



The Nigerian Journal of Business and Social Sciences

Vol 9, No. 1, 2016

A Journal of the Faculty of Social Sciences, University of Lagos, Akoka, Lagos, Nigeria

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FACTORS AFFECTING DUE PROCESS COMPLIANCE IN THE PROCUREMENT OF PUBLIC GOODS IN FEDERAL TERTIARY INSTITUTIONS IN LAGOS STATE, NIGERIA

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ABSTRACT

The need to ensure transparency, accountability and value for money in Nigeria public contract led to the introduction of the 'due process' policy in 2001 which laid the foundation for the emergence of Public Procurement Act (PPA) in 2007. In spite of the existence of the PPA, issues of non-compliance with due process regulations as enshrined in the Act have been widely reported in most of the Government Ministries, Agencies and Departments (MDAs). This study was designed to empirically investigate three of the major factors responsible for non-compliance with the procurement regulations as identified in literature using federal tertiary institutions in Lagos, Nigeria as case-study. Questionnaires were administered by hand on 36 procurement staff/desk officers who were purposively selected from the three federal tertiary Institutions in Lagos State. The data generated from the questionnaire were analyzed using both descriptive and inferential statistical methods. The study revealed that the three factors; professionalism, ethical behavior, and familiarity have significant relationship with compliance with due process regulations of the PPA. The study concluded by providing some recommendations on how to achieve due process compliance in the procurement of public goods in federal tertiary institutions in Lagos state and beyond.
Key words: *Due process, Compliance, Public Procurement, Public*

Procurement Act (PPA)

1.0 INTRODUCTION

Issues that impede the efficient management of public establishments in developing countries have been a focal point of discussion over decades. Corruption abounds in almost all spheres of public establishments, and it is a major cause of public establishment inefficiency. Corrupt practices come in various forms; one of such forms is in the area of non-compliance with the provisions of public procurement in most of the public establishments. Public procurement is the acquisition of goods, works and services by a procuring entity using public funds (World Bank, 1995). It is therefore expected that such procurement be done in the best interest of the public and that was why Akanmu and Eze (2013) remarked that it is desirable that the goods, services or works are appropriate and that they are procured at the best possible cost to meet the needs of the procuring entity in terms of quality and quantity, time and location.

The principal hallmarks of proficient public procurement which are economy, efficiency, fairness, reliability, transparency, accountability and ethical standard have not been adhered to by those in charge of procurement in these establishments (Nworgu, Okeke & Eyisi, 2015; Fayomi, 2013; Nadi, 2009). Personal interest and other sharp practices have aided abuse of due process as a result of the societal weak value system. Ezekwesili (2004) opined that governmental activities and businesses should be carried out openly, economically and transparently without favoritism and corruptible tendencies. Therefore, due process must be practiced in public procurements in order to ensure value for money.

Nigeria like every other developing countries has experienced open abuses of rules and regulations in the award and execution of public contracts (Nworgu, Okeke & Eyisi, 2015; Agbodike, 2013) which led to the agitation for public procurement reform in the country. According to Bureau of Public Procurement (2016), the introduction of public procurement reform in Nigeria followed a World Bank country procurement assessment survey conducted in 1999 report which revealed that 60K was being lost to underhand practices out of every ₦1.00 spent by the government and that a about \$10billion was being lost annually due to fraudulent practices in the award and execution of public contracts. The aftermath of this development made the Nigerian government to set up the Budget Monitoring and Price Intelligent Unit (BMPIU) also known as due process. The need to give the policy a legal backing led to the promulgation of the PPA in 2007.

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However, many of the officers in charge of public procurement in government MDA's lack the understanding of the PPA which makes it difficult for due process to be followed in the award of contracts. By the provisions of the PPA, all public procurements are to be carried out based on Open Competitive Bidding (OCB), in a manner which is transparent, timely, and equitable for ensuring accountability (PPA, 2007). In ensuring competition and transparency, it is required of the procuring entity which intends to procure public goods to place an advertisement for invitation to bid in at least two national newspapers, the federal tenders' journal, the procuring entity's notice board and website.

