IMPLEMENTATION OF PUBLIC PROCUREMENT ACT AND GOVERNMENT PERFORMANCE: EVIDENCE FROM NIGERIA

Abstract

This study examines the influence of implementation of public procurement Act on government performance in Nigeria. Specifically, the study determines the extent of compliance with the Public Procurement Act, identifies factors affecting compliance with the Public Procurement Act and also examines the influence of implementation of the Public Procurement Act on government performance. Judgmental sampling technique was used to select 20 Procurement Officers in Ministries, Departments and Agencies, and Local Government Areas; 20 Accounting Officers from Permanent Secretaries, Heads of Agencies and Parastatal Organizations; 20 contractors, 20 Professionals-Quantity surveyor, 20 architects and engineers, and 20 Lawyers totaling 120 respondents as sample size for the study. Structured questionnaires designed for the study were used to collect the data. Analyzed of data was performed with the aid of descriptive statistics and regression analysis. The result establishes that public entities comply with the public procurement Act 2007 but lack of structures and facilities to ease procurement process and pervading corruption in Nigeria have hindered the full implementation of the Act. Furthermore, study concludes that the implementation of public procurement Act is a catalyst to transparency, accountability, efficiency and value for money. Subsequently, the study recommends that there should be strong commitment and political will to implement the public procurement Act in all levels of government. This will metamorphose to transparency, competitiveness, accountability and fairness in the award of government contracts.

Keywords: Public Procurement Act, Compliance, Efficiency, Accountability, Value for Money,

Introduction

Corruption has been seen as parasite that eats deep into country's wealth. No country in the world is immune to corruption. Arjun (2014) argues that corruption is an international

issue and is a threat to economic and human development of all countries. Corruption includes the public and private sectors and cover activities consisting of fraud, extortion, embezzlement, abuse of office, bribery, kickbacks, `gifts' and illicit payments to government officials in their capacity as public servants, in order that the giving party may achieve a stated purpose. International reports from World Bank, the United Nations (UN), Transparency International, and the Asian Development Bank (ADB) observe that corruption is rampant in developing countries compare to developed countries (ADB 2007). In Nigeria, corruption has been seen as a survival tool for both citizens and government officials, especially through public procurement. In line with this revelation, Kaoje (2017) affirms that corruption in procurement, accounts for over 70 per cent of government total budget and therefore affects the efficiency of public spending and the opportunities to improve quality of life of the citizens. Nigeria is one of the most corrupt counties in the world, according to Transparency International. Corruption in public procurement is a serious problem in Nigeria where the process of awarding public contracts and tenders can be perverted by government officials and is subject to interference (Onwubiko, 2018; Osborg, 2017). Potential contractors (bidders) are believed to have also used their coercive power to win contracts. Government officers and bidders are involved directly or indirectly and advance their own personal interests **(**Ohuabunwa, 2017).

To operationalize the concept of good governance and to push towards "zero tolerance" of corrupt practices, the Public Procurement Act, 2007 was enacted by the government of Nigeria to address the real and perceived weaknesses in the public procurement of goods, works and services. The Public Procurement Act 2007 established the Bureau of Public Procurement as the regulatory authority responsible for the monitoring and oversight of public procurement, harmonizing the existing government policies and practices by regulating, setting standards and developing the legal framework and professional capacity for public procurement in Nigeria. The aims are to build and sustain an efficient country procurement system that meets international best practices and also to professionalize the process of procurement that ensures transparency, efficiency, competition, integrity and value for money to support national growth and development.

In spite of this laudable effort, the corruption in public procurement is still wax stronger. For instance, in 2014, the Director-General of Bureau of Public Procurement (BPP), Mr. Emeka Muoma Ezeh, disclosed that Nigeria loses $10billion (N1.7trillion) annually to fraudulent practices in the award of contracts and project reviews processes. In similar study, Onwubiko (2018) discovers that Halliburton bribery-for-contract scandal to build the NLNG

plant at Bonny Island gulfed $180million and Oduagate contract for supply of bullet proof cars also gulfed N255million. The recently sacked Secretary to Government of the Federation, Babachir Lawal, was indicted for alleged procurement fraud of nearly N1 billion in the management of reliefs for internally displaced people in the North East of Nigeria. Recently, Independent Corrupt Practices and other Related Offences Commission, ICPC, said corruption in the education sector, particularly in tertiary institutions persists due to absence of political will to bring those who violate due process to account. The prevalence of corruption in Nigeria has gained global recognition so much that Transparency International Corruption Perception Index of 2014-2018 ranked Nigeria as the most corrupt country in the world. To support this assertion, Tony Blair, one time British Prime Minister in one of his state official visits to Nigeria describes Nigeria to be "fanstatically corrupt" and this description suggests that corruption in Nigeria is systematic and deep rooted in the psyche of majority of Nigerians.

