

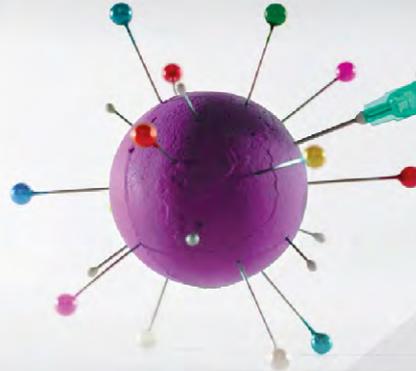


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STRENGTHENING COVID-19 ACCOUNTABILITY MECHANISMS (SCAM)



**CORRUPTION RISK
ASSESSMENT**



Commonwealth
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COMMUNITY DEVELOPMENT ALLIANCE

“Strengthening Covid-19 Accountability Mechanisms (SCAM)”

Corruption Risk Assessment

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*Empowering People, Connecting Capacities and
Transforming Lives*

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Executive Summary

This assessment addresses corruption risks associated with public procurement during the COVID-19 pandemic in Ghana. The assessment was carried out in March – April 2021, based on a review of background documentation, including the national legal regulatory framework for public procurement, with focus on integrity related issues, official records in both electronic and hard copy formats, checks with state agencies, and interviews governance and anti-corruption experts. International regulatory framework, in particular World Bank directives on public procurement, have been taken into account for best practice evaluation.

The assessment included an evaluation of the institutional framework in the field, including its operational capacities, efficiency of integrity mechanisms, control and sanctions. Individual interviews have been held with the stakeholders of the national procurement (regulators, contracting authorities, control bodies and civil society organizations) to identify problems and risk sectors.

The report consist of two parts:

1. An assessment of corruption risks characteristic to COVID-19 public procurement, including mapping of integrity risk areas and recommended measures for integrity/corruption risks mitigation. This assessment uses the OECD Methodology for assessment of national procurement systems (MAPS);
2. An optimal risk indicator system based on the “red flag” concept.

The following conclusions have been made:

Government of Ghana have accessed and utilised GHC12,440,710,000 (\$2,144,950,000) from sources such as the World Bank, IMF, Ghana Stabilization Fund, Contingency Fund of the Stabilization Fund, Ghana Heritage Fund, Ghana Exim Bank and the Covid-19 Trust Fund set up by the government.

This assessment clusters Ghana’s COVID-19 corruption risks around two main issues – irregular procurement practices that violates Ghana procurement laws and corruption risks that indicates that there has been substantial breaches of anti-corruption laws, regulations, codes and international conventions and best practices.

► Irregular Procurement

- Contract awarded to four Ghanaian garment manufacturing companies who had been given loans of \$10m through the Ghana Exim Bank to produce PPEs, face masks, medical scrubs, hospital gowns and head gears was without tender and the companies had been selected. The companies were also not registered with the Public Procurement Authority (PPA) at the time of contract award.
- A \$1m contract awarded to develop the COVID-19 tracker app to two foreign companies namely iQuent

Technologies and Ascend Digital Solutions (registered in Jersey, a tax haven) was irregular. The two companies were not legal persons in Ghana at time of contract award, were not registered with the PPA, and did not go through tender.

- Contracts worth GH¢60m for fumigation services and logistics such as sanitizers, masks, dustbins, cleaning kits etc to all districts by the Ministry of Local Government from its allocation under the District Assemblies Common Fund for the 2020 fiscal year was mostly without tenders.
- Contract awarded to Frontiers Healthcare Solution Services Limited to conduct Covid-19 antigen tests at the Kotoka International Airport was without tender, the company was not registered with PPA and unlicensed by the health facilities regulator, HEFRA.
- Contract for supply of 18,000 Veronica Buckets; 800,000 pieces of 200-millilitre sanitizers; 36,000 rolls of tissue paper; 36,000 gallons of liquid soap and 7,200 thermometer guns distributed to schools were opaque and not tendered. Its unclear who the suppliers were and how much was spent on this procurement.
- Contract for provision of hot meals for 540,000 final students and teachers who sat for the 2020 WAS-SCE and BECE exams for three weeks was opaque, with no full disclosure of who were awarded these contracts, from which fund the contracts were awarded and whether the contracts went through the proper procurement processes.
- Contract for nation-wide disinfection and fumigation of over 464 markets was awarded to Zoomlion on sole source basis, in addition to another contract by the Ministry of Education and Ghana Education Service to disinfect and fumigate over 850 High Schools across Ghana and 3700 schools in the Greater Accra region.

► **Corruption Risk**

- There appears to be an issue with funds of \$1.2million meant for the payment of 900 contact tracers employed by the Ghana Health Service to work on case detection, contact tracing and reporting, 600 of whom dropped out later due to various grievances, chief among them the erratic payment of their daily allowance of \$25 (GH¢150.00). A corruption risk arises over whether an employment contract regulated the work of the contact tracers, the terms of their engagement, how much was actually paid to them, for how long and why 600 of them dropped out.
- A \$1m contract awarded to develop the COVID-19 tracker app to two foreign companies namely iQuent Technologies and Ascend Digital Solutions raises substantial corruption issues. Ascend Digital Solutions was registered just a month before contract award in Jersey, a tax haven and the contract sum appear bloated. Same applies to the GH¢1.4m (\$240,000) spent on the launch of the tracker.



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- Contract awarded for free food during the partial lockdown in Greater Accra and Greater Kumasi is perhaps the biggest red flag in the whole COVID-19 spending saga, with many doubting the number of people fed, the period of the intervention, the way caterers were contracted and the unit cost of the food packages, with GoG not helping the situation by giving conflicting figures and accounts. GHc42million was spent on hot meals during the period, without any proper tendering or documentation.
 - An amount of GHc2million was allocated to transport frontline health workers during the partial lockdown in Accra but doesn't appear to have been fully utilised, leaving GHc1,622,000 unaccounted for under the Free Transport for Health Workers allocation.
 - It is unclear how \$7.4m earmarked for community engagement and risk communication – from 1st release of \$35m from the World Bank was spent. A National Information Contact Center (NICC) at the Accra Digital Center was set-up to provide information on COVID-19 and related matters but unclear how much GoG spent on that set-up.
 - An amount of \$12.7m was earmarked for containment, isolation and treatment - from 1st release of \$35m from the World Bank. GoG spent \$2,163million on 16 hotels and guest houses during the initial wave of arrivals. Even if GoG spent an additional \$2million on all the other isolation centers during the initial wave of the pandemic, there appears to be an unspent funds of \$8.6million within this allocation that needs further investigation.
 - The IMCC made up of Ministers and the Public Health Emergency Operations Center were to use part of an allocated \$3.4m to coordinate and oversee the contracts for private sector management of the yet to be completed infectious disease center(s) and medical villages throughout the country. No work has commenced yet so unclear how GoG utilized this allocation. This represents another corruption risk that needs further investigations.
 - Additionally, the Administrator of the Common Fund, Irene Naa Torshie Lartey, in a letter dated April 9, 2020, released GHc166,280.62 each to the 260 districts towards the pandemic fight. No district has accounted to the people for how this release was spent.
- Though Ghana's procurement laws are fairly robust and adequate, the PPA Act vests power in the Minister of Finance to direct the use of a different procurement procedure where the Minister determines that it is in the 'national interest to do so' (ie, a scenario where the nation attaches high value, returns, benefit and consideration to the matter in question). Where the Minister makes such a determination, the procurement method shall be published in the Ghana Gazette. GoG appears to have relied on this provision in the Act to circumvent the law in awarding almost all contracts awarded during the pandemic.
- The assessment concludes with 24 recommendations for the Government

of Ghana (enhanced transparency in procurement; Parliament (enhanced scrutiny of Government procurement); International Development Partners (help borrower countries improve their procurement systems; Auditor General (conduct priority auditing of COVID-19 procurement); Public Procurement

Authority (set up a “White List” of qualified, vetted companies eligible for Government procurement); CSOs (to be involved in monitoring and ex post assessments and advocacy); and media organisations (use assessment to demand accountability from the IMCC and GoG).



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SECTION

1.0

Introduction

Ghana announced its first case of COVID-19 positive cases on 12th March 2020 and had risen sharply to 5,127 by 12th May 2020, according to the Ghana Health Service. The government responded comparatively quickly to the global pandemic, with President Akufo-Addo announcing a number of measures on March 17, 2020.

On the 12th of March, 2020, a day after the World Health Organisation (WHO) declared COVID 19 a pandemic, President Akufo-Addo gave the first of what will become a regular fortnightly national broadcasts in the COVID 19 response agenda to the entire nation. He presented the readiness of the Country and added that the Government of Ghana (GoG) had plans of spending One Hundred Million Dollars (\$100 Million) on interventions such as expansion of infrastructure, procurement of materials and equipment, and public education among others. He advised the populace to avoid foreign travel as much as possible and gave

the assurance that all points of entry including land borders and airports were ready to screen all incoming travellers.

An **Inter-Ministerial Coordinating Committee (IMCC)**, chaired by President Akufo-Addo, including representatives from the Ministries of Finance, Health, Local Government, Gender, Children and Social Protection, Information, Transport, Interior, Defence and the Office of the President was set up as the apex coordinating body for the COVID-19 response. A **National Technical Coordinating Committee (NTCC)** was also set up to serve as a technical expert committee in the monitoring of all implementation activities. The NTCC was chaired by Director General, Ghana Health Service and co-chaired by the World Health Organisation (WHO). The National Public Health Emergency Operations Centre (PHEOC) was also set up as the mechanism responsible for coordinating COVID-19 response activities and was chaired by Director,

Public Health of the Ghana Health Service. This was replicated at the regional and district levels by the respective regional and district Public Health Emergency Management Committees (PHEMCs).

A Sub-Team of the NTTC on Logistics and Finance developed a **Resource Tracking System** for all resources coming into the system to be able to advise the National Technical Coordination Committee (NTCC) on the allocation of resources.

On March 19, 2020, a panel of 80 finance ministers, presidential aides and central bankers held a virtual conference with the United Nations' Economic Commission for Africa (ECA) on how Africa could respond to the pandemic. Co-chaired by South African Finance Minister, Tito Mboweni and Ghana's Finance Minister, Ken Ofori-Atta, the conclusions of the financial impact assessment were only shared with government officials. Following the virtual briefing, ECA Secretary-General Vera Songwe, sent a private letter to the IMF and the World Bank, co-signed by Mboweni and Ofori-Atta, asking for "\$100 billion for the immediate response" to the widening pandemic, with contributions from the World Bank, the IMF, the European Investment Bank, the African Development Bank (AfDB) and Afreximbank. The letter also asked for an "immediate waiver of all interest payments on all debt estimated at US\$44million for 2020 with possible extension to the medium term". On April 13, 2020, the IMF Executive Board approved the disbursement of US\$1 billion to Ghana to be drawn under the Rapid Credit Facility.

The Government of Ghana (GoG) announced a series of response measures involving huge expenditure outlay estimated at over \$2 billion part of which was a Rapid Credit Facility From The International Monetary Fund (IMF) of \$1 billion. Despite the huge expenditure outlay announced by the government of Ghana in its response to fighting Covid-19 pandemic; an Anti-Corruption Tracker published on the website of Transparency International has flagged Ghana as one of the "high corruption risk countries which have failed to put in place anti-corruption measures, as part of their COVID-19 financial assistance and debt relief from the IMF".

The pandemic no doubt has created conditions in which corruption could flourish. The common cliché by government officials "we are not in normal times" as an excuse to circumvent procurement regulations further heightens the corruption risk associated with government response to fighting the pandemic which has the potential to exacerbate and prolong the negative effects of the crisis on the lives of poor and vulnerable populations in Ghana.

It is against this backdrop and in line with its mandate; CDA-Ghana in February 2021, secured a 10-month small-grant project funding from the Commonwealth Foundation (CF) to implement a citizens-led advocacy and social accountability action titled Strengthening Covid-19 Accountability Mechanisms (SCAM). The SCAM Project will use evidence generated to trigger citizens led anti-corruption advocacy actions including possible engagements



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with relevant committees of Parliament, ministries, departments and agencies of government so as to strengthen Covid-19 Accountability Mechanisms in Ghana.

► Sources of Ghana's Funds and Expenditure Components

SOURCES OF FUND	FUNDS	EXPENDITURE COMPONENTS
IMF	\$1bn (approximately GH¢5.85b) ¹	To address fiscal and balance of payment needs
World Bank (1 st re-lease)	\$35m (approximately GH¢204.75m)	<ul style="list-style-type: none"> ▶ \$4.5m for Case Detection, Confirmation, Contact Tracing, Recording and Reporting ▶ \$12.7m for Containment, Isolation and Treatment ▶ \$0.7m for Social and Financial Support to Households ▶ \$3.6m for Health System Strengthening ▶ \$3.4m for Strengthening Multi-sector, National Institutions and Platforms for Policy Development and Coordination of Prevention and Preparedness using One Health approach. ▶ \$7.4m for Community Engagement and Risk Communication ▶ \$2.7m for Implementation Management, Monitoring and Evaluation and Project Management
World Bank (2 nd re-lease)	\$65m (approximately GH¢380.25)	To support critical activities such as laboratory equipment and chemicals, essential medical equipment, and supplies, including test kits and PPEs.

¹ Using an exchange rate of 1\$ = GH¢5.85.

Excess Fund from Ghana Stabilisation Fund (GSF)	GH¢1.25b <i>(approximately \$219m)</i>	<p>To fund the Coronavirus Alleviation Programme (CAP)</p> <ul style="list-style-type: none"> ▶ GH¢280m for food packages and hot meals (GH¢2m or \$350,000) per day for 400,000 people. ▶ GH¢40m to the National Buffer Stock Company ▶ GH¢200m used to pay for water bills and sanitation ▶ GH¢241m covered tax waiver for health personnel ▶ GH¢80m spent on allowances for health staff ▶ GH¢2m covered the transportation for health workers ▶ GH¢600m disbursed as soft loans to businesses
Ghana Exim Bank	\$10million loan	To produce emergency PPE gear
Ghana Covid-19 Trust Fund	GHc57.15 <i>(about \$9.85million) as of December 2021.</i>	To assist the poor and vulnerable.

