

Impact of Public Procurement Act on Construction Project Execution in Nigeria Tertiary Institutions, (A Case Study of Federal Institutions in the South East)

By:

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Abstract:

The concept of Public- Procurement Act and its impact on construction project execution in Nigeria Tertiary institutions. Three specific objectives: to analyze the impact of procurement planning on the performance of construction projects in the Southeast; to analyze the impact of the tendering system on the performance of construction projects in tertiary institutions in the Southeast; and to assess constraints/challenges against the attainment of the desired impact of the Public Procurement Act on projects execution in Federal Tertiary Institutions, in the Southeast were set. 400 questionnaires were distributed and 370 returned, 365 were successfully filled and found to be useful, the sample size was determined by Yaro Yamane Formula. Relative impact index and average mean score were deployed to analyze the data. In the findings, it was established that Public Procurement Act has impact on construction projects execution as factors such as signing of binding contract agreement, final account/completion certificate and there alike, had very high relative impact indexes of 0.86 each and 0.84 respectively. Factors of tendering system such as standard tender documents for procurement; invitation to tender and project award to the lowest price responsive bidder were ranked very high with relative impact index of 0.86, 0.83 and 0.81 respectively. It was recommended that efforts should be made to surmount the most significant constraints/challenges by all stakeholders involved in the implementation of the PPA 2007. Keywords: Public, Procurement, Impact, Projects, Construction, Performance, Analyze.

Introduction:

Nigerian Public Procurement Act like that of most developing countries was passed on the recommendation of the World Bank which actually conducted and presented Country Procurement Assessment Report on Nigeria (CPAR) in 1999 according to Williams-Elegbe in his research report on "A Comparative Analysis of the Nigerian Public Procurement Act against Internal Best Practice", prior to this time, there was no statutory regulation of Public Procurement in Nigeria until 4th of July 2007, the then president of Nigeria, Alhaji Umaru Musa Yar'Adua signed into law the Public Procurement Act (PPA) which happened to be the first procurement law in Nigeria (Jacob: 2010). It has since then become a watershed in Nigeria, an attempt at key governance reform (Olawumi and Odeyinka : 2016), as there was no law which governed procurement at the Federal or State level a situation which brought a sense of regulatory framework to the procurement process in Nigeria (Olusola et al :2016).

The Procurement Act has become a major multi-stakeholder public framework with vast areas for effective capital project execution and service delivery as well as for economic and social development (Olusola et al : 2016). On this note, this research work explores the impact of Public Procurement Act on construction projects execution in Nigerian Tertiary Institutions in the Southeast with the specific purpose of analysing the impact of procurement planning on the performance of construction projects in the Southeast; to analyse the impact of tendering system on the performance of construction of projects execution in the Southeast and to assess the constraints/challenges against the attainment of desired impact of the Public Procurement Reform on public construction projects execution in Southeast.

Memorandum on Education policy in Tropical Africa became the first official statement on African Education issued in 1925 by the British Government, this formed the basis upon which Nigerian Education was developed according to (Ewa2013). He further stressed that Government has since then become the key player in the three levels of education in Nigeria ranging from primary, secondary to tertiary levels through the implementation of several intervention programs such as Universal Basic Education, award of

scholarships, establishment of NEEDS and Education Trust Fund now called Tertiary Education Trust Fund (TETFUND) with a mandatory contribution of 2% tax on profit by firms operating in Nigeria. Today capital projects have been implemented and many more ongoing in Nigerian Tertiary Institutions throughout the country but not without procurement challenges as witnessed in the former procurement system which contributed to the nagging issue of corruption (Olusola et al :2016) and as such militated against the success of construction projects execution via government intervention programs. Against this backdrop, the Nigerian government has shown genuine effort to get the country's procurement out of the wood through its reforms, a development that has been greeted by professionals in the Nigerian construction industry overwhelmingly applauding the development and the Act being described as having the right strategy to help make procurement transparent, ensure probity and encourage good practice in procurement (Muhammed et al : 2015) which in turn has impacted on construction project execution in Nigerian Universities to a large extent.

