

An Appraisal of the Effectiveness of Due Process in the Procurement of Construction Projects in Nigeria: A Case Study of Taraba State

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ABSTRACT

This paper is aimed at appraising the impact of due process in the procurement of construction projects in Taraba State. A random sampling technique was used to select the sample size. Out of 59 questionnaires distributed 47 were returned. The data collected were analyzed using the critical index, percentage method and the chi square. The study reveals that there was a significant awareness among construction professionals about the passage of the procurement Act 2012 in to law, but the expected positive impact of the Act in the basic procurement stages have been straddled by three major factors, namely absence of monitoring mechanism ($X_n = 3.98$, Critical Index=0.264), inappropriate bidding process ($X_n = 3.81$, Critical Index=0.254), and corruption ($X_n = 3.79$, Critical Index=0.253). Also, it was discovered that project planning before contract award, contract award stage, bid evaluation, bid opening and the absence of the enforcement of retention fee are the major factors influencing successful procurement proceedings. The chi square test showed a significant relationship between due process policy and value for money, as well as the relationship between successful procurement proceedings with well trained staff. Government's undue interference with procurement proceedings should be minimized and the monitoring mechanism should work. Also, transparency, accountability, fairness and probity in the procurement proceedings will improve value for money.

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Introduction

Procurement as a term is generally used to describe the selection of a successful bidder for provision of goods and services usually by a third party; this relates to the process of contract identification, prioritization, advertisement and invitation, processing of prequalification bid/tender, opening of tender, analysis of tender, negotiation with tenderers, selection of winners and implementation of contracts [1]. When referring to production management, procurement is regarded as the management of the total process involved in project delivery, which involves the management of the design and its production from inception to completion [2]. In the same vein, it has been observed that procurement is the process that creates, manages and fulfils contracts. It forms an integral part of construction projects and occurs at any point in a projects life cycle [3]. Project procurement involves the choice of contractual arrangement available for selecting a contractor to construct a building. This does not only embrace the procurement of goods but also the hiring of contractors or consultants, hence the need for proper procurement proceedings to enhance efficiency and value for money [4]. It also encompasses an organizational structure needed to design and build construction projects for specific clients [5]. Therefore, if any nation has to be economically viable its procurement policies and proceedings for construction contracts have to be sound and adhered to.

Public procurement on the other hand can be defined as the process by which government buys input for vital public sector

investments which could be physical infrastructure to strengthened human capacities, which lay foundation for human development [6]. The Construction industry is a viable sector in any nation and accounts for 6-9% of the Gross Domestic Product (GDP) of many countries, and the value of annual construction activity in the world exceed one trillion dollars [7]. World Bank Report (1984) showed that in developing countries construction usually accounts for between 3 and 8% of the GDP in the 70's.

In Nigeria, the construction industry was the dominant contributor to the GDP (Planning Committee on the National Construction Policy, 1989) [8]. This made the industry very strategic to Nigerian's developmental efforts. Unfortunately the industry has been bedeviled by sharp and unscrupulous practices, over invoicing, over bloating of contract price, favoritism in the award of contracts, nepotism, and the lack of political will to enforce that which is right, lack of monitoring mechanism. These ills have entrenched themselves in the procurement section of the nation's construction industry and reduced service delivery, hence not getting ones value for money. The government of Nigeria among many in 2003 rose to the challenge by setting up the due process policy in the award of Federal Government contracts and the strict implementation of the policy by the Budget Monitoring and Price Intelligent Unit (BMPIU). This was to block the loopholes inherent in reckless and unscrupulous processes involved in contract awards, and to ensure compliance with stipulated guidelines and procedure for procurement in capital project with associated goods and services [9]. Hence, the formulation of due process legislation. Due process is a term with

several meanings. It refers to the fundamental principle of justice or established course for judicial proceedings or other governmental activities designed to safeguard the legal right of an individual. In Nigeria it is viewed as an instrument of public accountability; and within the construction industry, the due process refers to the mechanism that ensures that projects which enjoy public funding pass the test of contract award, oversight, and certification [10]. Bureau for public procurement which deals with the formulation of the general policies and the guidelines related to public sector procurement and the supervision, monitoring and implementation of these policies from the inception of the project to its completion [11].

The State Governments became interested looking at the successes the Federal Government has achieved within a short period of time since the commencement of it implementation. The states which have been bedeviled by abandoned projects, cost overrun and shoddy work saw the need to key into this. The first set of training for states took place in Abuja in April 2005 following requests by the first ten states. The states that took part in the pilot training programmes were Bauchi, Benue, Ebonyi, Kebbi, Nasarawa, Ondo, Ogun and Osun States. As a result of the tremendous impact of this first set of training, eleven more states immediately indicated interest to benefit from the technical support and training, which the BMPIU is always willing to provide with support from our development partners [1]. In 2007 the public procurement Act was passed in to law and the law is expected to set up a Bureau for Public Procurement which was saddled with the responsibility of being a regulatory authority responsible for the monitoring, overseeing and harmonizing existing policies on public procurement and the development of a legal framework for it. Under the policy, the procedure for award of all Federal Government contracts must be right, the cost must be right and the winner of such contracts must equally emerge from transparent and competitive process [1].

