets - whether from private sector bidders or from civil society monitors - typically speaks to a lack of citizen trust in the procurement system. The PPA should strengthen its efforts to engage private business and civil society. Training public stakeholders to serve on evaluation committees, as is done in Senegal, and enabling civil society to monitor bid openings, as in Nigeria, are ways to advance. Creating a standing working group with key stakeholders from the public would enable increased contact that can lead to improved relations, better bids, and the discovery of additional means of collaboration that have not yet been explored.	Low	High	Medium	PPA, Suppliers (Local and International) from recognized Private Sector Associations such as Association of Ghana Industries (AGI) or Ghana Chamber of Commerce and Industry (GCCCI), Citizens	CSO's, MMDA's, PE Procurement Staff, Private Sector Association Officials	AGI and GCCCI can mobilize members to participate in PPA forums and provide timely feedback on Procurement Processes.  Individual projects set up on a Public Private Partnership should have a citizen engagement component where Project Managers can collate not just implementation but monitoring data from communities impacted	Open Contracting Partnership
Obj. 4: Improve understanding of corruption	Enhance civil society's role in the budget process.	The role of civil society in the budget process should also be enhanced and recognized by GoG. For example, Penplusbytes, in collaboration with FAT-Africa, have worked with MoF to prepare and launch a citizen's budget. There are a number of opportunities for civil society to engage in the budget process, as described in the figure below. Supporting civil society to engage at each of these target points would help foster improved policy-making.	Medium. CSO's should agree to work together in this space and develop a joint framework before they can engage the government constructively	High	Medium	CSO's, PPA	Development partners should include CSO's in projects that build capacity in public procurement as well as manage public resources. <a href="http://www.worldbank.org/en/news/press-release/2010/12/20/building-capacity-to-manage-ghanas-oil-world-bank-assists-with-us38-million">http://www.worldbank.org/en/news/press-release/2010/12/20/building-capacity-to-manage-ghanas-oil-world-bank-assists-with-us38-million</a>		For example, in Israel, the EU is funding a project that increases the capacity of Civil Society Organisations, to act as watchdog groups against unequal, unfair or corrupt spending of public funds and to promote their democratic goals. <a href="http://ec.europa.eu/euroaid/projects/account-enhancing-csos-capacity-and-budget-literacy-and-promoting-greater-government-0_en">http://ec.europa.eu/euroaid/projects/account-enhancing-csos-capacity-and-budget-literacy-and-promoting-greater-government-0_en</a>  A good learning example is the GoG framework with CSO's on Environment and resource management
Obj. 4: Improve understanding of corruption	Consider following the model for GoG-civil society engagement with respect to environment and resource governance.	Environment and resource governance processes now have a consultative framework with a memorandum that engages both GoG and CSO's effectively. Examples of good practices in CSO participation in budget process include public expenditure tracking for Ugandan schools and citizen report cards in the Philippines to improve performance monitoring. Lessons on collaboration from such initiatives can carry over to programs in Ghana.	Medium	Medium	High	MDA's, MMDA's and PPA	Development partners support	Increase in engagement (including sustained coalitions) between government and civil society	Open Contracting Partnership

## Priority Recommendations List

Theme	Recommendation	Text	Difficulty Level	Priority Level	Financial Burden	Lead Stakeholder	Other Stakeholder Involvement	Monitoring & Sustainability	Additional Resources/ Initiatives
Obj. 4: Improve understanding of corruption	Facilitate proactive media and civil society networking and coalition building.	The media and infomediaris should be encouraged to specialise in the coverage of public financial management as a whole and specifically procurement issues. The use of new digital technologies can also be leveraged to stimulate greater citizen participation in open contracting. Civil Society actors should work at creating coalitions to have a unified voice to advocate for reforms, working hand-in-hand with the media and citizen groups.	High	High	High	MoF, PPA and CSOs	Parliament, Citizens, Ghana Open Data Initiative (GODI)	PPA should open up datasets for download and analysis in excel format. The Ghana Open Data Portal is one such place where budget and procurement data can be published and opened up for informediaries to download and analyze	Ghana Open Data Portal: <a href="http://data.gov.gh/dataset/">http://data.gov.gh/dataset/</a> PPA Portal: <a href="http://www.ppaghana.org/">http://www.ppaghana.org/</a>
