



## COMPARISON OF PUBLIC ADMINISTRATIONS` CONTRACTOR SELECTION PROCESS BETWEEN GHANA AND TURKEY

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### Abstract

In public construction works contractor selection process differs from private sector contractor selection process. Procedures of selection process in public sector are more longer and harder for public administrators. The selection process is based on standard procedure, and differs from country to country. Every country has its own procurement law, and in bidding contractor tries to turn the tender result in his own advantage in a competitive environment. Administrative unit predicates on some criteria and finalize the completed documents by law. The tender process is conducted according to the Public Procurement Authority (PPA) in Ghana, while this process is being conducted according to the Public Procurement Law (PPL) in Turkey. The aim of this study is to examine the differences in contractor selection process of public entities in Ghana and Turkey. In this content, the PPA and PPL are compared in the scope of the study. It is found out that Ghana and Turkey's contractor selection process in public sector have both similarities and differences.

**Keywords:** Traditional project delivery, Contractor, Tendering, Turkish Public Procurement Law, Ghana Public Procurement Authority.

### 1. Introduction

Traditional project delivery system is a linear processed delivery system which consists of design-bid-build work sequence, and it is generally used in public sector construction works, where the importance of the contractor selection process is emphasized. After the design phase, the project is tendered for a contract in order to select the contractor. The documents of tender is tried to give the right contractor in a competitive environment within the cost effectively, high quality standard and in a efficient time. Selection of the right contractor to the right construction work have parallels with project success (Erbaş, 2015).

According to the World Bank in Turkey's overview, Turkey's population is about 78.6 million as at 2016 and GDP is around US\$850 billion. Turkey is the 17th largest economy in the world. From 2000 to 2014, per capita income in Turkey nearly tripled and now exceeds US\$9,000. Turkey is a member of the Organisation for Economic Co-operation and Development (OECD) and the G20 According to the World Bank in Turkey's overview, Turkey's population is about 78.6 million as at 2016 and GDP is around US\$850 billion. Turkey is the 17th largest economy in the world. From 2000 to 2014, per capita income in Turkey nearly tripled and now exceeds US\$9,000. Turkey is a member of the Organisation for Economic Co-operation and Development (OECD) and the G20 and an increasingly important donor of Official Development Assistance (ODA). On the other hand, Ghana's population is about 27 million and it's considered as lower middle income status country and GDP is about \$114.7 billion. Ghana's growing oil and gas sector, investments in infrastructure, rapid urbanisation and a growing housing deficit continue to place demand on the country's construction sector (World Bank, 2017).

As a result of the differences in economic development the level of development in other areas are different in Ghana and Turkey too. Construction sector constitutes the main area which both countries have differences. Differences are reflected to the public construction works. In public sector, the law and regulations should be taken in a consideration. Contractor selection process has important regulations in public sector and depends on standard procedures. Public administrations do not allowed to select their contractors without obeying these procedures. Laws and regulations differ from country to country. The contractor selection process should be done in Ghana according to Public Procurement Authority (PPA) and in Turkey according to Public Procurement Law (PPL). The construction of public buildings as high-cost and low-quality buildings because of the disruptions in the existing system is a very important shortcoming in terms of efficient use of public resources in Turkey (Erbaş and Çıracı, 2013). Also the limitations of the Public

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Procurement Law in Turkey constitute important barriers to the successful completion of public construction works (Erbaş, 2017).

The main aim of this study is to find the differences in the contractor selection process in traditional projects methods in Ghana and Turkey’s public projects. For this purpose, tendering process are defined and compared according to PPA and PPL. This study would serve as a benchmark for stake holders in the Ghanaian and Turkish construction industry who wish to take foreign project to understand how the systems work and equip themselves well before embarking on the project for better projects delivery in the two countries. In addition, this study also offers a suggestion to Turkish Housing and Public Works Ministry to consider the findings for possible amendments.

