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CHALLENGES OF INFRASTRUCTURE PROCUREMENT IN EMERGING ECONOMIES AND IMPLICATIONS FOR ECONOMIC DEVELOPMENT: A CASE STUDY OF GHANA

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1. INTRODUCTION

Infrastructure comprises the physical facilities, institutions and organisational structures or the social and economic foundations for the operation of a society (UNCTAD, 2008). The World Bank (1994) defines infrastructure in physical and economic terms as public utilities (power, telecommunications, piped water supply, sanitation and sewerage, solid waste collection and disposal and piped gas), public works (roads and major dam and canal works for irrigation and drainage) and transport facilities (urban and inter-urban railways, urban transport, ports and waterways, and airports). Whilst the “public” tag may no longer be relevant in the light of widespread private sector participation and ownership, one can agree with the examples of infrastructure projects cited in the definition above. UNCTAD (2008) provides a similar list with a caveat that this is changing with the growth of information communication technology (ICT). Many authors such as Prud’homme (2004) and Kessides (1993) also define infrastructure projects in similar terms as the World Bank report.

In Ghana, infrastructure has been defined to include “immovable capital such as, roads, power plants, water delivery systems, sewerage treatment plants, telecommunication and transport facilities, electrification, hospitals and schools” (World Bank, 1997, p.2). All these facilities share common characteristics (UNCTAD, 2008). Firstly, they are capital-intensive. They are “formidable undertakings” (p.88) involving huge financial outlay. Secondly, they often involve physical networks of strategic importance. Thirdly, they are also major determinants of the competitiveness of an economy; good infrastructure can play a major role in the decision of an investor to set up in a particular economy. Fourthly, in many societies, services associated with infrastructure are thorny social and political issues and, thus, subject to public interventions. Finally, infrastructure projects are relevant to economic development and global integration.

Prud’homme (2004) adds that infrastructure projects are capital goods in themselves; they are often “lumpy” and not “incremental” (p.4); they are long-lasting and space-specific. According to Prud’homme (2004), they often benefit both enterprises and households. Odams and Higgins (1996) identify five additional characteristics of major infrastructure projects that are particularly relevant in the context of emerging economies. Firstly, there is often an external funder who plays an active role in determining the project structure; secondly, the client is often the State or a State-owned entity; thirdly, the presence of a foreign element either in the form of an investor or a contractor; fourthly, the contractor often plays a more active role in what is traditionally the role of the client as in the case of a concession agreement; and finally, the contractor tends to assume much more significant risks.

A number of significant conclusions can be drawn from the literature on the features of infrastructure projects; they are complex projects with significant impact on the public. Hence, their procurement often involves the State and its agencies on one hand and major contractors on the other – in the case of Ghana and other emerging economies, these would often be foreign contractors. Similarly, funding for such projects, particularly, in the case of developing countries, comes from external sources. Additionally, these projects are often laden with complex administrative and legal arrangements, which make them high risk ventures, especially, in developing countries.

The importance of infrastructure projects, however, makes them indispensable in spite of their associated challenges. The past two decades, especially, have witnessed increased research into the relationship between infrastructure development and economic development with growing evidence of positive association between

them (see for example, Estache, 2004; ADB et al., 2005; Andrés et al., 2008; Calderón and Servén, 2010a; Calderón and Servén, 2010b; PEI, 2011; Ncube, 2010; Foster and Briceño-Garmendia, 2010). This has spurred key players (states and international institutions, but increasingly also the private sector) to invest more in infrastructure delivery.

Using Ghana as a case study, the aim of this chapter is two-fold: (a) to critically review the procurement regime in emerging economies and current trends towards private participation in infrastructure procurement; and (b) to examine the likely impact of such issues on economic development. Regarding how the rest of the chapter is structured, Section 2 examines infrastructure and economic development whilst Section 3 provides an overview of the concept of procurement. Sections 4, 5, 6 and 7 consider the framework for procurement, procurement practices, contract formation and inefficiencies in the procurement regime respectively, all in Ghana. The last section concludes the chapter.

2. INFRASTRUCTURE AND ECONOMIC DEVELOPMENT

The issue of the impact of infrastructure development on economic growth has engaged the attention of many authors for years (Estache, 2004). Research on Latin America (Andrés et al., 2008; Calderón and Servén, 2010b), sub-Saharan Africa (Calderón and Servén, 2010a; PEI, 2011; Ncube, 2010; Foster and Briceño-Garmendia, 2010) and East Asia (ADB et al., 2005) have all shown positive linkages between infrastructure development and economic growth and productivity. These reports have also indicated regression in growth where there have been cuts in infrastructure development. In their attempt to evaluate the trend of research on this subject, Briceño-Garmendia et al. (2004) reproduced findings of a study conducted by de la Fuente and Estache (2004, cited in Briceño-Garmendia et al., 2004) to illustrate the impact of infrastructure development on growth. The report critically reviewed 102 published studies on infrastructure development in a range of countries and the impact of such infrastructure on productivity, economic growth and other development goals in those countries. The findings are shown in Table 9.1 below.

Table 9.1: Distribution of Findings on the Impact of Infrastructure Investment on Productivity or Growth

Area Studied	Number of studies	Percentage showing positive effect	Percentage showing no significant effect	Percentage showing a negative effect
Multiple countries	30	40	50	10
United States	41	41	54	5
Spain	19	74	26	0
Developing Countries	12	100	0	0
Total/Average	102	53	42	5

Source: de la Fuente and Estache (2004, cited in Briceño-Garmendia et al., 2004)

Although the study revealed varied impact of infrastructure development on economic growth and productivity in multiple countries, United States and Spain, the verdict on the developing countries captured was unequivocally positive. Since the pioneering work of Aschauer (1989) on the subject, many studies have confirmed that infrastructure development is crucial to economic development (see for example Kessides, 1993; World Bank, 1994; Sanchez-Robles, 1998; Canning and Pedroni, 1999; Kirkpatrick et al., 2006; Harris, 2003; Briceño-Garmendia et al., 2004; UNCTAD, 2008; Calderón and Servén, 2010; Giang and Sui Pheng, 2011). Briceño-Garmendia et al. (2004) indicated that reliable and affordable infrastructure can reduce poverty and, thus, help achieve the Millennium Development Goals. This finding has been independently corroborated through empirical research conducted on sub-Saharan Africa (see Agénor et al., 2005).

