

Public Procurement Compliance in Ghana: An Upper West Region Perspective

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Abstract

This study aimed to contribute to the debate on Ghana's Public Procurement Act 663 non-compliance. According to the Ghana Public Procurement Law (Act 663, 2003), compliance with public procurement regulations is mandatory. It aims to combat fraud, illegal and unethical activities in the public sector. This research examined four explanatory factors that influence compliance with public procurement rules. This study applied a quantitative research methodology, correlational research design, and cross-sectional design. Data were collected from 62 regional government procurement entities using a structured questionnaire. Correlation and regression analysis was conducted to test the research questions and hypotheses. The general results of this study indicated mixed findings. Familiarity (H1) and monitoring (H3) were found to be statistically significant in compliance, whereas professionalism (H2) and sanctions (H4) were not statistically significant in compliance and were not supported by the study hypotheses. Hence, the mixed findings on the relationship between professionalism and compliance rules, sanctions and compliance rules require further investigation.

Keywords: Compliance, public procurement Act 663, public procurement, procurement regulations, Ghana.

Introduction

Public procurement noncompliance is the greatest challenge facing Ghana, and its regional government is no exception. Public procurement is recognized as a crucial part of government public policy and resource management (Gordon & Zemansky, 2000; Kidalov & Snider, 2011; Snider, 2006; Thai, 2001). It significantly impacts a country's governance and socioeconomic development, regardless of its economic status. In Ghana, public procurement accounts for nearly 20 percent of government public expenditure, representing almost 14-18 percent of its gross domestic product (GDP) and 50 -70 percent of the national annual budget (Bokpe, 2014; Ocloo, 2011; Osei-Tutu, Mensah, & Ameyaw, 2011). Despite establishing the Public Procurement Act 663 (2003), non-compliance, irregularities, and illegality in public procurement still transpire in Ghana. Regrettably, millions of dollars are wasted in Ghana because of non-compliance and failure to impose adequate sanctions on violators

of public procurement rules and regulations (Adu-Gyamrah, 2013; Boateng, 2013; Ocloo, 2011; Salia, 2012).

Generally, public procurement is defined as the acquisition of goods, services, and works by procuring entities using public funds (Act 663, 2003; Adam, Csaki, Prier, & Bufacchi, 2012; Eyaa & Oluka, 2011). Notwithstanding, numerous literature reviews on public procurement compliance that focus on the identified conceptual framework of 'explanatory factors' as a model are lacking. Therefore, this study aimed to fill this knowledge gap by examining the four explanatory factors of compliance with public procurement laws. The four relevant explanatory factors are among the drivers of public procurement compliance in Ghana, which is the focus of this study. The public procurement non-compliance issues in many countries have become a debate at the forefront of public concern, especially in developing countries, due to possible misuse of public funds associated with public procurement

(Tukamuhabwa, 2012), in which Ghana is not exempted. Therefore, public procurement non-compliance poses a severe threat to the accomplishment of Ghana's Public Procurement Act's aims and objectives (Act 663, 2003; Etse & Asenso-Boakye, 2014). Consequently, effective and comprehensive compliance systems coupled with the familiarity of procurement laws and professionalism are supported by appropriate monitoring mechanisms and backed by a vigorous sanction scheme, which will instill discipline procurement practitioners to comply with public procurement laws (Jaafar, Ramali, & Aziz, 2015; Mwakibinga & Buvik, 2013; Ntayi, Ngoboka, & Kakooza, 2013).

Therefore, this quantitative study on the Ghana Public Procurement Acts 663 compliance in the public sector makes it an evident and preferable focus for public procurement study. This study provides new perspectives on public procurement compliance in the public sector. Additionally, this study contributes to the debate on the causes of noncompliance through the lack of effective implementation of explanatory factors. The results of this study may rekindle the necessary debate on the importance of effective and comprehensive compliance systems. Especially practitioners' familiarity with public procurement laws, ethical-oriented professionals, innovative monitoring, and vigorous sanctions enforcement mechanisms.

Literature Review

Despite numerous studies on Ghana's public procurement, compliance in the public sector has not been covered in-depth in the existing literature. Therefore, the literature review focused on four explanatory factors: familiarity, professionalism, monitoring, and sanctions. In addition, a summary of relevant theories, such as principal-agent theory, institutional theory, socioeconomic theory, legitimacy theory, and stakeholder theory, are discussed.

