

Empirical Review and Analysis of Public Procurement Practices in Nigeria: Challenges and Prospects

ANTHONY KAYODE BODUNRIN, FCIPSMN.
Directorate of Procurement, Ekiti State University, Ado-Ekiti, Nigeria

ABSTRACT

Procurement has always been one of the vital functions of governments all over the world, Nigeria is no exception. Public procurement comprises government purchasing of goods and services resources for state activities, the basic purpose of which is to secure best value for public money. Data for this study falls under the survey research typology. Data were sourced basically from secondary sources, such as textbooks, journals, magazines, newspapers and government publications etc. Results from this study revealed that the existence of multiple procurement guidelines and procedures, overt emphasis on procurement of manpower, the fear of vigilance, poor/quality training and lack of centralized data sharing facility etc. were the challenges and problems of effective public procurement practices in Nigeria. This study therefore recommended that, there is need to either have qualified staff handling procurement or to provide adequate professional training to convert the procurement officials into procurement managers.

Keywords: Analysis, challenges, practices, public procurement and way for word.

1.1 Introduction and Background to the study

Wikipedia (2016) asserted that procurement is the acquisition of appropriate goods and services at the best possible 'total cost of ownership' to meet the needs of purchaser in terms of quality and quantity, time and location. When goods and services are purchased by a public sector, it is called public procurement. As has been rightly said, 'It is the process by which government and public sector institutions buy inputs for vital public sector investments in physical infrastructure and for strengthening institutional human capacities, which lay the foundation for national development' (Pratyush, 2009). With 10 to 15percent of the national budgets in developed countries, and upto 20 percent in developing countries, government procurement accounts for a substantial part of the economy (Pratyush, 2009).

Public procurement also serves as an instrument to attain social outcomes. By way of preferential treatment in procurement, it may be used to promote indigenization of foreign technology, development of backward regions or protection of small scale industry. Of late, procurement is also being leveraged to promote the cases of environment, human rights, protection of children and gender equality. (Pratyush, 2009)asserted the following as some of the representative factors that highlights the academic importance of public procurement:

- (a) Very large sum involved
- (b) Large size of contract involved, particularly those relating to infrastructure and defense.
- (c) Huge stakes: while the tax payers look for value for money, transparency and non-discrimination; the general public look for quality of goods/services and responsiveness/efficiency.
- (d) Significant impact on domestic industry: through development, construction work, purchases and overall buoyancy in the economy.
- (e) Significant impact on society: through provision for labour laws, minimum wages and health standards.
- (f) Governance: the image of any government is largely influenced by the quality of public procurement (Pratyush, 2009).

Objectives in public procurement. The following are some of the representative objectives in public procurement:

- (a) Get the best value for money
- (b) Provide access to all eligible bidders
- (c) Promote competition

- (d) Ensure transparency and openness
- (e) Build in accountability
- (f) Reduce scope for corruption and abuse
- (g) Develop domestic economy
- (h) Compliment other public policies
- (i) Be a model purchaser and employer (ministry of micro, small and medium enterprises, 2015).

Despite the professed importance and desirability of a sound procurement system, Nigeria is yet to have a perfect and institutionalized system of procurements. The ministry of finance in the Central Government is responsible for issuing basic guidelines that are supposed to establish the 'Canons of financial behavior, (ministry of micro, small and medium enterprises, 2015) Thus, National Agencies like the Central Vigilance Commission (CVC) supplement this effort by laying down vigilance benchmarks in the procurement system. Yet, some ministries come out with their own rules and regulations that are supposed to be followed by all ministries, while implementing their procurement policies.

1.2 Statement of the Research Problem

Generally, procurement in many developing countries like Nigeria has been identified with inherent weaknesses, making the system ineffective and non-responsive to strategic procurement needs of organizations and government alike. According to Hunja (2003), one consistent weakness in most developing countries is the lack of an entity within government that is charged with overall responsibility for formulation of procurement policy and to ensure that the system is functioning properly.

Hunja (2003) further stated that over-duplication of procurement manuals leads to diverse interpretations and implementation of existing rules across various public agencies and even within some of the agencies, lack of oversight responsibilities for the proper functioning of the procurement system creates serious gap in the enforcement of rules. The procurement system invariably suffer various forms of malpractice and unethical conduct, including a high incidence of vested interest, interference and insider dealings and occasional cases of retrospective approval of contract awards. There was significant lack of professional knowledge and expertise in the purchasing and contracting function at all levels (Agaba and Shipman, 2012).

