

CURBING UNETHICAL PRACTICES ASSOCIATED WITH PREFERENTIAL ALLOCATION OF CONSTRUCTION CONTRACTS IN GHANA: SURVEY PROFESSIONALS' PERCEPTION OF WHO SHOULD LEAD THE WAY

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The construction industry in Ghana is bursting with speculations and pieces of information that suggest that certain contracts are awarded on basis other than merits of a proposed bid and the competitiveness of cost. Undoubtedly, this unethical practice is amongst the most prominent challenges facing the construction industry in Ghana and many other developing countries. Literature is not lacking on measures to tackle this unethical practice, but what remains unclear is which professional stakeholder group is best positioned to lead efforts to change the situation. This paper reports a survey conducted into the extent to which key stakeholder groups of the Ghanaian built environment surveying profession (i.e. professionals; their organisations; and professional body) can influence improvement in unethical practices associated with preferential allocation of construction contracts in Ghana. On the four unethical practices considered, the results showed survey professionals perceived themselves to have greater influence in helping to curb the practice of collusion. On bribery, they perceived similar levels of influence as their organisations. The professional, his or her organisation and professional body were perceived to have similar influence in helping to curb discrimination and nepotisms while political influence was perceived to be best tackled by the professional's organisation and the professional body. Results from this study provides information to begin a bigger conversation on how to curb unethical practices associated with the problem of preferential allocation of construction contracts in Ghana's construction industry. Obviously, this conversation cannot be had without taking into consideration the roles various stakeholder groups can and should be playing in efforts to deal with the problem.

Keywords: preferential allocation, construction contracts, survey professionals, ethics, Ghana.

INTRODUCTION

Governments the world over are seen as the major construction client. They often use the construction sector which creates and manages the bulk of a nation's built-assets to drive socio-economic development. Construction,

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therefore, underpins the economy of many nations (see HM Government 2018:7). In providing transportation (e.g. road, rail and aviation), housing, healthcare, education, communication and energy infrastructure, governments have tended to procure the services of contractors through various public procurement contractual arrangements. The World Bank (2013) defines Public procurement as the process by which governments and other publicly-funded entities acquire goods, works, and services needed to implement public projects.

Many governments have enacted laws to harmonize public procurement processes in the public service to ensure judicious, economic and efficient use of state resources. These laws are meant to ensure that public procurement is fair, transparent and non-discriminatory. They aim at promoting competition and hampering corruption (Steven and Patrick 2006), reducing cost (Simon et al. 2005) and providing the enabling environment for effective utilization of scarce resources in the economy (Dikko 2000). Reducing bottlenecks, combatting corruption, and building capacity in procurement helps governments to maximize the buying power of their budgets and improve the quality of service delivery to their citizens. Competitive and transparent public procurement systems are therefore a key element to achieving sustainable development and more prosperous societies in Africa (World Bank 2013). In Africa, examples can be seen in countries like Kenya, Uganda and Tanzania where they have sought to streamline public procurement in terms of efficiency and transparency through the enactment of laws (Odhiambo and Kamau, 2003). In Ghana, the public procurement (amendment) Act 2016, Act 914 was introduced to streamline the anomalies in public procurement.

Public procurement laws notwithstanding, there is a growing consensus within and outside the construction industry that corruption and other unethical practices are endemic in the construction industry (Ameh and Odusami 2010). The presence of unethical practices within the construction industry is wide spread (see Zou, 2006; Plimmer et al. 2009; Bowen et al. 2012; CIOB 2013; Brown and Loosemore 2015). Among the most critical ethical issues faced by the construction industry is bias in tendering or unethical tendering practices (preferential allocation of contracts) (Doran 2004; Vee and Skitmore 2003; Jackson 2001; Ray et al. 1999). In Ghana's construction industry, there are speculations and pieces of information that point to the fact that most contracts are awarded on a basis other than merits of a proposed bid and the competitiveness of cost. This misconduct in the tendering processes or award of construction contracts is unethical.

Whilst several measures have been suggested to tackle this unethical practice, it remains unclear which professional stakeholder group can best lead efforts to realise a positive change. This paper, therefore, reports a survey conducted into the extent to which key stakeholder groups of the Ghanaian built environment surveying profession (i.e. professionals; their organisation; and professional body) can influence improvement in unethical practices that border on preferential allocation of construction contracts and attempts to identify which professional stakeholder group is perceived to best drive a change.