The pertinent questions agitating in the mind of the researcher are: What is the level of performance/compliance with the Public Procurement Act, 2007? What are the challenges in the implementation of the Public procurement Act 2007 and what extent does implementation of the Public Procurement Act 2007 has influence on government performance?

Research Objectives

The main objectives of this study are;

1. to determine the extent of compliance with the Public Procurement Act.
2. to identify factors affecting compliance with the Public Procurement Act.
3. to examine the influence of implementation of the Public Procurement Act on government performance.

Research Hypothesis

The following hypothesis was formulated for this study;

H_0:.Implementation of the Public Procurement Act has no significant influence on government performance

H_I: Implementation of the Public Procurement Act has significant influence on government performance

Literature Review

Concept of Public Procurement

According to Kari, Mona and Jan (2010), public procurement is the acquisitions of goods and services by public institutions, and concerns contracts between the government and the private in many different areas such as health services, the military and construction. Public procurement is the acquisition of goods and services or awarding of contracts require by a state to functions properly and meet the need of its citizen. Mlinga (2009) defines public procurement as the function responsible for obtaining by purchase, lease or other legal means, equipments, materials, supplies and services required by an undertaking for use in satisfying wants. In the same vein, the Public Procurement Act 2007 defines 'procurement' simply as 'acquisition' while Transparency International amplifies the meaning as the acquisition of consumption or investment, goods or services.

Organisation for Economic Cooperation and Development (OECD) cited in Okoduwa (2011) describes procurement as the process of identifying what is needed, determining who is the best person or organization to supply these needs, and ensuring that what is needed is delivered to the right place, at the right time, for the best price and that all of this is done in a fair and open manner. Equally, Uneam and Mark (2015) see public procurement as the process by which government parastatals, departments, ministries and agencies purchase goods and services from the private sector under specific rules and policies. It involves acquiring goods, works and services, from third parties. According to the procurement manual, procurement is a function responsible for obtaining resources (equipment, logistics, materials, supplies and services) required by an organization to fulfill its core business and development programme (Onyekpere, 2009).

The World Bank (2003) estimates the annual value of public procurement for goods, works, and consultancy services at 600 million US dollars representing about 10% of the country's GDP. Therefore, public procurement is an integral function of governments in both developed and developing countries as the gigantic financial outflows has a great impact on their economies that needs prudent management (Thai, 2008).

Due Process and Procurement in the Nigerian Public Sector

Corruption has become an "Ebola Virus" in the Nigerian public sector, which seems proof difficult to be cured. For instance, between 1999 and 2007, 31 out of 36 governors were prosecuted for theft of public funds, money laundering, false declaration of assets and illegal acquisition of real properties within and outside Nigeria (Ohuabunwa, 2017). Onwubiko (2018) asserts that one area of Nigeria's public life that has yet to receive the adequate legal frameworks and policy guidelines to check financial leakages in the management of public finance and in the funding of public projects is the procurement sector. In 2000, Obasanjo

administration discovered that prodigious sums are lost yearly to procurement fraud, hence, the government engaged World bank to assist Nigerian Government "with a process of enthroning efficiency, accountability, integrity and transparency in Government Procurement and Financial Management Systems" (Okafor & Modebe, 2005). This made World Bank to conduct a Country Assessment Review (CAR) in conformity with its stated objectives of probity, transparency, and accountability in all transactions involving government departments (Nadi, 2009). The World Bank report revealed that Nigeria lacks a modern law on Public Procurement and Permanent oversight and monitor purchasing entities. Report also discovered 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 (Adewole, 2014).