Fayomi (2013) noted that countries all over the world are always besets with various political and socio-economic problems at one time or the other. Constant efforts are often being made by the various governments to find solutions to such problems. This is usually through administrative reforms, whereby a policy option is made to halt a named political, educational or socio-economic problem. He further stressed that the due process policy is a package of policy measures, and like any other policy, it has set goals, which it aimed at achieving. Thus, the institution of the reform measures presupposes the existence of some administrative deficiencies. The rectification of the flows in the administrative machinery depends on the satisfactory implementation of the reform goals (Fayomi, 2013).

It becomes apt at this juncture to discuss the rationale for the introduction of the due process policy in the public procurement in Nigeria. That is, what are the major differences or defects of the previous procurement system that the due process policy is addressing? According to the highlight of the budgets monitoring and price intelligence unit (BMPTU) which is the office in-charge of the due process, though now changed to the Bureau of Public Procurement (BPP). According to the BMPIU manual (2005), some of the defects are:

- i. Lack of competition and transparency in project procurement leading to high cost of project.
- ii. Improper project packaging and definition compounding ineffectiveness.
- iii. Budget proposal submitted by the MDAs not being relates to justifiable needs
- iv. Preference for new projects, thereby encouraging regular midstream abandonment of projects in progress and this also fuels the cultural disdain for maintenance, rehabilitation and refurbishment of existing facilities and infrastructure.

- v. Projects not prioritized, recorded and synchronizes among the MDAs such that many ministries, Departments and Agencies (MDAs) are pursuing the some or similar need simultaneously with resultant lack of economy efficiency and effectiveness, while creating overlapping and waste.

1.3 General and Specific Objectives of the Study

The general objective of this study is to examine the bottlenecks and principles of public procurement on national development.

The specific objectives are to:

- i. Identify the role of public procurement practices on national development
- ii. Assess the various reform strategies needed to improve on public procurement practices.
- iii. Investigate the challenges and problems of public procurement in nation building.
- iv. Proffer possible remedial measures to the problems identified.

1.4 The Study Area (Geographical and Political Settings of Nigeria)

Nigeria is located in the Western part of Africa on the Gulf of Guinea and has a total area of 923, 768km² (356,669sqmiles), making it the world's 32nd largest country (after Tanzania). It is comparable in size to Venezuela, and is about twice the size of California. It shares a 4,047 kilometres (2,515mils) border with Benin Republic. The highest point in Nigeria is ChappalWaddi at 2,419m (7,936ft). It extends from approximately latitude 4⁰N to 14⁰N of the Equator and longitude 3⁰E to 15⁰E of the Greenwich meridian (Filani, 1995).

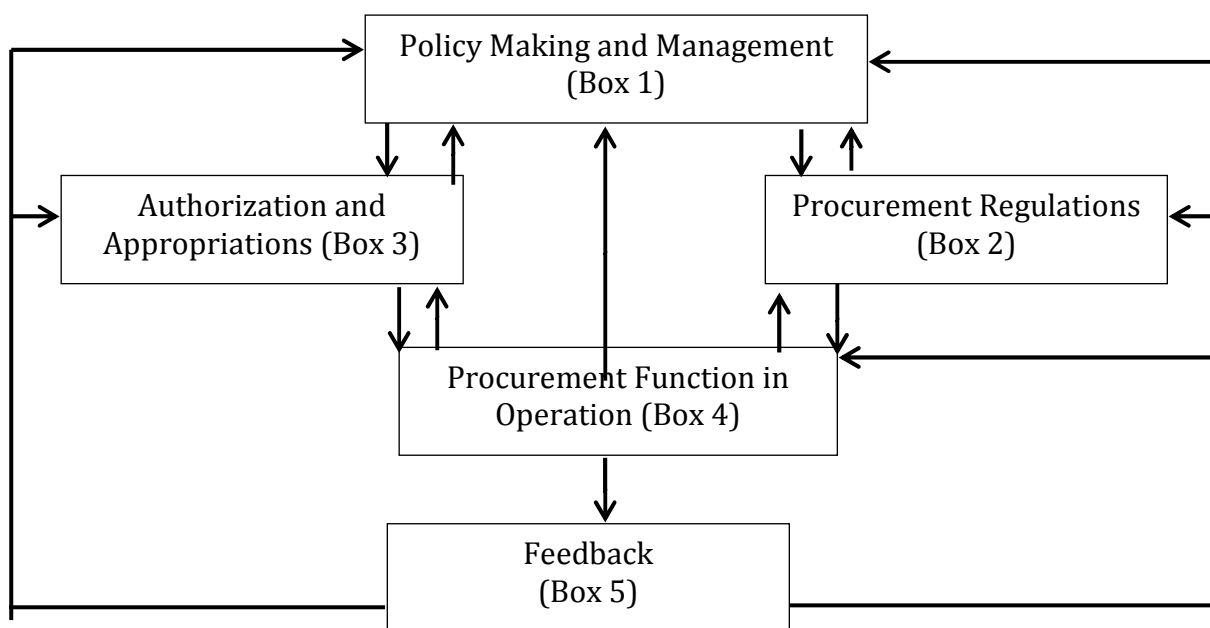
The main rivers are the Niger and Benue, which converge and empty into the Atlantic Ocean, through the Niger Delta. Nigeria officially called the Federal Republic of Nigeria, is a Federal Constitutional Republic comprising thirty six states (36) and its Federal Capital Territory Abuja. The country is located in West Africa and shares land borders with the Republic of Benin in the West, Chad and Cameroon in the east, and Niger in the north. Its coast in the South lies on the Gulf of Guinea on the Atlantic Ocean. The three largest and most influential Ethnic groups in Nigeria are the Hausa, Igbo and Yoruba. In terms of religion, Nigeria is roughly split half and half between Muslims and Christians with a very small minority, who practice traditional religions (www.nigeriaonline.org.2016)