Existing literature revealed mixed positions on the adherence level of public establishments to public procurement regulations in Nigeria (Nworgu, Okeke & Eyisi, 2015; Fayomi, 2013; Nadi, 2009). It is therefore important to empirically examine these issues to be able to establish the current reality and put forward suggestions so that Nigerian public establishments can be better off. It is against this backdrop that this study intends to carry out an empirical study on factors affecting Due Process compliance in the procurement of goods and related services in federal tertiary institutions in Lagos State, Nigeria.

2.0 CONCEPTUAL/THEORETICAL FRAME WORK

2.1 Procurement of Public Goods

According to the World Bank (1995), public procurement is the acquisition of goods, works and services by a procuring entity using public funds. In the PPA (2007) 'procurement' is defined to mean 'acquisition' while 'goods' is defined to mean objects of every kinds and description including raw materials, products and equipment and objects in solid, liquid or gaseous form and electricity as well as services incidental to the supply of goods. The process of acquiring goods using public fund for public use is known as public procurement. This supports the World Bank (1995) definition of public procurement. Akanmu and Eze (2013) opined that public procurement must be done in the best possible cost to meet the needs of the procuring entity in terms of quality, quantity, time and location. This implied that certain procedure must be followed in public procurements. This procedure was defined as due process of public procurements by Ocheni and Nwankwo (2012) who noted that public procurement must be done with openness, in a competitive manner and must ensure cost accuracy. Obasanjo (2003) described due process as a mechanism that certifies for public funding, only those projects that have passed the test of proper implementation packaging and that adhere stringently to the international competitive bid approach in the award process. To further establish the former views, Akanmu and Eze

(2013) opined that due process balances the power of government officials involved in public procurement and protects the individual person, contractors and service provider from abuse of the law. Thus the essence of due process is to ensure compliance with rules set by appropriate authority.

Bor, Chepkwony and Bonuke (2015) perceived compliance as the extent to which an agent embrace policies and procedures that have been approved by the principal. Existing studies on the compliance with due process varies. In a study carried out by Kazeem, Asa and Lawal (2014), it was revealed that, though due process mechanism was followed in the award process, many of the projects undertaken were either completed off time schedule, or above cost estimate while in some cases abandoned out-rightly. On the contrary, Ekanem and Adewuyi (2010) discovered 22% level of compliance with due process policy on building project in Akwa Ibom State, Nigeria. In an attempt to probe into what could be responsible for non-compliance with procurements proceeding, Onyinka, Ondieki and Omai (2013) revealed that ethics, staff training and awareness affect compliance with procurement regulations in public secondary schools. In the same vein, Ojo and Gbadebo (2014) identified factors such as reluctance of public sector procurement officers to internalize change in procurement; and political officers / political control of procurement process. Munyera (2014) went further to identify lack of transparency in the procurement process and other factors such as lack of long term procurement strategy at the organization and loopholes in the legal framework as impediments to procuring entity's compliance with procurement rules.

Akanmu and Ezech (2013); Ameh and Ogundare (2013) have drawn attention to the benefits of ensuring compliance with procurements rules. Akanmu and Ezech (2013) noted that adherence to procurement rules eliminate corruption, promoting transparency and accountability while Ameh and Ogundare (2013) investigated the impact of due process on construction projects delivery in Nigeria, adduced that adherence to due process had the highest impact on cost savings, prequalification of contractors and quality of project delivery while Ochonma (2010) averred that adherence to procurement rules has the strength of preventing loss of value and business goodwill often perpetrated through fraudulent practices, immoral activities, social irresponsibility and lack of personal accountability.

Different factors influencing compliance with public procurement regulations are identified in literatures. They include among others, as professionalism, familiarity with regulations, ethical behavior, political interference, organization

culture, staff training, enforcement and top management support. For the purpose of this study, three of the major factors were studied. They are: Ethical behavior, Professionalism and Familiarity with due process provisions.