From documents sighted, GoG had two major schemes or programme of response for the pandemic.

1. A **Corona Alleviation Programme (CAP)** presented to Parliament on 31st March spelt out how the stimulus incentive will be carried out.

a. Lowering the **Ghana Stabilisation Fund (GSF)** from the current US\$300 million to US\$100 million in accordance with Section 23 (3) of the Petroleum Revenue Management Act (PRMA). The excess amount,

an estimated **GH¢1.250 billion**, was transferred to the Contingency Fund to finance the CAP.

b. Arrange with BOG to defer interest payments on non-marketable instruments estimated at GH¢1,222.8 billion to 2022 and beyond.

c. Adjust expenditures on Goods & Services and Capex downwards by GH¢1.248 billion.

d. Secure a World Bank DPO of GH¢1.716 billion.



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- e. Reduce the proportion of Net Carried and Participating Interest due GNPC from 30% to 15%.
 - f. Amend the PRMA to allow a withdrawal from the **Ghana Heritage Fund** to undertake emergency expenditures in periods of national emergency. There was an estimated US\$591.1 million in the Ghana Heritage Fund as at 2020. Its unclear how much GoG withdrew from the Heritage Fund.
2. A **COVID-19 Preparedness and Response Plan** with a budget of GH¢572 million (US\$100 million) also appears to have been utilised towards the initial cost of programmes and activities during the outbreak.

According to the IMF, emergency situations can offer a fertile ground for vested interests to use public funds for private gain, making it critical that vulnerabilities to corruption and misuse be recognized and mitigated. Misuse of funds during humanitarian crises including Hurricane Katrina and the Ebola outbreak attest to such vulnerabilities. For instance, in 2015,

Sierra Leone’s Auditor General released an audit of domestic donations made to the government for the Ebola relief effort providing evidence of mismanagement by public officials in the distribution of these funds. Payments for supplies and sensitization efforts were duplicated and undocumented, money was paid out to private individuals rather than to organizations and procurement procedures were widely disregarded. Audits of international development organization spending showed there was also failure to provide rightful healthcare workers’ salaries and bonuses which were paid out to private individuals by those charged with distribution. In the United States, corruption and misuse of funds in the wake of Hurricane Katrina in 2005 and Hurricane Maria in 2017 have led to more than a thousand prosecutions, the ousting of government officials, and the adoption of new practices by U.S government agencies to reduce such vulnerabilities.

This corruption risk assessment assesses how the above and other funds were spent by Government of Ghana (GoG), including any corruption implications.



Legal & Institutional Framework

This section describes the institutional and legal framework for public procurement in Ghana with a focus on corruption prevention and detection.

According to Wittig (1999), the public procurement market is normally the largest in a country and offers the best opportunity for local suppliers to increase their sales through government contracts. The size of the global public procurement market is estimated to be approximately \$13 trillion annually. While the United States, China, member states of the European Union – and other large economies – account for a large percentage of this total, a substantial amount of public procurement also occurs in smaller economies, including Ghana – which in 2017 spent \$5,330,916,384 on public procurement, accounting for approximately 9% of the country's overall GDP that year of \$58,996,776,244. It is estimated that

up to 14% of the country's GDP is now currently spent on public procurement. Further, public procurement in Ghana accounts for approximately 24% of total imports – helping to build roads, schools, hospitals, and other key amenities (CQ Legal, January 2021).

In 2003, the World Bank conducted a Country Procurement Assessment Report (CPAR) on Ghana. The CPAR recommended actions to improve the public procurement system focused on all aspects of the system including the legal and institutional framework, procurement procedures, proficiency, oversight mechanisms and anti-corruption measures. In 2007, a comprehensive Assessment of Ghana's National Procurement System was carried out in the context of the 2007 ERPFM. The assessment focused on:

- 1) reviewing progress in implementing



the recommendations of the World Bank 2004 Country Procurement Assessment Report (CPAR);

- 2) conducting an independent review of the Government's 2006 self-assessment of public procurement performance;
- 3) preparing, jointly with the Government, an assessment of the formal and functional features of the national procurement system using the above-mentioned OECD/DAC methodology; and
- 4) identifying actions that would contribute to further improve the quality and performance of Ghana's public procurement system.

2.1 Legal Framework

The public procurement legal framework clearly covers the whole scope of public procurement, all stages of the procurement process, methods of procurement, ethics and transparency (Thai, 2009). A good public procurement legal framework is based on the principles of openness and transparency, fair competition, impartiality, and integrity (Robert, 2003). In December 2003 the Government of Ghana enacted the Public Procurement Act, 2003, (Act 663) which became effective/operational on 27th August 2004 and amended by the Public Procurement (Amendment) Act 2016 (Act 914). Public procurement in Ghana is therefore subject to the Act and it's implementing Regulations and

Administrative Instructions, providing the general rules governing public procurement in Ghana.

The promulgation of the Act was an integral part of Ghana's Public Financial Management Reforms and good governance initiative, which sought to instil propriety and accountability in public sector financial management and expenditure. The Act is applicable to procurement financed from public fund-wholly or partly, procurement financed with government loans, including foreign aid funds, and disposal of public stores, plants and equipment (The Public Procurement Oversight Group, 2002). All government agencies, institutions and establishments in which the government has a majority interest are mandated to comply with the Act.

The Public Procurement Authority (the Authority) is mandated to ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner. The Authority is vested with administrative powers to ensure that procuring entities comply with the Act. The Authority is also mandated to:

- monitor the processes employed by procuring entities;
- review procurement decisions made by procuring entities;
- investigate procurement malpractices; and
- sanction offenders.

Procuring entities under the Act have responsibility for the procurement of goods, works and services for prescribed threshold values set out in the schedules to the Act.

The public procurement law of Ghana

to some extent ensures that public procurement is carried out in accordance with the principles of economy, efficiency, and transparency. This is demonstrated by its wide applicability and accessibility, existence of procurement oversight, requirement for procurement planning and procurement methods and procedures, which are applied largely according to international standards (World Bank, 2010).

Act 663 Section 93 on corrupt practices specifies in

- (1) that entities and participants must comply with article 284 of the Constitution.
- (2) Section 93 (2) of Act 663 also refers to the Criminal Code of 1960 (Act 29) in which corrupt practices are defined. Section 92 of Act 663 details offences related to procurement (Section 92 (2)) and the corresponding sanctions (penalties as defined by Section 92 (2)).
- (3) Corruption practices are spelled out in section 93 of Act 663.

Corrupt cases involving procurement malpractices will not necessarily be dealt with by the proposed Financial Administration Tribunal. Cases of corruption are criminal cases that must be dealt with under the Criminal Code of 1960 (Act 29).

Section 28 of Act 663 amended

(iv) inhibit fair competition as provided under the Protection Against Unfair Competition Act, 2000 (Act 589), unless the disclosure is ordered by a court or the Board in which case the procurement

entity shall comply with the conditions of the order.”; and

Section 32A of Act 663 inserted

14. The principal enactment is amended by the insertion after section 32 of a new Section 32 A

“Confidentiality

32A. (1) A procurement entity shall not disclose information to a supplier or contractor if the disclosure will compromise national security or if the disclosure will impede law enforcement, prejudice the legitimate commercial interest of a supplier or contractor, or impede fair competition.

(2) A procurement entity shall treat applications to pre-qualify, applications for pre-selection and submissions for a procurement contract in a manner that avoids the disclosure of their contents to a competing tenderer or any unauthorised person, except as provided under this Act.

(3) A discussion or communication permitted under this Act between a procurement entity and a tenderer during the tender process or other procurement process that permits discussions, negotiations or dialogue at any stage, is confidential and, unless required by law or ordered by a court, a person concerned with the discussion or communication shall not disclose any technical information, price or other information to another person without the consent of the other party.

(4) A person concerned with the discussion or communication in a procurement process shall not disclose any technical information, price or other



information to another person without the consent of the other party.

(5) A person who contravenes subsections (3) or (4) commits an offence.

(6) Subject to section 28 (4), a procurement entity involved in classified information may

(a) impose requirements on tenderers to protect classified information;

Section 43 of Act 663 amended

Section 43 of the principal enactment is amended by the substitution for subsection (1) of

“(1) The procurement entity shall request for quotations from as many suppliers or contractors as practicable, but shall compare quotations from at least three different sources that should not be related in terms of ownership, shareholding or directorship and the principles of conflict of interest shall apply between the procurement entities and their members and the different price quotation sources.”

Section 44 of Act 663 amended

The principal enactment is amended by the substitution for section 44 of “National Competitive Tendering”

44. (1) Locally registered suppliers, contractors or consultants may participate in national competitive tendering procurement proceedings without regard to nationality, except where the procurement entity decides to limit participation in national competitive tendering proceedings to only domestic suppliers, contractors

or consultants, in accordance with this section.

(2) In procurement proceedings in which the procurement entity decides that only domestic suppliers, contractors or consultants may submit tenders, the procurement entity shall employ national competitive tendering procedures.

(3) A procurement entity is not required to employ the procedures set out in Sections 47 and 48 if the estimated contract amount is lower than the value threshold specified in the Fifth Schedule.

(4) A procurement entity, when first calling for participation in procurement proceedings, shall notify prospective tenderers whether the proceedings are limited to domestic suppliers only and the declaration shall not be altered later.

(5) A procurement entity that decides to limit the participation of suppliers, contractors and consultants in procurement proceedings, shall include in the record of procurement proceedings, a statement of the reasons and circumstances on which it relied and shall make available to any person, on request, its reasons for limiting participation.

(6) A procurement entity may stipulate in the tender documents that tenderers must quote only in the local currency and payments must be made wholly in the local currency.

(7) A procurement entity shall stipulate a minimum period of two weeks or a maximum period of six weeks for the submission of tenders under the national competitive tender procedures.”

Section 47 of Act 663 amended

22. The principal enactment is amended by the substitution for Section 47 of

“Procedures for inviting tenders or applications to pre-qualify”

47. (1) A procurement entity shall invite tenders or, where applicable, applications to pre-qualify by causing an invitation to tender or an invitation to pre-qualify, to be published in the Public Procurement Bulletin and on the website of the Authority.

(2) An invitation to tender or pre-qualify shall be published in at least one daily newspaper of national circulation.

(3) The invitation may also be published in a newspaper of wide international circulation, in a relevant trade publication or a technical or professional journal of wide international circulation.

(4) The invitation shall be published on the website of the Authority at a fee to be determined by the Board.”

Section 96 of Act 663 amended

54. The principal enactment is amended by the substitution for Section 96 of

“International obligations”

96. (1) Despite the extent of the application of this Act to the 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 subject to the prior review and “no objection” of procurement procedures by the Authority.

(2) Procurement arising from an external loan and commercial facility, secured by

Government, other than a concessionary loan and grant which specifies particular procurement procedures shall be subject to the prior review and “no objection” of those procurement procedures by the Authority.”

Although the need to incorporate anti-corruption provisions in tender documents is not explicitly stated in Act 663, all of the tender documents with the exception of Request for Quotations and Request for Proposals have adequate provisions on fraud and corruption. In addition, Section 66 of the Financial Administration Act (Financial Administration Tribunal) provides for anti-corruption measures applicable to procurement officers. The offences are listed in Section 62 of the Act.

The main provisions in this Law relating to corruption in public procurement are the following:

- improve value for money (VFM) in procurement. The World Bank’s 2007 comprehensive Assessment of Ghana’s National Procurement System focused in particular on the need to increase the scope of competitive tendering including the need to reduce sole sourcing and restricted tendering. In this respect, Section 44 (2) of Act 663 mandates a Procurement Entity (PE) to place a public notice for comments from the public before any single source procurement is initiated.
- The majority of the Standard Tender Documents (STDs) include anti-corruption clauses. For example the “Instructions to Tenderers” in the STD for medium sized work contracts has a 1.5 page provision



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on “Corrupt and Fraudulent Practices” (Section 37). However, STDs for request for proposals and request for quotations do not have such anti-corruption provisions.

Procurement Rules:

To preserve the integrity and sanctity of the procurement system, the Act 663 (amended) prescribes a set of rules. For instance, the strict adherence to competition (as a default) in the conduct of public procurement;

The main provisions in this law relating to conflict of interest in public procurement are the following;

Section 86 (1-5)

- (1) The Board shall, with the approval of the Minister, compile and publish a code of conduct that shall apply to each official of a procurement entity, the members of an evaluation panel, members of a tender review committee, members of the Board as well as tenderers, suppliers, contractors and consultants.
- (2) The code of conduct shall address
 - a) conflicts of interest in procurement

Though the primary objective of the Act as contained in Section 2 is to harmonize the processes of public procurement in the public service to secure a judicious, economic and efficient use of state resources, other secondary concerns such as promotion of local industry are set out in the Act. The margin of preference clause in section 60(3) of the Act for instance provides that a procurement entity may grant a margin of

preference for the benefit of tenders for work by domestic contractors. Though this provision seeks to give preference to domestic contractors, it does not categorically mention SMEs, hence it applies to all categories of domestic contractors, meaning SMEs will unfairly be in competition with large companies.

The application of the Act is, however, subject to two key exceptions. The first is the power vested in the Minister of Finance to direct the use of a different procurement procedure where the Minister determines that it is in the ‘national interest to do so’ (ie, a scenario where the nation attaches high value, returns, benefit and consideration to the matter in question). Where the Minister makes such a determination, the procurement method shall be published in the Ghana Gazette. The second exception is in respect of the procurement of goods, works and services financed by loans taken or guaranteed by the state, or aid granted under an international agreement that prescribes the procurement procedures to be employed.