Again, Sanchez-Robles (1998) found a positive impact on economic growth after a study of road length and electricity generating capacity, similar to findings arrived at by Canning and Pedroni (1999). A study, which examined the impact of investment in telecommunication infrastructure in Nigeria on economic growth found

a positive correlation (Osoimehin et al., 2010). Giang and Sui Pheng (2011) suggested that infrastructure has the potential to raise the productivity of other factors of production. After an assessment of empirical data from sub-Saharan Africa and comparative data from over 100 countries, Calderón et al. (2008) also concluded that infrastructure development impacts economic growth and equity. It is, therefore, not surprising that studies such as those by Estache and Vagliasindi (2007) and Foster and Pushak (2011) have submitted that the infrastructure deficit has limited growth in Ghana.

In more specific terms, it has been argued that lack of adequate infrastructure in sub-Saharan Africa is holding back GDP growth by 2.2% (PEI, 2011; Foster and Briceño-Garmendia, 2010). Prud'homme (2004) also asserts that infrastructure development can result in lower cost and enlarged markets. These factors, in turn, can lead to growth, which will eventually culminate in improved welfare. It has also been found in support of Prud'homme's (2004) argument that the provision of infrastructure for potable water, electricity, health and sanitation will directly and dramatically benefit and improve the welfare of households and, thereby, impact poverty reduction (Briceno-Garmendia et al., 2004). This position is further confirmed by research pointing out that apart from the impact on productivity and growth, infrastructure development also complements the private sector and other sectors of the economy, affects the durability of private capital and investment adjustment cost, health and education (Agénor and Moreno-Dodson, 2006; Estache and Fay, 2007). In contributing to a country's international competitiveness, infrastructure also enhances the participation of the developing world in the global economy (Kessides, 2004; UNCTAD, 2008). Access to infrastructure services has been and remains an important determinant of the standard of living of inhabitants of countries all over the world.

The general consensus in the rapidly increasing literature on the subject is that infrastructure matters to growth and development, though its impact may differ on the basis of levels of income (Estache and Fay, 2007). It is predicted that under the right conditions, infrastructure development can play a major role in both productivity and equity and, thereby, help reduce poverty (Calderón and Servén, 2010b; Andrés et al., 2008). It is, therefore, not surprising that both states and international institutions focusing on development have placed a lot of premium on infrastructure development across the globe. Indeed these institutions, including the International Bank for Reconstruction and Development (IBRD) and the various regional development banks namely: African Development Bank (AfDB), Asian Development Bank (AsDB), European Bank for Reconstruction and Development (EBRD) and Inter-American Development Bank (IDB) have identified infrastructure development as an essential part of any effective strategy for alleviating poverty in the developing world (World Bank, 1994; Briceno-Garmendia et al., 2004; World Bank, 2008).

In Ghana, for instance, typical annual infrastructure spending is *circa* US\$1.2 billion, equivalent to 11% of its 2006 GDP (Foster and Pushak, 2011). This expenditure is from four main sources: Overseas Development Assistance (ODA) represents 35%; public investment constitutes 28%; private investment 24%; and the remainder from non-OECD sources (Foster and Pushak, 2011). With the strong and rising involvement of China and other non-OECD members such as Brazil and India in infrastructure provision in Ghana, the percentage contribution of the non-OECD members is likely to rise (Foster et al., 2009). As is the case with many emerging economies, Ghana's infrastructure development challenges are many (see Table 9.2). To satisfy the huge demand for infrastructure, the Government will need to spend more on infrastructure procurement. Public procurement, thus, constitutes a substantial portion of government spending and can be considered an important policy tool. However, it is also a business, management and administrative activity requiring efficiency in its execution to optimise economic development outcomes. This activity, therefore, requires close scrutiny.

Table 9.2: Achievements and Challenges in Ghana's Infrastructure Sectors

	Achievements	Challenges
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Air transport	Emerging role of Accra in serving sub-region, renewal of aircraft fleet	Improving air safety and security
ICT	Very competitive market with high levels of mobile penetration at relatively low cost	Improving the quality of mobile services. Harnessing market to complete universal access agenda (Internet and mobile)
Ports	Advanced institutional reform and private sector participation.	Alleviating capacity constraints that are currently holding back performance
Power	Well-endowed with generation capacity. Good electrification rate	Improving resilience to hydrological shocks by developing gas fired power and upgrading aging transmission network. Tackling huge hidden costs due to under pricing
Railways		Funding the rehabilitation of the network. Improving performance of GRC to recapture mining traffic
Roads	Good performer on road network, both in terms of financing and road network quality	Preserving the real value of the fuel levy. Improving rural connectivity.
Water resources	Substantial volume of water storage available. Organization by Africa standards	Strengthening capacity of new River Basin. Developing irrigation potential
Water and sanitation	Reached MDG for water. Significant improvements in utility finances	Improving reliability of water supply. Reducing non-revenue water. Reaching the MDG for sanitation

Source: Foster and Pushak (2011)

3. PROCUREMENT

At the heart of infrastructure development is procurement. The concept of procurement in the context of construction is broad and covers virtually the entire process of acquisition, procurement planning, the process of contractor selection, negotiation of contract terms, contract formation and contract administration (Bower, 2003; Arrowsmith, 2005; Arrowsmith, 2010). Based on the CIB W92 definition of procurement as the framework through, which construction is brought about, acquired or obtained (see McDermott, 1999), Akintoye et al. (2003) have opined that procurement entails the acquisition of land, design, construction, management and commissioning of a project. Contract strategy and formation that define the allocation of risk on infrastructure projects are at the core of the process. Love et al. (1998) considers procurement as an organisational system that identifies relationships and assigns responsibilities among key players in the construction process. This definition, like the others, presents the contract formation process as integral to procurement. Throughout this chapter, therefore, contract formation and all issues relating to the construction contract are treated under procurement.

A myriad of standardised procurement methods exist to provide a systematic approach to navigating all the issues that must be dealt with under the ambit of procurement as identified above. Procurement methods used in building and civil engineering works include the traditional, integrated, management-centred and collaborative methods. These methods define *inter alia* the organisational structures and roles of key participants and government agencies, processes to be followed and timeframes for action as well as applicable contract strategies. For a critical, in-depth and practical exploration of infrastructure procurement processes in emerging economies, this chapter examines the procurement regime in Ghana. Apart from its typicality as an emerging economy, the focus on Ghana will also provide an understanding as to how context-specific issues can influence the efficiency of the procurement process.

In Ghana, procurement of major projects is mainly carried out by the State represented by Ministries, Departments and Agencies of government (MDAs) who are the procurement entities. These organisations use a number of procurement methods including the traditional procurement method (the commonly used method), design and build, and engineer, procure and construct (EPC) (the integrated methods). These different approaches offer several different advantages such as: the assurance of competition; fairness and minimised tender cost due to the availability of bills of quantities; the potential to achieve low project cost,

quality and functionality (in the case of traditional procurement); single point responsibility, early contractor involvement; and buildability (in the case of the integrated methods).