2.2 Ethical Behaviour

Olawore (2003) defined ethics as the judgment of what is good from what is right. Osibanjo, Akinbode, Falola and Oludayo (2015) defined ethics as 'the collection of values and norms, functioning as standards or yardstick for assessing the integrity of individuals conduct'. Within the context of this discourse, Ochonma (2010) averred that ethics form the basis of the best conduct in professional procurement and contracting. Some purchasing environment creates a climate which promotes unethical behaviour (Badenhorst, 2016). These unethical behavior according to Ochonma (2010) manifest in terms of limited competition and preferential treatment; supplier driven specifications, divulging of confidential information; ordering excessive quantities and unnecessary items, splitting of contracts, deviation from approved procedures; frequent variations of contract prices amongst others. Rwoti(2015) as cited in Ayoyi and Mukoswa (2015) opined that effective application of procurement ethics is a major challenge facing many organizations around the world. This study investigated the extent to which unethical behavior affects compliance with PPA. Therefore, the study proposed the first null hypothesis as:

H₀,: Ethical behavior has no significant relationship with PPA compliance

2.3 Professionalism

The Business Dictionary defines professionalism as the level of excellence or competence that is expected of a professional. A **professional** is a member of a profession or any person who earns their living from a specified professional activity. The term also describes the standards of education and training that prepare members of the profession with the particular knowledge and skills necessary to perform their specific role within that profession.

This view is supported by Raymond (2008) who posited that professionalism in public procurement does not only relate to the level of education and qualification of the workforce but also to the professional approach in the conduct of business activities. Raymond (2008) opined further that if the workforce is not adequately trained in procurement matters, serious consequences including breaches of code of conducts will be inevitable. De Boer and Telgen (1998) attributed non-compliance in public procurement to lack of purchasing professionalism in the public sector. With these arguments, the study therefore proposed the second null

hypothesis as:

H₀₂: There is no significant relationship between professionalism and compliance with PPA

2.4 Familiarity

The understanding of any manual is important to the operation of the product it comes with. The PPA 2007, the Procurement Procedure Manual and Public Procurement Regulations for Goods all clearly give guidance on how procurement of goods is to be carried out in MDAs. To ensure due process in the award of public contracts, the PPA provides that, all public procurement must start with efficient procurement plan driven by needs assessment; and there must be adequate budgetary appropriation, advertisement, transparent pre-qualification, bids submission/opening, bids evaluation based on the criteria set in the solicitation document; approval from Tender's board/ FEC approval subject to BPPs no objection, and the contract must be awarded to the bidder with lowest evaluated responsive bids and that effort must be made to ensure hitch-free project implementation. The process appears to be long but is necessary to ensure due process compliance.

However, many MDAs hide under the pretense that the process is complicated to engage in unethical professional behaviour such as contract splitting to restrict approval to their parastatal's tenders board. This is an abuse of due process policy. De Boer and Telgen(1998) as cited by Eyaa and Oluka(2011) asserted that during the early days of the inception of public procurement regulations in Netherlands, many municipalities could not comply with the regulations because they were not familiar with them. There is need for procurement officers at MDA's to familiarize themselves with the provisions of the PPA so as not contravene the law. Eyaa and Oluka, (2011) argued that familiarity is a significant predictor of public procurements compliance and posited that lack of familiarity with procurement rules leads to poor level of compliance. On this basis, the study proposed the third null hypothesis as:

H₀₃: There is no significant relationship between familiarity and compliance with PPA

3.0 METHODOLOGY

The study adopted descriptive survey method to elicit data from respondents because it makes views of a group of people known about an experience. In this study, it has the ability to reveal the reasons for compliance/ non- compliance with

procurement regulations in federal tertiary institutions. The population of the study was made up of the staff of all procurement departments in federal tertiary institutions in Lagos State. 36 procurement staff/desk officers in the three institutions were purposively selected at random for the sample.