The Code of Conduct for the Ghana Civil Service is issued by the office of the Head of the Civil Service. Part 2(b) of the Code (Guiding Principles) specifies that officers should not place themselves under “any financial or other obligation that might influence them in the performance of their official duties, including award of contracts”. Part 2(c) of the Code further specifies that civil servants should make choices based solely on merit when (among other things) awarding contracts. Part 7 of the Code details rules for efficient, effective and proper use of public funds and Part

8 addresses gifts, bribes, and conflict of interest. In addition plans are afoot in PPA to develop a dedicated code for procurement staff in the government as per Section 83 of the Act. A declaration on ethical behaviour is being developed for suppliers. Act 550 (Public Office Holder (Declaration of Assets and Disqualification Act, 1998)) subjects decision makers and officials (including procurement officers) (Schedule 1 of the Act) to specific financial disclosure requirements (Section 4).

Ghana's Protection Against Unfair Competition Act 2000 (Act 589) codifies the common law tort of passing off. The Act sets out the various practices deemed as unfair competition, defines these practices and outlines the extent of protection provided under Ghanaian law and other related matters. Major practices considered to be unfair under the law include: causing confusion with respect to another's enterprise or its activities; damaging another person's goodwill or reputation; misleading the public; discrediting another person's enterprise or its activities; unfair competition in respect of secret information; and unfair competition in respect of national and international obligations.

2.2 Regulatory Framework

The regulatory authority of public procurement in Ghana is the Public Procurement Authority, also referred

to as the Public Procurement Board established by the Public Procurement Act 2003, Act 663. Parliament passed the Public Procurement (Amendment) Bill on Act 2016 (Act 914) on March 18, 2016 thus amended the Public Procurement Act, 2003 (Act 663). The objective of the Board according to the Public Procurement Act is to harmonize the processes of public procurement in the public service to secure a judicious, economic and efficient use of state resources in public procurement and ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner. The Public Procurement Act specifies rules for procurement methods, procedures, appeals by tenderers and disposal of stores. It states offences and applicable penalties. It also specifies procurement thresholds in schedules to the Act. It also authorizes the issues of regulations, which are enforceable under the Act. The Public Procurement Act in its effort to make public procurement transparent, efficient, and fair, established five basic pillars of the public procurement (Anvuur, Kumaraswamy, & Male, 2006).

2.3 Institutional Framework

The Public Procurement Act has put in place appropriate administrative and institutional arrangements to oversee the procurement system. As part of the Government effort to improve Public Expenditure Management to achieve



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macro fiscal discipline and stability, it became necessary to establish some institutional frameworks. The Public Procurement Authority and other agencies such as the External Audit Department, Ghana Revenue Authority (VAT, IRS, Customs, etc) emerged as one of the institutional frameworks necessary for managing public procurement and for that matter public funds.

The Public Procurement Act also established bodies such as the Public Procurement Authority, Entity Tender Committees and Tender Review Boards. The Act mentions the roles of various institutions such as the central management agencies; Ministries, Departments and Agencies (MDAs), subvented agencies and governance institutions. Others include state owned enterprises; public universities, schools, colleges and hospitals, the Bank of Ghana and financial institutions owned or where government is a majority shareholder as well as institutions established by Government for the general welfare of the public.

The Central Management Agencies (CMA eg. Office of the President, Public Service Commission), Ministries, Departments and Agencies, (MDA's eg. Ministry of Education, Department of Feeder Roads), Subvented Agencies (eg. Ghana Library Board) and State Own Enterprises (SOE's eg. Ghana Water Company, Electricity Company of Ghana) handle procurement at the national level. The Ministerial Tender Review Board (MTRB) gives approvals for procurement above the threshold of the Entity Tender Committee, while the Central Tender Review Board gives approval for procurement above the MTRB thresholds.

Furthermore, the following legislation is relevant for this assessment:

Ghana's forex regime is governed by the Foreign Exchange Act, 2006 (Act 723). The BoG regulates forex business and transfers between residents and non-residents. Payments to or from Ghana between residents and or non-residents must be made through a bank. However, transfers to or from Ghana must be made through a bank, a dealer or person licensed to carry out the business of money transfers. The BoG periodically issues directives on forex-related transactions, and investors should ensure they stay informed regarding new rules.

Pursuant to the Anti-Money Laundering Act, 2008 (Act 749) the Financial Intelligence Centre has been established within the BoG to provide assistance with the identification of proceeds of unlawful activities, as well as to combat money laundering activities in Ghana. Banks are required under law to apply comprehensive Know Your Customer due diligence on existing and potential clients with respect to financial transactions.

The 1992 Constitution provides that "international business or economic transactions to which the government is a party shall, with necessary modification by Parliament, apply to an international business or economic transaction to which the government is a party as it applies to a loan", that is loan agreements require the approval of Parliament.

One of the pertinent concerns of investors is the nature of the ultimate approval required for the validity and enforceability of such agreements. Increasingly, the concern has become

more pervasive since the decision of the Supreme Court of Ghana in the cases of: Attorney General v Balkan Energy Ghana Ltd, Balkan Energy LL and Philip David Elders; Martin Alamisi Amidu v Attorney General, Waterville Holding Ltd and Alfred Agbesi Woyome; and Martin Alamisi v Attorney General, Isofoton S.A and Anane-Agyei Forson. In all the above cases, agreements executed between a private party and government were held to be invalid and unenforceable as they were not approved by Parliament as required by the 1992 Constitution and other laws of Ghana. From the various decisions of the Supreme Court, the following agreements may qualify as international transactions:

- i. Agreements for business transactions between a resident company (incorporated in Ghana) and the Government of Ghana where the shareholders are non-Ghanaian;
- ii. Agreements for business transactions between a foreign or non-resident company and the government of Ghana; and
- iii. Project agreements which fall under items (i) and (ii) above for which the funding or loan agreement has been approved by Parliament.

Further texts, in an international context, that are relevant for this assessment are the following:

- United Nations Convention against Corruption (Ghana was among the first 30 countries to ratify the Convention).
- African Union Convention on Preventing and Combating Corruption, ratified by Ghana's Parliament on 18th October 2002.
- Ghana is not a member of the European Union or a signatory to the World Trade Organization's Agreement on Government Procurement (GPA). Therefore, the EU directives and the GPA do not affect Ghana's procurement regime. However, the key principles of transparency and non-discrimination are reflected in the Public Procurement Act and the Amendment Act aims to ensure the Act is consistent with the United Nations Commission on International Trade Law's model law on procurement.
- The WTO Government Procurement Agreement (GPA), considering that Ghana is a full right member of the WTO since 1st January 1995.



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MAPS Assessment

3.1 Overview of the Assessment

The Methodology for Assessing Procurement Systems (MAPS) was initially developed in 2003/2004 as a contribution to the collective efforts of many stakeholders to assess and improve public procurement systems by providing a common tool to analyse information on key aspects of any system. The Me MAPS aims at laying the foundation for creating a well-governed public procurement system that contributes to meeting policy objectives, increasing public trust, and enhancing well-being and more prosperous and

inclusive societies. It is guided by value for money, transparency, fairness, and good governance considerations.

The assessment considered 4 key areas called “pillars” which are composed of 12 indicators and 54 sub-indicators. Each sub-indicator is assessed with a scoring system ranging from 3 to 0. The score of 3 indicates full achievement of the stated standard. A score of 2 is given when the system exhibits less than full achievement and needs some improvements in the area being assessed and a score of 1 is for those areas where substantive work is needed for the system to meet the standard. A score of 0 indicates a failure to meet the proposed standard.

METHODOLOGY FOR ASSESSING PROCUREMENT SYSTEMS (MAPS)

		Pillar 1	Pillar 2	Pillar 3	Pillar 4		
User's Guide	Context Analysis	Legal, Regulatory and Policy Framework	Institutional Framework and Management Capacity	Procurement Operations and Market Practices	Accountability, Integrity and Transparency	Glossary	
		3 indicators, 18 sub-indicators	5 indicators, 14 sub-indicators	2 indicators, 6 sub-indicators	4 indicators, 17 sub-indicators		

The approach to assessing the corruption risks associated with public procurement during the COVID-19 pandemic is therefore distinguished by this MAPS framework. This approach benefits from a clear and comprehensive understanding of corruption risk assessment.

▶ **Pillar I.**
Four elements of the legal, regulatory, and policy framework

1. The supreme legal instrument governing public procurement (laws, acts, decrees)
2. Regulations and other instruments that are of a more administrative nature
3. Procurement-related provisions in other national laws (e.g., laws governing public private partnerships and concessions, trade and competition, access to information, anti-corruption, alternative dispute resolution, state-owned enterprises, etc.)
4. Obligations deriving from international agreements to ensure

consistency and policy coherence.

▶ **Pillar II.**
Institutional Framework and Management Capacity

Pillar II looks at how the procurement system as defined by the legal and regulatory framework in a country is operating in practice through the institutions and management systems that are part of the overall public sector governance in the country.

Pillar II determines the procurement system's suitability to discharge the obligations prescribed in the law without gaps or overlaps.

It assesses:

1. whether adequate links with the country's public finance management system exist;
2. whether institutions are in place in charge of necessary functions; and
3. whether the managerial and technical capacities are adequate to undertake efficient and transparent public procurement processes.



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▶ **Pillar III. Public Procurement Operations and Market Practices**

This Pillar looks at the operational efficiency, transparency, and effectiveness of the procurement system at the level of the implementing agency responsible for managing individual procurements (procuring entity). In addition, it looks at the market as one means of judging the quality and effectiveness of the system when putting procurement procedures into practice. This Pillar focuses on how the procurement system in a country operates and performs in practice.

Since this assessment is not on Ghana's procurement system but on procurement practices during the COVID-19 pandemic, it will focus only on Pillars III and IV, and even then, on sub-indicators peculiar to the Ghana situation. Empirical evidence has been collected on how procurement principles, rules, and procedures formulated in the legal and policy framework were implemented in practice during the pandemic. This indicator focuses on procurement-related results which in turn impact development outcomes such as value for money, improved service delivery, trust in government and achievement of secondary policy objectives.

Indicator 9. Public procurement practices achieve stated objectives.

- **Sub-indicator 9(a)** – Planning. During the planning stage of procurement, the basic conditions governing the entire procurement process are established and it is right at the onset of the procurement process where the influence on achieving defined objectives is highest.
- **Sub-indicator 9(b)** – Selection and contracting. This sub-indicator focuses on the objective of achieving value for money through appropriate determination of procurement methods and approaches, competition, transparency and fairness in selecting suppliers, including the quality of procurement documents and process efficiency. The sub-indicator assesses the extent to which procurement has followed a competitive procedure (or not). It provides specific information on the use of procurement methods authorized in the law. The sub-indicator also assesses whether procedures for bid submission, receipt and opening have resulted in an appropriate level of competition.
- **Sub-indicator 9(c)** – Contract management. This sub-indicator assesses the extent to which goods, services, or works procured are delivered according to the contract agreement in terms of time, quality, cost, and other conditions stated in the contract to support the efficient and effective delivery of public services. The sub-indicator assesses cost and time overruns including for payments to be made to suppliers. The sub-indicator also reviews whether opportunities for the improvement of procurement practices are analysed based on both metrics and stakeholder feedback.
- **Sub-indicator 10(b)** – Private sector's organisation and access to the public procurement market. This sub-indicator looks at the capacity within the private sector to respond to public procurement in the country. An important aspect to assess is the organizational capac-

ity of the small and medium-sized enterprises (SMEs) and the access they have to information and other services (including information technology) to promote their participation. A well-organized and competitive private sector should result in keen competition, better prices and an equitable distribution of business. Competition for large contracts should not be concentrated in a relatively small number of firms. There should be no major systemic constraints (e.g., inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market.

► **Pillar IV.**
Accountability, Integrity and Transparency of the Public Procurement System

Pillar IV includes four indicators that are considered necessary for a system to operate with integrity, has appropriate controls that support the implementation of the system in accordance with the legal and regulatory framework, and has appropriate measures in place to address the potential for corruption in the system. It also covers important aspects of the procurement system that include stakeholders, including civil society, as part of the control system.

This Pillar takes aspects of the procurement system and governance environment and seeks to ensure that they are defined and structured to contribute to integrity and transparency.

- **Indicator 11.** Transparency and civil society engagement foster integrity in public procurement. Civil society,

in acting as a safeguard against inefficient and ineffective use of public resources, can contribute to making public procurement more competitive and fair, improving contract performance and securing results. This indicator assesses two mechanisms through which civil society can participate in the public procurement process:

- a) disclosure of information and
- b) direct engagement of civil society through participation, monitoring and oversight.

There are three sub-indicators to be assessed.

- **Sub-indicator 11(a)** – Enabling environment for public consultation and monitoring. This indicator assesses the following:
 - 1) whether a transparent and consultative process is followed when changes are formulated to the public procurement system,
 - 2) whether programs are in place to build capacities of civil society organizations to support participatory public procurement, and
 - 3) whether effective feedback redress mechanisms are in place for matters related to public procurement.
- **Sub-indicator 11(b)** – Adequate and timely access to information by the public.

The right of the public to access information has been fully integrated in the MAPS indicator system. In particular, the following aspects



have been highlighted in the sub-indicators referenced below:

- The laws, regulations, and policies governing public procurement are published and easily accessible to the public at no cost (sub-indicators 1(a))
- All stakeholders have access to adequate and timely degree of transparency in each phase of the public procurement process related to specific procurements (in accordance with legal provisions protecting specific sensitive information) and access to other information that is relevant to promote competition and transparency (sub-indicator 7(a))
- Free access to this information is preferably provided through a centralized online portal and open data standards (sub-indicator 7(a)).
- **Sub-indicator 11(c)** – Direct engagement of civil society.

This sub-indicator assesses the extent to which

- a) the laws, regulations, and policies enable the participation of citizens in terms of consultation, observation, and monitoring and
- b) whether the government promotes and creates opportunities for public consultation and monitoring of public contracting.