As will be revealed in the next section, dysfunctional processes and institutional structures in Ghana largely confound the realisation of such benefits and amplify the well-known disadvantages of these approaches which include: excessive cost overruns as a result of incomplete designs; fragmentation; excessive variations; disruption of work; increased completion time and overall cost of project; and incidence of disputes (Latham, 1994; Franks, 1998; National Audit Office, 2001; Morledge et al., 2006).

4. FRAMEWORK FOR PROCUREMENT IN GHANA

4.1 A Historical Perspective: Pre-Public Procurement Act 2003 (Act 663)

Public procurement during the pre-independence era was the function of the colonial administration performed by Crown agents and the Public Works Department (PWD). The former was responsible for the procurement of goods and the latter, works. After independence in 1957, a number of MDAs were established in the 1960s and entrusted with responsibilities including carrying out infrastructure projects and providing consultancy for such acquisitions. These included Ghana National Construction Corporation (GNCC), Electricity Corporation of Ghana, Ghana Water and Sewerage Corporation (GWSC) and Architectural Engineering Services Corporation (AESC). Section 2 of Ghana Water And Sewerage Corporation Act 1965 (Act 310), for instance, gave the GWSC mandate, *inter alia*, to make engineering survey plans and construct and operate works relating to water and sewerage. Similarly, the objects of AESC under Section 3 of the Architectural Engineering Services Corporation Act 1973 (NRCD 193) included carrying out technical studies in planning, design and supervision of infrastructural works. Central, Regional and District Tender Boards were set up to advise on the procurement of works.

By the mid-1990s, the public entities set up as conduits for procurement had become overwhelmed by the growing demands from the MDA and had become inefficient (World Bank, 2003b). In 1993, the Statutory Corporations (Conversion to Companies) Act 1993 (Act 461) was enacted to enable existing corporations to be converted into companies. The AESC, ECG and GWLC were all transformed into limited liability companies. Public entities were no longer obliged to use State institutions to carry out works on their behalf. State entities increasingly relied on private consultants and contractors to execute projects.

The literature points to the traditional method of procurement with design split from construction both in time and space as the dominant procurement method used during the Pre-Act 663 era (Anvuur et al., 2006; Kheni, 2008). The World Bank (2003b) identified selective tendering and sole sourcing as the most widely used tendering methods prior to the enactment of Act 663. The two methods were used in about two-thirds of all projects within the public sector. The other tendering method used was competitive tendering. Tender Boards set up in the 1960s and subsequently regulated under the District Tender Board Regulations 1995 (LI 1606) continued to perform their roles until the coming into force of Act 663.

Procurement during the pre-Act 663 period was plagued with several deficiencies (World Bank, 2003b). These included lack of a comprehensive legal framework with clear procedures on procurement, weak capacity of procurement staff and an unclear institutional and organisational framework for procurement. There were delays in contract closure, preparation of technical specifications and drawings, evaluation, approvals and payments (World Bank, 2003a). These had a snowballing effect on contract delivery, performance issues, avoidable claims and disputes. Challenges associated with procurement of works in Ghana during the period before the enactment of Act 663 are well documented in Westring (1997), Eyiah and Cook (2003), World Bank (2003b) and Anvuur et al. (2006).

4.2 Current Procurement Regime: Post-Public Procurement Act 2003 (Act 663)

For the first time in Ghana, a new unified law on procurement was enacted in 2003. Act 663 has nine parts, which cover issues such as the establishment of a procurement authority and structures (see Parts One and Two), general rules on procurement (Part Three), methods of procurement (Part Four) and tendering procedures (Part Five). There are separate rules on engaging services of consultants (Part Six). The law applies to all procurement of goods, works and services financed in whole or in part from public funds, loans obtained or guaranteed by the State and foreign aid, and activities incidental thereto such as description of requirements, invitation of sources, preparation, selection, award of contract and contract administration. It, therefore, clearly covers all aspects of procurement of infrastructure projects.

Under Act 663, competitive tendering (national and international) is the main method for contractor selection except in cases where a justification exists for the use of other tendering methods such as two-staged tendering, restricted tendering and sole-sourcing. Conditions and procedures for the use of these tendering methods are outlined in the Act. All procurement entities are required to use the appropriate tender documents as provided in the Fourth Schedule to the Act. Section 50 of Act 663 requires that these documents be used with minimum modifications to be introduced through the Contract data sheet and the Special Conditions of Contract. No changes are to be made in the standard tender documents. Bids are to be opened at the time and place stipulated in the invitation documents and in the presence of all bidders. Bid evaluation criteria are to be predetermined as per the invitation documents and must be objective and quantifiable.

Evaluation is not to be based solely on the lowest tender price but also other weighted criteria provided in the bid document. In arriving at the lowest evaluated tender, the committee must consider the tender price in the light of any margin of preference applied, the cost of operating or maintaining the works, the functional characteristics of the works, payment or guarantee terms and national security. Section 59 of the Act additionally requires that the effect of the acceptance of the tender on the national economy be considered in terms of the balance of payment position and foreign exchange reserves of the country, counter trade arrangements offered by suppliers and contractors, extent of local content, and the overall economic development potential offered by tenders.

4.3 Other Rules on Infrastructure Procurement

There are two instances where the provisions of Act 663 do not apply. Firstly, an applicable loan agreement, guarantee contract or foreign agreement may provide different procedure for the utilisation of such funds. Secondly, the Minister of State responsible for a particular procurement can decide that it is in the national interest to use a different procedure. The choice of procurement method for major projects in Ghana is, therefore, not only guided by the requirements of Act 663, but it is also tied to considerations of national interest and donor funding requirements. As a result, there exist two streams of procurement rules namely those under Act 663 and those contained in agreements with donors or creditors (these two constituting what may be regarded as the default strategies).

5. CURRENT PROCUREMENT PRACTICES

Infrastructure procurement strategies currently in use in Ghana can be classified into three categories, namely the Default Strategies (used typically on Government of Ghana (GoG) and donor-funded projects); the Exigency-Driven Strategy; and increasingly a Public Private Partnership (PPP) strategy. This classification is based on their fit with the requirements of Act 663. These strategies are explained in detail next.

5.1 Default Strategies

On annual basis, budgetary allocations are made for the procurement of major projects in the road, water energy, health, education and other sectors of the economy by the Government, the main provider of public physical infrastructure (GoG, 2008 & 2010). Once budgetary allocations are made in line with the procurement plans of the various Ministries, Government through the various implementing agencies under the Ministries implement such projects either in-house or through contracting using mainly traditional procurement methods. The various tendering processes approved by Act 663 are used, consultants and contractors are selected, contracts are negotiated and signed, designs are produced, construction works are carried out and projects delivered. These processes are regulated under the Act and managed by the implementing agencies. This is one of the default strategies.