Data were collected using structured questionnaire, which was broadly divided into the two sections: Section A covers the personal information of the respondents' while Section B covers questions relating to ethical behaviours, professionalism and familiarity as regards compliance with PPA on 5 Point Likert-scale (5= Strongly agree , 4 = Agree, 3= Undecided, 2= Disagree, 1= Strongly disagree).

In this study, Cronbach's coefficient alpha was calculated to ascertain the reliability of the five-point scales which was used for the survey. The reliability coefficients obtained from the different sub-scales are; Ethical Behaviour = 0.77, Professionalism = 0.67, and Familiarity = 0.71 respectively. The Cronbach alpha for the full scale is 0.72. Therefore, the correlation coefficient values was deemed fit because it is above .60 a coefficient good for the study. The questionnaire was subsequently administered personally to the respondents from the three (3) federal tertiary institutions on their campuses.

The analysis of data obtained was carried out through descriptive and inferential statistics. While descriptive statistics involved the use of simple frequency table, percentage, mean and standard deviation (S.D) for the demographic information of the respondents and research questions. The hypotheses were tested with chi-square.

4.0 RESULTS

4.1 Characteristics of the Respondents

The characteristics of the respondents as presented in Table I, revealed that majority of the respondents were males with 25 out of 36 representing 75% while female respondents were only 9 representing 25%. This implies that the profession is male dominated. On the departments of the respondents, bulk of the respondents were from the procurement units with 13 representing 36.1%, followed by Works and Physical Planning 09(25%), Bursary 04(11.1%), Internal audit 03(8.3%), Legal 03(5.6%) and Research unit 02(5.6%). This spread no doubt provided different views to the issue. For the educational qualification of respondents, majority of the respondents were 1st degree holders 19(52.8%) followed by post-graduate degree holders 10(27.8%) and Diploma certificate holders 06 (16.2%) and only 1 Certificate holder. This shows that literate respondents were involved in the survey. On the disciplines of the respondents,

3(8.3%) of the respondents studied Purchasing and Supply, 8(22.2%) studied Business Administration, 10(27.8%) studied Engineering, 02(5.6%) studied Law and 11(30.5%) studied other courses. This is indicative of the dearth of purchasing and supply/ procurement professionals handling procurement related matters in the institutions and lastly in this segment, 28(77.8%) claimed they have earned experience in procurement related matters for between 1-5years and 8(22.2%) have experience between 6-10years. This implied that formal procurement activities are relatively new in these institutions.

Table 1: Characteristics of the respondents

Characteristic	Frequency	Percent
Institutions		
University of Lagos	19	52.8
Yaba College of Technology	10	27.8
Federal Technical College, Akoka	07	19.4
TOTAL	36	100
Gender		
Male	25	75
Female	09	25
TOTAL	36	100
Department		
Procurement unit	13	36.1
Works& Phy.Plg	09	25
Research	02	5.6
Bursary	04	11.1
Internal Audit	03	8.3
Legal	02	5.6
TOTAL	36	100
Highest level of Qualification		
Post Graduate	10	27.8
Degree	19	52.8
Diploma	06	16.7
Certificate course	01	2.8
Discipline		
Purchasing &Supply	03	8.3
Business Administr.	08	22.2
Engineering	10	27.8
Law	02	5.6
Marketing	02	5.6
Others	11	30.5
TOTAL	36	100

Years of experience in procurement		
0-5 years	28	77.8
6-10	08	22.2
16-20	-	-
Above 20 years	-	-

Source: Field survey, 2016

2. Factors affecting Compliance with PPA

Table 2 shows the results of the respondents' agreement/disagreement with factors affecting due process compliance