Based on the above findings, recommendations (Adewole, 2014) were made as follows; the need for a procurement law based on the United Nations Commission for International Trade Model (UNCITRAL), the need to establish a Public Procurement Commission (PPC) to serve as the regulatory and oversight body on Public Sector Procurements, the revision of key areas of the financial regulations to make them more transparent, the streamlining of Tender Boards and the strengthening of their functional authority, including powers to award contracts, a critical need to rebuild procurement and financial management capacity in the public sector; and a comprehensive review of the businesses related to export, import and transit regulations, procedures and practices (Nadi, 2009). According to Okoduwa (2011), the recommendations led to the revision of procurement procedures (which were hitherto based on the obsolete Finance Act of 1958) to align the function with internationally accepted practices and pave the way for more efficient and effective service delivery. The Budget Monitoring and Price Intelligence Unit (BMPIU) a.k.a. Due Process Unit, was established in 2001 to lead the procurement reforms agenda which ultimately resulted in the Public Procurement Act that was signed into law by late President Umaru Yar'Adua in 2007 and the subsequent establishment of the Bureau for Public Procurement (Okoduwa, 2011). Nadi (2009) demonstrates that the mission of the Budget Monitoring and Price Intelligence Unit (BMPIU) is to use Due Process Mechanism to establish Transparent, Competitive and Fair Procurement System, which is integrity driven, encourages spending within budget and ensures speedy delivery of projects, while achieving value for money without sacrificing quality and standards for the Federal government of Nigeria.

According to Bayero (2016), the Nigerian Public Procurement Law 2007 is divided into twelve parts. Part 1 of Public Procurement Law establishes the National Procurement Council (NPC) to provide uniform national regulatory platform for procurement broad policy formulations. Part II of the law establishes the Bureau of Public Procurement (BPP) to act as supervisory organ and provide operational guidelines to regulate public, it procurement practices. Part III of public procurement law exemplifies the scope of its application. Part IV establishes legal format with regard to procurement thresholds. It also makes it a legal imperative for government procurement entities to engage in procurement plans and open competitive bidding. It also provides clear definition for the status of contractors/suppliers/service provides among other critical issues with the aim of strengthening public procurement practices. While Part V of public procurement law gives legal basis for the establishment of procurement planning units and sets criteria for pre-qualification of bidders, Part VI deals with procurement methods that are permitted under the law. Part VII focuses on conditions for special or restricted methods of procurement and Part VIII of the law gives conditions and steps for engaging consultants. Part IX deals with procedures for procurement surveillance and reviews by the Bureau of Public Procurement (BPP), while Part X focuses on methods of disposing public property. Part XI of public procurement law specifies code of conducts to regulate activities of stakeholders (Bureau officials, Tender Board, Contractors, CSO's, Procurement officers etc) and Part XII deals with offences for various categories of infractions under the law (Bayero, 2016).

Empirical Review

Few available studies conducted in Nigeria on public procurement system in Nigeria have convergent views that implementation of the Public Procurement Act 2007 has positive influence on government accountability. For example, Enofe, Okuonghae, and Onobun (2015) examine the impact of public procurement act on government accountability in Nigeria. Data were collected from primary sources with the aid of a well-structured questionnaire administered to fifty seven (57) respondents. Data were analyzed via table, pie chart and statistical regression. Result reveals that professionalism in the public procurement process has influence on government accountability in Nigeria. Secondly, transparency in the public procurement process has positive relationship with the level of government accountability in Nigeria. Thirdly, competition in the public procurement process has the likelihood of impacting the level of government accountability in Nigeria, finally the study

also revealed that efficiency, value for money has the tendency to impact positively on government accountability in Nigeria.

Unaam and Mark (2015) also examine the effect of ethics and integrity on good public procurement system in Nigeria. Data were sourced via a structured questionnaire from eighty two (82) officers of the Bureau for public procurement in Abuja, Nigeria. Data analysis was performed with aid of Pearson Product Moment Coefficient of Correlation. Result reveals that the implementation public procurement Act will bring about ethics, accountability, and transparency in public procurement system in Nigeria. In a similar study, Muhammad, Adamu, and Ladi (2015) also carry out an appraisal of construction project procurement policies in Nigeria. Data were sourced through a structured questionnaire from respondents. Result reveals that procurement policies significantly influence the success of construction projects since they are designed to provide solutions to specific project needs or conditions.