Under the traditional procurement method commonly used under the default strategy, design is split from construction both in time and in space (Anvuur et al., 2006; Kheni, 2008). Survey, design and estimation are often treated as a package distinct from the construction phase. Different funding arrangements would usually be made for the feasibility studies and design phase on one hand and the construction phase on the other. In many instances, there is considerable time lag between the period when such studies and designs are conducted and when the construction takes place. Thus, updating technical reports and designs prior to construction is a common occurrence. Sometimes dated designs are used to procure works. In some cases, only quick reviews of old designs are done immediately before execution of projects. There are also occasions where designs are actually only identified to be inadequate in the course of construction. These scenarios often lead to issues of buildability, change of designs and sometimes extensive changes in the scope of works. The effects of such variations on cost and delay are enormous. In most cases, designers for the initial detailed designs do not supervise the work leading to the appointment of new consultants who invariably review the earlier design.

Another type of the default procurement strategies is the donor-driven approach. Sections 14 (1) (d) and 96 of Act 663 permit funding agencies and donors to apply rules distinct from those under Act 663. Section 96 specifically provides as follows: “Notwithstanding the extent of the application of this Act to procurement, procurement with international obligations arising from a grant or concessionary loan to the government shall be in accordance with the terms of the grant or loan”. Thus, the procurement under this strategy is dictated by procurement guidelines or rules of the funding agency concerned. Notwithstanding the diversity of rules and practices of funding organisations, some common trends are observable. Usually, initial needs assessment and selection of projects are reviewed and streamlined through the funding agency’s Project Appraisal Document (PAD). The PAD does not only examine the viability and feasibility of the project but also outlines how the project is to be executed with tentative timetables. Once the funding agency's requirements are met, an elaborate process of due diligence and financial or loan negotiations are carried out between the parties, with Ministry of Finance and Economic Planning (MOFEP) leading the Government team.

Other Government institutions such as Cabinet, Parliament, Attorney-General’s Department (A-Gs) and the sector ministry may all play their respective roles in securing and approving funding for the project. Once funding is secured, procurement of the project is undertaken in accordance with the procurement strategy, methods and rules of the funding organisation. Depending on the funding organisation’s threshold, every major step in the procurement is to be approved by the funding agency concerned. Tendering under this strategy is by international competitive bidding. In some cases, particularly, under bilateral funding arrangements, consultants and contractors are nominated by the home State of the funding agency. Under this strategy, the procurement method used will often depend on the rules of the funding agency and the complexity of the project. In practice, the traditional and the integrated methods (design and build and engineer, procure and construct) have all been employed. The donor-driven strategy is widespread in the road and energy sectors. There are indications that the World Bank procurement procedures are the most dominant procurement procedures in Ghana.

The use of traditional procurement is, particularly, rife in the road sector as Table 9.3 shows. For all the projects indicated, the choice of method was attributed partly to funding challenges. As a result, seamless execution of projects through both the design and construction phases is rare.

Table 9.3: Major Road Infrastructure Projects in Ghana as of 2010 Procured under Traditional Methods

Projects	Length	Funding Source	Status as of 2010
1. Achimota-Apedwa	64.8km	Yet to be determined	All Designs Completed
2. Apedwa-Bunso	22.0km	ADB/OPEC	Works in progress
3. Bunso-Anyinam	11.5km	BADEA/OPEC	Ditto
4. Anyinam-Kumasi	136km	ADB/OPEC	Ditto
5. Accra-Yamoransa	115km	JBIC	Bidding process in progress
6. Three (3) Roads Study (Feasibility Study and Design): a. Sawla-Ffulso b. Wa-Han c. Lawra-Han-Tumu	167km 77km 108km	ADB ADB ADB	Consultancy services signed
7. Navrongo-Tumu-Kupulima (Feasibility Study and Design)	128km	DANIDA	Detailed Engineering Design in Progress
8. Akatsi-Noepe (Feasibility Study & Design)	30km	DANIDA	Detailed Engineering Design Completed
9. a. Kumasi-Techiman Lot 1: Feasibility & Detailed Design & Supervision b. Bibiani-Abuakwa c. Tarkwa-Agona Junction.	113.3km 73.6km 58.8 km	EU EU EU	Procurement of works starting October 2002 Ditto Ditto
10. Tetteh Quarshie-Mamfe Road (Design Review and Supervision) a. Lot 1: Tetteh Quarshie Inter-change b. Lot 2: Tetteh Quarshie-Pantang c. Lot 3: Pantang-Mamfe Road	10 km 30km	ADB IDA proposed ADB	Procurement Stage. General Procurement Notice published, short-listing of Consultants done for Lots 1 & 3.
11. Reconstruction. of Tema-Sogakope Road (Design Review and Supervision)	88km	KfW	Procurement of consultant for Design Review and for Works in Progress
12. Selected Roads in Ashanti and Brong-Ahafo Regions	-	KfW	Detailed Engineering Design completed; Procurement of civil works in progress
13. Proposed Rd Sector Dev.Prog. (RSDP) Lot 1: a. Brewaniase-Oti Damanko b. Oti Damanko-Yendi Lot2: a. Sogakope-Ho b. Ho-Fume Lot 3: a. Techiman-Kintampo b. Berekum-Sampa Lot 4: a. Accra-Tema Motorway II and III b. Jasikan-Brewaniase Lot 5: a. Wa-Han b. Bamboi-Bole	50km 50km 15.6km 50km 30km 14km 33km 78 km 35km 48km	IDA	Procurement of Works in progress Procurement of Works in progress Procurement of Works in progress

Source: Ministry of Road Transport (2010)

The fragmentation of project components results in serious lack of synchrony between the design phase and the construction phase. Insufficient designs are often detected during the construction phase leading to disruption of progress of work, excessive variations and cost and time overruns. An earlier study in 2002 of procurement of 132 works indicated that up to 84% of works contracts studied incurred cost overruns of up to 30% of the initial cost (World Bank, 2003a & 2003b). The reports attributed the cost overruns to excessive variations and unrealistic time extensions by consultants. It was also discovered that contractors will often lower their bid prices in order to become competitive. During the execution of contracts, contractors found all possible means to recoup whatever they lost.

The natural consequence of this wide-spread practice was increased claims, some of which eventually resulted in disputes. These views on the traditional procurement system re-echo the position of the UK National Audit Office report (National Audit Office, 2001, p.6) on the negative effect of the traditional procurement method such as cost and time overrun and lack of innovation. The difficulties with the use of the traditional method in Ghana are exacerbated by the administrative lapses, which results in inadequate preparation for projects and use of incomplete designs. Essentially, the appeal of the traditional procurement method in the Ghanaian context appears to be its ability to allow projects to be fragmented and funded separately. Again, it seems the overwhelming use of the traditional procurement method is not due to any logical assessment of its ability to deliver a project effectively and efficiently, but its capacity to allow the client to stagger delivery.