Familiarity with Public Procurement Regulations and Compliance

Arguably, the major weakness of inefficiency in public procurement activities is a lack of public procurement knowledge. Therefore, effective training of public procurement practitioners ensures familiarity with public procurement

regulations and compliance (Onyinkwa, 2013). Rossi (2010) asserted that compliance with the formal rules and regulations indicate that public procurement procedures are obeyed. This position is confirmed by Gelderman et al. (2006) and Jibrin et al. (2014) that public procurement actors will comply with procurement regulations if they perceive rules as clear and unambiguous. Furthermore, it has been argued that ambiguity increases the likelihood of deliberate noncompliance (Eyaa & Oluka, 2011; Lazarides, 2011; Jibrin et al., 2014; Tukamuhabwa, 2012).

In addition, Rossi (2010) affirmed that non-compliance with procurement regulations indicates a lack of familiarity with laws. Hence, compliance is a precondition for effective implementation of public procurement regulations to achieve accountability, transparency, and sustainability (Diggs & Roman, 2012; Oruezabala & Rico, 2012). It is worth noting that inadequate knowledge and familiarity of public procurement regulations contribute to ambiguity and creates opportunities for fraud, misconduct, and corrupt practices (Basheka, 2011; Diggs & Roman, 2012; Eyaa & Oluka, 2011; Onyinkwa, 2013; Oruezabala & Rico, 2012). In contrast, it has been argued that individual moral behavior is more likely to be attributed to fraud and misconduct, contributing to non-compliance (Gelderman et al., 2006; Tukamuhabwa, 2012).

Therefore, adequate knowledge of the Public Procurement Act 663 will ensure compliance. Hence, the following proposition suggests that familiarity with the rules and regulations of the Public Procurement Act 663 increases public procurement compliance.

H₁: There is a positive association between familiarity of procurement regulations and the degree of compliance with the established procurement rules in the government sector.

Professionalism with Public Procurement Regulations and Compliance

A key characteristic of noncompliance with public procurement law is the lack of professionalism. Professionalism is defined as adhering to ethical principles, a code of ethics, and the freedom to make sound judgments (Eyaa & Oluka, 2011). This definition is echoed by Lewis and Maude (1953), who contended that "a moral

code is this the basis of professionalism” (p. 64). Therefore, the author’s philosophical concept of professionalism anchors on morality. Basheka (2011) identified the cause of public procurement corruption as poor professionalism, resulting in the misuse of positions and lack of ethical norms and accountability. The Auditor General Report (2011) revealed that nonprofessionalism was the highest among the vices of public procurement officials in Ghana. This affirmed Basheka and Mugabira’s (2008) assertion (as cited by Eyaa & Oluka, 2011): “The level of professionalism in public procurement is low or nonexistent” (p. 38), especially in developing countries such as Ghana (Auditor-General Report, 2011), Kenya (Onyinkwa, 2013), Tanzania (Mwakibinga & Buvik (2013), and Uganda (Basheka & Mugabira, 2008; Eyaa & Oluka, 2011; Ntayi et al., 2013).

Public procurement professionalism increases procurement compliance in the public sector. Hence, ensuring a new compliance concept of sustainability based on value-for-money in the public procurement arena depends solely on professionalism (Oruezabala & Rico, 2012). Therefore, based on this discussion, the following is proposed:

H₂: There is a positive association between professionalism in procurement and the degree of compliance with established procurement rules in the public sector.

Monitoring Public Procurement Regulations and Compliance

Importantly, this monitoring mechanism is a critical tool for public procurement compliance. Monitoring public procurement rules and regulations enhances compliance. Therefore, a robust monitoring mechanism ensures public procurement compliance (Kovacic, 1998). This assertion is echoed by Mwakibinga and Buvik (2013), who acknowledges that a monitoring mechanism is an essential instrument in public procurement to enhance compliance.

It is worth noting that an effective monitoring mechanism enhances the close relationship between principals and agents (Arrowsmith 2010). On the other hand, excessive monitoring impedes principal-agent relationships (Mwakibinga & Buvik, 2013; Rokkan & Buvik, 2003). Likewise, agents perceive increased monitoring by principals as a lack of trust and

limitations to their freedom for decision-making (Murry & Heide, 1998; Mwakibinga & Buvik, 2013), a conflict associated with the principal-agent theory. Notably, effective monitoring mechanisms are essential activities that expose the illegal behaviors of public procurement practitioners and enhance compliance and corrective measures (Mwakibinga & Buvik, 2013). Therefore, based on this discussion, the following is proposed:

H₃: There is a positive association between the implemented monitoring mechanism and the degree of compliance with established procurement rules in the government sector.