2.1 Ethical Behaviour

Un-ethical behavior such as unfair treatment, conflict of Interest, and lack of transparency was agreed by the respondents to be an impediment to due process compliance by a mean at 3.83 and SD at 1.13. Issue of 'preferred bidder' by the PE encourages due process non-compliance at mean 3.67 and S.D at 1.21. Lack of regular review or audit of procurement process as hindrance to due process compliance stood at 3.61 for the mean and 1.31 for S.D. Mean of 3.53 and S.D of 1.32 agrees that disclosing information about bidding process to supplier while the process is still on is un-ethical and hinders due process compliance while entering or attempting to enter into a collusive agreement with a supplier is an un-ethical behavior that hinders due process compliance stood at the mean 3.56 and SD at 1.34. These positions revealed that un-ethical behaviours of officers' previously contribute to non-compliance with PPA in federal public higher educational institutions procurements

2.2 Professionalism

Lack of skilled and trained procurement officers had the highest rating among the respondents on factors that affects due process compliance with a mean of 3.86 and standard deviation of 1.25. This greatly attests to the fact that professionalism influences due process compliance while lack of it will definitely bring about abuse of due process. Also, un-professional practices such as placing self-interest above public interest with a mean of 3.50 and standard deviation of 1.23 was ranked second; accepting gifts from potential or existing supplier with the motive of influencing decision ranked third with a mean of 3.69 and standard deviation of 1.06. The respondents ranked poor remuneration of staff in the procurement unit as encouraging sharp practices least.

2.3 Familiarity

From table II, it was observed that lack of familiarity with due process

requirement hinders its compliance level; this was ranked highest among the statement of factors that hinder due process compliance with a mean of 3.80 and standard deviation of 1.28 as shown in the Table. This further confirms that poor or low knowledge of due process requirement affects compliance. It was also established in this study that purchasers would comply with Due Process if they understand the process clearly. Some of the respondents, perceived due process requirement to be very ambiguous and conflicting. This could be as a result of some technical terms being used to phrase some words in the PPA or their lack of understanding. The respondents also agreed with the statement that Due process requirement is laborious and time demanding which encourages procuring entity to avoid it (Mean 3.50/SD, 1.40) and that Ignorance of the method of carrying out due process encourages non-compliance (Mean 3.59/SD, 1.23).

Table 2: Factors affecting due process compliance

Ethical behaviour and compliance with due process	Mean	St. dev.
Un-ethical behaviour such as unfair treatment, conflict of interest and lack of transparency affect due process compliance	3.83	1.13
Issue of 'preferred bidder' by the PE encourages non-compliance with due process	3.67	1.21
Lack of regular review or audit of procurement process hinders due process compliance	3.61	1.31
Disclosing information about bidding process to supplier while the process is still on is un-ethical and hinders due process compliance	3.53	1.32
Entering or attempting to enter into a collusive agreement with a supplier is an unethical behaviour that hinders due process compliance	3.56	1.34
Professionalism and Compliance with due process		
Lack of skilled and trained procurement officers affects due process compliance	3.86	1.25
Placing self-interest above public interest is un-professional and can hinder due process compliance	3.50	1.23
Accepting gifts from potential or existing supplier is professionally un-ethical and can affect one's sense of judgment	3.69	1.26
Poor remuneration of procurement officers encourages sharp practices which hinders due process compliance	3.61	1.32
Familiarity and Compliance with due process		
Lack of familiarity with due process requirement hinders due process compliance	3.80	1.28
Public purchasers will comply with due process if they understand the process and perceive them as clear	3.64	1.33
Due process requirement is laborious and time demanding. This encourages PE to avoid it	3.50	1.40
Ignorance of the method of carrying out due process encourages non-compliance	3.59	1.23

Source: Field Survey, 2016

TEST OF HYPOTHESES

Hypothesis one: There is no significant relationship between ethical behaviour and due process compliance in public procurements

Table 3: Chi-square analysis of the relationship between ethical behavior and due process compliance.

Chi –Square	13.167 ^a
Df	4
Asymp.Sig	.010

*significant level at $p < .05$

Table 3 above shows that assymp significance value of .010 is less than the critical significance level of .05. Since the calculated p-value is less than .05, the null hypothesis which states that there is no significant relationship between ethical behavior and due process compliance in the procurement of goods and related service is rejected. This means that there is a significant relationship between ethical behavior and due process compliance in the procurement of good. Consequently, the null hypothesis was rejected in favour of the alternative.