The traditional procurement method is not the only method of procuring major externally funded infrastructure projects in Ghana. Design and Build (D&B) as well as Engineer, Procure and Construct (EPC) procurement methods are increasingly being used (Ameyaw, 2011). Some of the notable D&B and EPC projects in Ghana include the Accra and Kumasi sports stadia (Micheletti, 2011), two new stadia - one at Essipong in Sekondi and the other in Tamale, the Accra Waste Project (Taysec, 2011), the 400 MW capacity Hydro-electric dam at Bui in the Brong-Ahafo region of Ghana (Baah and Jauch, 2009; Hensengerth, 2011) and the €45 million Tamale Water Supply Extension Project completed in 2008 (Ghana Water Company Limited, 2011). The rationale is that the design and build method is suitable to funding agencies who require home consultants and contractors to execute the projects they fund. The use of D&B and EPC are relatively prevalent within the water and the energy sectors. The road sector has witnessed the use of EPC only in relation to highly specialised projects such as the rehabilitation of the Adomi Bridge at Atimpoku in the Eastern Region of Ghana. Once again, it appears that the choice of procurement method is motivated by funding requirements rather than considerations relating to project success. Contractor selection under the donor-driven strategy is mainly by international competitive tendering.

5.2 Exigency-Driven Strategy

It is a common practice in Ghana to see major projects procured by strategies other than the default approaches due to exigencies. In such cases, projects do not go through the normal default rules on procurement. For example, in 2007, at the peak of an energy crisis in Ghana, the Government entered into a power purchase agreement with Balkan Energy Ghana. The agreement was on Lease Build Operate basis. There is no evidence that there was any open tender during the award of the contract. Another example of the exigency-driven procurement strategy is what is referred to as “Unsolicited Proposals” or single-source procurement (see Section 40 of Act 663). With this procurement strategy, Government agencies conduct need assessment and identify major projects within their sector, which they hope to implement but are unable to due to budgetary constraints and donor fatigue.

The agencies discuss their intention to have such projects undertaken with prospective investors and contractors at various fora. Interested contractors then make contact with the agencies either directly or through their respective sector Ministries. The contractors or investors are allowed to do their own feasibility studies and select which projects they would want to implement. On the basis of the preference of a particular contractor and a promise to secure funding for the chosen project, a Memorandum of Understanding (MoU) is signed between the sector Ministries and the prospective contractor. The latter then takes steps to secure funding or identify funding sources for the selected project.

A prospective contractor who is willing to self-finance a project is offered Supplier Credit arrangements. If it secures funding from other sources, it would be required to provide details of the funding institutions and financial term sheets to MOFEP, which then undertakes due diligence on the funding organisations involved. Once MOFEP is satisfied that the facility meets its requirements, negotiation of the terms of the facility is

undertaken. A financial agreement is prepared or studied by MOFEP and further reviewed by the A-Gs. The A-Gs has to give its “no objection” to the transaction. Once Cabinet and Parliamentary approvals are secured for the facility, the sector Ministry and the agency concerned is notified to proceed with the construction agreement with the contractor.

In most cases, the MOU signed at the initial stages of the transaction will endorse the use of sole-sourcing as the tendering process. Act 663 has rules on when sole sourcing should be used. Where the transaction is to be procured by sole-sourcing, a value for money audit is carried out by MOFEP. The essence of this exercise is to compensate for the absence of the use of open tender procedures, which are widely believed to have inherent mechanisms to achieve accountability, fairness and value for money. Projects granted through the unsolicited proposals strategy are often awarded as design and build or engineer, procure and construct projects. The successful contractor is, therefore, responsible for the delivery of the entire project at the agreed cost.

This strategy appears to have become dominant in the water sector and an example is an agreement signed in September 2009 regarding the Kpong Water Expansion Supply system valued at US\$273 million. Reliance on unsolicited proposals for infrastructure procurement is not limited to the water sector. This process has also gained grounds in the energy sector. The proliferation of the unsolicited proposals strategy has, however, been viewed by some as an attempt to side-step the provisions of Act 663. This has led to the issuance of a Cabinet directive in 2012 asking for all such practices to be halted. It is, therefore, not surprising that the Government is seeking to channel the soaring private interests in the development of public infrastructure into the PPP strategy.

5.3 PPP Strategy

Since the late 1980s, there has been an increase in private sector participation in infrastructure development across the globe (World Bank, 1994; UNCTAD, 2008). These developments have occurred through the establishment, operation and maintenance of infrastructure facilities by private sector entities (UNCTAD, 2008). Many reasons have been assigned for these developments. Financial constraints faced by many developing countries seem to be the key reason (UNCTAD, 2008, p.85). In the 1990s, many governments in the developing world saw the global trend towards private sector involvement as an opportunity to deal with the increased pressures of fiscal adjustment (Calderón and Servén, 2010b; Annez, 2006). Kessides (2004) argues that the main challenge of the government controlled infrastructure development model was underpricing, which consequently led to under-investment. Under-investment invariably led to huge deficits, which needed to be catered for by governments. Governments in turn needed more funds, which were not available. One of the options was to turn to the private sector. In effect, the State retrenched from infrastructure development as a result of high cost, poor performance, inefficiency and inability to expand to meet rapidly growing demands (Harris, 2003; Kessides, 2004). The hope was that the private sector would bear the cost of infrastructure and services whilst government plays the role of a regulator (Estache and Fay, 2007). Consequently, many developing countries have opened up the sector, which was once the preserve of the State to the private sector.

From 21 projects involving an amount of about US\$11,787 million between 1984 and 1989, private sector investment in infrastructure (PPI) projects in East Asia and the Pacific region rose to 871 projects with a total investment amounting to US\$135.5 billion between 2000 and 2009 (World Bank/PPIAF, 2010; Park, 2010). These projects in addition to investments in existing projects in the region brought the total for the region to US\$181 billion constituting 36% of the total investment in infrastructure with private participation for the period 2000-2009 in developing countries (Park, 2010). According to the World Bank, 43 out of 48 sub-Saharan African countries implemented 238 infrastructure projects between 2000 and 2009 with private

participation and a total investment commitment of US\$47.6 billion (Izaguirre and Perard, 2010). Added to existing investment, the total for this region was US\$79 billion, accounting for about 10% of total investment in infrastructure in developing countries for the period (Izaguirre and Perard, 2010) as against about 3% during the period between 1990 and 2000. Eight developing countries in the South Asian region implemented 361 infrastructure projects with PPI during the last decade. This constituted 15% of the total PPI investment in developing countries with a total investment of US\$174.4 billion (Jett, 2010). Compared to the relatively negligible investment in the 1980s, PPI has seen astronomical increase over the past two decades.