## 2. Traditional project delivery method

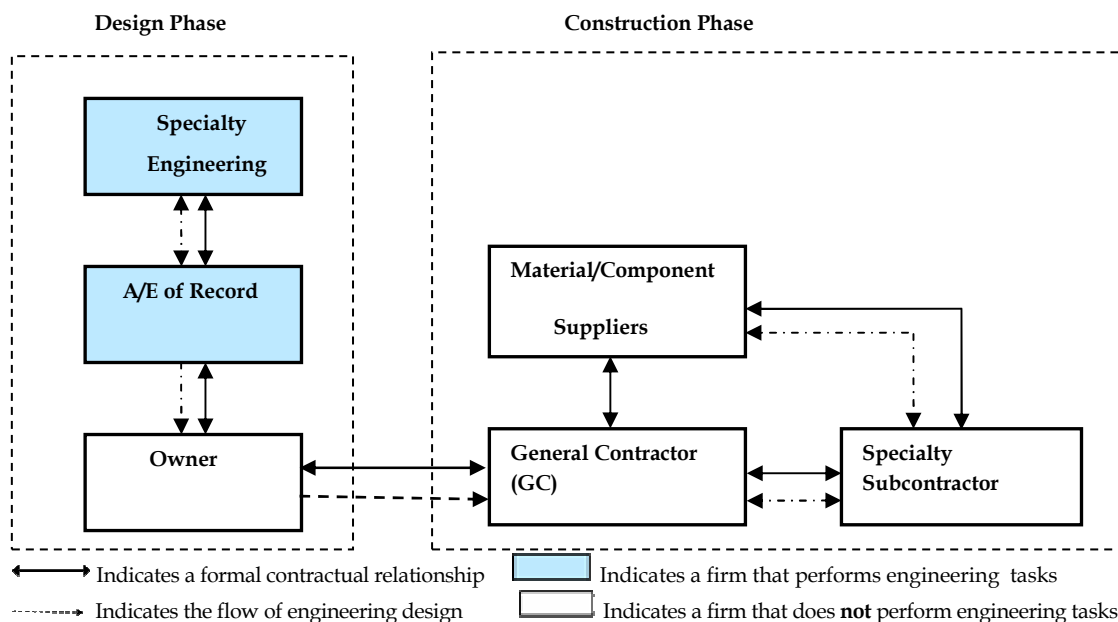
The traditional project delivery method, which is also called as design-bid-build, is used commonly used in different countries. When the public tenders are examined in Turkey, it is seen that the traditional project delivery system sequence followed by the design, tender and construction processes is applied in these tenders (Erbaş and Çıracı, 2013). It is the project delivery system which starts with the idea of construction work and finishes with the execution of work, and the process of design, bid and build follow each other (Gould and Joyce, 2000; Çakmak, 2014). The system has a linear flow chart because of the following the process in order (Figure 1).

Fig.1. Work flow in traditional project delivery system(Gould and Joyce, 2000)



The owner, designer (architect) and contractor are three prime players of traditional project delivery system (Erbaş, 2016). In this system, the owner of the project contracts both the architect and the contractor to execute the project in separate phases (Figure 2). In the first phase, the owner of the project contracts with the architect to undertake the drawings and prepare all the tender documents. That is the designer prepares a design package, including contract documents (Al Khalil, 2001). The designer can take consulting service about the relevant issue when he needs, and make a contract with them. In the second phase, the contract between the owner and contractor starts. According to contract which is signed between owner and contractor, contractor should execute the construction work within the determined time, budget, and quality (Çakmak, 2014). Contractor can also make a contract with subcontractors. In this project delivery method, the designer and contractor do not have a written relationship.

Fig. 2. Traditional project delivery method contract relationship (Hallowell and Toole, 2009)



Traditional project delivery method has both advantages and disadvantages. The advantages of this system can be listed as a predetermination of procedures and specifications, forecasting of the cost, reducing the risks of the owner, less need for owner participation, and cost saving from the proposals because of

competition (Erbaş, 2015). However, the disadvantages of this system can be summed up as difficulties in a working as a team of a different participant of the project, conflict of an interest and disagreement between participant of a project, the increasing of time and cost because of the nonparticipation of the user and managers in a design phase, and nonparticipation of the contractor in design phase which result in a problem in a construction phase (Mutluay, 2005).