UNETHICAL PRACTICES IN THE CONSTRUCTION INDUSTRY

Many features of construction contracts provide enormous opportunities for unethical practices to flourish. The size in terms of monetary value, the competitive nature of such contracts (Shakantu 2003), the uniqueness of such contracts (Robb 1996; Zhuwakinyu 2003) and government being the major client for such contracts provide good grounds for unethical practices to flourish. There is extent literature on unethical practices in the construction industry. A study of the literature on unethical practices in the construction industry points one to examples of the practices to include failure to protect worker and public health, safety and welfare; collusion; mishandling of sensitive data (e.g. leakages); production of fraudulent documents (e.g. invoices & claims; failure to protect environment; bribery; improper relations with other parties (e.g. excessive gifts); abuse of company resources; abuse of client resources; discrimination and nepotism; misrepresentation of competence; and political interference. A segment of these practices noticeably touches on issues of corruption in the award of contracts (preferential allocation of contracts).

Corruption is defined by the World Bank as the abuse of public (entrusted) power for private benefit (Tanzi 1998). It is mostly seen in the form of a bribery i.e. illiciting money or payment in-kind. Bribe involves anything of value solicited, bestowed, or offered to induce or influence the receiver's conduct in the discharge of public or legal duty (in this case the award of contracts). Bribery certainly is a form of corruption, and corruption most often involves bribery. Though not the only form of corrupt or unethical practice in construction contracts, bribery in relation to the award of contract seems the most visible form (Ameh and Odusami 2010). Among the most significant ethical issues the construction industry is confronted with is bias in tendering or corrupt tendering practices (Doran 2004; Vee and Skitmore 2003). Corruption in the procurement system is when public officers use their public powers for personal merit by taking bribes in exchange for award of contracts to a contractor. In Ghana, this is referred to as 'kick-backs'. Percentages of the contract sum are given to officials of the tender board for their role in bid rigging in favour of a said contractor.

There is evidence in literature to point to the role of individual professionals, their organisations and professional body in the fight against preferential allocation of construction contracts (Ameh and Odusami 2010). However, what remains to be known is the extent to which specific professional stakeholder group can lead and influence a change. Ameh and Odusami (2010) in their study reported that in a construction contract, the quantity surveyor is the most susceptible to bribery. The builder/construction manager faces the greatest pressure to engage in unethical practices. Majority of respondents in their study in Nigeria indicated their involvement in unethical practices. They identified their professional body to have a crucial role to play a role in minimizing ethical lapses in the industry. They reckon that professional bodies should give more priority consideration to ethical discourse such as professional negligence, liabilities, responsibility to the

profession and the society, whistle blowing and other contemporary ethical issues at technical sessions, public lectures, and seminars.

In Ameyaw et al. (2011) study, respondents were asked to indicate whether corruption is still prevalent in the construction industry in Ghana. The result showed that incidence of corruption is still endemic in the construction industry despite the efforts by successive governments to curb corruption. They identified the bidding/award stage as highly susceptible to corrupt practices. Tender evaluation stage of the procurement process was found to be the most susceptible to corrupt practices. They recommended that the evaluation panel, as provided by the law, should therefore be given a close monitoring to foil any attempt by unscrupulous bidders to bribe officials at this stage. It is worth noting that a lot of things happen during this stage and evaluation panels are sometimes pressurized to disqualify the most competitive tender and rather recommend favourites of politicians or those in authority. Other times, corrupt bidders pay their way through the evaluation team to use all foul means to disqualify other bidders to their advantage.

Collusion in tendering takes the form of bid rigging where members of the tender board come into agreement with external parties (e.g. politicians) to rig the tender process. This cartel is gradually developing deep roots in Ghana's procurement system. It is in most cases referred to as 'Whom You Know' (Cronyism and nepotism). Politicians especially are seen to use their office to aid and abet in the allocation of construction contract to an unmerited contractor with an agreement with members of the procurement board. Political interference, cronyism, and nepotism all have the tendency to weaken commitment and capacity of regulators to enforce regulations. The effects of such unethical practices can be seen in shoddy works, uncompleted projects, and outrageous final contract figures. The menace of preferential allocation of construction contracts has dire consequences for the construction industry (see Runde et al. 2014; Schwab 2013).

RESEARCH METHOD

The target population for this study comprised built environment surveying profession stakeholders in Ghana (i.e. professional, organisation, and professional body). Data was collected from this target population through a questionnaire survey conducted during the 2015 Ghana Institution of Surveyors (GhIS) annual conference which was jointly organised with the Commonwealth Association of Surveying and Land Economy (CASLE). In Ghana, GhIS is the professional body that oversees the built environment surveying professions. The body has members in three divisions which represent the surveying professions: quantity surveying; valuation and property survey; and land survey. The 2015 conference was attended by about 450 delegates who were predominantly members of GhIS. A total of 105 useable questionnaires were retrieved from 250 questionnaires that were distributed at the conference i.e. a response rate of 42%.