Hypothesis two: There is no significant relationship between professionalism and due process compliance in public procurements

Table 4: Chi-Square analysis of the relationship between professionalism and due process compliance.

Chi –Square	13.722 ^a
Df	4
Asymp.Sig	.008

*Significance level at $p < .05$

Table 4 above shows that the p- value of .08 is less than the .05 significant level ($008 < 05$). Since the calculated p-value is less than .05, the null hypothesis which states that there is no significant relationship between professionalism and due process compliance is rejected in favour of the alternative. This means that there is significant relationship between professionalism and due process compliance in the procurement of goods.

Table 5: Chi Square analysis of the relationship between familiarity and due process compliance.

Chi –Square	13.722 ^a
Df	4
Asymp.Sig	.008

*Significance level at $p < .05$

The table above shows that the p-value of .08 is less than the .05 significant level ($.008 < .05$). Since the calculated p-value is less than 0.05, the null hypothesis which states that there is no significant relationship between professionalism and due process compliance is rejected in favour of the alternative. This means that there is significant relationship between familiarity and due process compliance in the procurement of goods.

1.0 DISCUSSION OF FINDINGS

Based on the outcome of the empirical research, the outcome which established the ethical behavior is related to compliance with PPA concurs with the findings of Bor et al. (2015) which discovered that employee's perceived interference and professional ethics contribute to non-compliance with public procurement regulations. On the contrary, the second hypothesis which established that professionalism is related to compliance with PPA negate the findings of Eyaa and Oluka (2011) which did not reveal any significant relationship between professionalism and compliance in public procurement. Conclusively, hypothesis which affirmed that familiarity of officers with PPA contribute to their compliance level corroborate with the findings of Eyaa and Oluya (2011) which revealed that familiarity with procurement regulations is a significant predictor of compliance with procurement regulations and further echoed the claims of Gelderman et al; (2006) that people would comply with regulations if they perceive them to be clear.

6.0 CONCLUSION AND RECOMMENDATIONS

In order to promote and ensure efficient public management, one of the critical areas is adhering to the provisions of the PPA. The Act ensures that requisite standards are maintained, while transparency, accountability and the elimination of wastes are guaranteed in every sphere of management. The study revealed that un-ethical behavior, lack of professionalism, and lack of familiarity with procurement procedures are leading causes of non-compliance with public procurements among the federal higher educational institutions in Lagos State, Nigeria. Based on this conclusion, the followings were recommended:

1. To ensure ethical behaviour among procurement practitioners and officers who perform procurement related activities in MDAs, there is need for periodic ethical training which should aim at educating procurement officers on the need to conduct procurement activities with high ethical standard and avoid sanctions for unethical behaviour as enshrined in the PPA.
2. For Institutions that are yet to set up a Standard Procurement Department; efforts should be made to set-it up immediately and staff such department with officers who have requisite skills and professional qualifications in the field of purchasing and supply/ procurement.
3. There is need for policy makers and regulatory body to assist the officers in charge of procurement by providing them with less cumbersome manual of PPA. Familiarity with the regulations can also be achieved through mandatory trainings and workshops from time to time.

7.0 SUGGESTIONS FOR FURTHER STUDIES

The study is limited to three factors influencing PPA and procurements in federal higher institutions. There are other factors such as political interference and organizational culture which were not treated in this study. Research can be carried out in these areas. This study was limited in terms of sample size and area coverage. There is need for a wider coverage to include State-owned tertiary institutions and geographical coverage such as Southwest, South-south, Northwest, etc and by so doing comparison can be done based on the results. Also, there is need to extend the implications of this empirical study on the effects of these outcome on project implementation in Nigeria.

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Printed by:
University of Lagos Media Press
UNILAG Media Centre
Akoka-Yaba, Lagos.