### 3. Comparison of tendering processes

Public procurement is a purchasing goods and buying services, and accomplishing construction work in a narrow and general sense (Yılmaz, 2012). Hughes and Murdoch (2005) (also cited in Sertyeşilışık, 2007) point out purposes of tendering as; selection of a suitable contractor and requesting of the offer of a price from the contractor at an appropriate time. On one hand, public tender prevents waste of public funding, and provides the suitable supplier. It fulfills the contribution of the country development and supports the social and environmental policies (Yılmaz, 2012). Due to the restrictions of the traditional project delivery system and the restrictions of the contractor selection process, public building construction process is very difficult especially in Turkey (Erbaş, 2017).

In Ghana and Turkey, the traditional project delivery method is used in public works. Ghana depends on Public Procurement Authority Act 663, and Turkey depends on Public Procurement Law No. 4734. Erbaş (2015) defined contractor selection process in three phase in her study. In the scope of the study for ensuring an accurate comparison definition scheme of Erbaş is used and developed for tendering process in Ghana (Figure 3). The first phase is entitled different in Ghana and Turkey. The first phase is entitled with an invitation to bidding in Ghana, whereas in Turkey it could be called pre-qualification phase and invitation to bidding. The second and third phase have the same titles, the second phase is a tender commission process and bidding phase, third phase is an invitation to contract and signing of the contract.