Overall, data captured by the World Bank's PPIAF shows that between 1990 and 2009, Latin America and the Caribbean saw the largest number of PPI projects totalling 1,425 and attracted a total investment of US\$578,760 million; East Asia and the Pacific followed closely with projects totalling 1,403 which attracted a total investment of US\$308,306 whilst Sub-Saharan Africa attracted projects numbering 382 involving investment totalling US\$95,040 during the period (World Bank/PPIAF, 2010b). In terms of countries, which attracted more PPI projects and investment during this period, China, India and Brazil received many projects and more investment commitments. China received the highest project numbers (931) while Brazil and India had 463 and 380 projects respectively (World Bank/PPIAF, 2010b). According to the World Bank/PPIAF's (2010b) records, Brazil received the highest investment commitments totalling US\$270,346 during the period 1990-2009 as against US\$158,397 and US\$111,806 for India and China respectively. In terms of sectors, though the energy sector ranked highest in respect of the number of projects (1,852) between 1990-2009, the telecommunication sector attracted more investment (US\$719,645) (World Bank/PPIAF, 2010b). In spite of the effect of the recent global financial crises and the fact that private capital is becoming much more selective (Izaguirre, 2010a; Izaguirre, 2010b), PPI across the developing world continues to remain steady, with the upward trajectory set to continue.

In June 2011, the Cabinet of Ghana approved a national policy on PPP. The rationale was to address the funding constraints facing the Government in respect of infrastructure development. Inadequate internal resources and donor fatigue led the GoG to turn to private investor participation (in PPP models) for the delivery of major infrastructure projects. In the PPP policy document, the Government states that Ghana's infrastructure deficit demands that the State makes a sustained spending of US\$1.5 billion per annum over the next 10 years. The policy document further indicates that the Government intends to use PPP as a strategy to assist in bridging the infrastructure spending gap reinforcing the point that PPP is on an upward trajectory. PPP is yet to receive legislative backing but the prospects of this are very good.

6. CONTRACT FORMATION AND REVIEW PROCESS

6.1 Contract Formation

At the end of a successful tender evaluation process, a consultant or a contractor is selected. The selection of such an entity or entities paves the way for contract formation where parties order their relationships. Section 65(2) and (3) of Act 663 provides that where the tender documents require the signing of a written contract, such document shall be signed within thirty days after a notice of acceptance of a bid has been dispatched. The contract begins on the commencement date stipulated on the contract document. However, the commencement is subject to parliamentary approval of the relevant contract documents in compliance with the constitutional requirement under Article 181(5) of the 1992 Constitution of Ghana. Section 65(2) of Act 663 stresses the need for the written contract to conform to the tender. There is overwhelming evidence in support of the practice of contract negotiation prior to the signing of the written agreement.

For most major construction transactions, there are two sets of agreements; the financial agreement and the construction agreement. Both require parliamentary approval in order to be operational [see the 1992 Constitution of Ghana, Article 181(5)]. In relation to the construction contract, it is common for standard form

contracts to be used. It is also common knowledge among construction practitioners that the construction contract is not made up of a single document. There is the agreement and other documents deemed to be part of the agreement. These include the letter of acceptance, the bid and appendix to the bid, the conditions of contract (general and special), the designs (specifications and drawings) and the priced bill. These documents are hierarchically arranged in order of importance.

6.2 Conditions of Contract

The Fédération Internationale des Ingénieurs-Conseils (FIDIC) suite of contracts constitutes the main standard forms or conditions of contract in use in the procurement of major infrastructure projects in Ghana (especially the Red book, the Yellow book and the Silver book). In fact, the use of the FIDIC suite of contracts have become so entrenched that even major projects funded by the GoG are awarded using the FIDIC conditions of contract. The conditions of contract developed by the Public Procurement Authority are also based on FIDIC but are used for small and medium sized projects.

The dominance of the FIDIC range of conditions of contract for major projects is attributed to several reasons. Firstly, key funding agencies such as the World Bank and some of the other multilateral development banks as well as bilateral funding institutions require that the FIDIC conditions of contract be used for projects they sponsor. Secondly, the FIDIC conditions are widely accepted standard forms, tried and tested internationally. These features endeared it to foreign contractors. Thirdly, parties to major construction contracts generally agree that the provisions in the FIDIC conditions are fairly balanced and address concerns of both employers and contractors. The fourth reason is the idea that the FIDIC range of contracts is developed by international experts. Finally, the FIDIC suite of forms has benefitted from years of research and, thus, addresses old as well as current challenges with the relationship between employers and contractors (Mante, 2014). In addition to the FIDIC suite of contracts, there is also evidence of the use of EU conditions of contract mainly for EU sponsored projects. Chinese contractors prefer using their own versions of contracts. On some highly technical projects, bespoke contracts are used.

Regardless of which contract forms are used, it is common to have two sections; the general conditions, which are made of standard clauses of general application, and the special conditions or Conditions of Particular Application (COPA). The special conditions are tailored to suit the specific understandings between the parties involved in the particular transaction. The terms of the special conditions are, therefore, subject to negotiation between the parties and typically address payment terms, labour, protection of utility services, performance security, termination of the contract for Employer's convenience, and dispute resolution. According to Mante (2014), contract documents (including the COPA) are often prepared and negotiated by contract specialists within their institutions with little or no involvement of the A-Gs. This state of affairs as will be argued later can be problematic.

6.3 Contract Review

The legal framework for major infrastructure procurement in Ghana mandates the A-Gs and Parliament to review major transactions involving the State (see Figure 9.1). The review process aims, *inter alia*, at ensuring that what escapes the attention of government representatives responsible for agreeing contract terms with foreign contractors can be identified and remedied.

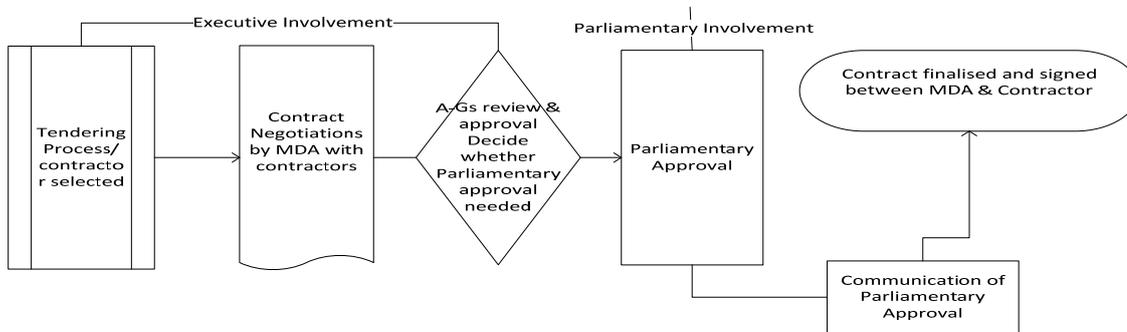


Figure 9.1: Contract Review Model under the Laws of Ghana
Source: Public Procurement Act 2003 (Act 663).