The legal and regulatory framework might establish the obligation or an opportunity for the government to consult the public during the planning

process, e.g., prior to large-scale or environmentally or socially sensitive procurements.

- **Indicator 12.** The country has effective control and audit systems.

The objective of this indicator is to determine the quality, reliability and timeliness of the internal and external controls. Equally, the effectiveness of controls needs to be reviewed. For the purpose of this indicator, “effectiveness” means the expediency and thoroughness of the implementation of auditors’ recommendations. This indicator has four sub-indicators (a-d) to be assessed.

Sub-indicator 12(a) – Legal framework, organisation and procedures of the control system
This sub-indicator assesses;

- 1) whether the country’s laws and regulations provide for a comprehensive control framework,
- 2) whether the institutions, policies and procedures as defined in the law are in place and operational, and
- 3) whether the existing control framework adequately covers public procurement operations.

In addition to the MAPS as outlined above, a study commissioned by EU OLAF “Identifying and Reducing Corruption in Public Procurement in the EU” (2013) additionally identifies 23 red flag indicators in public procurement that will be used to assess corruption risks associated with Ghana’s procurement during the pandemic.

Risk Indicator System Based on The “Red Flag” Concept

This section develops a red flag indicator system for corruption and fraud in public procurement during the COVID-19 pandemic, based on the analysis of international materials on this topic, combined with the findings on specific cases.

4.1

Materials Analysed

For defining corruption risk indicators in public procurement the following materials have been assessed:

- A study commissioned by EU OLAF “Identifying and Reducing Corrup-

tion in Public Procurement in the EU” (2013) which identifies the 23 red flag indicators. The study analyses EU projects in the following sectors: Road & Rail Construction; Urban & Utility Construction; Waste Water Treatment; and Research and Development http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/researchandstudies/identifying_reducing_corruption_in_public_procurement_en.pdf

- The World Bank study “Most Common Red Flags of Fraud and Corruption in Procurement in WB Projects” (2010) identifies 10 red flags. http://siteresources.worldbank.org/INTDOI/Resourses/Red_flags_reader_friendly.pdf



- The World Bank book “The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level” (2007) identifies four categories (kickback; bid rigging; use of front or shell companies; and misinterpretation of facts) and the corresponding red flags. <https://openknowledge.worldbank.org/bitstream/handle/10986/6848/399850REPLACEMENT101OFFICIALOUSEOON-LY1.pdf?sequence=1>
- The website of the International Anti-Corruption Resource Center (IACRC) provides a comprehensive list of corruption indicators, as well as red flags for other procurement fraud. It also contains definitions of the main categories of procurement fraud. <http://iacrc.org/our-services/combating-corruption-in-procurement/>
- The website Fraud Red Flags & Indicators of the Office of Inspector General of US Department of Defense is based on the IACRC list, but adds a number of well-defined practical examples. <http://www.dodig.mil/resources/fraud/redflags.html#tab>
- The World Bank “Fraud and Corruption Awareness Handbook - A Handbook for Civil Servants Involved in Public Procurement” (2013) contains a comprehensive set of definition and red flags on all types of procurement fraud as well as definitions and examples. It analyses World Bank project, but is well applicable to public procurement. <http://documents.worldbank.org/>

[curated/en/2014/02/19437783/fraud-corruption-awarenesshandbook-handbook-civil-servants-involved-public-procurement](https://openknowledge.worldbank.org/bitstream/handle/10986/6848/399850REPLACEMENT101OFFICIALOUSEOON-LY1.pdf?sequence=1)

4.2 How Were the C-19 Funds Spent?

Investigations, desk reviews and interviews conducted indicate that the above funds and earmarked funds were spent on the following.

4.2.1 Production of 3.6m Face Masks and other PPEs

On 5th April, 2020 President Akufo-Addo announced the local production of Personal Protective Equipment (PPEs) as a means to intensify measures aimed at curbing the spread of COVID-19 in Ghana. The President said this had become necessary because of the shortage of already procured PPEs which are essential for the protection of frontline health workers risking their lives every day to battle the virus. Just six days later on Saturday, 11th April 2020, Alan Kyerematen, Minister for Trade and Industry paid a working visit to four Ghanaian garment manufacturing companies in Accra who had been given loans of **\$10m** through the **Ghana Exim Bank** to produce these items to meet the country’s demand². The **companies had been selected** (without tender) to produce the PPEs, that also included

² Alfie Designs and Sleek Garment Export Limited were to produce 45,000 to 50,000 face masks a day

face mask, medical scrubs, hospital gowns and head gears using fabrics from ATL, Volta Star Textiles and GTP.

Who owns these companies and what are their networks?

1. **Dignity DTRT.** Founded by **Salma Salifu**, renowned with 23 years experience in the fashion industry. Salma Garments operated under the President's Special Initiative (PSI) initiated by the NPP Administration under President John Agyekum Kufuor in 2001. The PSI program on Textiles & Garments was implemented to boost textile exports and exploit the trade opportunity offered by the African Growth and Opportunity Act (A.G.O.A) between the United States and Ghana. **Alan Kyeremateng**, then Minister of Trade and Industry was in charge of the PSI programme and interestingly or coincidentally, is the current Minister of Trade and Industry overseeing the production of the PPEs, scrubs and the face masks by Dignity DTRT and the other 3 companies. Salma Salifu appears to be very well connected politically. Over the years, the company has had visits from former President John Mahama and his late vice, Paa Kwesi Amisah-Arthur, and current President, Nana Akufo-Addo and his Minister of Trade and Industry, Alan Kyeremanteng.
2. **Sleek Garments Export Ltd (SGEL).** **Nora Bannerman** has grown what used to be a small business into a flourishing garments enterprise with over 300 sewing machines. SGEL

also operated under the President's Special Initiative in 2001 under the Kufuor administration. In July 2007, after the commissioning of the newly constructed "Garment Village" by then President Kufuor's administration, Sleek Garments was tasked to manage the Village. SGEL also produced school uniforms under the National Board for Small Scale Industries' KAIZEN project during the period 2015-2018. Ms Bannerman, who is President of the Garment Exporters and Manufacturers Association, is a member of the Board of the Ghana Investment Promotion Centre and the Africa Centre for Economic Transformation (ACET).

3. **KAD Manufacturing Ltd.** Author and TV personality, **Linda Ampah**, who also owns Cadling Fashions, founded KAD. Founded in 1996 and currently with about 130 workers, KAD produces on a large scale for the export market as well as for the local Ghanaian market under the African Growth and Opportunity Act (AGOA). In 2013, the fashionable Michelle Obama, former First Lady of the United States of America, wore a Cadling Fashion outfit when she visited South Africa. Linda is described as a **close friend of 26 years** of Mrs. **Angela Ofori-Atta**, wife of Finance Minister, Ken Ofori-Atta.
4. **Alfie Designs Limited.** Founded in 1990 by **Afi Agbenyega Nyarko**, Alfie is now run by her daughter, **Adjo Dede Asare**. Alfie has grown to be one of

Dignity Apparel was to produce 50,000 to 200,000 face masks a day
Kad Manufacturing Limited was to produce 30,000 face masks a day.



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the foremost clothing manufacturers in Ghana. Alfie are the sole designers of Woodin Ghana collections in all Woodin shops in Ghana and has branches in Rwanda, Kenya and Uganda. In 2015, under former President Mahama's administration, Alfie secured a loan of €40,600 from Lendahand to execute a contract awarded to them by the Ministry of Education of Ghana.

4.2.2 \$4.5m For Case Detection, Confirmation, Contact Tracing, Recording and Reporting – 1st Release of \$35m from the World Bank

Ghana budgeted \$1.2million for 1000 contact tracers in its proposal to the World Bank. At the onset of the pandemic, the Ghana Health Service employed and trained 900 Contact Tracers to work on case detection, contact tracing and reporting, with 600 dropping out later due to various grievances, chief among them the erratic payment of their daily allowance of \$25 (GH¢150.00). Only 300 contact tracers eventually worked actively in Accra. A similar number were contracted and deployed in Kumasi, with the total number unclear as C-19 spread almost nationwide.

A corruption risk arises over whether an employment contract regulated the work of the contact tracers, the terms of their engagement, how much was actually paid to them, for how long and why 600 of them dropped out.

Part of the above funding was used

by the Ministry of Communications to develop a **Covid-19 Tracker app** to gather data on surveillance and contact tracing. It was alleged that GoG spent about \$1m to develop the app and a further GH¢1.4m (\$240,000) for its launch. Two foreign companies namely **iQent Technologies**, a UK software company and **Ascend Digital Solutions**, a Software/IT consulting company in Britain were contracted to jointly develop the app. **iQent Technologies** is owned by 37-year-old **Antony Madalairaj Amirtharaj**, with physical Address at **200 Brook Drive Green Park, Reading, England, RG2 6UB**. It was incorporated on 11th August 2014. **Ascend Digital Solutions Ltd** was incorporated on 9th March 2020 and owned by 28-year **Ian Austin**, and incorporated in Jersey, a tax haven.

The COVID-19 Tracker App, through the common platform of mobile networks, is able to trace contacts of persons infected by the virus, show where they have been in recent time, through various telephone related data, and link such people to health professionals for urgent action to be taken. The ceremony came with a virtual concert headlined by dancehall artiste Shatta Wale, Kuami Eugene and Fancy Gadam, Highlife singer Kaakyire Kwame Appiah, gospel musicians Diana Asamoah, Isaiah Kwadwo Ampong, affectionately called Great Ampong among others. Each artiste was later reported to have be given GHc30,000, with Shata Wale alone receiving GHc100,000 for the night's performance. The MC for the night, popular Peace FM morning show host, Kwame Sefa-Kayi received GHc15,000 for his services. The artistes with low payment became furious and called out the Ministry of

Communications for somehow cheating them, despite official denials that they all performed for free. The event was reportedly put together by **Bola Ray** of the EIB Broadcasting Network.

Ash Dastmalchi, Head of Cybersecurity at Quantum Security Solution points out that, “we can see the data is submitted to a remote server which happens to be on Amazon which is outside Ghana’s jurisdiction.” Ash indicated that price range for developing an app is between GH¢5000 and GH¢1m (\$855 to \$171,000) depending on the technicalities, what one wants, taxation etc.

Once again, there is no record of iQuent Technologies and Ascend Digital Solutions going through any procurement process or of being legal persons in Ghana, making them ineligible for government contracts in Ghana. Additionally, the value of the contract appears inflated by as much as \$829,000 judging by the IT expert’s comments.

4.2.3 Free Food, Water For The Vulnerable - Funded from the Coronavirus Alleviation Programme (CAP) under the GHc1.25billion allocation from the Ghana Stabilisation Fund (GSF)

On 6th April, 2020 President Akufo-Addo in his address to the nation, announced a number of measures to cushion Ghanaians against the harsh effects of the economic lockdown. Under the Coronavirus Alleviation Programme to support households and businesses,

GHc280 million was purported to have been used to provide food for the vulnerable and free water for all Ghanaians for three (3) months, i.e. April, May and June 2020. The Senior Minister then announced that 400,000 vulnerable people in Accra and Kumasi were to be provided dry food packages and hot meals valued at GHc5.00 per pack per day. This happened during the 3-week partial lockdown in Greater Accra and Greater Kumasi.

This line item is perhaps the biggest red flag in the whole COVID-19 spending saga, with many doubting the number of people fed, the period of the intervention, the way caterers were contracted and the unit cost of the food packages. There is no record of any tendering for caterers or food supplies. Many dispute the 400,000 vulnerable people figure and the real cost of the low quality food handed out during the people. For instance, the chairman of the Ghana Federation of the Disabled confirmed that out of 10,000 registered members who were affected by the lockdown, a little over a 1000 benefitted from the food packages. Granted that GoG spent GHc5.00 on the meals, it meant **GHc42million** was spent on hot meals during the period, without any proper tendering or documentation, leaving **GHc38million** unspent within the food and free water allocation.

The Ministry of Gender and Social Protection supervised the Food Intervention Programme during the lockdown with support from NADMO, Faith Based Organisations (FBOs) and Metropolitan and District Assemblies. The School Feeding Programme Secretariat, headed by Gertrude Quashigah, wife of the late former Minister of Health and Agriculture, Major Courage Quashigah,



played a key role in selecting school feeding caterers to prepare the food. Gertrude is also Founder and CEO of Ambar Quality Foods Limited, a catering service entity that was awarded contract to provide catering services to former President John Agyekum Kufuor during his 8-year tenure. By standard practice, the School, Feeding Programme has been state-captured by ruling parties, who award these contracts to party women organisers, who in turn re-award the contracts to favourites.

4.2.4 Free Water

GoG allocated **GH¢200m on water consumption** in the country for April, May and June 2020. Ghana Water Company Ltd's annual water revenue is about GH¢970.6 million, translating into an average monthly revenue of GH¢80.89m³ or **GH¢242.67 for 3 months**. According to the GWCL⁴, the average monthly collection ratio (non-MDAs) stands at about 90% and that of MDAs and other Central and Local government collection stand at 12%. This implies that all things being equal,

GoG owes GWCL an average of about GH¢11 million a month.

4.2.5 Free Electricity

GoG budgeted **GH¢1 billion** at the existing tariff level for its intended purpose of mitigating the hardships of Ghanaians during the Covid-19 period. All consumers, including lifeline consumers⁵, non-lifeline consumers⁶, manufacturing and mining companies were to benefit from this intervention. Government pledged to bear the full cost of electricity for lifeline consumers and 50% for all other consumers.

A closer look at VRA's industrial consumers, which include 12 mining companies, VALCO and other manufacturing customers such as Aluworks, Diamond Cement Limited, Savannah Cement Limited and Enclave Power Limited, indicate GoG spent an estimated GH¢42.4 million per month or **GH¢127.2 million for the 3 months**, with GH¢4.8 million per month or **GH¢14.4 million for 3 months** on VALCO alone. Meanwhile, the other manufacturing companies cost GH¢17.9 million per month or a total of **GH¢53.7 million for the 3 months**. Government therefore reportedly spent **GH¢195.3million on industrial customers for 3 months**.