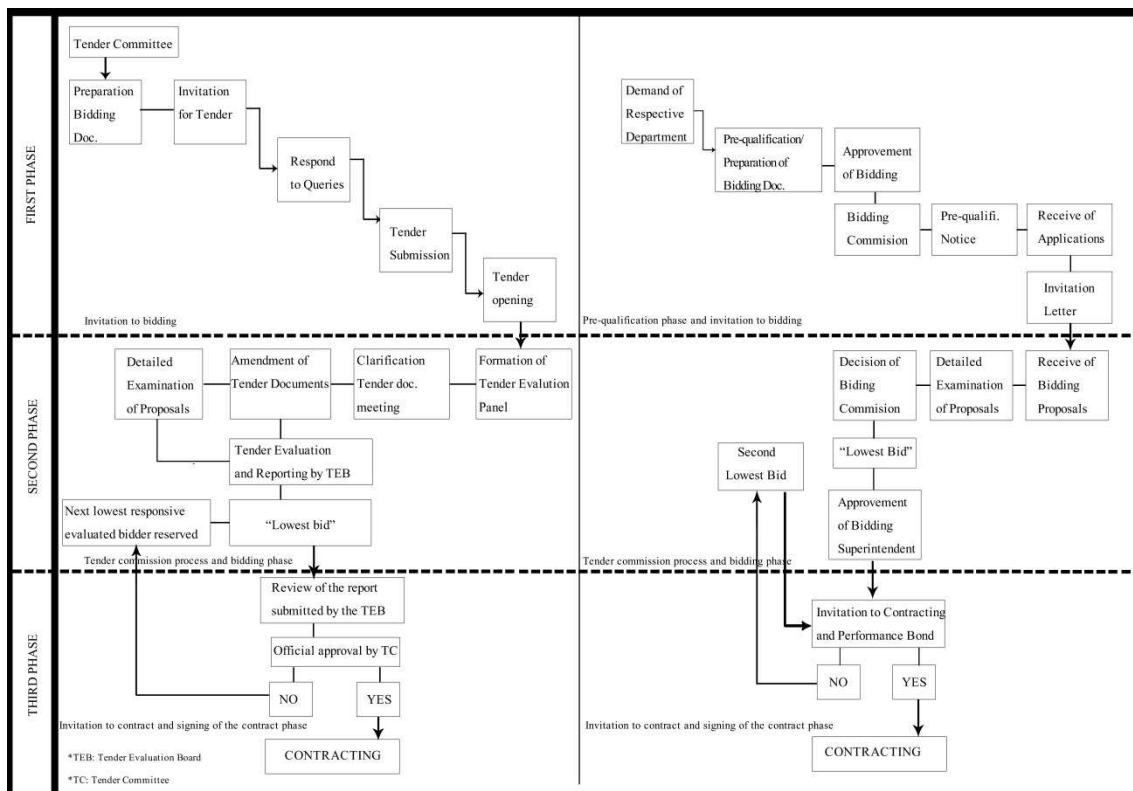


Fig.3 Ghana and Turkey's contractor selection process (Adopted from Erbaş, 2015).

#### 3.1 Comparison of first phase

First phase could be entitled as "invitation to bidding phase" in Ghana, whereas it is called "pre-qualification phase and invitation to bidding" in Turkey. This phase generally consists of the preparation of tender documents and invitation to tender in accordance with the Public Procurement Authority and Public Procurement Law. However, in comparing this phase, the steps are different in both countries.

In Ghana, PPA (2003; Sec.23.1), categorically states that, a procurement entity may engage in prequalification proceedings to identify tenderers who are qualified prior to the submission of tenders. Tendering process can be done without pre-qualification process in which bidders are asked to provide



specified documents. Because in Ghana, there are classes of contractors according to Ghana's Works and Housing Ministry which include: D1/K1, D2/K2, D3/K3 and D4/K4 which D1/K1 been the highest class. Any type of project to be executed falls under the capacity of one of the above mentioned class of contractors and for this reason mostly pre-qualification phase is not preferred. Without going through the pre-qualification stage the bidders are required to provide specified documents such as legal status, place of registration, and principal place of business, written power of attorney, total monetary value of construction work performed, experience in works of a similar nature and size for each of the last five years and any other document requested.

In this phase, the procurement entity forms a tender committee to carry out the tendering processes (PPA Act 663,2003; 1. Section.17.1), whilst the preparation of the tender documents is being done. The procurement entity invites tenderers by publishing it in the procurement bulletin and also publishes in at least two newspapers of wide national circulation (PPA Act 663, 2003; 5. Sec.47.1). The procurement entity then provides the tender documents to the contractors in accordance with the procedures and requirements specified in the invitation to tender (PPA Act 663, 2003; 5, Sec.49.1). If a contractor requests promptly clarification of the tender documents from the procurement entity, the procurement entity respond to the request by the contractor within a reasonable time before the deadline for the submission of tenders to enable the contractor make a timely submission of its tender and without disclosing the source of the request communicate the clarification to other contractors. The procurement entity may modify the invitation documents by issuing an addendum prior to the deadline for submission of tenders if necessary. The procurement entity may convene a meeting of contractors to clarify and modify tender documents and prepares minutes of any previous meeting concerned with clarification of the invitation documents without identifying the sources of the requests (PPA Act 663, 2003; 5, Sec.51.1).

The procurement entity fixes the place, date and time as the deadline for the submission of tenders, and allow the tenderers at least four weeks and six weeks to prepare their tenders for national and international competitive tendering respectively (PPA Act 663,2003; 5, Sec.53.1). In the submission stage, all tenders are deposited in the designated locked tender box or such other arrangements as stated in the tender document until the tender opening.

In Turkey, during the pre-qualification phase, the contractor selection process starts with the demand of respective department of the government entity. Pre-qualification and bidding documents are being prepared. After approval of bidding, bidding commission is established by bidding superintendent within three days after the bidding documents are prepared (PPL, Article. 20). After the notice of pre-qualification, applications of bidders are received. In pre-qualification phase participation of all bidders are provided. The criteria for the selection bidders specified in the notice include economic and financial qualification, professional and technical qualification and the number of jobs that can be considered as acceptable equivalent or similar job are the main evaluation criterias considered in the pre-qualification phase (PPL, Article.7). Evaluation is done base on the above mentioned criterias.