Statement of Problem:

Procurement is directed towards achieving effective and efficient financial probity, management and national development being part of the fiscal policies and programs of the Federal Government (Kabega : 2016).

Despite the anticipated benefits of capital projects and implementation through several interventions of government programs, there are some abandoned projects scattered throughout the Tertiary Institutions in Nigeria leading to lack of adequate laboratory and infrastructures. These have thus far contributed to poor learning environment which also have affected the standard of education evidenced in the kind of graduates' derelicts being churn out by the tertiary institutions with little or no practical knowledge to operate optimally.

Procurement entities as witnessed in some government institutions still practice lengthy bureaucratic procurement processes in acquiring goods, services, and works as well as corruption and there like, these have resulted in failures of some construction projects in the Tertiary Institutions.

Therefore, it is the above challenges that have prompted the researcher to explore the impact of Public Procurement Act on construction projects execution and its implementation in Southeast.

Major Objective:

The major objective is to explore the impact of Public Procurement Act on construction project execution in Nigerian tertiary institutions (a case study of federal institutions in south east).

Specific Objective:

- 1) To analyze the impact of procurement planning on the performance of construction projects in Southeast.
- 2) To analyze the impact of tendering system on the performance of construction of projects in Southeast.
- 3) To assess constraints against the attainment of desired impact of the public procurement act on projects execution.

Literature Review:

Nigeria gained independence in 1960 from the British Government between 1960 and 2007 there had been several military and civilian government, the former rule with decrees whereas the later governed by constitution and the laws made by the legislature (Jacob: 2010) both system of government over the years had engaged in the award of contracts at the course of Nation building and development. Prior to this time, there was no regulatory framework that directly regulate the award of public contracts in Nigeria and the was no law or other acts of parliament regarding public procurement in Nigeria (Familoye et al: 2015 and Jacob: 2010) as a result the award of contract became a conduit through which public funds were stolen, contracts were awarded to friends and cronies of the government entities through it they amass wealth (Jacob : 2010). On assumption of office in 1999, Chief Olusegun Obasanjo, president of the Federal Republic of Nigeria at the time (1999-2007) pointed out that the approach adopted over a long period of time in conducting government businesses had nose-dive and degenerated to a large extent, in that the public service rules, financial regulations, ethics and norms of the service were abandoned due to mere ignorance or for personal gain or interest (Ameh and Ogundare : 2013),therefore a wave of procurement reforms that begun in 1999 culminated into the enactment of the Public Procurement Act 2007 passed by the National Assembly of Nigeria based on the

recommendations of the World Bank(Jibrin et al : 2014).

Concept of Public Procurement Act 2007

The World Bank is said to be the driver behind Public Procurement Reform in Nigeria (Olusola et al: 2016). The Federal Government of Nigeria commissioned the World Bank in 1999 in collaboration with some private sector specialist to review the Nigeria's public sector procurement system, its structure as well as the existing legal framework, organizational and capabilities; present procedures and practices. The report of the World Bank was shocking as it noted that: "about 50% of projects in Nigeria are dead even before they commence...the projects are designed to fail because the objective is not to implement them, but to use them as vehicles for looting of the public treasury...instead of adding value, they become economic drain pipes" (Jacob: 2010). The report advocated a new legal paradigm that will abrogate that abnormality in the award of public contracts. More so, it was recommended that procurement regulatory bodies such as the National Council on Public Procurement (NCPP) and Bureau of Public Procurement (BPP) should be set up as regulatory bodies vested with the core procurement regulatory functions such as oversight functions, management and monitoring of public procurement practices and system (Ameh&Ogundare : 2013 and Udeh : 2015) which was provided for in the Act. The government also took a serious step to check abuse in the system by establishing of Budget Monitoring and Public Intelligent Unit (BMPIU) at the presidency. The bureau's responsible for government procurements and awards so as to facilitate fair deals for the government via price monitoring (Olusola et al: 2016).