1.5 Theoretical Framework / Literature Review

In this study, the traditional systems view, namely institutional approach is used to examine elements of public procurement. The other view is the systems approach, namely the procurement system in action, will be used to examine the emergent property. (Checkland and Scholes, 1990).

Figure 1

Public Procurement System



Legend:

- Direct Relationship
- Feedback and reforms / adjustments

Thus, figure 1 depicts visually, the whole scope of public procurement, which consists of five core elements; policy making and management (Box 1), procurements regulations (Box 2), procurement authorization and appropriations (Box 3), public procurement function in operations (Box 4) and feedback (Box 5). The procurement regulations” element (Box 1), becomes the institutional framework within which public procurement professionals (be it contract officers, buyers or procurement officers) and programme managers (Box 4) implement their authorized and funded procurement programmes or projects (Box 3), and also are accountable to policy makers and managements executives (Box 1). Relationships between these four elements or Boxes are depicted by respective arrows. Finally, feedback (Box 5) will go to policy makers and management for possible adjustments or improvements in both Boxes 2 and 3, and to procurement professionals and managers (Box 4) for adjustments or improvements in procurement operations.

Policy making and management

In a democratic system of government, although there is a distinctive division of powers between the legislative, executive and judiciary branches, procurement authorities and responsibilities vary among countries. Indeed, in countries such as the United Kingdom and Malaysia, where policy implementation is carried out by the executive branch, through non legal means, procurement organizational structure and responsibilities are determined by executive orders. While in many other countries, public procurements are regulated by formal rules and regulations.

Thus, in implementing procurement policies, the executive branch, headed by the President, Governors, Local Government Chairpersons, Councilors etc. has a broad scope of managerial, and technical procurement responsibilities and procurement policy decisions, which may include, among others:

- a. Supplementing and augmenting statutory procurement policies and procedures, through executive orders;
- b. Developing and maintaining statutory procurement policies and procedures; and
- c. Determining, whether to meet programme needs by in-house performance or by contracting out.

- In public finance literature, government is involved in four major economic activities:
- a. Providing the legal framework for all economic activities
 - b. Redistributing income through taxation and spending
 - c. Providing public goods and services freely available to the public such as national defense, public safety, education and infrastructure (bridges and roads); and purchasing goods, services and capital assets. (Acquisition 2005, Taskforce, 2000).

Public procurement organizational structures within the executive branch vary with the size of the governmental units, from a very complex to a very simple structure. In small towns and villages, there is no procurement structure as their part-time managers are responsible for all administrative functions of government including budgeting, accounting, and procurement (Checkland and scholes, 1990).

1.6 Research Methodology

This study falls under the survey research typology. Data were sourced basically from secondary sources, such as; textbooks, journals, magazines, newspapers, and government publications etc., that are relevant to the subject matter. Content analysis was adopted as the instrument for data analysis.

