

## A Review of the Implementation Challenges of Public Procurement Reforms Initiatives in Nigeria

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### Abstract

Public Procurement as one of the major functions of government in Nigeria is playing a significant role towards infrastructural development in the country. Reforming the public procurement sector was necessary to regulate the entire procurement process. In an attempt to harmonize the various reform initiatives, Public Procurement Act (hereinafter referred as “PPA”) was passed into law in June 2007. This paper identified and reviewed some major challenges facing the full implementation of the procurement procedural guidelines as highlighted by the Act. These include unfamiliarity, fraudulent practices and influences, and subsequently concludes that, ensuring full implementation required adequate awareness, imposing penalty for defaulters as well as limiting influences of project awards. The establishment of National Council of Public Procurement is one of the vital elements (as provided under section 1 of PPA 2007, but it is yet to be fulfilled).

**Key words:** *Procurement, reform, implementation, challenges, Nigeria*

### 1. Introduction

Public procurement is the process of assigning an external entity to obtain works, goods and or services to be funded from the public treasury (Tukamuhabwa, 2012). From the general perspective public procurement involves the procurement of goods and services by third party on behalf of the government, here the government refer to as public entity which could be various municipalities, ministries, provinces, agencies or any other governmental organisation (Othman, Zakaria, Nordin, Shahidan, & Jusoff, 2010) .

In Nigeria, as stated under section 2 of the PPA 2007, the National Council on Public Procurement shall, *inter alia*,

- (a) consider, approve and amend the monetary and prior review thresholds for the application of the provisions of this Act by procuring entities;
- (b) consider and approve policies on public procurement;
- (c) receive and consider, for approval, the audited accounts of the Bureau of Public Procurement;
- (d) approve changes in the procurement process to adapt to improvements in modern technology; and
- (e) give such other directives and perform such other functions as may be necessary to achieve the objectives of this Act.

As stated in section 1 of the Act, National Council on Public Procurement shall be established (for the purpose of implementing and enforcing its functions under section 2). The Bureau of Public Procurement was established under section 3(1) of PPA 2007. As provided under section 5, the Bureau shall formulate the general policies and guidelines relating to public sector procurement for the approval of the Council.

This means, the policy governing the public expenditure for the purpose of procurement of goods and services is under the PPA 2007, and the guidelines to be followed while carrying out the procurement processes is the public procurement guidelines (issued by Bureau of Public Procurement, and approved by National Council on Public Procurement under the PPA 2007).

Nigeria is a developing nation, the country is still in the process of fulfilling the basic needed infrastructural facilities (Ameh & Ogundare, 2013). Therefore having an efficient, transparent as well as fraudulent-free public procurement strategies developed based on a well structured legal framework could be a catalyst to achieving such mission, especially now that the country is targeting to be among the world top economies by 2020 (Shwarka & Anigbogu, 2012). Tabish and Jha (2011), posited that the level of availability of physical infrastructure is proportional to the economic growth of any country. Infrastructures are mainly social amenities comprising physical structures and facilities, considered as the basic elements for economic growth and improving the nation's wealth.

Public procurement reforms is necessitated in Nigeria by transparency and accountability related issues due to rampant public procurement fraudulent practices in addition to conflict of interest, and this has remained the sole reason for reforming public procurement processes in most of the countries that passed through the public procurement transformation process (Jibrin, Ejura, & Augustine, 2014). The aim is to uplift the status of the country economically by reducing the high level of poor governance, public procurement irregularities fraud and corrupt related practices within the public sector generally (Shwarka & Anigbogu, 2012). The provisions of the PPA 2007 as well as the procurement guidelines issued under the Act are in fact meticulous enough targeted at sanitizing the high level of irregularities among procurement stake holders especially within the construction project procurement.

From the practical perspective, compliance to procurement policies and ethics seems to be a very difficult task, while on the hand the application of such rules are been instituted as mandatory on all public procurement activities, this signifies lack of consensus (Marendi-Getuno & Awino, 2014).

However after eight years of the enactment of the PPA 2007, full implementation of the guidelines is yet to be achieved, signifying non-compliance to the procurement guidelines (Shehu, 2014). Therefore this paper is aim at reviewing some identified challenges facing the implementation of the procurement reforms initiatives.

## **2. Scenario of Public Procurement Reforms in Nigeria**

Public procurement reforms basically involved the development and implementation of procurement legal framework and procedural regulations, the procurement process, systems and methods, as well as reforming the organisational structure and stakeholder's responsibilities (Thai et al., 2005). The moves towards establishing public procurement regulations started in the twentieth century, and it became merely a global revolution in the public procurement sector (Arrowsmith & Trybus, 2003).

Public procurement reforms take place virtually in almost every part of the globe covering developed and developing countries, although the extent of the reforms varies from one country to another depending on the situation that warrant its execution. Koike and Koikeosamu (2014), also stated that the intention, willingness, adoption, attitudes, and promotion of public procurement

reforms initiatives exclusively rely on local context, political system and condition of a respective country.