Construction Industry in Nigeria:

The construction industry in Nigeria can be divided into three major" segments: first category includes construction of building by building contractors or General contractors; second category include heavy and civil engineering construction, this involves contractors that build sewers, roads, highway, bridges, tunnels and other related projects and finally, the third category comprises of specialty trade contractors who performed specialized activities relating to construction such as carpentry, painting, plumbing, titling, mechanical and electrical works(Oyedele:2013)

The construction industry in Nigeria accounts for about 70% of the nation's fixed capital formation and 1.4% gross domestic product (GDP) (Ameh&Ogundare:2013). The Nigerian construction industry has witnessed tremendous evolution of many procurement systems probably due to perceived failures of the one-way traditional procurement approach (Kediashi et al: 2012). The construction industry today in Nigeria has been shaped by public procurement act 2007 to a large extent as the plaguing problems of corruption and related issues have been greatly checked by the implementation of the act in procurement process. The introduction of the PPA,2007 has been greeted by construction professionals in Nigeria construction industry as having the right strategy to make procurement transparent, encourage probity and good practice in procurement process(Muhammad:2013). Inuwa and Dianga (2015) identified professionals involved in construction process as follows: Architects, surveyors, civil engineers, surveyors, civil engineers, Quantity surveyors, mechanical engineers, structural engineers, and interior designers as those responsible for any procurement activities such as managerial responsibility, financial and technical performance couple with research and development of construction procurement practices. Mlinga (2006) added that construction professionals are involved in various stages of procurement of construction projects and that its successful implementation largely depend on how well they have been conceived, designed, tendered, supervised and constructed.

Finally, with procurement reform in 2001 and the law passed in 2007 by the National Assembly, the effort of the government in enacting and passing the new law has not been in vain for the past few years. With the passage of the act and its implementation, the Nigerian construction industry have witnessed effective procurement systems which have been used to procure several construction projects and these to a large extent have influence project performance. Moneke (2017).

Procurement Process:

This research work has added to the body of existing knowledge by considering the impact of public procurement act on project execution in Nigerian federal universities focusing on the south east, the lesson learnt thus far and the

impact of the PPA 2007 on projects execution as well as it challenges.

Procurement in this paper is defined as a process of acquiring (usually by means of a contractual arrangement following public competition) of goods, services, works, and other supplies by the public service (Ameh&Ogundare :2013).

Tendering System: Tendering is the administrative procedure of sending out drawings and bills of quantities or specification to contractors with the intention to submit a price for the construction of the project under consideration (Ogunsanmi:2013). He further identified criteria for consideration of contractor's competence summarized as follows:

- 1) Financial capability
- 2) Technical competence
- 3) Standard workmanship required
- 4) Equipment base of the firm
- 5) Previous business records.

The principal method of procurement is by open competitive bidding known as a sealed bidding: a bidding base on procuring entity as stipulated in the PPA 2007 effect procurements by offering to every interested bidder equal information and opportunity to offer the goods and works needed (Jacob :2010).

Public Procurement Act 2007 and its challenges:

Olusola et al (2016) stressed that most of the developing nations have not been able to achieve meaningful impact as a result of the challenges faced by stakeholders in the execution of the acts due to the economic, social and political environment where the act operate.

William-Elegbe in his research journal "a comparative analysis of the Nigerian public procurement act against international best practice", observed that the public procurement practice is still in its infancy stage given the fact that the legislation regulating government contracts and its practice was implemented not too long. He further noted that in spite of the passage of the PPA in 2007 and the establishment of "procurement cadre" in government ministries, department and agencies, the procurement system is still being devil and plague with corruption, fraud and irregularities.