Obj. 4: Improve understanding of corruption	Enable the private sector to play a greater role in advocating for procurement reform.	The private sector is a major actor in the procurement process and stands to gain most if there is transparency in the procurement process as a result of open contracting. Both local and international firms have a key role in ensuring transparency in procurement through demanding open and competitive bidding which provides a level playing field for all players.	High mostly due to the political environment surrounding government operations. It is very difficult for new entrants to participate in Public Procurement	High	Medium	MoF, AGI, GCCI	Parliament needs to enact laws that ensure that minorities, youth, women and persons with disabilities are provided a quota of procurement opportunities. Beyond established Firms, this enables new entrants and SMEs to participate in government procurement		
Obj. 4: Improve understanding of corruption	Support capacity building of procurement personnel.	Training of all personnel involved in the procurement process, both at the national and subnational level, would enable them to submit procurement transactions in GIFMIS. This would facilitate the provision of financial information on procurement activities at any time. In addition, enhancement of capacity would also force MDAs to electronically generate financial statements to help in the auditing process by the A-G's department.	High	High	High	PPA, MoF, MMDA's, MDA's	ILGS which should be involved in training public institutions on procurement instruments (tools and practices)	PPA should monitor compliance of all PE's	World Bank
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Address payment delays that prevent small and medium enterprises, international businesses and others from participating in the Ghanaian market.	Delays in payment are a symptom of a much larger problem of lack of adherence to procurement plans. For international contracts, there may be need for external assistance to prepare the technical specifications, scope of work or terms of reference. There is need for PEs to be committed to making payments on time and adhering to the process of procurement - specifically, ensuring the availability of funds before commencing the public procurement process.	Hard. This is a multifasceted and engrained problem that requires strong political leadership and, possibly, legislative changes that provide additional incentives to reduce this practice.	High. Payment delays prevent a significant barrier to strong competition in a potentially dynamic public market.	Medium.	One way to address this challenge would be through the establishment of a multi-stakeholder group led by the MoF that aims to unpack and develop policy mechanisms for addressing	Civil society and private sector representatives should take party in this multi-stakeholder group.	Owners of payment data should monitor key indicators related to the efficiency of payments, including the time between meeting of milestones and related payments.	
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Strengthen the procurement tribunal to ensure follow through on judicial actions and proper sanctioning for those who violate rules.	Parliament's PAC has an essential oversight role in scrutinizing annual audited accounts of all MDAs. However, there is a lack of judicial follow-through when the PAC identifies irregularities that require further investigation or scrutiny. Supporting the procurement tribunal to monitor irregularities and to impose penalties on violators is an unfulfilled OGP commitment. Advocacy aimed at amending the Act to strengthen this tribunal would be an effective use of resources.	Medium	Medium	Medium.	MoF, parliament	Civil society can advocate for MoF and parliament to propose and agree upon reforms to strengthen the procurement tribunal. International Institutions can help provide research and training to strengthen the tribunal.	Monitoring the number of cases prosecuted in the tribunal, as well as the number of successful prosecutions and percentages of cases brought from the number of risky cases identified by parliament.	
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Create the Office of the Special Prosecutor.	During the recent electoral campaign, the current government championed the creation of a Special Prosecutor, which would be independent of the executive, to "investigate and prosecute certain categories of cases and allegations of corruption and other criminal wrongdoing, including those involving alleged violations of the Public Procurement Act and cases implicating political officeholders and politicians." The government should make good on this promise and create a Special Prosecutor with a specific mandate to work with the police and other statutory investigatory agencies to prosecute public sector corruption and crimes committed under Ghana's procurement laws.	Hard. Creating a Special Prosecutor would require developing the legislative framework for such a body and finding resources to ensure its funding and continuity.	Low-Medium	High	GoG	Civil society can advocate for reforms and provide research and draft legislative text that can be used by ministries and parliament.	Adoption of a Special Prosecutor with a budget line for the Prosecutor's work.	