However, these institutions are resource-constrained and in the case of Parliament, totally inactive when it comes to reviewing and approving terms of construction contracts. By Article 88 of the Constitution of Ghana 1992 and Sections 20-25 of the State Property and Contract Act 1960 (CA 6), the A-Gs has a mandate to examine transactions negotiated by procurement entities, propose changes, proffer legal advice, and or vet and approve contract documents covering such transactions. Section 22(2) of the State Property and Contracts Act 1960 (CA 6) expressly gives the Attorney-General the right to “examine and approve” contracts involving the State. In the case of Parliament, Article 181(5) of the Constitution makes it mandatory for all “international business and economic transactions to which the government is a party” to be submitted to parliament for its scrutiny and approval. The constitutional provision expressly indicates that an international economic transaction, which does not satisfy this criterion, cannot become operational.

In practice, however, Parliament for nearly twenty years of the existence of this constitutional requirement has not carried out this constitutional function and, thus, remains in no position to remedy any oversights from implementing agencies (see Figure 9.2). Even if Parliament was to play its required role, without a deliberate policy to guide its review and approval system, thorough scrutiny may not be achieved. Moreover the A-Gs, which has borne the review responsibility is plagued with human resource challenges and lack of expertise in the face of volumes of work. This calls into question the extent of rigor that goes into review of issues like pricing and value for money. Similar to the Parliamentary situation, there is an absence of formal guidelines on what Attorneys should look out for during the review process.

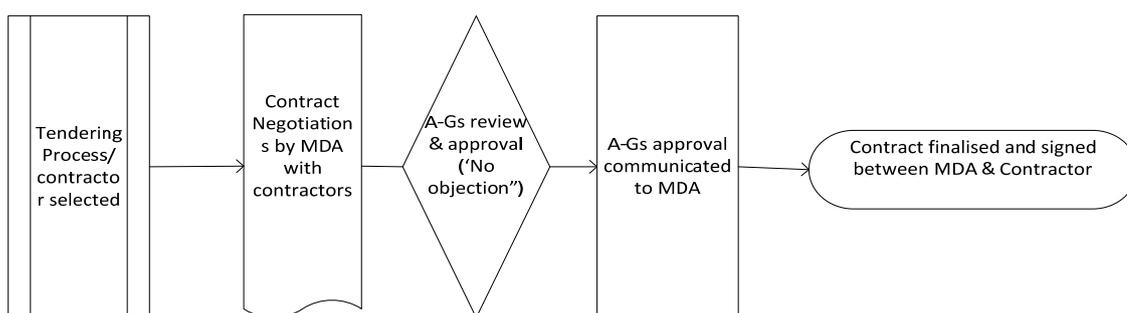


Figure 9.2: Contract Review Process in Practice
Source: Mante (2014)

6.4 Contract Administration and Performance

Procurement also covers the execution and contract administration stage. In Ghana, the emphasis is often on the planning and the contract placement stage with very little in terms of statutory provisions existing on contract performance issues. Although Section 14 of Act 663 brings functions related to the “phases of contract administration” under the scope of the Act, neither these “phases of contract administration” nor the functions related to them are elaborated on. This *lacuna* is attributable to the fact that the procurement process

culminates in the signing of a contract and the ensuing relationship remains contractual. The contract determines performance indicators and what transpires when there is a breach. The contract defines the scope of work to be performed, the rights and obligations of the parties, the functions and the responsibilities of the Engineer, Architect, Construction or Project Manager regarding supervision and general administration of the contract (World Bank, 2011). The contract also provides dispute governance system, which the parties are to rely on in case of a dispute. In other words, the efficiency of the contract administration process derives from the robustness of the underlying contract and the commitment of the parties to uphold its terms and conditions. The procurement manual of Act 663 provides some general guidance on the role of the project management or supervisor and issues to be addressed as specified in the contract, but lacks necessary detail in terms of how such functions should be monitored.

Whilst the above discussions appear to affirm the acclaimed nature of public procurement as a formalized, standardized, bureaucratic, and rigid process (Spiller, 2008), it is also clearly evident that there is an element of arbitrariness, lack of compliance with procedures and other issues that undermine the realisation of efficiency and what the World Bank (2010) terms development effectiveness of public expenditure. The next section distils these emerging issues and considers their wider implications in the context of infrastructure delivery across the developing world.

7. INEFFICIENCIES IN THE PROCUREMENT REGIME

Procurement reforms in Ghana, which culminated in the enactment of Act 663 aimed to achieve value-for-money, ensure efficiency, transparency, equity and fairness, and accountability in public procurement. However, these ideals have not been achieved in practice due to inefficiencies associated with the procurement process. These include lack of cooperation and coordination among the Employer's sub-units, constraints associated with the legal framework, lack of compliance with the law on procurement, political interference and corruption, human resource constraints, and challenges with funding requirements. Some of the listed issues are examined briefly.

There are several organisations involved in the public procurement process in Ghana. For instance, the development of a policy framework for infrastructure acquisition is the responsibility of Cabinet, the sector Ministry and the National Development Planning Commission [see the 1992 Constitution, Article 86 and Civil Service Law 1993 (PNDCL 327), Section 13]. Technical preparations for projects are the responsibility of the implementing agencies [see Ghana Highway Authority Act 1997 (Act 540), Section 3]. The tender committees and review boards of the various procurement entities are responsible for the contractor selection process. Financial arrangements for infrastructure procurement including payment for works is also a multi-organisational activity involving Cabinet, Parliament, the sector Ministries and agencies of MOFEP at various stages. Consequently, the efficiency of the process depends very much on the ability of the institutions to cooperate with each other and to coordinate their activities. In reality, this quality is lacking. For instance, the MDAs renege on the obligation to refer infrastructure-related contracts to the A-Gs for its review because of lack of capacity and inability of the A-Gs to provide timely feedback. Lengthy chains of inter-organisational consultations and approvals delay contract formation, execution and payment for work completed. Generally, individual entities are eager to protect their "turfs" and are unwilling to embrace changes, which are likely to impact their roles in procurement. These challenges have had significant implications for the effectiveness of the current institutional framework for public procurement of infrastructure.