Approval of bidders is being done by the bidding commission after which pre-qualification notice is given to the selected ones and invitation letter is sent to all bidders which are determined as sufficient for participating in bidding phase.

When comparing Ghana and Turkey in terms of first phase, it is found that, in Ghana there is a class of contractors, so no need to make pre-qualification. However in Turkey there is a pre-qualification phase. In addition, the formation of tender committee is in the first stage in PPA, whereas the foundation of bidding committee is after the approval of the bidding in PPL. So, the formation of the committee is at first phase in both countries but at the different steps. However, these differences in tender committee formation have no impact in process. Moreover, unlike Turkey, in Ghana there is a chance which the procurement entity responds to the all queries by contractor before the deadline for the submission of tenders. Therefore, the contractors have no doubt in their mind about the tender.

### **3.2 Comparison of second phase**

The second phase, which is named as "tender commission process and bidding phase", is in both countries. This phase involves the detailed examination of the proposals, and the process which goes through the result of the tender. The lowest responsive evaluated bidder wins the tender in both countries. However, the tender evaluation process differs from each other.

In Ghana, the tender opening commences immediately after the close of the tenders as stated in the tender document. They announce the tender price and ensure that minutes of the tender opening proceedings are duly written (PPA Act 663, 2003; 5. Sec.56.1). The Head of Procurement Entity constitute an Evaluation Panel Consisting of a minimum of three persons with the required expertise to conduct the evaluation (PPA,



Act 663,2003; 1. Article.19.1). The procurement entity may ask a contractor for clarification of its tender in order to assist in the examination, evaluation and comparison of tenders and no change in a matter of substance in the tender, including changes in price and changes aimed at making an unresponsive tender responsive, shall be sought, offered or permitted. Corrections done are purely arithmetical errors that are discovered during the examination of tenders (PPA Act 663, 2003; 5. Sec.57.1). After detailed examination of proposals conducted by the evaluation board, the lowest evaluated responsive tender is recommended for the award of contract (PPA Act 663, 2003; 5. Sec.59.3). The Tender Evaluation Panel then prepares an evaluation report to the Tender Committee for approval.

In Turkey, within the specified time, the bidders are requested to submit their financial proposals to administration for undertaking the construction work. At the end of the bidding on specified date and time, all proposals are opened in an opened session and all proposals and its bidders are announced. Then in a closed session, proposals are evaluated detailly by the bidding commission. Extremely low proposals can be evaluated with commision decision, if its bidder could certify:

- Construction method of the proposal is economic,
- The selected technical solutions and advantageous conditions will be used to fulfill the construction work,
- Proposed work has an individuality (PPL, 2003; Article.60.2; 9, Article.33).

At the end of the evaluation the most economically advantageous proposal is selected (Erbaş, 2015). The lowest responsive bidder is selected for the execution of the project. After the bidding commision recommendation, bidding superintendent approve the result of the bidding.

Comparing the two countries in terms of second phase, in Ghana the head of procurement entity constitute a tender evaluation panel, whereas in Turkey there is no such a panel. In addition, according to Ghana's procurement law, the contractors may make a corrections about their proposals. However, the correction of prices is not acceptable, it is just about the arithmetical errors. In Turkey, no amendment should be made in the tender documents. At this stage, the tenders shall be examined for their conformity with the qualification criteria determining the capacity of the tenderers to perform the contract, as well as with the conditions set forth in the tender documents and whether an arithmetical error exists in unit price charts. The tenders that are found ineligible and the tenders with arithmetic errors in unit price charts shall be disqualified (PPL, 2003; Article.37). In Ghana, tender committee approves the tender results, while in Turkey bidding commission does. In both countries, the lowest evaluated responsive contractor wins the contract.