The monthly sales figures for the two major electricity distributors, VRA (for the southern sector) and NEDCO (for the northern sector), extrapolated for 50% relief for non-lifeline consumers is presented below.

3 https://www.gwcl.com.gh/tariff_paper.pdf

4 https://www.gwcl.com.gh/tariff_paper.pdf

5 Lifeline consumers are the poorest of the poor that consume the least amount of power ranging 0 to 50kW

6 Non-lifeline consumers are consumers that consume at least 50kW of power.

GOVERNMENT ELECTRICITY INTERVENTION SUMMARY

	Power Distributors	
	ECG	NEDCO
Consumer Type	GH¢	GH¢
Lifeline consumers	8.5m	10.9m
Non-lifeline consumers	235.4m	36m
Total Monthly Cost	243.9m	46.9m
Cost for 3 months (April, May, June)	731.7m	140.7m

From the above figures, it is highly likely that GoG spent **GH¢67.4million more on lifeline and non-lifeline consumers for the 3 months.**

4.2.5 GH¢2m to Transport Health Workers - GH¢1.25billion allocation from the Ghana Stabilisation Fund (GSF)

GH¢2million was allocated to **transport frontline health workers** during the pandemic. The Transport Ministry provided 15 free Aayalolo buses to convey health workers in Accra, Tema, Kumasi and Kasoa to and from work, along 12 specific routes, for the entire duration of the 3-week lockdown. That service ended with the lifting of the lockdown and cannot in all probability cost GH¢2million.

An official of the Greater Accra Passenger Transport Executive (GAPTE), operator of the Aayalolo Buses, indicated that although patronage of the buses was

quite high when the service began in 2016, it started dwindling six months afterwards from the expected 12,000 passengers per day to 9,000. Now, daily patronage ranges between 9,000 and 10,000 on the Amasaman-Ofankor-Achimota-Accra Central Business District (CBD) corridor for instance. At an average fare of GH¢1.8 with a total capacity of 10,000 health workers daily, GoG would have spent GH¢18,000 daily, bringing the total spend to GH¢378,000 during the 3-week lockdown. The leaves GH¢1,622,000 unaccounted for under the Free Transport for Health Workers allocation that must be investigated further.

4.2.6 \$7.4m for Community Engagement and Risk Communication – From 1st Release of \$35m from the World Bank

A **National Information Contact Center (NICC)** at the Accra Digital Center was set-up to provide information on



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COVID-19 and related matters. It's unclear how much GoG spent on that set-up, as no figures have been released publicly so far, presenting a corruption risk.

On April 16, 2020, GoG announced through the CEO of the National Youth Authority, Sylvester Tetteh that about **2000 young people** across the country will be trained to "educate the public and also provide assistance to frontline workers" as the country intensified its combat strategies to stem the pandemic. This was criticised by many sections of society and the media as a subtle attempt to spend the above allocation outside of the mandated state agencies such as NCCE and Information Services Dept. It was also widely believed that this was an attempt to channel funds through the NPP party youth structures. Fearing a backlash, GoG rescinded this decision...but not for long.

On 6th May, 2020, the mostly dormant **Coastal Development Authority (CODA)**, launched a campaign dubbed the "Wear Your Mask" campaign, targeting key sections of society who meet and interact with large numbers of people daily to educate them and make them anti-COVID-19 public education ambassadors as well as provide them with face masks. The CEO of the Coastal Development Authority (CODA), Jerry Ahmed Shaib, revealed that the Authority donated 220,000 face masks and hand sanitizers to fishers, commercial drivers, traders and market women in all 109 constituencies within the 4 region Coastal Development Zone.

Assuming that the face masks donated in the Coastal Development zone came from the one already awarded under the

\$10million Ghana Exim Bank facility, the GoG is yet to account for how the \$7.4million allocated for community engagement and risk communication was utilised. This represents a huge corruption risk and must be further investigated.

4.2.7 \$12.7m for Containment, Isolation and Treatment - From 1st Release of \$35m from the World Bank

On March 21, President Akufo-Addo announced the closure of Ghana's borders from March 22, for 2 weeks. Over 1,030 travelers who had arrived in the country in the immediate aftermath of the ban were mandatorily quarantined in isolation centers for 2 weeks to ensure they did not carry the virus and were completely free of it before being allowed back in their homes. It is estimated that an average of **\$150 per night was spent on the 1030 individuals for the 14 days** they stayed at the following hotels and guest houses; Golden Tulip, La Palm Beach hotel, Labadi Beach Hotel, Earl Heights, African Regent hotel, Accra City Hotel, Ibis Styles Hotel, Mensvic Hotel, Airport West Hotel, MJ Grand Hotel, AH Hotel, Charleston Hotel, Airport View Hotel, Central Hotel, M-Plaza Hotel and Tomreik Hotel. **GoG therefore spent \$2,163million on this activity.**

About 200 student contacts of the University of Ghana Pharmacy student who tested positive were isolated at the James Nelson Hall at the University of Ghana for 14 days. GoG was also funding

the use of other Isolation centers such as; The University of Ghana Medical Center, the Bank Hospital, Tema General Hospital, The Ghana Football Association (GFA) national teams' training facility in Prampram, and Church of Pentecost Convention Center at Kasoa in the Central Region.

Questions were however raised about official costs presented by GoG and the poor quality of services at these centers.

Even if GoG spent an additional \$2million on all the other isolation centers during the initial wave of the pandemic, there appears to be an unspent funds of \$8.6million within this allocation that needs further investigation.

4.2.8 \$3.4m for Coordination and Operations Management - From 1st Release of \$35m from the World Bank

The IMCC made up of Ministers and the Public Health Emergency Operations Center were to use part of the allocated **\$3.4m to coordinate and oversee the contracts for private sector management of the yet to be completed infectious disease center(s) and medical villages** throughout the country. No work has commenced yet so unclear how GoG utilized this allocation. This represents another corruption risk that needs further investigations.

A number of specially branded COVID-19 Isuzu pick-ups were spotted in town, ample evidence that some of this allocation was in all likelihood used to procure vehicles.

4.2.9 \$530,000 for 'Oversight' - From 1st Release of \$35m from the World Bank

GoG's proposal to the World Bank included \$530,000 for oversight for Ministers and MPs. Its unclear what 'oversight' means and how this allocation was utilized, presenting a corruption risk.

4.2.10 2ND World Bank Release (\$65m) To Support Critical Activities

At the onset of the epidemic in early March 2020, Ghana's biggest testing facility, Noguchi Memorial Medical Research Center per its available resources could only conduct tests up to mid-April, excluding the other research centers. The fact that Noguchi and KCCR, the 2nd biggest laboratory, conducted tests and are still conducting test till date, is an indication that some funds were released to them under this allocation. Four more laboratories were added to these two to enhance testing: The University of Health and Allied Science in Ho, Tamale Medical Laboratory, Tamale Veterinary Laboratory and Effia-Nkwanta Hospital in Sekondi.

Dr. Erasmus E. A. Agongo, Consultant Public Health Physician and a former Director of the Ghana Health Service (GHS) however called on GoG to give the three other Health Research Centers in the country some bail-out in the midst of the coronavirus pandemic, implying no funds had been provided to the other Research Centers as at early May 2020. The Health Research Centres include



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the Dodowa Health Research Centre (DHRC), the Kintampo Health Research Centre (KHRC) and the Navrongo Health Research Centre (NHRC).

4.2.11 Local Governance Initiative – From District Assemblies Common Fund

The Ministry of Local Government was allocated **GH¢60m** from the GH¢2.3b under the District Assemblies Common Fund for the 2020 fiscal year to the districts for fumigation services and logistics such as sanitizers, masks, dustbins, cleaning kits etc. A report of Parliament which revealed the allocation said the amount catered for sanitation and public health outbreaks. It was evident that fumigation, worth over GH¢1m⁷ took place in markets across the country by **Zoomlion**, owned by noted political financier, **Joseph Siaw Agyapong**. Additionally, the Administrator of the Common Fund, Irene Naa Torshie Lartey, in a letter dated April 9, 2020, released **GH¢166,280.62** each to the 260 districts towards the pandemic fight. Most of the DCEs are yet to account for these funds. Credible reports also confirm that the various districts across the country were supplied with food aid valued at GHc5,000 to be given to assembly members during the 3-week lockdown.

4.2.12 COVID-19 Testing at Kotoka Int. Airport

On September 1, 2020 President Akufo-

Addo announced the reopening of

Ghana's airports after a five-month closure of all air, land and sea borders to halt the spread of COVID-19. To prepare for resumption of passenger flights, GoG awarded a contract for the conduct of Covid-19 antigen tests to Frontiers Healthcare Solution Services Limited at the Kotoka International Airport (KIA). Non-ECOWAS passengers coming to Ghana by air were required to pay \$150 for a 30-minute PCR COVID-19 test administered by Frontiers Health Care Limited.

That same day on September 1, 2020, the Ghana Airports Company Ltd. (GACL), a wholly owned state entity, granted Frontiers Healthcare license to run their operations. The contract granting Frontiers HealthCare Services license to operate was signed the same day they began antigen testing at the KIA (Joy News, 2020). The Ghana Airport Company Limited says it agreed with Frontiers for the company to pay it \$10 per antigen test conducted. However, sources close to GACL say they received only \$4 instead of the agreed \$10, a development that violates the terms of the agreement.

A careful study of this whole procurement raises a number of corruption red flags;

- Frontiers Healthcare was incorporated on June 3rd, 2020 (registration number: CS079792020), just three months before it won the airport contract, and is a subsidiary of Healthcare Solutions Services (HSS), a company ultimately owned by The Peters Family

⁷ <https://thebftonline.com/2020/business/companies/zoomlion-commences-gh%2%A21m-covid-19-csr-disinfection-exercise/>

Company. This company, which is registered in the Island of Dominica, a tax haven, is owned by Nigerian businessman Benedict Peters, who is close to President Akufo-Addo. Peters, an oil magnate who founded oil company Aiteo, has been in exile in Ghana since 2015, when Muhammadu Buhari replaced Goodluck Jonathan as Nigerian head of state.

- The contract award breaches Sections 43 (1) and 44 (2) of the PPA Act, as well as Section 11 of the Fees and Charges Act. The \$150 per antigen test charge needed to be approved by the Parliament, but it wasn't approved by Parliament, making the \$150 charge illegal.
- Frontiers started operating whilst unlicensed by the Health Facilities Regulatory Authority (HEFRA). The Health Institutions & Facilities Act of 2011 (Act 829) is very clear about the prerequisite for delivering clinical and bio-medical laboratory services in Ghana: a company and its facilities have to be licensed by HEFRA – the Health Facilities Regulatory Agency of Ghana.

Added to the irregularities surrounding this procurement in a near confusion in Government about which Minister initiated and signed this award on behalf of Ghana. Five ministerial nominees who appeared before Parliament's Appointments Committee during their vetting claimed ignorant about the details on the contract. Health Minister-designate, Kwaku Agyeman-Manu, Attorney General-designate, Godfred Yeboah-Dame, Transport Minister-designate, Kwaku Asiamah, former Minister of State for Procurement, Sarah

Adwoa Safo, and Information Minister-designate, Kojo Opong-Nkrumah, all claimed no knowledge of the procurement processes adopted prior to contracting Frontiers.

4.2.13 Other COVID-19 Procurement

Throughout the pandemic, the government partnered with the private sector in order to roll out economic reliefs and recovery programmes as a result of the impact of the pandemic on Ghana's economy, with most of the procurement not advertised and sole sourced.

► School Supplies

On 20 August 2020, a 10-member committee was inaugurated by the Minister of Education to advise and deliberate on re-opening of schools. By June 2020, schools were partially reopened with only BECE and WASSCE candidates permitted to remain in school under social distancing protocols. To ensure a smooth and safe re-opening of schools, GoG said it had donated 18,000 Veronica Buckets, 800,000 pieces of 200-millilitre sanitizers, 36,000 rolls of tissue paper, 36,000 gallons of liquid soap and 7,200 thermometer guns to be distributed to schools, according to the President.

GoG also indicated it just released 2021 budget statement that it provided hot meals for 540,000 final students and teachers who sat for the 2020 WASSCE and BECE exams for three weeks. There is no full disclosure of who were awarded these contracts, from which fund the contracts were awarded and whether the contracts went through the proper procurement processes.



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Schools were fumigated, disinfected and mapped to a health facility for identification and treatment of suspected cases of coronavirus. COVID-19 response teams were trained in schools to ensure the adherence to the safety protocols. Comprehensive “Guidelines for School Re-opening during COVID-19” were published and distributed to all Regional, Metropolitan and District Directors of Education and Heads of all schools. As with all procurement during the pandemic, these contracts were not advertised according to law, were mostly sole-sourced and there’s no record of who the suppliers are.

▶ *Fumigation and Disinfection*

The Government of Ghana initially responded to the virus through a nationwide disinfection and fumigation exercise which began in April 2020. From April 3, over 464 markets were disinfected across the country, with the second phase of nationwide fumigation taking place in July 2020. All these contracts were awarded to Zoomlion on sole source basis. In September 2020, the Ministry of Education with GES collaborated with Zoomlion to disinfect and fumigate over 850 High Schools across Ghana to pave way for the reopening of schools. Over 3700 schools in the Greater Accra alone, were fumigated (Ghanaweb, September 2020).

▶ *Support for Physically Challenged Entrepreneurs*

Government supported entrepreneurs with disability in the Northern, North East and Savannah regions with GH¢200,000 to help them in their businesses due to the impact of COVID-19 (Ghanaweb,

September 2020).