Closely related to the institutional weaknesses discussed above are problems associated with the existing legal framework for procurement. The State operates an elaborate legal system, which determines the functions of each sub-unit and consultations and approvals necessary. Consequently, the employer's performance under construction contracts naturally suffers delays due to the complex nature of its decision-making processes. For

instance, Section 65 of Act 663 and Clause 8 of the 1999 FIDIC Conditions of Contract for building and engineering works (the Red book) provide timetables for the execution of written contracts and commencement of works respectively. For major construction projects, parliamentary approval under Article 181(5) of the Constitution is required. Under the said constitutional provision, international business or economic transaction to which the Government of Ghana is a party requires parliamentary approval in order to be operational. A contract signed in compliance with the timetable under section 65 of Act 663 remains unenforceable until parliamentary approval is obtained. Similarly, any commencement of work pursuant to the default position under Clause 8 of the 1999 FIDIC Redbook prior to Parliament's approval of such transactions is void.

The validity of some major contracts, which have not received parliamentary approval have been challenged under a number of judicial decisions by the Supreme Court of Ghana, for example: *A-G v Faroe Atlantic Company Limited (The Faroe Atlantic Case)* [2005-2006] SCGLR 271; *A-G v. Balkan Energy (Ghana) Limited and Ors (The Balkan Energy Case)* [2012]2 SCGLR 998; *Martin Amidu v A-G and 2 Ors. (The Waterville Case)* Suit Number J1/15/2012, judgment of 14 June 2013; *Amidu v Attorney-General and 2 others (The Isofoton Case)*, 21st June 2013, Supreme Court (Unreported); and *Klomega v Attorney-General and 3 Others*, 19th July 2013, Supreme Court (Unreported).

In the *A-G v Faroe Atlantic Company Limited (The Faroe Atlantic Case)* [2005-2006] SCGLR 271, for instance, the Supreme Court held that a power purchase agreement between the GoG and a UK registered company for the refurbishment of a power barge and the generation of power was an international business and economic transaction within the meaning of the provision of Article 181 (5) of the Constitution of Ghana. The agreement, the Court held, ought to have satisfied two requirements under Article 181; firstly, it should have been laid before parliament; and secondly, it was not to come into operation unless approved by a resolution of parliament. The contract on which, performance was based was, therefore, declared unconstitutional (see *A-G v Faroe Atlantic Company Limited* [2005-2006] SCGLR 271). Thus, the demands of the legal system of the employer necessarily prolong timeframes for decision-making by the employer and this has implications for delays in contract formation and execution. This calls into question the effectiveness of the current legal framework for procurement.

Another of the inefficiencies plaguing the extant procurement regime is the failure on the part of some of the entities entrusted with a role in the process to comply with legal requirements for procurement. A study conducted after Act 663 came into force revealed very low compliance levels and a continuation of old practices and challenges (Osei-Tutu and Sarfo Mensah, 2008). Although single-source procurement under Act 663 is allowed only in exceptional circumstances (see Section 40 of Act 663), it is widely used and generally encouraged. The Public Procurement Authority, the entity with responsibility of approving the use of single-source procurement appears to be very liberal in permitting such exceptions. Practice associated with this procurement strategy generally defeats accountability, competition and transparency expected to be engendered by Act 663.

Politicians often interfere in the procurement process. These interferences take several forms including influencing the contractor selection process. There were instances in Ghana where interference by politicians allegedly went beyond influencing the contract award to taking technical decisions and abrogating contractual obligations (see *The Isofoton Case*). Contractors were sometimes instructed to commence projects prior to the execution of the construction contract (see *The Waterville Case*). Whilst sometimes these interferences may be attributed to genuine desire to protect national interest, in many other instances, the motive may be personal interest. The consequences of these interferences are that procurement procedures are ignored or side-stepped leading to poor contract administration and ultimately poor project delivery. In instances where contractual

requirements are ignored, these have led to claims and even commencement of dispute resolution processes by aggrieved parties. Political interference and corruption stifle proper implementation of procurement rules and best practices.

Human resource constraints still remain a key problem with the procurement regime in Ghana. Many procurement staff lack the requisite training to administer the process effectively. Similarly, inadequacies in budgetary allocations and fund disbursement still remain a critical problem with the Ghanaian system over a decade after a World Bank study identified this issue as a critical problem causing payment delays (World Bank, 2003b). A review by the World Bank in 2007 and 2010 of the procurement regime in Ghana found that though substantial progress has been made since a 2003 assessment, there were still issues with, *inter alia*, the legal framework, institutional structures, capacity building and procurement practices (World Bank 2008a; 2008b; 2010).

The inefficiencies identified with the current procurement regime in Ghana are not peculiar to the Ghanaian situation. Examination of country procurement assessment reports on many emerging economies reveal striking similarities in the issues facing procurement in such countries. For instance, various assessments, reviews and updates on Nigeria, Zambia, Mozambique, South Africa and Cote d'Ivoire prepared between 2000 and 2010 by the World Bank disclose the persistence of challenges akin to those identified above (World Bank, 2014). Common problems cutting across most of the reports include weak legal and institutional framework, weak procurement oversight, lack of procurement capacity, problems with procurement documentation and inadequacies with budget allocation and the manner in which project funds are released.

8. CONCLUSION

The chapter has examined public procurement and its impact on economic development. The nature of infrastructure and the methods by which they are generally procured have also been discussed. Using Ghana as a case study, the framework for public procurement, particularly, those related to infrastructure acquisition in emerging economies has been explored. A number of conclusions can be reached from the discussions above. Firstly, there is increasing evidence in support of the position that infrastructure development has a significant impact on economic development. Secondly, in most emerging economies, the State still remains the major client for infrastructure procurement. Thirdly, infrastructure is acquired through public procurement, which constitutes a substantial part of the GDP of emerging economies. In effect, public procurement has a direct impact on the performance of the economies of many developing countries. As the process, which ultimately delivers the needed infrastructure capital in support of economic activity, public procurement also has significant indirect effect on economic development through projects, which are successfully procured. Consequently, efficient procurement remains a necessity for emerging economies.

The evidence from Ghana reveals inefficiencies in the procurement process common to other emerging economies. Weak legal and institutional frameworks, non-compliance with procurement rules and procedure, lack of training for staff involved in procurement, political interference, inadequate budgetary allocations and erratic release of funds are but a few of the inadequacies associated with many a procurement regime of emerging economies. These have an effect on contract execution, project completion and delivery of projects according to specifications.

For many developing countries, some efforts are already being made to reverse the trend of inefficient public procurement. Many of the country procurement assessment reports sponsored by organisations such as the World Bank and OECD also provide lengthy lists of recommendations for improvement. These recommendations include reforming procurement policy, strengthening legal and institutional frameworks, compliance with laid down procurement procedures and fighting corruption. In effect, there is an urgent need

for emerging economies to fully implement such recommendations to ensure improvement of their procurement systems, if they are to benefit from the impact of public procurement on economic development.

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