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Reduce reliance on restrictive and sole-source procurement.	The reliance on restrictive forms of procurement may be particularly worrying to SMEs and to foreign/international businesses looking to enter into the Ghanaian market. Efforts should be taken to reduce the use of these methods to a more appropriate (e.g. 15-25%) level, ensuring their use only where insufficient competitive options or urgency demand. This could include working with civil society monitors to analyze procurement data to understand who is winning, how much these contracts tend to be, and which PEs are most frequently engaging in restrictive tendering.	Medium. While there may be a number of reasons that PEs resort to direct procurement, the PPA has the authority to prevent its over-use. Reducing direct procurement can begin with the PPA taking a stronger stand against its use.	High	Low	PPA	Private sector, civil society, MoF	Statistics on procurement methods are publicly available and can be monitored by civil society and private sector.	World Bank's Benchmarking Public Procurement; UNCITRAL Model Law on Public Procurement
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Identify and support policy champions.	There is a need to support policy champions who will promote transparency in procurement and open contracting principles, and who serve as change leaders in their respective MDAs and MMDAs. Working with the PPA, there is an opportunity to identify these individuals and enhance their capacity through targeted trainings on procurement processes and good practice, and stimulate networking among them. This could include the Chartered Institute of Procurement & Supply, a procurement officers association that is not fully registered as yet. This group should be supported to be vibrant and lead in the advocacy drive towards best practices in both public and private procurement.	Low. A variety of these stakeholders can organize efforts to bring together policy champions and establish support networks.	Medium	Medium.	Civil society, international institutions, GoG.		Sustainability of a network of policy champions would require resources and the fostering of community among them.	Participation in Open Government Partnership and other reformist networks could present an opportunity.
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Encourage government compliance with OGP commitments.	Government officials interviewed for this report were largely unaware of OGP and the open contracting commitment. Supporting demonstrative advocacy, such as the development of tools that can help the PPA understand the potential benefits of open contracting, can help facilitate uptake.	Medium. Linking OGP with GoG's Anti-Corruption Strategy and strategic priorities poses a challenge but would ensure that this agenda is at the core of GoG's efforts.	Medium	Medium	GoG	Ministries, agencies	Monitor references to OGP commitments by key government bodies. Sustainability depends on uptake within strategies.	OGP
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Create consistent opportunities for citizens to participate in MDA and MMDA level tendering.	According to respondents, citizen engagement around procurement is normally handled by the project management team at the MDAs, but this differs from project to project. The PPA and MOF should develop clear guidelines for PEs on procurement monitoring, such as enabling civil society to attend bid openings and creating mechanisms for third-party complaints.	Low	Medium	Low	PPA, MMDA's, MDA's	CSO's, MoF	CSO's, PPA can be involved in disseminating information in a much simpler way (that the PPA bulletin) in local languages in the local communities	

Priority Recommendations List									
Theme	Recommendation	Text	Difficulty Level	Priority Level	Financial Burden	Lead Stakeholder	Other Stakeholder Involvement	Monitoring & Sustainability	Additional Resources/ Initiatives
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Facilitate collaboration between international and domestic business associations to support increased openness of the procurement sector.	Local business representatives view international companies as key actors in efforts to increase public sector transparency. Facilitating collaboration on this issue can help forge bonds and common understanding related to the mutual interests of Ghanaian and foreign businesses. This collaboration could also focus on mechanisms used by local and foreign companies to benchmark the procurement process and understand where opportunities and challenges exist using available data and engagement opportunities.	Low	Low	Low	Private Sector Associations such as AGI and GCCI	NDPC	According to SDG Goal 9, Manufacturing is a foundation of economic development, employment and social stability. Private Sector Associations should engage with the SDG's with a view to attain good practice and monitor performance of their members in this regard  The NDPC which monitors Medium Term Plans can interrogate data from GSS as far as attainment of national indicators aligned to SDG 9 (Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation) are concerned.	Encourage private sector actors to develop and sign a non-voluntary code of ethics would help to increase competence and . One such example is the UN Global compact on sustainable business practices
Obj. 5: Strengthen the use of wider range of levers to influence incentives and norms on corruption	Enforce clauses of late payment in contracts through accrual of interest when payments become overdue.	Private businesses frequently raise the issue of delayed payments as a key issue preventing their unimpeded participation in public procurement. The government should enforce clauses that allow for the accrual of interest when payments are overdue to provide incentive for the release of payments.	High. This may be due to lack of legal instruments to enforce. Also, legal recourses which involve taking the government to court are normally expensive.	High	High. MoF should take lead for responsible timely disbursements for approved budgets to MDA's and MMDA's. PE's should adhere to procurement plans and not deviate from them so as not to delay payments for procurements which have been planned and budgeted for.	PPA, MoF, Office of Attorney General	PPA	PPA should take lead in Monitoring PE's which deviate from Procurement plans and ensure that requisite penalties are applicable. PE's should only include in their procurement plans goods, works and services they have allocated funds	