1.7 Findings and Discussions

On the key principles of public procurement, the following were identified as the key principles underpinning public procurement:

- i. Value for Money (VFM): Value for money is the most important principle of procurement (Raymon, 2008). According to Bauld and McGuiness (2006). VFM in the public sector involves consideration of the contribution to be made to advance, government policies and priorities, while achieving the best return and performance for the money being spent. Cummings and Qias (2003) indicated that in order to obtain VFM, sometimes, the government that liberty to consider other criterias than the lowest price; for example technical capability, qualifications of key personnel, and past performance records in awarding contracts to potential suppliers.
- ii. Ethics: another important principle of public procurement is ethics. Akinson (2003) stated that purchasing professionals are held to higher standards of ethical conduct than people in other professions, yet some do not even know what is expected of them. It is therefore important that employees are adequately educated in such matter, so that it does not lead to serious consequences like breach of codes of conduct (Raymond, 2008).
- iii. Competition: competition is the means by which most goods and services are procured (Raymond, 2008). It is a means by which buyers are make the best use of competitive market forces to obtain the best offer that can be outlined from the market at that particular time. Erridge (1999) believes that competitive tendering would avoid accusations of favouritism and fraud and that, the openness of the system would encourage more suppliers to participate and that increased competition would help reduce prices, improve quality and lead to greater competitiveness among suppliers.

On the strategies of public procurement practices on national development:

- i. The setting of clear objectives at the outset of all projects and for all strategic procurement units: the establishment of clear objectives at the outset of any procurement project is a pre-requisite for success. The challenge for procurement professionals are two folds. Those who are still being thrust into procurement processes initiated by others, need to work with their clients so that procurement is involved up-front and can ensure project objectives are set. Those who have achieved this need to continue to work with their stakeholders to ensure agency-wide procurement objectives exist and cascade down into all projects.

- ii. Development of a procurement strategy for every public sector organization: A straw poll of delegates revealed that many organizations represented at the forum did not have a published, agreed procurement strategy despite employing a number of people under the title strategic procurement professional.

Thus, those delegates with such strategies in place were able to look back and confirm that the previous lack of an agreed strategy had hampered the efforts of the procurement professional teams to influence the processes and mindsets of their key clients.

- iii. Sustainability has become a strategic driver for professional procurements: Sustainability is fast becoming a new driver of strategic procurement. Thus, sustainability is becoming an increasingly important driver of both corporate and government procurement practice. These highlights the needs for government procurement professionals to incorporate sustainability targets into progress targets in a manner that enables them to help develop supply markets, so that they deliver social outcomes supported by value for money in the use of Tax Payer Funds.
- iv. The talent scarcity problem has yet to be resolved: Another challenge being faced is the difficulties we currently face and will continue to face in finding new staff. A key solution to this challenge is to give far greater attention to the way we attract new staff members into the profession and to reconsider our commitment to developing existing staff. This issue will be exacerbated as the 'baby-boomer' generation retires in coming years. Thus, procurement is a key public sector management discipline; we need to broaden our selection base. Procurement leaders need to work with, influence and attract other management disciplines to strategic procurement concepts. In this way, we can draw on those clients to support strategic procurement outcomes.

Major concerns on the procurement regime

On the Challenges and Problems of Public Procurement Practices:

- i. Existence of multiple procurement guidelines and procedures: A major problem expressed by the procurement officials is the confusion created by the existence of multiple procurement guidelines and procedures established by multiple agencies. There is neither a single comprehensive public procurement standard nor a single nodal agency to deal with public procurement policy.
- ii. Overt emphasis on procurement procedures and guidelines: Another anomaly in our public procurement regime is that there is an attempt to apply the procurement procedures and guidelines in the letter without an appreciation of the spirit behind these stipulations. These procedures and guidelines have been framed to uphold the values of competition, transparency, fairplay, integrity and value for money, while undertaking procurement. The ultimate test of any procedure is its ability to promote these values. Therefore, a good manual of procedures should explain the underlying principles.
- iii. Poor quality of manpower: The quality of manpower which operates the procurement system is equally crucial. In Nigeria, public procurement has never been treated as a specialized activity requiring specialized knowledge and skills. Even the most critical and complex procurements are handled in a non-professional manner.
- iv. The fear of vigilance: The lurking fear of landing in vigilance cases, even amongst honest employees, withholds them from giving off their best to the organization. This fear arises out of the uncertainty about the view that would be taken by vigilance organization in case of an inadvertent mistake without any mala-fide intention. The numerous and ever changing rules also give rise to such fear (www.mecigov.in/pdf/vigarticles.pdf, 2016).
- v. Frequent updates of manuals: In some cases, overemphasis on swift updates of manuals also creates a problem. Those responsible for procurements are not aware of immediate changes and thus are at variance with latest guidelines or instructions.

