



**Public  
Procurement  
Authority**  
*Improving Efficiency and  
Transparency in Public Procurement*

# Tools and Practices for Preventing Fraud and Enhancing Transparency in Procurement, GHANA CASE

APPN KNOWLEDGE SHARING SESSION

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# Presentation Outline

- **DEFINITIONS**
- **BACKGROUND**
- **LEGAL AND INSTITUTIONAL FRAMEWORK**
- **PROCUREMENT PROCEDURES**
- **TOOLS AND MEASURES**
- **CHALLENGES**
- **CASES**
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# DEFINITION

- **Corruption** is the abuse of public office for private gain. World Bank (1997)
- **Conflict of Interest** “A situation where personal or business interests of a party could adversely affect the outcome of a procurement transaction.”
- **A fraudulent practice** is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
- **Corrupt practice** is the offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.”



# DEFINITION

- **Fraudulent practice** is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.
- **Collusive practice** is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.





# BACKGROUND

- **Financial Administration Regulations, 1979 LI 1234) Part XII, Section 651** ‘Public Supplies and Equipment. (Public Supplies and Equipment by MOF)
- **World Bank studies on public procurement in Ghana:** Country Procurement Assessment Reports [CPAR] of 1985, 1986, Gosta Westring’s report of 1997, and Country Portfolio Performance Review [ CPPR] of 1998.
- **1996 : Public Financial Management Reform Programme (PUFMARP).**
- **1999: Public Procurement Oversight Group (PPOG)** was established by Government of Ghana
- **The Public Procurement Act, 2003 (Act 663)** was passed into law
- Establishment of the **Public Procurement Authority** in 2004
- Amendment of Act in 2016 with Act 914
- **Public Procurement Regulation, 2022. (L.I. 2466)**



# LEGAL FRAMEWORK

- Public Financial Management, 2016 (Act 921)
- Public Financial Management Regulation, 2019 (Act 2378)
- Public Procurement Act 2003 (Act 663) as Amended with Act 914
- Public Procurement Regulations 2022 (LI 2466)
- Internal Audit Act, 2003 (Act 658)
- Public Procurement Manuals
- Standard Tender Documents and Standard Request for Proposals
- Contract Administration Manuals
- Policies and Guidelines. (Low value & Minor procurement, SPAF, FWA, SPP, etc)



# INSTITUTIONAL FRAMEWORK

## Ministry of Finance

Issues regulations in consultation with the PPA

## Public Procurement Authority

- Sets public procurement policy
- Monitors compliance by procurement entities
- Issues standard tendering documents/standard request for proposals
- Suspends suppliers and manages tender appeals
- Coordinates capacity building and professionalism in public procurement
- Manages and disseminate procurement information
- Develop and manage Electronic Procurement System

## Oversight Bodies

- Monitor and audit public procurement
- Investigate and prosecute breaches of Act 663 as amended

## The Private Sector

- Prepare tenders, quotations and proposals as tenderers
- Implement contracts as providers
- Includes providers of goods, works and services

## Tender Review Committees

- Responsible for approving procurement activities above the threshold of the Entity Tender Committees
- Include Central and Regional Tender Review Committees with differing levels of authority

## Procurement Entities

### Head of Entity

- Awards low value contracts
- Chairs Entity Tender Committee

### Tender Committees

- Approves procurement plans and invitation documents
- Awards contracts within its threshold/authority or ensures referral to the appropriate Tender Review Committee

### Tender Evaluation Panel

- Ad-hoc committees which conduct evaluations and prepare evaluation reports

### Procurement Unit

- Permanent unit staffed by procurement professionals
- Manages all procurement activities



# PROCUREMENT PROCEDURES

- Mandatory Annual Procurement Plan (APP) (*section 21*)
- Mandatory Supplier Registration
- Eligibility and qualification criteria (*section 22*)
- Proper written records (*section 26-28*)
- Public publication for transparency (APP, Invitation to Tenders, Tender opening Records, Contract Details)
- Tendering Procedures
- Use of Framework contracting
- Complaints and Administrative Review (*sections 78-82, Part Seven*)
- Disposal of Items (*sections 83-84, Part Eight*)





# SPECIFIC TOOLS

- Standard Tender Documents (with General Conditions of Contract)
- Average Price Database
- Unit Infrastructure Cost Estimator
- Ghana Electronic Procurement System (GHANEPS)
- Right to Information Act



# SANCTIONS

- Rejection of tenders, proposal, offer or quotation (Sec 32, Act 663)
- Fine not exceeding 2,500 penalty units or imprisonment for a term not exceeding 5 years or both (Sec 92, 93)
- Debarment
- Prosecution



# INVESTIGATION & PROSECUTION

- Ghana Audit Service
- Public Procurement Authority
- Commission on Human Rights and Administrative Justice (CHRAJ)
- Economic and Organized Crime Office (EOCO)
- Office of the Special Prosecutor (OSP)
- Attorney General



# CHALLENGES

- Low Pay
- Culture
- Interference of political/traditional/religious actors
- Delays in availability of procurement data
- Rise in non-competitive methods
- Inconsistency in prices/amounts for similar goods, services and projects
- Non-effectiveness of a lot of the Entity Tender Committees



# CASES

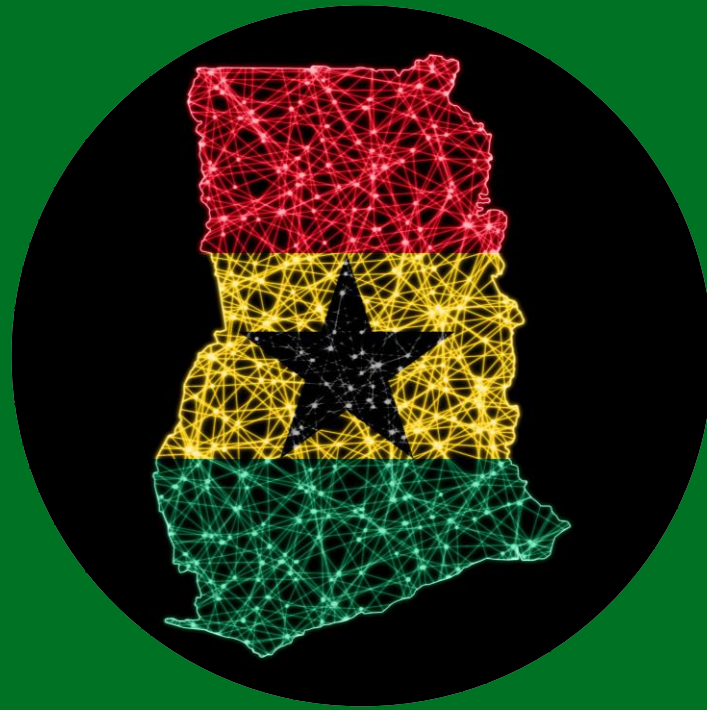
- Former Electoral Commissioner of Ghana Procurement breaches
  - The use of Single source without PPA approval
  - No documentary evidence leading to award of contract
  - Unilaterally awarding contracts beyond her threshold without approvals from ETC or CTRC
- GRA/SML audit by KPMG
  - Proceeding with Single Source after rejection from PPA via another route
  - No parliamentary approval for a multi-year contract
  - No evidence of approval from GRA board
  - Improper pricing model for such services





# RECOMMENDATION

- Independent Public Procurement regulator
- Increase the number of PPA Offices
- Increase the enforcement of Electronic Procurement System
- Certification of Procurement Officers
- Strengthen, monitor and build capacity of the ETC members
- Shorten the prosecution process and time



**Thank You.**



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# GHANEPS Product Suite