Sanctions with Public Procurement Regulations and Compliance

In combination with monitoring mechanisms, sanctions schemes are critical tools for enforcing and honoring public procurement compliance. Ntayi et al. (2013) contended that compliance with public procurement is driven by behavioral motives, which depend on morality and sanctions. A comprehensive sanctions program enhances the fundamental values of public procurement, such as transparency, flexibility, and independence (Kulbiski, 2012). Mwakibinga and Buvik (2013) considered sanctions as punitive measures aimed purposely to discourage detrimental behaviors to ensure compliance. There are three effective sanctions schema objectives: enforcement of compliance, serving as deterrents and modifying agents’ behavior (Mwakibinga & Buvik, 2013).

In Ghana, the sanctions scheme is explained in Section 92 (1) of the public procurement law (Act 663, 2003). However, this clause is yet to be vigorously enforced. For instance, the former CEO of the Public Procurement Authority (PPA) emphasized that if compliance with the law adheres to sole-sourcing contracts, it will not constitute more than 15% of all government contracts (Adjei, 2016). Hence, achieving economic gains requires effective compliance with public procurement rules backed by robust sanction schemes (Brandon-Jones & Carey, 2011). Therefore, a lack of public procurement compliance contributes to a country’s failure to provide the necessary socioeconomic development to ensure adequate protection of citizens (Mares, 2012). In summary, compliance

without stipulated sanctions renders the definitions of compliance irrelevant, especially in the public procurement arena. Based on these examinations, the following hypothesis is proposed.

H₄: There is a positive association between effective sanction schemes and compliance with the established procurement rules in the government sector.

Principal-Agency Theory

Principal agency theory concepts are relevant to public procurement compliance research. The principal-agency theory concept highlights the key relationship between the principal and the agent. This ensures efficient economic activities backed by accountability (Eisenhardt, 1989; Soudry, 2007). Therefore, monitoring execution by principals compels agents to ensure compliance (Sutinen & Kuperan, 1999). Principal agency theory provides efficient economic activities backed by accountability and monitoring. This makes principal-agency theory relevant to public procurement compliance research.

Institutional Theory

Institutional theory is the traditional approach used to examine elements of public procurement (Onyinkwa, 2013). Institutional theory helps identify the three pillars of institutions – regulatory, normative, and culturally cognitive (Scott, 2004). The regulatory pillar emphasizes using rules, laws, and sanctions as enforcement mechanisms, with expedience as the basis for compliance (Tukamuhabwa, 2012). On the other hand, the normative pillar refers to norms and values with social obligations as the basis of compliance (Onyinkwa, 2013). The cultural-cognitive pillar rests on shared understanding and common beliefs and symbols (Eyaa & Oluka, 2011). Believing practitioners (elected officers and citizens) of public procurement should adhere to the compliance enforcement of rules and regulations.

Socioeconomic Theory

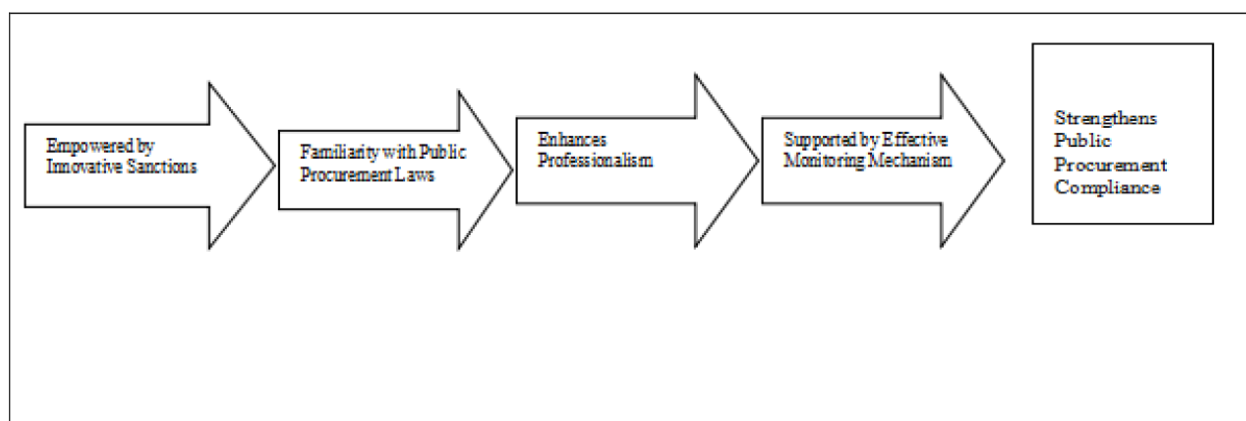
Regardless of the global free market philosophy, interventions exist in the marketplace through the regulation of socioeconomic activities to ensure compliance with rules (Sutinen & Kuperan, 1999). Good governance concerns ethical conduct rooted in a cultural environment and individual mindset; therefore, legislative instruments alone (Bozec & Dia, 2012) cannot regulate good governance or compliance without effective sanction schemes.