Nwafor (2013) also investigates the impact of the Freedom of information Act (FOIA) enacted in 2011 on public procurement in Nigeria in terms of accountability and participation. The study establishes that the agency problems inherent in public procurement and some of the attendant consequences such as government failures and market failures can be addressed with the enforcement of the Act and the corrective measures. Also, Ogunsanmi (2013) examines the effect of procurement related factors on construction project performance in Nigeria. The study affirms that procurement selection criteria, tendering methods and variation orders have impact on project performance. Nadi (2009) also investigates the public procurement process in place in Nigeria with a view to establish if there are any forms of corruption in Nigeria public procurement process. The study affirms that there is procurement law in place but the implementation remains a problem in the public sector.

Methodology

Survey research design was employed as the main research instrument through the administration of questionnaires designed for the study. The questionnaires were reviewed by the members of Chartered Institute of Purchasing and Supply of Nigeria, Oyo State Chapter, in order to determine the reliability and validity of the instruments. The response format was in Likert form with indicants ranging from *strongly agree (5) to strongly disagree (1)*. The Crombach reliability alpha is 0 .87. Judgmental sampling technique was employed to select 20 Procurement Officers in Ministries, Departments and Agencies, and Local Government

Areas; 20 Accounting Officers from Permanent Secretaries, Heads of Agencies and Parastatal Organizations; 20 contractors, 20 Professionals-Quantity surveyor, 20 architects and engineers, and 20 Lawyers totaling 120 respondents as a sample size for the study. Mean, standard deviation and regression analysis were used to analyze the data with the aid of SPSS version 25.

Model Specification

To examine the relationship between the implementation of the Public Procurement Act 2007 and government performance; mathematically, the model is expressed as follows:

Government performance = f (implementation of the Public Procurement Act 2007) .....(i)

Government performance is measured by Efficiency, Value for Money and Accountability.

Therefore;

Model I

$Y_1 = f(X_1)$ ---- (ii)

$Y_1 = \beta_0 + \beta_{1\,x1} + \mu_i$

Model II

$Y_2 = f(X_1)$ ---- (ii)

$Y_2 = \beta_0 + \beta_{1\,x1} + \mu_i$

where;

Y_1 = Efficiency, Value for Money

Y_2 = Accountability

X_1= Implementation of the Public Procurement Act 2007

β_0 = Regression constant

β_1 = Regression Coefficient

μ_i = error term

Data Analysis and Interpretation of Results

The Bureau of public procurement is mandated by PART II section 4(d) of the Public Procurement Act, 2007 to assess the performance of each entity to ensure compliance with the provisions of Act 2007. The research intends to ascertain whether public entities comply with the regulatory framework of the procurement Act 2007.

Table 1: Compliance with Regulatory Framework

Statement	N	Minimum	Maximum	Mean	Std. Deviation
Public entities comply with the public procurement Act	120	1.00	5.00	4.175	.75217
Procurement entities applied appropriate procurement methods for appropriate thresholds in procurement	120	2.00	5.00	4.391	.56947
Entities used Standard Tender Documents from Bureau of public procurement in procurement	120	2.00	5.00	4.283	.61060
Entities post their tender adverts and contract awards in the procurement journal	120	3.00	5.00	4.433	.59030
Public Entities prepares and post their Annual Procurement Plans in the procurement journal	120	1.00	5.00	4.133	1.01197
Public entities maintain competitiveness, transparency, professionalism in procurement	120	1.00	5.00	4.225	.73864
Grand Mean	**4.2733**				

Table 1 reveal that majority of respondents agree that public entities comply with the public procurement Act 2007 with grand mean of 4.273. Furthermore, entities post their tender adverts and contract awards in the procurement journal Procurement has highest mean of 4.433 followed by procurement entities applied appropriate procurement methods for appropriate thresholds in procurement with mean of 4.391, entities used Standard Tender Documents from Bureau of public procurement in procurement with mean of 4.283, public entities maintain competitiveness, transparency, professionalism in procurement with mean of 4.225, public entities comply with the public procurement Act with mean of 4.175 and public entities prepares and post their Annual Procurement Plans in the procurement journal with mean of 4.133. This implies that public procurement Act 2007 has seen the light of the day in Nigeria. This is a good omen to efficiency, transparency and accountability in the public sector and private sector.