### 3.3 Comparison of third phase

The third phase is called "invitation to contract and the signing of the contract phase" in both countries. This is the last phase and completed with the signing of the contract. According to PPA, the tender committee upon receiving the evaluation report, review in accordance with the thresholds stated in the schedule, the evaluation report and recommendations presented in the evaluation report. The review authority, before giving approval, ensures that any written complaints made by tenderers concerning the tender process have been addressed and responded to. If the complaint reveals a serious breach of procedures or ethics, the review authority may recommend rejection of the evaluation report and call for re-tendering (PPA Act 663, 2003; 4. Article.15). If the lowest evaluated responsive tender exceeds the budget for the contract by a substantial margin, the procurement entity shall investigate the causes for the excessive cost and may;

- (a) consider requesting new tenders; or
- (b) subject to approval by the relevant Tender Review Board and guidelines issued by that board, negotiate a contract with the lowest evaluated tenderer to try to obtain a satisfactory contract (PPA Act 663, 2003; 5, Sec.64.2).

The lowest responsive evaluated bidders are arranged in order. The first lowest evaluated bidder is first recommended for approval. If the recommended bidder is not approved for a particular reason, the next responsive evaluated bidder is considered. This continues until a bidder is approved. If none of them is approved, the tendering process is cancelled.

Following approval from the relevant review body, the contract will be awarded to the tenderer who has submitted the lowest evaluated tender. Notice of the tender award is issued promptly to the successful tenderer. The successful tenderer is required to confirm in writing acceptance of the tender award and submit the appropriate performance security. All unsuccessful tenderers are notified immediately once the contract has been awarded. Tender securities of unsuccessful tenderers are also promptly returned after awards have been made (PPA Act 663, 2003; 5. Sec.65.1).

According to PPL, at the third and last phase, following the notification of the selected bidder, the winner is notified to sign the contract and to give performance bond within 10 days (PPL, 2003; Article.40.1).



After signing of the contract, bid bonds taken from unsuccessful bidders are returned. Unless the selected bidder does not sign the contract, his bid bond is registered as revenue and if the bidding superintendent deems suitable, the second lowest bid is invited to sign contract (PPL, 2003; Article.42.1). If the second responsive evaluated bidder also does not sign it, the tender is cancelled.

Drawing conclusion from the last phase, according to PPA, after tender committee approves the result, a contract is signed but if not for some reasons, the next lowest responsive evaluated bidder is considered. The process can proceed until the last lowest responsive evaluated bidders. However, in Turkey, after bidding superintendent approves the result, the lowest responsive evaluated bidder is invited to sign contract. If he does not sign it, the second lowest bidder signs. Unlike Ghana, in Turkey, only two lowest bidders have a right to sign for a contract.

#### 4. Conclusions and suggestions

While comparing and contrasting the two systems in both countries, there are some basic similarities and differences in Ghana and Turkey according to their procurement laws. Some of the differences bring an advantages over others. These advantages could be used in order to improve the existing system and this may ensure financial and time gain for public entities. The main differences in tender evaluation process can be distinguished in five steps (Table. 1).

Table.1 Comparison of the Ghana and Turkey's contractor selection process

PHASE	COMPARISION ITEM	GHANA	TURKEY
FIRST PHASE	Evaluation of pre-qualification	-	+
	Querries	+	-
SECOND PHASE	Double commission	+	-
	Amendments	+	-
THIRD PHASE	Responsive lowest bidder in order	+	-

The first differences is about the evaluation of pre-qualification. Because in Ghana there is a class of contractors, there is no need for pre-qualification thereby an advantage in saving time. However, in Turkey, the pre-qualification process can be time consuming. Therefore, the system of contractor classification could be efficient for Turkish PPL. The second difference is about the responding to querries. Giving the bidders in Ghana opportunity to address their concerns helps them price well during the bidding stage and have no doubt about the tendering process. This prevents the cancellation of the tender, saving money and time, this step has an positive consideration. The third difference is reference to double commission. Unlike Turkey, Ghana has double commission which are Tender Committee and Tender Evaluation Board. These committees examines the tender in different phases. Therefore, the double commission is an advantage for Ghana. The fourth difference is relative to clarification and amendments. The amendments in arithmetical errors can be done in Ghana, but in Turkey it is not. While bidder who had an arithmetical erros can correct the mistakes and have chance to continue the tendering process in Ghana, the bidders who had an arithmetical errors are eliminated from the tender in Turkey. For this reason, amendments about arithmetical errors can be favourable for the tenderers. The fifth difference is about the responsive lowest bidder. In Ghana, the lowest responsive evaluated bidders are arrangend in order for approval, and the last lowest bidder has an chance to sign to contract. However in Turkey, the lowest responsive or the second lowest responsive bidder can sign the contract. In order not to reduce the quality of the work, only selecting the second lowest bidder is an advantage for public construction in Turkey.