Legitimacy and Stakeholder Theory

Legitimacy theory claims that the organization is responsible for disclosing its activities and practices to stakeholders, especially the public, and justifies its existence within the boundaries of society (Wilmshurst & Frost, 2000). Hui et al. (2011) support the concept of legitimacy. Stakeholder theory also emphasizes disclosure of activities paramount to public procurement compliance. Therefore, disclosure of activities helps justify fairness and transparency to ensure accountability in the public procurement arena, especially to the public by the authorities assigned the responsibility of managing public funds (Hui et al., 2011). The literature review demonstrates the relevance of these theories to the study of public procurement compliance.

Conceptual Framework

The conceptual framework model states that familiarity with the Public Procurement Act 663 regulations, backed by a knowledgeable professional code of ethics, enhances practitioners' professionalism. Effective monitoring mechanisms empowered by innovative sanction schemes strengthen public procurement compliance, as shown in Figure 1. The proposed conceptual framework model helps explain compliance in the Ghana Public Procurement Act 663. It highlights the relationship between independent variables and the dependent variable (Onyinkwa, 2013).

Figure 1*Conceptual Framework Model*

Source: Kwening's Conceptual Model

Based on the conceptual framework, this section discusses the research questions of the study. Meltzoff (2001, p. 13) regarded research as a “process of asking a question ... and initiating a systematic process to obtain valid answers to that question.” Alvesson & Sandberg (2011) argued that identifying a gap helps generate research questions. Therefore, this quantitative research centers around four applicable themes: familiarity, professionalism, monitoring, and sanctions as tools to enhance compliance. The following research questions address this subject matter:

1. Is there a relationship between familiarity with public procurement regulations and compliance?
2. Is there a relationship between professionalism in public procurement regulations and compliance?
3. Is there a relationship between the monitoring of public procurement regulations and compliance?
4. Is there a relationship between sanctions and compliance with public procurement regulations?

Methodology

Methodology is a body of methods, rules, and postulates employed by a discipline (Merriam-Webster. (n.d.)). This section considers the research method and design, research setting, sampling procedure, data collection, data analysis, and ethical assurances.

Research Design

This study applied a quantitative research method, correlational research design, and cross-sectional design. Both the research method and design primarily focused on examining the degree of the relationship between two or more variables (Brewer & Headlee, 2010; Walker, 2005), which this study applied. Creswell (2009) asserted that quantitative research methodology offers predictions of the relationships between variables. Quantitative methodology and correlational design were chosen to examine the degree of relationship among the four independent variables (Brewer & Headlee, 2010; Walker, 2005).

Sampling

A list of 62 entities (departments and agencies) was obtained from the Upper West Regional Coordinating Council (UWRCC). These entities are authorized to use public funds in procuring goods, services, and works. All the entities comprise 25 departments and 37 agencies in Wa township. Wa is the capital of the Upper West Region of northern Ghana. A sampling technique was not applicable in this study because the population formed the sample. This study did not consider districts, municipal assemblies, or the passage of the new Public Procurement (Amendment Act 914, 2016).

Data Collection

Questionnaires were used for data collection. The researcher and three experienced assistants distributed and collected the data. The researcher acted as the coordinator to ensure quality. All the targeted respondents participated in the study.

Data Analysis

Correlation analysis was used to test the strength and direction of the relationships between variables. Also, regression analysis was used to test the relationship between the independent and dependent variables employed in the study.

Ethical Considerations

It is worth noting that academic-based researchers associated with human subjects require Institutional Review Board (IRB) approval before pursuing research projects (Shore, 2006). However, this did not physically or emotionally harm the participants compared to the clinical experimental research.

Results

This study analyzed the data using the Statistical Package for the Social Sciences (SPSS) software. The correlation and regression analysis results are presented in tabular form. The discussion of the findings was based on the results of the correlation and regression analyses. The results of the correlation analysis are presented in Table 1.

Table 1

Correlation Analysis

		Familiarity	Professionalism	Monitoring	Sanctions
Compliance	Pearson Correlation	-0.763**	0.276*	-0.201	0.035
	Sig. (2-tailed)	.000	.030	.118	.788
	N	62	62	62	62
	N	62	62	62	62

*. Correlation is significant at the 0.05 level (2-tailed).