▶ *Evacuation of Ghanaians Abroad*

In May 2020, the Ministry of Foreign Affairs commenced an evacuation exercise to bring home over 9,000 Ghanaians and resident permit holders from countries around the world such as South Africa, The Gambia, Ukraine, United Arab Emirates, United Kingdom, United States of America, China, Benin, Burkina Faso, and Togo, with 2,262 Ghanaians evacuated in Lebanon alone. On 13 September 2020, the Ministry of Foreign Affairs announced it had ended the evacuation of Ghanaians who were stranded abroad due to the COVID-19 restrictions. According to the Deputy Minister for Foreign Affairs, \$1,062,600 was spent on this evacuation (Ghanaweb, September 2020).

4.2.14 COVID-19 Trust Fund

In March 2020, President Akufo Addo established the Covid-19 National Trust Fund with the view of soliciting support from Ghanaians, as the country was fighting the coronavirus pandemic. Donations into the Fund were, to a large extent, help in supplementing and complementing GoG’s effort in cushioning particularly the vulnerable in society, who had and are still affected by some of the tough measures outlined to deal with the pandemic. In order to have an organised and transparent approach to the collection and disbursement of funds, the President inaugurated a Board of Trustees on 29th March 2020 to oversee affairs of the Fund. The

President and Vice President promised their 3-month salaries from April-June to the Fund. Some parliamentarians also donated 50% of their April to June salaries to the fund.

The COVID-19 National Trust Fund had, as of December 15, 2020, received GH¢57.15 million in cash and in-kind donations, from corporate organisations (Daily Graphic, January 2021). The Chief of Staff, Mrs. Akosua Frema Osei-Opere, who announced this at the 72nd annual New Year School, said out of the amount, the fund had so far disbursed GH¢49.29 million for different programmes, including procurement. The beneficiary institutions were the Ghana Health Service, selected hospitals and health facilities, COVID-19 care management centres, isolation, laboratory and testing centres, selected associations, care homes and orphanages, among others.

The Ministry of Gender and Social Protection in collaboration with National Disaster Management Organisation (NADMO), Metropolitan, Municipal and District Chief Executives (MMDCEs) and Faith based Organisations had been involved in the distribution of food and other supplies to the underprivileged within the communities under lockdown.

Once again and consistent with how procurement of goods and services had been conducted during the pandemic, there was no full disclosure by GoG on how procurement had been conducted, who was awarded contracts, how much was awarded to who and how disbursement had been made.

4.3 Red flags by Type of Fraud

The analysis of all above mentioned funds and disbursements shows a similar categorization of types of procurement fraud and of the corresponding red flag indicators. However, a structured categorization is not always straightforward, since categories are often overlapping, and cause and effects are sometimes confused. Corruption – which is generally defined as bribery and kick back – is often combined with other categories of procurement fraud. This section contains a synthesis of the materials analysed and presents the main categories of procurement fraud during the COVID-19 pandemic (with focus on those related to corruption), in terms of definitions and red flags indicators.

4.3.1 Bribery and Kickbacks

Bribery occurs when a public official accepts something of value (money, gifts, travel and entertainment, loans, etc.) in exchange for preferential treatment of a contractor, such as:

- Qualifying an unqualified company to bid
- Improper or non-competitive contract awards
- Excessive payment for goods or services
- Procurement of excessive quantities, or procurement of inappropriate items



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- Continued acceptance of low quality or non-compliant goods, works or services

Kickback is a specific form of bribery where an amount of money is given to a public official in return for a contract award or providing preferential treatment. Depending on the industry, kickbacks for contract awards usually range 5%-20% of the contract value.

Fees can be used to disguise corrupt payments. These fees often take the form of the involvement of an unnecessary middleman (broker, agent or facilitator).

Two common scenarios associated with this practice are:

- 1) An international contractor hires a local agent to “assist” with the bid preparation and contract negotiations. The fee paid to the local agent is often used to pay agreed bribes.
- 2) A contracting authority places an order for the procurement of goods with a middleman at a certain price per item. The broker buys the equipment from a local firm for a lower price per item (or buys cheaper substitutes) and keeps the profit or splits the profit with the procurement officials.

RED FLAGS FOR BRIBERY AND KICKBACK

Enhanced financial standing

Unexplained increase in wealth of public official (procurement official or other government official involved in awarding contracts).

- ▶ Difficult to prove this without private investigations and access to bank accounts of companies involved in the procurement.

Public official socializes with (current or prospective) contractor and accepts inappropriate gifts or entertainment.

- ▶ Dignity DTRT owned by Salma Salifu, who was awarded contract to produce 45,000 – 200,000 face masks/day has a longstanding working and social relationship with Allan Kyeremateng, Trade & Industry Minister, as well as President Akufo-Addo.
- ▶ Sleek Garment Export Limited who was awarded contract to produce 45,000 to 50,000 face masks/day also has a longstanding working and social relationship with Allan Kyeremateng, Trade & Industry Minister.
- ▶ Kad Manufacturing Limited, who was awarded contract to produce 30,000 face masks/day has been a close friend of Mrs. Angela Ofori-Atta, wife of Finance Minister, Ken Ofori-Atta for 26 years.

Intermediaries	Involvement of a middleman (broker, local agent) with no obvious value to the performance of the contract. See also: Shell companies
Repeated awards	<p>Repeated awards to the same contractor at higher-than-market prices.</p> <ul style="list-style-type: none"> ▶ The four garment manufacturing companies (Sleek Garment, Kad Manufacturing, Dignity DTRT and Alfie Designs) given loans of \$10m through the Ghana Exim Bank to produce PPEs, face mask, medical scrubs, hospital gowns and head gears have won repeated contracts from the Ministry of Trade & Industry and were selected without tender. ▶ The School Feeding Programme Secretariat, headed by Gertrude Quashigah, wife of the late former Minister of Health and Agriculture, Major Courage Quashigah, played a key role in selecting school feeding caterers to prepare food during the 3-week lockdown. Gertrude is Founder and CEO of Ambar Quality Foods Limited, a catering service entity that was awarded catering services contract to cater for former President John Agyekum Kufuor during his 8-year tenure. At GHc5.00 per pack, the price of the hot meals appears inflated, particularly for a large contract of 400,000 packs per day. By standard practice, the School, Feeding Programme has been state-captured by ruling parties, who award these contracts to party women organisers, who in turn re-award the contracts to favourites.
Laws offended	<p>Section 43 of Act 663 amended</p> <p>(1) The procurement entity shall request for quotations from as many suppliers or contractors as practicable, but shall compare quotations from at least three different sources that should not be related in terms of ownership, shareholding or directorship and the principles of conflict of interest shall apply between the procurement entities and their members and the different price quotation sources.”</p> <p>(Act 663, Section 44) amended</p> <p>(2) In procurement proceedings in which the procurement entity decides that only domestic suppliers, contractors or consultants may submit tenders, the procurement entity shall employ national competitive tendering procedures.</p>

	<p>(7) A procurement entity shall stipulate a minimum period of two weeks or a maximum period of six weeks for the submission of tenders under the national competitive tender procedures.”</p> <p>Ghana’s Protection Against Unfair Competition Act 2000 (Act 589) codifies the common law tort of passing off. The act sets out the various practices deemed as unfair competition such as “unfair competition in respect of secret information.”</p> <p>Checks reveal that no tender notice for the above procurement was published and the four companies are not registered with the PPA.</p>
<p>Applicable International Benchmarks</p>	<p>Contravenes MAPS 9(b) Selection and contracting</p> <ul style="list-style-type: none"> (a) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process. (b) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors. I. Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed. <p>9(c) Contract management</p> <ul style="list-style-type: none"> (f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised. (g) The records are complete and accurate, and easily accessible in a single file. <p>11(a) Enabling environment for public consultation and monitoring</p> <ul style="list-style-type: none"> (c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society. <p>11(b) Adequate and timely access to information by the public</p> <ul style="list-style-type: none"> (a) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.

	<p>11(c) Direct engagement of civil society</p> <p>(a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate:</p> <ul style="list-style-type: none"> • the planning phase (consultation) • bid/proposal opening (observation) • evaluation and contract award (observation), when appropriate, according to local law • contract management and completion (monitoring). <p>(b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.</p>
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4.3.2 Conflict of Interest

Conflicts of interest arise when procurement officials have undisclosed interests in or links with a contractor. Article 284 of the 1992 Constitution states that “a public officer shall not put himself in a position where his personal interest conflicts or is likely conflict with the performance of the functions of his office.” This constitutional provision neither defines the meaning or scope of conflict of interest. The “Conduct of Public Officers Bill 2013”, which among other things explains what conflict of interest is, gifts, asset declaration etc is yet to be passed by Parliament into law. CHRAJ has been relying on a draft

guidelines to determine complaints of conflict of interest. Though Cabinet approved the conduct of public officers’ bill in September 2013.

Personal conflicts of interest occur when a procurement official is in a position to take decisions that may enhance his/her financial standing.

Organizational conflicts of interest occur when a company is part of the development or specifications process for a public procurement. Note: Kickbacks, or generally bribery, can be prosecuted as a conflict of interest. The presence of a conflict of interest case might be easier to prove than actual corrupt payments.



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RED FLAGS FOR CONFLICT OF INTEREST

<p>Links between official and supplier</p>	<p>Involvement of a middleman (broker, local agent) with no obvious value to the performance of the contract. See also: Shell companies</p> <p>Frontiers Healthcare Services appears to have been hurriedly incorporated to take advantage of COVID-19 testing at KIA as it has no record of ever providing such services, didn't have the requisite personnel and had not been licensed by the regulator, HEFRA.</p> <p>Dr. William Ampofo, Head of Virology at Noguchi Medical Research Institute (coincidentally a cousin of President Akufo-Ado and Finance Minister Ken Ofori-Atta) oversaw the validation processes for Frontiers Healthcare to begin the antigen tests at a time approval had not been secured, with Frontiers relying principally on the use of Noguchi staff, leading local think tank, Imani Ghana to the conclusion "as we understand the situation, moonlighting personnel from Noguchi have continued to sustain the Frontiers Healthcare operation," adding "Frontiers Healthcare furthermore did not have the personnel and other prerequisites that would have allowed HEFRA approvals anyway."</p>
<p>Laws Offended</p>	<p>Section 22 (1) (a) of the PPA Act specifies the qualification criteria on basis of tenderers possessing professional and technical qualifications and competence, financial resources; equipment and other physical facilities; managerial capability, reliability, experience in the procurement object and reputation; and the personnel to perform the procurement contract.</p> <p>Health Institutions & Facilities Act of 2011 (Act 829).</p> <p>Section 11 (1) of the Act 829, "a person shall not operate a facility unless the facility is licensed under this Act". The main issues involved are Registration, Inspection, Licensing, Monitoring for Compliance, Renewal of Licenses and payment of retention fees by Health and Allied Health Facilities.</p> <p>Sections 3 and 11 of the Fees and Charges Act 2018 (Act 983).</p>



Applicable International Benchmarks

Contravenes MAPS 9(b) Selection and contracting

- (c) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.
- (d) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors.
- II. Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed.

9(c) Contract management

- (f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.
- (g) The records are complete and accurate, and easily accessible in a single file.

11(a) Enabling environment for public consultation and monitoring

- (c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.

11(b) Adequate and timely access to information by the public

- (b) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.

11(c) Direct engagement of civil society

- (a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate:
 - the planning phase (consultation)
 - bid/proposal opening (observation)
 - evaluation and contract award (observation), when appropriate, according to local law
 - contract management and completion (monitoring).
- (b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.



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4.3.2 Shell Companies

Shell companies are fictitious companies (often consulting firms), also called “front companies”, which are not legitimate entities, set up for the following purposes:

- Set up to obtain contracts in in transparent ways.
- Established by public officials of the contracting authority to submit

false invoices.

- As “shadow bidders” submitting higher priced bids to facilitate the selection of the designated winner and to give the appearance of competition.

Considerations about shell companies should be applied to contractors and all subcontractors.

RED FLAGS FOR SHELL COMPANIES	
Contact details	<p>Company registered in a tax heaven and/or payments are made against on accounts held by companies registered in a tax heaven.</p> <p>Ascend Digital Solutions Ltd, part of the two-firm consortium that was awarded the \$1m contact to develop the COVID-10 tracker app was incorporated in Jersey, a tax haven, on 9th March 2020.</p> <p>Frontiers Healthcare was incorporated on June 3rd, 2020, just three months before it won the airport COVID-19 testing contract, and is a subsidiary of Healthcare Solutions Services (HSS), a company ultimately owned by The Peters Family Company, registered in the Island of Dominica, a tax haven.</p>
Track record	<p>Newly registered company with no track record in the industry (unauthorized vendor)</p> <p>Company with unclear ownership structure.</p> <p>GoG awarded a contract worth about \$1m to develop the COVID-19 Tracker App to two foreign companies to jointly develop the app, iQuent Technologies, a UK software firm and Ascend Digital Solutions, also a UK software/IT consulting firm. iQuent Technologies was incorporated on 11th August 2014. Ascend Digital Solutions Ltd was incorporated on 9th March 2020 and incorporated in Jersey, a tax haven.</p> <p>Frontiers Healthcare that was awarded the contract for the COVID-19 antigen tests at Kotoka Airport was incorporated on June 3rd, 2020, just three months before it won the airport contract.</p> <p>Another GH¢1.4m (\$240,000) was spent at a grand virtual concert to launch the app.</p>



Laws offended	<p>Participation of any contractor or supplier is to be based on qualification and appropriate financial and legal capacity (Act 663 Sections 22,32,3q).</p> <p>The shortlist for consulting services may comprise only national consultants Act 663 Section 67 (2).</p>
Applicable International Benchmarks	<p>Contravenes MAPS 9(b) Selection and contracting</p> <p>(e) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.</p> <p>(f) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors.</p> <p>III. Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed.</p> <p>9(c) Contract management</p> <p>(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.</p> <p>(g) The records are complete and accurate, and easily accessible in a single file.</p> <p>11(a) Enabling environment for public consultation and monitoring</p> <p>(c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.</p> <p>11(b) Adequate and timely access to information by the public</p> <p>(c) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.</p> <p>11(c) Direct engagement of civil society</p> <p>(a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate:</p> <ul style="list-style-type: none"> • the planning phase (consultation) • bid/proposal opening (observation)



	<ul style="list-style-type: none"> • evaluation and contract award (observation), when appropriate, according to local law • contract management and completion (monitoring). <p>(b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.</p>
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4.3.3 Leaking Bid Data also called Manipulation of the bidding procedure

Leaking bid data occurs when a public official involved in the procurement process share information with favoured bidders to give them an unfair advantage, e.g., enabling them to tailor their bid so as to secure contract award.