Absence of pre-qualification, responds to querries, clarification and amendments have an advantage for time and money saving. With the exception of the responsive lowest bidders in order in PPA, the classification of contractors, responding to querries, formation of double commision, and clarification amendments in the evaluation stage could be suggested to Turkish Public Procurement Authority for considering. Also Ghanaian Public Procurement Authority must adopt the first and second lowest responsive evaluated bid only to raise the level of quality works as done by PPL.

#### REFERENCES

AL KHALIL, Mohammed I (2001). "Selecting The Appropriate Project Delivery Method Using AHP", *International Journal of Project Management*.



- ÇAKMAK, Fatma Pınar (2014). *Türkiye Kamu Yapım İhalelerinde Kullanılan Standart Sözleşme Dokümanlarının Yeniden Yapılandırılması*, Doktora Tezi, İstanbul: İstanbul Teknik Üniversitesi Fen Bilimleri Enstitüsü.
- ERBAŞ, İkbal and ÇIRACI, Ahmet Murat (2013). "Construction Management Project Delivery System As A Form Of Project Implementation In Turkish Public Procurement", *Engineering Sciences*, 8(2), 108-119.
- ERBAŞ, İkbal (2015). "A Critical Approach to Contractor Selection Process of Turkish Public Building Procurement", *Proceedings of International Conference on Architecture, Structure and Civil Engineering*, Antalya.
- ERBAŞ, İkbal (2016). "Barriers of Traditional Project Delivery System in Achievement of Project Goals", *The First European and Mediterranean Structural Engineering and Construction Conference EURO-MED-SEC-1*, İstanbul.
- ERBAŞ, İkbal (2017). "Restrictions Of Turkish Public Procurement Law On Procurement Of Public Buildings", *Proceedings of Innovation and Global Issues in Social Sciences Conference*, Antalya.
- Ghana's Public Procurement Act (2003).
- Ghana's Public Procurement Act Manuals (2003 : Act 663).
- GOULD, Frederick, and JOYCE, Nancy (2000). *Construction Project Management*, New Jersey: Prentice Hall.
- HALLOWELL, Matthew, and TOOLE, T. Michael (2009). "Contemporary Design-Bid-Build Model", *Journal Of Construction Engineering And Management*.
- HUGHES, Will, and MURDOCH, John (2015). *Construction Contracts Law and Management*, Third Edition, Spon Press Taylor and Francis Group New York. (ISBN: 0-419-26170- 2 (hbk) and ISBN: 0-419-25310-6 (pbk).
- Turkey's Public Procurement Law (2003).
- MUTLUAY, Hesna Semra (2005). "Eşzamanlı Mühendislik İlkelerinin İnşaat Proje Sisteminde Uygulanmasına Yönelik Bir Model", Doktora Tezi, İstanbul: İstanbul Teknik Üniversitesi Fen Bilimleri Enstitüsü.
- SERTYEŞİLİŞİK, Begüm (2007). *An Investigation On The Application Of Standard Contracts In The Turkish Construction Industry*, The Degree Of Doctor Of Philosophy In Building Science In Architecture, Ankara: METU
- The World Bank in Turkey (2017). *An Overview Of The World Bank's Work In Ghana*.
- YILMAZ, Dilşat (2012). *Kamu İhale Hukukunda Şartnameler*, Doktora Tezi, Ankara: Gazi Üniversitesi Sosyal Bilimler Enstitüsü.