Table 2: **Challenges in the Implementation of the Public Procurement Act 2007**

Statement	N	Mean	Remark
Lack of Political will to Initiate Development Change	120	4.670	Accepted
Absence of Strong and Compelling Institutions	120	3.761	Accepted
Public Procurement process is too long and expensive.	120	3.012	Accepted
Lack of structures and facilities to ease procurement process	120	4.987	Accepted
Pervading corruption that has become Nigeria Socio-Cultural Value	120	4.710	Accepted
Bureau of public procurement training programmes are too short and impractical	120	2.870	Rejected

From the Table 2, criterion mean of 3 was generated by adding the total assigned values of the responses and dividing by the total number of responses (5+4 + 3 + 2 + 1 = 15/5 = 3). Thus any mean score up to 3 and above was interpreted as acceptable by respondents while 2.99 and below is adjudged rejected by the respondents. This implies that majority of respondents agree that all items listed above are major challenges in the implementation of the Public Procurement Act 2007; except Bureau of public procurement training programmes are too short and impractical. The study corroborates Adeyeye (2014) that critical issue that militates against effective domestication of public procurement law is the lack of political will among leaders towards meaningful and radical changes that could assist Nigeria to climb up development ladder. Author also affirms that the pervasive corruption in Nigeria is a major disincentive to any effort at institutionalizing public procurement laws that would eventually reduce or confront corrupt practices.

In another study, Adeyeye (2011) observes that most states and the entire 774 local governments have out-rightly refused to enact public procurement law. This lackadaisical attitude has prevented rapid changes in public procurement practices that can enhance Nigeria governance institutional reform profile.

Testing of Hypothesis

H_0:.Implementation of the Public Procurement Act has no significant influence on government performance

Table 3 : Regression Analysis

Model 1	Efficiency and value for Money	Accountability
beta	.682	.628
t- statistics	10.136	8.762
R^2	.465	.394
Adjusted R Square	.461	.389
F - statistics	102.703	76.776
p-value	.005	.000
Durbin - Watson	1.987	1.895

The result in Table 3 shows that implementation of the Public Procurement Act (β= 0.682; t = 10.136; p = 0.005) has positive and significant influence on efficiency and value for money. Additionally, implementation of the Public Procurement Act independently contributes about 46.5% to efficiency and value for money with the R^2 of 0.465. The estimated Durbin - Watson value of 1.987 clears any doubts as to the existence of positive

first order serial correlation in the estimated model. The model was constructed to test the null hypothesis that implementation of the Public Procurement Act has no significant impact on efficiency and value for money. The F-statistic of 102.703 indicates that the overall regression plane is statistically significant. Therefore, null hypothesis is rejected while alternative hypothesis is accepted.

Table 3 also reveals that implementation of the Public Procurement Act (β= 0.628; t = 8.762; p = 0.000) has positive and significant influence on accountability. Furthermore, result shows that implementation of the Public Procurement Act independently contributes about 39.4% to accountability with the R^2 of 0.394. The estimated Durbin - Watson value of 1.895 clears any doubts as to the existence of positive first order serial correlation in the estimated model. The model was constructed to test the null hypothesis that implementation of the Public Procurement Act has no significant impact on accountability. The F-statistic of 76.776 indicates that the overall regression plane is statistically significant. Therefore, null hypothesis is rejected while alternative hypothesis is accepted.

This implies that the implementation of public procurement Act is a catalyst to transparency, accountability, efficiency and value for money.

Conclusion and Recommendations

The study seeks to examine the influence of implementation of the Public Procurement Act on government performance. The study establishes that public entities comply with the public procurement Act 2007 but lack of structures and facilities to ease procurement process and Pervading corruption in Nigeria have hindered the full implementation of the Act. Furthermore, study concludes that the implementation of public procurement Act is a catalyst to transparency, accountability, efficiency and value for money.

Subsequently, the study recommends that there should be strong commitment and political will to implement the public procurement Act in all levels of government. This will metamorphose to transparency, competitiveness, accountability and fairness in the award of government contracts.

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