The results revealed a significant inverse relationship between procurement regulations familiarity and compliance ($r = -.763; p < .001$). Also, the findings revealed a positive relationship between procurement regulations professionalism and compliance ($r = 0.276; p < .05$). However, procurement regulations monitoring ($r = -0.201; p > .05$) and sanctions ($r = 0.035; p > .05$) do not have a significant relationship with compliance. The results of the regression analysis are presented in Table 2.

Table 2*Regression Analysis*

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.	95% Confidence Interval for B	
	B	Std. Error	Beta			Lower Bound	Upper Bound
(Constant)	2.013	.224		8.980	.000	1.564	2.462
Familiarity	-.230	.027	-.716	-8.556	.000	-.283	-.176
Professionalism	.043	.033	.107	1.298	.200	-.023	.108
Monitoring	-.067	.031	-.180	-2.169	.034	-.129	-.005
Sanctions	.021	.034	.050	.602	.549	-.048	.090

a. Predictors: (Constant), Sanctions, Familiarity, Professionalism, Monitoring

b. Dependent Variable: Compliance

Table 2 indicates that among the four independent variables (familiarity, professionalism, monitoring, and sanctions), familiarity ($p < .001$) and monitoring ($p < .05$) significantly affect compliance.

The results revealed no statistically significant difference in explaining compliance (Sig = 0.200, $p > 0.05$). Therefore, it is concluded that the professionalism of procurement laws is not associated with public procurement compliance. Monitoring denoted statistical significance (Sig = 0.034, $P < 0.05$).

Discussion

The correlation analysis in Table 1 emphasizes the strength and directional relationship of the dependent (compliance) and independent variables, termed explanatory factors (familiarity, professionalism, monitoring, and sanctions). There is a strong significant, and inverse relationship between compliance and familiarity. However, the relationship between compliance and professionalism is positive. In contrast, although statistically insignificant, there is an inverse relationship between compliance and monitoring. Compliance and sanctions also showed a positive relationship but were not statistically significant. The regression

analysis also showed that familiarity with public procurement and monitoring have a significant influence on public procurement compliance.

It was established that familiarity with procurement law significantly and inversely predicts compliance with the Public Procurement Act 663, 2003 regulations. Usually, the more procurement officials are familiar with the Public Procurement Act 663, 2003, the more likely they are to comply. However, the finding suggests that being familiar with the Public Procurement Act 663, 2003, does not necessarily mean that procurement officials will comply with the Public Procurement Act 663, 2003, especially when considered non-compliance more personally beneficial. This finding is inconsistent with other empirical results with the theoretical/conceptual assumption that familiarity enhances compliance (Diggs & Roman, 2012; Eyaa & Oluka, 2011; Gelderman et al., 2006; Jibrin et al., 2014; Oruezabala & Rico, 2012). However,

A professional officer is more likely to comply with the Public Procurement Act 663, 2003. However, the study found that professionalism is not a significant predictor of compliance with the Public Procurement Act 663, 2003 regulations. Therefore, professionalism in public procurement is not associated with procurement

compliance and there is no empirical evidence to support this proposition. The available empirical literature supports a positive relationship between professionalism and compliance (Eyaa & Oluka, 2011; Jibrin et al., 2014; Millerson, 1964); thus, contrary to this study.

Monitoring is a significant predictor of compliance with the Public Procurement Act 663, 2003 regulations. This implies that the effective monitoring of procurement officials' activities will likely lead to higher compliance. This finding supports the research question regarding monitoring effectiveness and increasing compliance. Furthermore, the finding corroborated with other empirical study results with the theoretical assumption that monitoring effectiveness increases compliance (Ahimbisibwe, Muhwezi, & Nangoli, 2012; Hui et al., 2011; Kovacic, 1998; Mwakibinga & Buvik, 2013). It is also important to note that monitoring procurement activities may not necessarily increase compliance with the Public Procurement Act 663, 2003, especially when personal financial gains are eminent.

Based on the findings of this study, sanctions, as determinants of procurement law, are not a significant predictor of compliance with Public Procurement Act 663, 2003 regulations. Therefore, sanctions in public procurement are not associated with procurement compliance and there is no empirical evidence to support the research question on sanctions and compliance. However, the available empirical literature supports a positive relationship between sanctions and compliance (Canni, 2010; Kulbiski, 2012; Mwakibinga & Buvik, 2013; Ntayi et al., 2013; Weigel, 2013; Yukins, 2013), which is contrary to the findings of this study.

Conclusion

The general results of the study indicated mixed findings. Thus, some research predictions are supported statistically, whereas others are not. Professionalism and sanctions do not significantly affect compliance with procurement regulations. However, familiarity and monitoring are key indicators of procurement regulations compliance. Hence, the mixed findings on the relationship between professionalism and compliance rules, sanctions, and compliance rules require further investigation.

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