- vi. Poor quality of training: Proper institutionalized training can help develop the skills of those responsible for procurement. Unfortunately, Nigeria still does not have any dedicated institutional arrangement for training on procurement related issues, despite a huge chunk of tax payers money going for public procurement. That results in poor quality of training, since a large proportion of procurement training is done in-house in various departments of the government.
- vii. Lack of centralized data sharing facility. Broadly speaking, data sharing is the practice of making data used for scholarly research 'available' to other investigators. The role and utility of data sharing is quite well known whether, it is decision making, crisis management, operational issues, negotiations or training and capacity building exercises, the availability of updated data induces elements of rationality and objectivity into decisions, that are likely to be effective and sustainable.

In the organized sectors such as government, the role of data sharing cannot be undermined, since it brings a lot of uniformity and cost effectiveness into the hitherto vast and complex bureaucratic organization. However, while the government is working on a national 'data sharing policy' lack of data sharing facility obstructs procurements managers to take informed and enlightened decisions.

1.8 Conclusion and Recommendations

Most of the time, public procurement is carried out through competitive bidding or tendering process with the intention of achieving maximum economic efficiency through competitive process. Any anti-competitive practices in a procurement process, such as collusion, bid-rigging, fraud and corruption, could lead to artificially raised prices, or compromise on the parameters and consequently impact public expenditure and the precious national resources.

Ensuring effective functioning of public procurement market is also parts of good governance and necessitates two distinct, but inter-related challenges.

- (i) Ensuring integrity in the procurement process, that is, preventing corruption on the part of public officials and
- (ii) Promoting effective competition among suppliers, including preventing collusion among potential bidders.

Certificates Independent Bid Determination (CIBD), which require bidders to certify that they have arrived at their tender price absolutely independent of other bidder (CIBD) operate as both a reminder of the relevant legislation and as a commitment by the bidders that these rules have been complied with there is need to either have qualified staff handling procurement or to provide adequate professional training to convert the procurement officials into procurement managers.

The present and successive governments should do all things possible, through sincere political will, not only to sustain it, but to re-energize it by putting 'bitting razor teeth and a "hot iron knots" to cracks or leakages, through which the policy is being abused or mocked.

The Nigerian government should also ensure that relevant organs promptly approve and release funds to avoid undue stress on procurement processes, regular stock taking, adequate, effective and efficient projects, programmes and monitoring and evaluation. There should be proper database for proper record keeping and documentation in the BPP and in all the Government MDAs in the country.

Enforcement agencies should also seek to establish a collaborative relationship with front line public procurement officials to the possibility and warning signs of collusion, as well as warning of the consequences for officials, who themselves engage in corrupt practices.

Redesign of the procurement process, maximizing transparency without allowing sharing of commercially-sensitive information. Generally, sealed bid tenders are less prone to collusion than dynamic or open tender mechanisms; whereas individuals' negotiation has greater potential for corruption or favouritism than competitive bidding, although in certain circumstances, it may be the most efficient procurement tool.

References

- Bauld, S. and Mcguinness, K. (2006). Value for Money. Summit, 9, 1:20 – 31
Bureau of Price Monitoring and Intelligence Unit (MBPIU) manual (2005)
Checkland, P. and Scholes, J. (1990). Soft Systems Methodology in Action. New York: John Willey and Sons.
Conference on Competition, Public Policy and Common Man, 16th November, 2009.
www.cci.gov.in/menu/speechesbypratyushsinhacvc.pdf.
Cummings, G., and Qiao, Y. (2003). The Use of Qualification – Based Selection in Public Procurement: A Survey Research. Journal of Public Procurement, 3,2: 215 – 226.

- Fayomi, I.O. (2013). Public Procurement and Due Process Policy in Nigeria: Thrust, Prospects and Challenges. *Journal of Social Sciences and Humanities* Vol. 1(4), Pp. 39 – 45.
- Ferridge, A. (1999) An Assessment of Competitive Tendering Using Transaction Cost Analysis Public Money and Management. *Journal* 193: 37 – 42.
- Hunja, R.R. (2003) Obstacles of public procurement Reform in Developing Countries. The Netherlands: Kluwer International.
- Ministry of Micro, Small and Medium Enterprises (2015) Public Procurement Policy. Indian
- PratapRanjan Jena and SatadruSkdar (2010).Public Expenditure and Financial Accountability (New Delhi, NIPFP, 2010. Pp. 67 – 69.
- Pratyush, Sinhu, CVC (2009) 'Enhancing Value in Public Procurement
www.cci.gov.in/menu/backNote091212 Public Procurement: Achieving Best value through Competition.
www.governancenow.com (19 October, 2010).
www.mecigov.in/pdf/vigArticles.pdf (A Common sense approach to Public Procurement in Government Departments and PSUs, March, 2016.