This includes:

- Leaking bid information from competing bids
- Providing confidential pre-bid information (cost estimates). Such schemes usually occur in connection with bribery.

RED FLAGS FOR LEAKING BID DATA

Suspicious bid	<p>Winning bid contains data based on information which is not publicly available (Winning contractors participated in drafting specifications)</p> <p>Involvement of middleman (broker, local agent) with no obvious value to the performance of the contract. See also: Shell companies.</p> <p>Ascend Digital Solutions Ltd that was part of the two-firm consortium awarded contract for the development of the COVID-19 Tracker App, was incorporated on 9th March 2020 and owned by 28-year Ian Austin, and incorporated in Jersey, a tax haven.</p> <p>Vice President Mahamudu Bawumia launched the app on April 12, 2020, just about a month after the incorporation of Ascend Digital Solutions Ltd, implying officials of Ascend might have gotten leaked bid information in order to have applied for, won the bid and developed the app within the relatively short time span of four weeks.</p> <p>Frontiers Healthcare that was awarded the contract for the COVID-19 antigen tests at Kotoka Airport was incorporated on June 3rd, 2020, just three months before it won the airport contract. It has no prior record of being in such business and will have in all likelihood gotten access to privileged information to be able to bid for, win and set up at the airport.</p>
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	<p>GoG procured 18,000 Veronica Buckets, 800,000 pieces of 200-millilitre sanitizers, 36,000 rolls of tissue paper, 36,000 gallons of liquid soap and 7,200 thermometer guns to be distributed to schools. Till date no public data exists on suppliers who were awarded these contracts.</p> <p>The fumigation contracts awarded to Zoomlion to fumigate 464 markets across the country, over 850 High Schools across Ghana and 3700 schools in the Greater Accra doesn't appear to have gone through competitive tendering and will only have been awarded based on leaked information to Zoomlion.</p>
<p>Laws Offended</p>	<p>Section 43 of Act 663 amended</p> <p>(1) The procurement entity shall request for quotations from as many suppliers or contractors as practicable, but shall compare quotations from at least three different sources that should not be related in terms of ownership, shareholding or directorship and the principles of conflict of interest shall apply between the procurement entities and their members and the different price quotation sources.”</p> <p>(Act 663, Section 44) amended</p> <p>(2) In procurement proceedings in which the procurement entity decides that only domestic suppliers, contractors or consultants may submit tenders, the procurement entity shall employ national competitive tendering procedures.</p> <p>(7) A procurement entity shall stipulate a minimum period of two weeks or a maximum period of six weeks for the submission of tenders under the national competitive tender procedures.”</p> <p>Ghana's Protection Against Unfair Competition Act 2000 (Act 589) codifies the common law tort of passing off. The act sets out the various practices deemed as unfair competition such as “unfair competition in respect of secret information.”</p>
<p>Applicable International Benchmarks</p>	<p>Contravenes MAPS 9(b) Selection and contracting</p> <p>(g) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.</p> <p>(h) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors.</p>



	<p>IV. Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed.</p> <p>9(c) Contract management</p> <p>(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.</p> <p>(g) The records are complete and accurate, and easily accessible in a single file.</p> <p>11(a) Enabling environment for public consultation and monitoring</p> <p>(c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.</p>
	<p>11(b) Adequate and timely access to information by the public</p> <p>(d) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.</p> <p>11(c) Direct engagement of civil society</p> <p>(a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate:</p> <ul style="list-style-type: none"> • the planning phase (consultation) • bid/proposal opening (observation) • evaluation and contract award (observation), when appropriate, according to local law • contract management and completion (monitoring). <p>(b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.</p>



4.3.4 Unjustified Sole Source Procurement, Split Purchases and Inappropriate Bundling

Unjustified sole source procurement occurs when procurement officials, in collusion with a contractor, steer contracts to favoured companies by avoiding competitive bidding. This can occur in two ways:

- Split purchases: A single procurement is thereby split into two or more procurement transactions, each below competitive bidding thresholds, to avoid review or competitive selection.
- Significantly extending the scope of a contract (e.g. consultancy work) after contract award, taking the contract amount from “just below”

to “considerably above” the threshold for competitive bidding.

Repetition of this scheme, favouring the same parties, can be a strong indicator of corruption.

The opposite approach of contract splitting is inappropriate bundling, which yields the same result of reduced competition: The tender bundles a wide variety of goods that have no relation with each other, into one lot (e.g., computer equipment, copper wires and video equipment), with a provision stipulating that incomplete lots are not allowed. Single manufacturers or authorized dealers will likely not meet the requirements of the entire lot. There is thus a significant reduction in the number of potential or actual bidders resulting from the bundling, and typically the contract will be awarded to a favoured bidder (broker) at a price well above the estimates.

RED FLAGS FOR UNJUSTIFIED SOLE SOURCE PROCUREMENT, SPLIT PURCHASES AND INAPPROPRIATE BUNDLING

<p>Unjustified sole source</p>	<p>Almost all procurement during the COVID-19 procurement was sole sourced.</p> <ul style="list-style-type: none"> • The \$10m Ghana Exim Bank loan for the contract to produce PPEs, face mask, medical scrubs, hospital gowns and head gears awarded to the four garment manufacturing companies (Sleek Garment, Kad Manufacturing, Dignity DTRT and Alfie Designs) were sole sourced and selected without tender. • The GHc42million contract for 400,000 hot meals awarded to the School Feeding Programme Secretariat, headed by Gertrude Quashigah, wife of the late former Minister of Health and Agriculture, Major Courage Quashigah was sole sourced. • The about \$1m contract to develop the COVID-19 Tracker App awarded to two foreign companies (iQent Technologies and Ascend Digital Solutions) to jointly develop the app, was sole sourced.
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	<ul style="list-style-type: none"> • Another GH¢1.4m (\$240,000) awarded to Bola Ray, CEO of EIB Network to organise the virtual concert to launch the COVID-19 Tracker app was sole sourced. • The airport antigen testing contract to Frontiers Healthcare was sole sourced. • There is no record of national competitive tendering for the procurement of 18,000 Veronica Buckets, 800,000 pieces of 200-millilitre sanitizers, 36,000 rolls of tissue paper, 36,000 gallons of liquid soap and 7,200 thermometer guns that were distributed to schools. • The fumigation contracts awarded to Zoomlion to fumigate 464 markets across the country, over 850 High Schools across Ghana and 3700 schools in the Greater Accra doesn't appear to have gone through national competitive tendering.
Laws Offended	<p>Section 43 of Act 663 amended</p> <p>(1) The procurement entity shall request for quotations from as many suppliers or contractors as practicable, but shall compare quotations from at least three different sources that should not be related in terms of ownership, shareholding or directorship and the principles of conflict of interest shall apply between the procurement entities and their members and the different price quotation sources."</p>
	<p>(Act 663, Section 44) amended</p> <p>(2) In procurement proceedings in which the procurement entity decides that only domestic suppliers, contractors or consultants may submit tenders, the procurement entity shall employ national competitive tendering procedures.</p> <p>(7) A procurement entity shall stipulate a minimum period of two weeks or a maximum period of six weeks for the submission of tenders under the national competitive tender procedures."</p> <p>Ghana's Protection Against Unfair Competition Act 2000 (Act 589) codifies the common law tort of passing off. The Act sets out the various practices deemed as unfair competition such as "unfair competition in respect of secret information."</p>

Applicable International Benchmarks

Contravenes MAPS 9(b) Selection and contracting

- (i) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.
 - (j) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors.
- V. Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed.

9(c) Contract management

(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.

(g) The records are complete and accurate, and easily accessible in a single file.

11(a) Enabling environment for public consultation and monitoring

(c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.

11(b) Adequate and timely access to information by the public

(e) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.

11(c) Direct engagement of civil society

(a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate:

- the planning phase (consultation)
- bid/proposal opening (observation)
- evaluation and contract award (observation), when appropriate, according to local law
- contract management and completion (monitoring).

(b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.



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4.2.6 Excluding Qualified Bidders

Procurement officials can facilitate the selection of a favoured bidder by improperly excluding other qualified bidders, often in collusion with a corrupt bidder. This can take place at any time from the drafting of the bidding documents to the receipt of bids. Examples for tactics to exclude qualified bidders are:

- Those already described above: “Sole source procurement / split purchases” and “Rigged specifications”
- Arranging narrow or unduly burdensome pre-qualification criteria.
- Coercion and exclusion
- Questionable evaluation
- Questionable Disqualification
- Violation of procurement rules
- Biased evaluation criteria: For example, in an international competitive tender requiring the delivery of goods within a very short time of contract effectiveness, as this may exclude many international bidders whose shipments would take longer.

4.3 General Red Flags

Apart from the red flags which are specific to certain types of frauds, there are general characteristics which

increase the likelihood of corruptive and fraudulent acts in a tender:

- Large tenders (average value plus two times the standard deviation)
- Industries with a reputation for corruption. In Ghana, these are mostly: construction works and repairs, good and services; pharmaceutical products; and medical equipment and supplies.
- In case of foreign contractors: The contractor’s country reputation according to the Corruption Perception Index
- Procurement by local public authorities (versus central public authorities).

This is specific to Ghana and especially during the public procurement associated with COVID-19. Another issue, which is actually not only specific to Ghana, are donations to political parties, as a specific form of bribe. Donations by companies to political parties should therefore be considered as important red flags.

4.4. Risks and Probabilities

Different risks that correspond to the above listed red flags have different probabilities. For an accurate evaluation of these probabilities, it would be necessary to have access to and analyse

a larger sample of data. However, based on the available information, on the general perception and on international experience, some likelihood of the different corruption risks can be established. The table below also shows the risk impact. Obviously this impact depends on the transaction volumes.

However, certain types of fraud (such as split purchases) are likely to have a lower financial impact than donations to political parties (which are usually an indicator for influence on large value contracts). The table below provides an indicative risk matrix:

	PROBA-BILITY	IMPACT
Bribery and kickbacks	High	Medium
Conflict of interest	Medium	Medium
Shell companies	High	High
Leaking bid data	High	Medium
Manipulation of the bidding procedure	High	High
Excluding qualified bidders	High	High
Donations to political parties	High	High

Ghana's 2007 Public Procurement Assessment Report conducted by the World Bank emphasizes that a strong link ties the efficiency of the national procurement system to the achievement

of development goals stated in the Ghana Poverty Reduction Strategy II (GPRS II) (World Bank, 2007).

SECTION 5.0

Risk Mapping

This section describes corruption risks specific to COVID-19 public procurement using funds from the International Monetary Fund (IMF), the World Bank, Stabilisation Fund, the Heritage Fund and the COVID-19 Trust Fund established by Government of Ghana (GoG) in the wake of the pandemic, including mapping of integrity risk areas and recommended measures for integrity/corruption risks mitigation. Findings and conclusions in this section result from data mining, desk reviews and interviews held with various stakeholders.

5.1 High Risk Areas

The highest corruption risks in the COVID-19 procurement are found around the following two sectors of activity:

- Goods: products, relief and mitigation supplies.

- Services: payments to consultants and contractors for the provision of various services. This is not surprising, since these two sectors are those with the highest procurement volumes.

5.2 Overview

The procurement process is divided into four phases:

Phase 1 – Project identification (needs assessment)

Phase 2 – Advertising, prequalification, bid preparation and submission;

Phase 3 – Contracting process (bid review, Contractor selection and contract award)

Phase 4 – Contract implementation and monitoring

The tables below list the corruption

risks on both sides, i.e. by the economic operator (active corruption) and by the contracting authorities (passive corruption). Interviews suggest that active and passive corruption is equally strong. There is the perception that corruption often finances political parties, and vice-versa contracts are awarded by political criteria. Only some

of these irregularities are offenses according to the Penal Code:

- Falsification of documents
- Abuse and negligence of office
- Collusion between economic operators (difficult to prove).

	ECONOMIC OPERATOR	CONTRACTING AUTHORITY (GOG)	POSSIBLE CONSEQUENCES
Pre-bidding			
Phase 1: Project identification (Needs assessment)	Prioritization of needs influenced by external actors in favour of their interests.	Needs assessment skewed toward favoured contractors.	Possibility of payment of kickbacks.
		Abuse and negligence of office and dereliction of duty of care to citizens.	
Bidding			
Phase 2: Advertising, prequalification, bid preparation and submission.	Falsification of documents.	Collusion between economic operator and GoG.	Favoured contractors not held accountable for their actions, creating impunity.
Phase 3: Contracting process (bid review, Contractor selection and contract award)	Collusion between economic operator and GoG.	Contracting process skewed toward favoured contractors.	Reduced opportunity for other contractors to participate in the procurement process.
		Laws and regulations flouted to favour certain contractors.	Favoured contractors not held accountable for their actions, creating impunity.



Post-bidding			
Phase 4: Contract implementation and monitoring.	Collusion between economic operator and GoG.	Abuse and negligence of office and dereliction of duty of care to citizens.	Possibility of sub-standard supply (quality and quantity) of goods and services. A main concern (apart from outright corruption) relates to the acquisition of defective material or theft in the distribution or procurement of goods and services.
		Collusion between economic operator and GoG.	Possibility of bloated prices, depriving citizens and communities of needed development.
		Laws and regulations flouted to favour certain contractors.	Favoured contractors not held accountable for their actions, creating impunity.