The extent to which surveying professionals, their organisations, and professional body can influence improvement (i.e. bring about positive

change) in four unethical practices associated with preferential allocation of construction contracts (i.e. collusion, bribery, discrimination and nepotisms, and political influence) was assessed through a questionnaire survey. A five-point Likert scales (i.e. 1 = not at all; 2 = low; 3 = moderate; 4 = high; 5 = very high) was adopted in the questionnaire for the assessment. Demographic information such as professional role, education, and length of professional experience were also collected during the study. All data collected was analysed using descriptive statistics and presented using a table and multiple bar charts. This approach of data analysis and presentation was adopted for this study because of the ease with which it helps to construct a mental picture of the data and the people from which it was collected.

RESULTS AND DISCUSSION

Demographics

All respondents for the study were professional surveyors. The respondents' demographic information is shown Table 1. The results show that the majority of the respondents are quantity surveyors (43%) with postgraduate degree as their highest level of education (51%). Majority of respondents are male (84%) aged from 31-40 years (35%) with up to 10 years of professional experience (49%). Survey professionals in senior management/executive positions constituted the majority of the respondents for the study (56%). This is particularly important given that Ameh and Odusami (2010) in their work reported that construction professionals in the junior to middle level managerial positions are often the target/recipient of financial bribes.

Table 1: Respondents' demographic information

Variable	Option	Frequency	Percentage (%)
Role	Estate Surveyor/Valuer	41	40.00
	Quantity Surveyor	45	43.00
	Land Surveyor/Geomatic Engineer	18	17.00
Highest educational qualification	Pre-degree (HNC/Diploma/HND)	10	10.00
	Bachelor's degree	41	39.00
	Postgraduate degree (Masters/Doctorate)	54	51.00
Years of professional experience	0-10 Years	51	49.00
	11-20 Years	42	40.00
	Over 20 Years	12	11.00

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Figure 1 shows that, 47.6%, 52.4%, and 50.5% of the respondents perceive that they can influence improvement to have high to or a very high extent in collusion, bribery, and discrimination and nepotism, respectively. However, on political influence, only approximately 30% of the respondents perceive that they can, to a high or very high extent influence improvement.

Regarding the extent to which professionals' organisation can influence improvement in unethical practices, 42.0%, 54.3%, 60.0% and 55.2% of respondents were of the view that their organisations can influence improvement to a high or a very high extent in collusion, bribery, discrimination and nepotism and political interference, respectively. Figure 1 shows that 37.1%, 39.1%, 42.9% and 49.5% of the respondents perceived the professional body can influence improvement to have high or a very high extent in collusion, bribery, discrimination and nepotism and political interference, respectively.

On the four unethical practices considered, the results suggest survey professionals perceived themselves to be best placed to lead efforts to curb the practice of collusion. On bribery, the results suggest professionals and their organisations have similar ability (i.e. high to very high) to influence improvement. Admittedly, incidence of bribery usually is among project team members in the construction industry. Not only are professionals approached with monetary bribes but also nonfinancial bribes in the form of a promised future contract, gifts, birthday party and/or entertainments, or even an all-expenses paid holiday abroad (Ameh and Odusami 2010).

According to Ameh and Odusami (2010), when professionals are short-changed, they tend to collude with contractors to defraud the client. Professional bodies and organisations admittedly can play a role in making taking bribes a very unattractive venture through their actions against those found culprit but a personal decision not to take bribes remains the surest way to curb the problem. In a desperate bid to win a contract for the survival of a firm, contractors may be unable to resist the temptation to bribe, or indulge in other unethical tendering practices and thus find professionals that are willing to go along with them. It could be practically difficult to proceed with the unethical conduct if they do not find a willing professional in the process.

Chan and Armstrong (1999) and Bailey et al. (1991) in their works opined that individual behaviour within an organisation is most likely to be according to group norm or corporate culture. This points to the need to focus on all 3 stakeholder groups if significant impact is to be made in efforts to limit unethical practices in the award of construction contracts. From the results of this study, the professional, his or her organisation and professional body are all perceived to be equally equipped to play a lead role in efforts to curb discrimination and nepotism.

However, on the problem of political interference, survey professionals feel that very little success will be achieved if they are placed at the forefront to curb this problem. The findings rather suggests that, their organisations and the professional body should lead efforts to address political interference. This underscores the role of professional institutions in minimising unethical practices in the construction industry (Ameh and Odusami 2010).