Jibrin etal (2014) argues that the progress compliance with the provisions of the public procurement act, 2007 has been measured since 2008, an increasing awareness in 2009 and 2010 is on the rise so also is its compliance but not without Challenges summarized as follows in their own words:

- 1) Continuing political/control of the procurement process is the major constraining factor.
- 2) Procuring entities are showing reluctance to part with old, bad, internalized procurement habits, either due to inertia or other reasons.
- 3) 3) The bureau /is doing relatively well in procurement training, sensitization/ awareness creation and public enlightenment, although much of these activities understandably hold in the FCT (federal capital Territory) area.
- 4) The bureau has difficulties enforcing compliance with the Act'
- 5) Capacity shortage affects tie level of compliance.
- 6) Probity and integrity issue/dog procurement processes and decisions.
- 7) Role of regulatory agencies such as the National Assembly passage of the public procurement act, 2007 (amendment) bill 2009 further illustrates lack of political will to implement the act and others.

Research Methodology:

The researcher explored the impact of public procurement act on construction projects execution in Nigerian tertiary institutions, a case study of federal tertiary institutions in south east. The methodology used is discussed as follows: a review of related literatures, information about research design, participants/characters, sample procedure/sample size and the method of processing and analysis of data as well as perception of the respondents.

Research Design: The study used the survey research design. The survey design was used for collecting data from a given population with an intention to determine their opinion, attitudes and perception of personnel considering the variables under study.

Four hundred questionnaires were distributed to Bursars, Directors of works, Directors of procurement, Directors of physical planning, internal Auditors and chief Engineers as well as members of staff of each of these departments in different federal tertiary institutions in the south East 2016/2017 academic session. The respondents were to individually ascertain the impact of public procurement Act on project execution as it relates to their institutions in other of the significance and the most essential impact of public procurement Act as well as the constraints against the attainment of the desired impact of the

public procurement on projects execution in their various institutions. The participants in this study are professional technocrats directly responsible for capital project management as well as their members of staff in their various institutions. The technocrats described above are heads of departments involved in either disbursement of funds, design and or supervision of projects execution and ascertaining value for money on the various capital projects executed or ongoing in their various institutions.

Sample Procedure/Sample Size: A total of 400 questionnaires were administered to the respondents in the study and a total 370 were returned and 365 were successfully filled and useful whereas 5 were not properly filled as such they were not useful for the analysis. The 365 questionnaires constituted 91.25%, approximately 91% (ninety one percent) success rate. Based on the assertion of Moser and Kalton in Ewa (2013) that the result of a survey could be considered as biased and of a little value if the return rate was lower than 30-40%, therefore with the returned rate at 91%, this is considered as adequate for analysis.

Yaro Yamen formular was used to determine sample size as follows:

$$N = \frac{n}{1 + (e)^2}$$

1= constant

n = population sizee = coefficient of confidence (0.05)

N= sample size

Total population size - 365

$$N = \frac{365}{1+(0.05)^2} = 365/2.7 = 135.185$$

(0.05)/-135

Method of Data Analysis: Relative important index is represented as relative impact index as used in the research study cited by Ogunsanmi (2013) in his research paper.

1) The perception of all respondents on the impact of procurement planning on the performance of construction projects in Nigerian Tertiary institutions in the south east.

2) The perception of all respondents on the impact of tendering system on the performance of construction projects in federal institutions in the southeast. Four point Likert scale was used as adopted by Ewa (2013) with the following points as indicated below on the scale:

$$\text{Relative impact index (RII)} = (4n_4 + 3n_3 + 2n_2 + n_1) / 4N$$

Where: 114 = most likely; n₃ = likely; n₂ = not likely; n₁ = most not likely N = Number of respondents

Average mean score: average mean score was used to determine the perception of all the respondents on the constraints/challenges against the attainment of the desired impact of the public procurement Act on projection execution in the federal tertiary institutions in the southeast. A five point Likert scale was used which is in line with what Familoje et al (2015) used in assessing the impact of challenges facing the effective operations of the Nigerian public procurement Act 2007. This is represented with points as follows below:

- SA=strongly agree = 5
- A = agreed = 4
- NA/D = not agreed or disagreed = 3
- D = disagreed = 2
- SD = strongly disagreed = 1

Results and Discussion: Table 1

S/No	Procurement planning	nl	n2	n3	n4	nl	ranking
1	Prequalification of contractors	23	12	4	60	0.75	13th
2	Contractor's programme of works execution	12	23	30	50	0.76	12th
3	Request for payment/interim valuation	12	13	33	53	0.78	9th
4	Interim performance certificate	14	12	54	55	0.78	9th
5	Detailed project design	0	20	59	56	0.82	4th
6	Actual verification of performance/warranties	20	20	32	62	0.75	13th
7	Obtaining performance bond	7	27	40	5	0.77	11th
8	Obtaining advance payment guarantee/bond	17	17	35	43	0.75	13th
9	Final account/completion certificate	0	12	33	70	0.86	1st
10	Signing of binding contract agreement	0	15	45	75	0.86	1st
11	Advance payment to contractor	0	9	78	48	0.82	4th
12	Due process compliance						7
13	Total building commissioning						73
14	Supervision of project implementation stage						84
15	Determining the admissibility of the proposed project						
16	Project review and certification						
17	Reconciliation with beneficiary's approved allocation						
18	Project need justification						
19	1st stage approved by project review threshold						
20	Project vetting by project review threshold						
21	Appropriation of budget allocation						
22	contractor's request for classification						
23	Statement of essential technical/project performance						

24	Request for expression of interest
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Table 1: The perception of all respondents

Table 1: Shows that procurement planning has a great influence on project performance as the response by all the procurement entities in each institutions ticked signing of binding contract agreement and final account completion certificate as having very high relative indexes of 0.86 each, which is in line with what Ameh and Ogundare(2013) in their empirical research work, they had noted signing of binding contract agreement as having the highest impact on construction performance, this contract are mutually binding with documents enforceable by law and once signed, cannot be alter without the consent of all parties involved. (Ameh and Ogundare : 2013),they further noted that all contracts are agreement but all agreement is not a contract which could be traceable to the

documentation pre-requisite for transparency and ensure contracts are under compliance with the guidelines and procedures of PPA,2007. Supervision of project implementation stage came next with relative impact index of 0.84 and detailed project design came next with relative impact index of 0.82. Other dominant factors are first stage approval by project review threshold; project vetting by project review threshold; project and appropriation of budget allocation have relative impact indexes from 0.80 each and above whereas reconciliatory with beneficiary's approval allocation and contractor's request for clarifications had least relative impact indexes.

TABLE 2: Perception of all respondents on the impact of tendering system on the Performance of construction projects in the federal tertiary institutions in the south east.

S/No	Tendering system	nl
1	opening competitive bidding	0
2	project award to the lowest price bidder	0
3	Tender analysis and evaluation	12
4	opening of tender	10
5	Tender negotiation with responsive bidders	10
6	invitation to tender	0
7	Determination of winning bid	7
8	selection of tendering methods	20
9	Request for information and proposals	10
10	Standard tender documents for procurement	0
11	The bid evaluation process	0

12	advertisement of proposed project			5	4
13	standard request for proposal selection of consult firms				
14	Tendering system helped contractor to buy within budget	1	size and complexity of procurement	40	55
		2	political interference by the executives	60	50
15	Tendering system regulated by PPA help check corruption	3	Faulty implantation	40	45
		4	culture of the people	50	48
16	Tendering system help projects work within standard	5	managing ethical standard by the stakeholders	30	34
		6	delay from bureau of public procurement process	40	32
		7	complexity procurement regulation	60	40
		8	meeting expectations of stakeholders	50	40
		9	procurement entities repulsive attitudes	20	40
		10	remuneration of procurement staff members	50	45