5.3 Institutional Weaknesses

The risk mapping table and findings from interviews with stakeholders suggest the existence of several institutional weaknesses:

- The complete state capture of almost all government agencies and

departments by governing parties facilitates the collusion between economic actors and government agencies and encourages the dereliction of duty to hold people accountable for their actions.

- The limited role of the PPA, which is only a filter for ex-ante checking of compliance of the documents and does, for instance, not receive any feedback about contract implementation that would allow blacklisting of non-performing companies.

- The lack of ex-post monitoring of contract execution, nor blacklisting in cases of non-execution. Since a significant part of corruption cases become visible only during contract execution, an ex-post control of procurement transactions should be introduced in legislation.
- Conflicts of interest of the Inter-Ministerial Coordinating Committee and the National Technical Coordinating Committee members.
- The lack of risk management and risk registers in contracting authorities makes ex-post control by the control bodies difficult. The internal audit function could assist in that, but is still underdeveloped, has only few competences and is dependent of the head of institution.
- The low level of participation of economic operators in public procurement: One reason is that the Public Procurement Law requires a certain experience from tenderers. This is often a barrier to competition and leads to an excess of contracts awarded to a small number of economic operators which subcontract other economic operators who do not fulfil the experience requirements. Subcontracting is allowed, and it is not required to show sub-contractors in the bid, although the contracting authority has the right to request it.
- General public, independent governance institutions and CSOs have limited access to information: Access to bank accounts only after penal case is initiated, no direct access to the PPA IT system.
- Weak capacities of officials who carry out the reception of goods also results from the fact that current legal framework lacks provisions for post-award contract monitoring, and thus capacities in this regard are not developed.

The Government of Ghana (GoG) has been implementing Public Financial Management (PFM) reform strategies since the early 2000s, nevertheless, weaknesses remain, as identified by PEFA assessment, and all with adverse implications for the three budgetary outcomes of fiscal discipline, (fiscal risk), the strategic allocation of resources and efficient service delivery (fiduciary risk).

► *Expenditure commitment control*

Expenditure commitments made outside the approved budget and not supported by cash will likely result in payments arrears. Although the Ghana Integrated Financial Management Information System (GIFMIS) is now more or less fully in place (its establishment started in 2012) and is supposed to guard against commitments being made, it still seems to be the case that commitments are made outside the system (low scores for PI-22 on arrears and for commitment control under PI-25.2).



5.4 Legal Gaps

The public procurement law of Ghana to some extent ensures that public procurement is carried out in accordance with the principles of economy, efficiency, and transparency. This is demonstrated by its wide applicability and accessibility, existence of procurement oversight, requirement for procurement planning and procurement methods and procedures, which are applied largely according to international standards.

Further legal gaps are mentioned in the World Bank's Ghana: Use of Country Systems in Bank Supported Operations (August, 2010) as follows:

The law does include limitations to its applicability that go against the aforementioned principles and some provisions do not fully comply with international standards.

- Procurement methods defined and thresholds included in Schedule 3 of the Act are not clearly linked to the Act and operational practices; consequently, the implementation mechanisms need to be clarified in the proposed amendment to the Act and in its proposed regulations.
- The power vested in the Minister of Finance under Section 14 (3) of the Act to direct the use of a different procurement procedure where the Minister determines that it is in the "national interest" to do so does not

guarantee that the procedure will be in line with principles of economy, efficiency, and transparency. This provision provides an avenue, which can be used to introduce procedures that go against good public procurement practices and should be deleted. A critical study of the COVID-19 procurement indicates that GoG have (or will mostly) used this provision to avoid scrutiny, with most Ministers saying "we are not in normal times."

- Advertising rules and time limits are unclear. Publication of all advertisements should be mandatory on the PPA website and in a newspaper of adequate circulation.



SECTION

6.0

Recommendations

This section summarizes the recommendations elaborated above.

Recommendations for Government of Ghana (GoG)

To mitigate risks (e.g. hidden contracts, overpricing, and collusion), Government of Ghana should:

1. publish all public contracts;
 - i. use open and competitive bidding, and use emergency non-competitive processes only when followed by adequate forms of control, auditing and reporting scrutinizing such processes;
 - ii. publish beneficial ownership information of companies that are awarded contracts;
 - iii. empower existing anti-monopoly agencies to monitor market conditions in critical sectors, and
 - iv. foster cooperation among various authorities and with the civil society on matters related to transparency of public finances and the delivery of goods and services.

According to the IMF, it is important that the government publicize ex ante measures (e.g., publication of the plans on the use of emergency funding) and



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define ex post measures (e.g., publication of all information on attribution of procurement contracts or selective audit of procurement contracts once the crisis abates). For example, Ukraine has successfully launched the e-procurement platform **ProZorro** which has processed some health sector contracts and resulted in clear savings; also in Ukraine, Transparency International has recently reported on an attempt of non-compliant procurement that was identified through publicly available information, which allowed the State Audit Service to promptly confirm the violation. Colombia has also used open procurement data to track and manage emergency spending.

2. Channel donor funding through the budget with full transparency on its utilization.

This would ensure that donor funds are subject to the same scrutiny and reporting practices as other budget-financed expenditure. In Francophone systems, the so-called *Fonds de concours* (Voluntary Contribution Fund) is a legal instrument that provides for clear and transparent management of donor and individual contributions to the budget to address emergencies. In addition, specially designed disclosures on donor funds received—their source, purpose, target beneficiaries, and conditions for use— may be provided on a regular basis on the government website. Likewise, more granular high-frequency reports can be introduced to inform donors, and the public at large, on the utilization of such funds and their progress in achieving spending goals.

3. Where relevant, ensuring transparent when adapting existing rules to provide more flexibility in the implementation of actions.

Emergency implementation mechanisms should be based on an adequate framework giving clear criteria on the exercise of discretion by decision-makers. South Africa has activated the flexibilities under a pre-existing Disaster Management Act to manage actions for fighting COVID-19 and has emergency procurement tools available under its PFM Act in case of need. In the absence of a pre-established framework, Spain passed a series of emergency legal texts (royal legislative decrees, or specific legislation for which the Parliament has authorized the executive, subject to Parliamentary approval at a later stage) expanding existing mechanisms (e.g. centralized procurement for health-related products) and adapting others (temporary lay-offs with access to benefits) to mitigate the impact of the COVID-19 crisis.

4. Strengthening ex-post controls when ex ante and upstream controls are streamlined for rapid response. The Audit Service should be enabled to play a key role in the control of the support package, possibly supplementing, streamlined or already weak ex ante control mechanisms. Ex post control would have to be reinforced while allowing for ex ante flexibility in some cases, notably related to procurement of health equipment. In cases where existing internal control and internal audit mechanisms are weak, external control can undertake a more proactive stance. For example, Peru has reinforced their Supreme Audit Institution to enable it to conduct concurrent monitoring when processes are being implemented as opposed to just ex- post (for example

during the procurement process it will monitor activities to prevent misuse and to help implement timely corrective action) under the framework of the COVID-19 emergency.

Recommendations for International Development Partners

- 5. World Bank.** The World Bank Group (reputed as the biggest donor worldwide), with the ambitious goals of ending poverty within a generation and boosting shared prosperity, is made up of 188 member countries and comprises five institutions namely the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), Multilateral Investment Guarantee Agency (MIGA), and the International Centre for Settlement of Investment Disputes (ICSID). Of these five institutions, the IBRD and the IDA are the two institutions through which the World Bank directly provides funds to its client countries particularly the middle income and the poor countries to aid economic growth and improve the welfare of their people. The Bank has a procurement sector which has the responsibility of helping borrower countries improve their procurement systems. This is to ensure that the funds are used for their intended purposes, and that they effectively and efficiently support development (IEG World Bank, 2014).

Recommendations for Independent Governance Institutions

- 6. Parliament.** Parliament should ensure parliamentary scrutiny of all COVID-19 procurement and secure legal authorization of policy measures. In Finland for example, the proposal submitted to Parliament includes itemized details of additional spending and the impact of supplementary appropriations on the government's net borrowing and debt stock. Similarly, Japan's supplementary budget provides granular programmatic information on COVID-19 related spending and its financing sources. In Germany, a detailed presentation of the so-called "protective shield to manage the coronavirus pandemic" has also been made available, both to Parliament in a more technical form and to the wider public in digital, easily accessible format, including detailed costing, eligibility criteria and presentation of administrative processes by measure.
- 7.** Parliament should also institute parliamentary oversight of COVID-19 procurement implementation either through conventional or specific tools. Specific monitoring or oversight committees may have more specific expertise and may be less burdened by "current affairs" than the Finance or Budget Committee in its



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standard role of oversight of the budget process. Such committees, however, should coordinate with standing committees to benefit from institutional memory and have a more lasting impact. New Zealand established a new parliamentary select committee – the Epidemic Response Committee – which will meet remotely to scrutinize the Government’s response to COVID-19 while the House is not sitting. The 11-member Committee will be chaired by the Leader of the Opposition and will have 6 opposition members. France also created, both during the GFC and during this crisis, specific monitoring committees of various composition but with a prominent role for members of Parliament, tasked notably with oversight of the guarantee mechanisms put in place.

- 8. Auditor General.** Service delivery level: Forms of corruption such as informal payments, over-prescribing, and nepotism are likely to be exacerbated during a pandemic as the system experiences a greater patient load. To reduce bribery in service delivery, information on how emergency relief funds are spent should be available to internal and/or independent auditors. Priority auditing should be given to critical areas such as health,

public procurement, infrastructure and social security expenditures. For example, the International Federation for Red Cross and the Red Crescent Societies (IFRC) have already put in place a full-time auditor for its COVID-19 response following the fraud it uncovered during the Ebola outbreak. Similarly, the U.S. Federal Emergency Management Agency (FEMA) provided training to states and individuals on how to counter bribery and extortion by public officials and false benefits claims and identity theft that occurred during Hurricane Katrina. If FEMA fund recipients do not conduct rigorous self-audits, they can lose access to automated reimbursements.⁸

- 9.** With GoG’s fiscal year ending on 31st December, 2020, the Auditor General should commence auditing of COVID-19 procurement immediately.
- 10.** GoG’s proposal to the World Bank included \$530,000 for oversight for Ministers and MPs. Auditor General should audit how this fund was disbursed and utilised.
- 11.** GoG will in all likelihood spend \$4,163million out of \$12.7m for Containment, Isolation and Treatment from first release of \$35m from the World Bank. Auditor General must audit what appears to be unspent funds of \$8.6million within this allocation.



Recommendations for State Agencies

12. PPA. Set up a “White List” of qualified, vetted companies, with inclusion in this list mandatory for participating in public procurement.
13. Improve the legal framework in regard to introducing post-award control (reception of goods, monitoring of implementation), including feedback about contract implementation to the PPA that would allow blacklisting of non-performing suppliers.
14. Ensure mandatory preparation, approval and publication of annual procurement plans, in line with the budget and containing evidence of needs assessments. Changes should require approval from the PPA and publication.
15. Cost estimates, based on industry averages for the most common goods and services, to be included in annual procurement plans of Ministries, Departments and Agencies (MMDAs) at item level.
16. PPA should migrate to e-procurement to ensure electronic submission of bids, whereby the electronic documents must be protected against alteration.
17. Keep databases of item costs of winning bids, for main products and services, for later comparison and for establishing a knowledge base.
18. With the support of Development Partners, implement a specialized anti-fraud software (automated analysis of financial transactions for fraudulent patterns).

Recommendations for Civil Society

19. The Ghana Civil Society Organisations (CSOs) Platform on Sustainable Development Goals (SDGs), working together with other CSOs, networks, coalitions and strategic partners, established the CSO COVID 19 Response Committee to coordinate CSOs efforts in the wake of the COVID-19 national emergency. Consequently, the group has set up CSO COVID-19 RESPOSE FUND. Members of the committee are drawn from SEND Ghana, STAR Ghana, Ghana Agricultural Workers Union of Trades Union Congress, Ghana Anti-Corruption Coalition, Youth Advocate Ghana, International Child Development Programme, West African Civil Society Institute, Hope for Future Generation, among others.

The CSO Coalition should be involved in monitoring and ex post assessments, also providing a “grass-roots vision” of how a support package has actually been implemented. CSOs have been asked in some countries, such as Nigeria and Ghana, to help provide information to citizens about the disease and prevention measures, and there has been discussion about using these opportunities to also inform citizens about support policies and how to monitor them. **Observatorio Fiscal of Chile** has been analyzing controversial procurement decisions related



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to the pandemic. A CSO (**ICEFI**) in Guatemala is instrumental in monitoring the implementation of emergency measures.

20. CSOs should pressure (DCEs) to account for how they utilised **GH¢166,280.62** released to them on April 9, 2020 by the Administrator of the Common Fund.
21. Pressure the Ministry of Local Government to account for how it disbursed an allocation **GH¢60m** from the GH¢2.3b under the District Assemblies Common Fund for the 2020 fiscal year to the districts for fumigation services and logistics such as sanitizers, masks, dustbins, cleaning kits etc. In parallel, pressure the districts to account for their allocation of the above funds.
22. GoG's proposal to the World Bank included \$530,000 for 'oversight for Ministers and MPs'. Advocate for accountability in how this fund was disbursed and utilised.
23. Demand accountability for how the Inter-Ministerial Coordinating Committee (IMCC) made up of Ministers and the Public Health Emergency Operations Center utilised part of the allocated \$3.4m to coordinate and oversee the contracts for private sector management of the yet to be completed infectious disease center(s) and medical villages throughout the country. No work has commenced yet so unclear how GoG utilized this allocation.

Recommendations for Media

24. Key progressive media organisations should use this assessment to demand accountability from the IMCC and GoG.

Implementation of these recommendations and of the resulting verifications will require strengthening of the control institutions, in particular strengthening the Audit Recommendations Implementation Committees (ARICS) of the Ministry of Health and the Ghana Health Service, which would focus on audit and control of contract implementation. Furthermore, the PPA should also carry out regular spot checks, unrelated to specific complaints, for uncovering fraud patterns during the pandemic.



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