Overcoming various procurement irregularities which embedded public procurement contracts in Nigeria was the target of the reforms (Williams-Elegbe, 2011). Therefore in an attempt to comply with the World Bank recommendations, in June 2007 the country followed the footsteps of other developing nations and passed a legislation known as Public Procurement Act (PPA 2007) to ensure economy, efficiency, fairness, reliability, transparency, accountability and ethical Standards in the procurement process of the public sector

From the construction industry's perspective the initiative was targeted at achieving sustainable built environment by means of introducing best ethical public procurement practices, providing equal opportunity and competitive ground to bidders ensuring adequate planning and budgeting for construction project development in order to achieve value for money (Shehu, 2014).

The PPA 2007 requires the establishment of Bureau for Public Procurement (BPP) and National Council on Public Procurement (NCPP) as administrative units for ensuring the implementation of the new procurement law. This is also to paved ground to developing a legal framework and professional capacity for effective monitoring and thorough checks of all the aspect of public procurement practices within the country (Shehu, 2014). In addition to harmonising existing government policies and practices regulation, the BPP has since been established while the NCPP is yet to be constituted, the two separate bodies are considered as public procurement regulatory bodies shouldered with the responsibility to issue guidelines for the conduct of public procurement in Nigeria.

The failure to establish NCPP is seen by many researchers as the genesis of non-implementation of the new procurement guidelines in Nigeria, since Federal capital projects have been awarded by the Federal executives council members comprising ministers and top government officials hence putting their interest at the fore front (Williams-Elegbe, 2011). Should the NCPP be establish and allow to carrying out it responsibilities with sanity as provided by PPA 2007, the influences of the Federal Executive (FEC) Council will not have any impact on projects execution. To be noted that the Federal Executive Council (NEC) was established by the provisions of the Constitution of the Federal Republic of Nigeria (1999), as amended, Third Schedule, Part I, Section 153: Sub section (18 & 19). The NEC, as one of the Federal Executive bodies, has the mandate to advise the President concerning the economic affairs of the Federation, and in particular on measures necessary for the co-ordination of the economic planning and programmes of the various Governments of the Federation.

### **3. Implementation Challenges of the Reforms Initiatives**

The three major implementation challenges identified include unfamiliarity with the procurement guidelines, frudulent practices, and influencing project awards. This is is further discuss below;

#### ***3.1 Unfamiliarity with the Procurement Reforms Initiatives***

Familiarity is one of the major significant factors influencing compliance and appropriate implementations of the public procurement rules (Onyinkwa, 2013). In Germany, a study was conducted on assessing the factors responsible for non-compliance with procurement rules indicates that familiarity with the EU procurement directives has proven to have a significant impact on with it compliance (Gelderman, Ghijsen, & Brugman, 2006). Lack of appropriate awareness campaign

and inadequacy of motivational means is often regarded as a serious barrier to the utilization of procurement guidelines and related policies.

The Nigerian public procurement reforms have reached recommendable stage in terms of developing procurement regulatory frameworks, standard procedures and guidelines. But non-compliance to the procurement guidelines that are meant to be applied for all Federal government projects is causing a serious delay to the accomplishment of the procurement reforms goals (Shehu, 2014). There is serious lack of awareness on the public procurement guidelines in Nigeria leading to unfamiliarity with the procurement guidelines among the major stakeholders.

### ***3.2 Fraudulent Practices***

The hazardous effect caused by fraudulent practices within the public procurement sector necessitate government to initiate procurement reforms as anti corruption proposal, this is very vital to the economic growth of every country especially those within the developing category (Wittig, 1999).

Adequate transparency and competition are among the basic features of efficient procurement system, unfortunately they are sadly lacking in the developing economies thus creating room for fraudulent irregularities within the public procurement practices (Thai, 2008). Although there are also rare cases of bribery and some other forms of irregularities in the developed world but their procurement systems has been well restructured and legally framed with adequate regulatory tools that ensures transparency, accountability and integrity of the whole procurement dealings.

Evidence of fraudulent related irregularities in public procurement tends to be more obvious in developing countries, Nigeria inclusive (Jibrin et al., 2014). Evidence from the existing literature shows that those developing countries linked with fraudulent practices are at the same time highly characterised by improper implementation with the procurement regulations (Obanda, 2010).

### ***3.3 Influencing Project Award***

The long term effects of projects award influences either political or otherwise as one of the major challenges has been weakening the ethical standards of procurement entities, and the loosed of confidences on the entire procurement systems and the stakeholders involved (Kangogo & Kiptoo, 2013). In developing countries especially Nigeria, public procurement constitutes the major activities of ministries, government departments, and organizations. The activity involved in public procurement process tends to be politically sensitive (Schapper, Malta, & Gilbert, 2006). These give room to the external and internal influences of project award both at the ministry and at the procurement entity level, thus leading to non-compliance with the procurement reforms regulations.

## **4. Conclusion**

Since the enactment of PPA 2007, implementation of the regularised procurement reforms initiatives in Nigeria has not being without challenges. The major identified challenges facing the procurement reforms an initiative as identified includes unfamiliarity, fraudulent practices, and influences. To ensure full implementation there is need for adequate awareness scheme, imposing penalty for defaulters as well as limiting the influence of project awards. The establishment of National Council of Public Procurement is well recommended, as provided by section 1 of PPA 2007.

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