Table 2 shows the perception of all procuring entities of each institution in the south east. Standard tender documents for procurement came first with relative impact index of 0.86, which actually upheld the principles and guidelines as enshrined in the public procurement act 2007, this show that tendering system under the current Act has a very high impact on construction project performance in the Nigeria Tertiary institutions as huge capital projects are being executed through government intervention programs virtually in all the federal tertiary institutions. Invitation to tender came next with relative impact index of 0.83 which is in line with what is enshrined in the PPA 2007; it states that "invitations to bid maybe either by way of national competitive bidding or international competitive bidding and the Bureau shall from time to time set momentary thresholds for which procurement shall fall under either system"

While project award to the lowest price responsive bidder has the relative impact index of 0.81 indications that the respondents' response on this factor is critical in the award of contract by procuring entities of each institutions. It is stated in PPA (2007) that "the successful bid shall be that submitted by the lowest bidder from the bidders responsive as to bid solicitation". Whereas determination of winning bid; selection of tendering method; tendering system helped contractor to buy within budget and tendering systems regulated by PPA helped to check corruption all had least relative impact indexes.

TABLE 3: Perception of all respondents on the constraints/challenges against the attainment of desired impact of the public procurement act on construction project execution in Nigerian Tertiary institutions (a case study of federal institutions in the south east)

S/No	Challenges/Constraints	SA	SA
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Table 3, From the above, the procurement entities rankings, it shows that political interference by the executive came first with average mean score of 4.13 which is in line with the conclusion of Familoye et al (2015) in their empirical research work they pointed out political interference as one of the most significant constraint/challenge militating against the attainments of desired impact of the public procurement Act on construction project execution in Nigerian Tertiary institutions. Complexity procurement regulation came next on the list with average mean score of 3.85, this depicts that if success must be experience to large extent, all ambiguities and complexities must be done away with henceforth. On the other hand, procuring entities of each tertiary institution must see this as a challenge against the success of projects performance which is in line with what Familoye et al (2015) identified that this challenge stem from legal requirements that must be considered before public procurement can be said to be satisfied. While the least factors identified by the procuring entities of these institutions are: procurement entities' repulsive attitudes; delay from Bureau of public procurement process and managing ethical standard by the stakeholders with average mean scores of 3.41,3.27 and 3.10 respectively.

Conclusion and Recommendation:

The paper assessed the impact of public procurement Act on construction projects execution in Nigerian Tertiary institutions using ng

federal institutions in the southeast. The result showed that the signing of binding contract agreement and final account/completion certification; supervision of project implementation; and detailed project design are the four most important impacts influencing construction projects execution which is guided by the tenets and principles of the public procurement Act 2007. On the other hand, standard tender documents for procurement; invitation to tender and project award to the lowest price responsive bidder are factors of the tendering system that have impacted significantly on the performance of construction projects in the federal tertiary institutions in Nigeria under the new law on procurement. This has led to massive construction projects in almost all the Nigeria tertiary institutions as some have already being completed, some are ongoing and others are yet to be awarded under government special intervention schemes, also this feat have created a conducive environment for effective teaching and learning.

Despite the impact of public procurement Act on construction projects performance, there are still some constraints/challenges militating against the attainment of the desired impact of the public procurement Act on construction project execution in Nigeria as revealed as follows: political interference by the executives, complexity procurement regulation and size; and complexity of procurement.

The paper therefore recommends that more concerted effort should be made to surmount the most significant constraints/challenges by all stakeholders involved with the implementation of the PPA 2007.

The federal government should as matter of urgency set up the National Council on Public Procurement and for the Executive Council of the Federation and other related bodies. Government officials need not play any role in the procurement process not provided for in the Act.

Finally, the Bureau for public procurement should work with hand in hand with the procuring entities of tertiary institutions to develop a clear time table and programmes for tackling problems of shortage of technical capacity for public procurement.

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