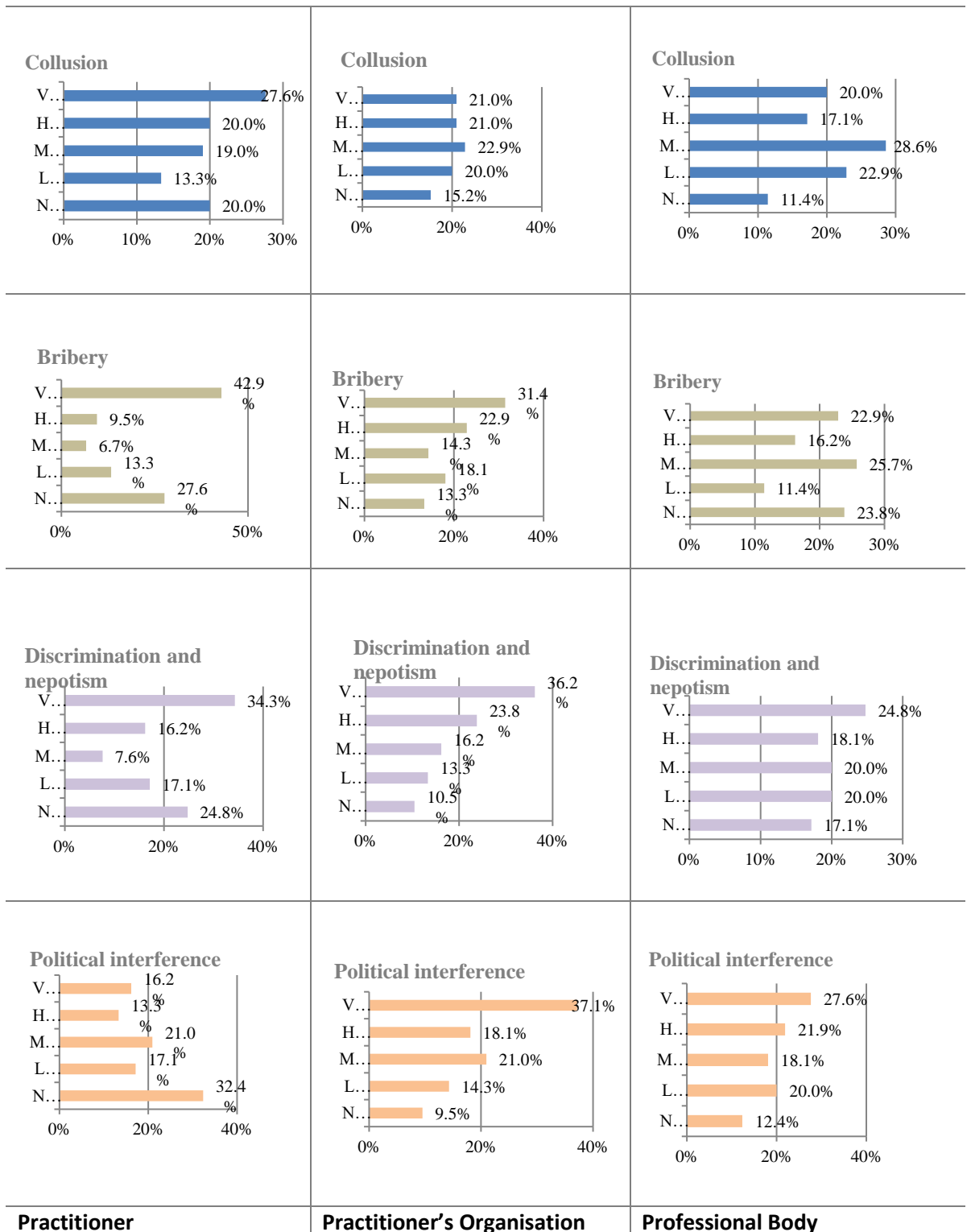


Figure 1: Extent to which practitioners, practitioners' organisations and professional body can lead efforts to curb preferential allocation of construction contracts

CONCLUSION AND RECOMMENDATIONS

There are myriad of unethical practices in construction contracting. However, on specifically the problem of preferential allocation of contracts, it is mostly seen to

manifest in practices like collusion, bribery, discrimination and nepotisms, and political influence. This potential denial of genuine and competent contractors from winning contracts affects all. There are trails of the adverse effects of these misconducts in tendering processes.

In answer to the question of which survey professional stakeholder group can best lead efforts to curb unethical practices associated with preferential allocation of construction contracts, this study concludes that individual professionals, their organisations and the professional body all have important roles to play. The professionals, and to some extent their organisations, could lead the fight against collusion. Regarding bribery, the professionals and their organisations could also lead efforts to bring about improvement. The professionals, their organisations and the professional body could all be at the forefront in the fight against discrimination and nepotism. The professional body and professionals' organisations could lead the charge against political influence.

Survey professionals should be serious with ethical issues and their organisations and professional body must provide them with the training and support systems required to help them to operate ethical in the discharge of their professional duties. Adequate and prompt payment of monies due professionals should be seen as a matter of great importance in the fight against bribery and collusion. The professional body undoubtedly remains a key stakeholder in tackling political interference. Through dialogue with government and law makers, the professional body should develop enough clout to protect their members who resist this kind of interference and to be bold to name and shame politicians who engage in this act. Overall, the results from this study provides information to begin a bigger conversation on how to curb the problem unethical practices associated with preferential allocation of contracts in construction.

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