Materials and Methods

Taraba State is the third largest state in the country terms of land mass with a population of 2,300,736 from 2006 population census, it is located in the North eastern part of Nigeria, occupying an area of 54,473 square kilometers. It is a heterogeneous state with the influx of people from different parts of the northeast because of the peaceful atmosphere in the state in comparison with other states of the north east. Furthermore, there have been some developmental strides by the state government and also influx of federal ministries because of the favorable peaceful atmosphere.

This was a descriptive study, carried out between the period of 2014 and 2015. The study appraised the compliance of Ministries, Parastatals, government agencies and private construction firms, to due process policy, factors affecting such policy and also seeks to understand the awareness and adherence of construction professionals to the policy. Random sampling

technique was employed, within government departments, ministries, agencies and private construction firms in Taraba state. The Likert scale method of coding was adopted to grade variables according to the degree of significance. A score of 3 and above is considered significant in a range of 1-5. A total of over 11 organizations were selected involving ministries, departments, Parastatals, and viable construction firms across the state, basically only viable and functional government organizations and construction firms in construction activities were selected during the course of the study so as to give a proper and current views of what is obtainable in the construction industry regarding due process policy.

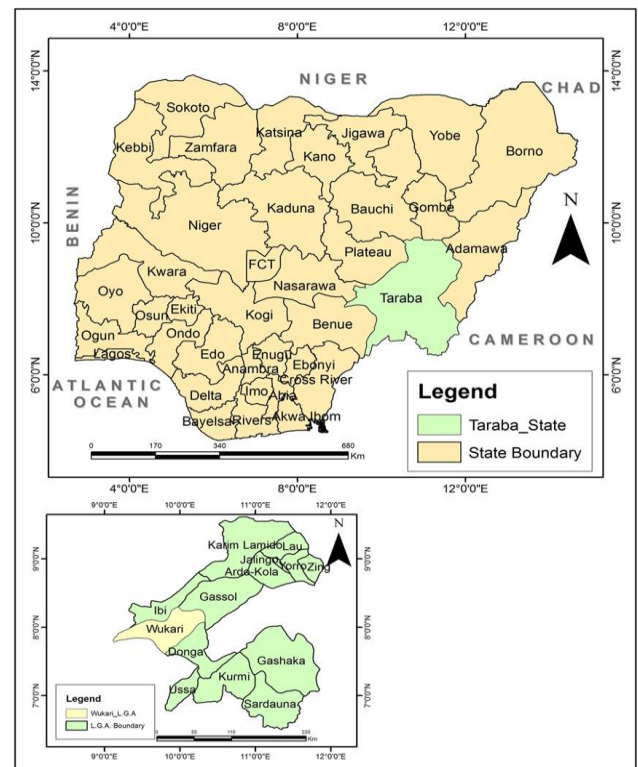


Figure 1. The study Area, Map of Nigeria showing Taraba State

Selected ministries were Bureau for public procurement (BPP), Federal Emergency Road and Maintenance Agency (FERMA), Federal Medical Centre (FMC), Federal Ministry of Work (FMW), Taraba State Ministry of Works (TSMW), Taraba State Ministry of Housing and Urban Development (TSMHD), Taraba State University (TSU), Taraba State Polytechnic Suntai (TSPS), Taraba State Primary Board (TSPB), and Private Construction Firms. A draft questionnaire numbering fifty (59), was distributed to the various stakeholders in the construction industry and allied workers in the due process offices. The study population was taken from 47 professionals of the over 11

ministries and construction firms that were involved during the study.

The following survey method was employed in obtaining data and information necessary for this research. They are semi-structured interview, structured questionnaires and the review of relevant literature. The random sampling techniques was used in sampling the population under study, this is use to give each professional the probability of making his own input.

Data Presentation and Analysis of Results

Majority of the respondents that filled the questionnaires were professionals from the construction industry, with Civil Engineers having 23%, Builders 21%, Architect a17%, Electrical Engineers 15%, and Quantity Surveyors 13% the remaining are less than 10% of the total population as shown in figure 2. About 23% of the respondents agree that there are well trained professional staff in MDA’s regarding due process while over 40% agree that professional staff in this regards are on the average level, furthermore 55% of respondent agree that there is training of construction professionals on public procurement policy. The impact of training of staff on due process policy was investigated with over 8% agreeing to be excellent while over 14% agree to have a very good impact and over 40% agree that the impact of the training is good. On the impact of professional staffing on the successful actualization of procurement proceedings, over 64% of the cumulative respondents agree positively that the impact is yielding results as shown in Table 1.

Table 2 shows that over 55% of the respondent agree to the fact that there is savings in contract cost as a result of due process policy. While over 89% of the respondent, agree to the knowledge of the passage into Law of due process policy, over 26% of the respondent believe in the effectiveness of the procurement Act 2012.

The factors affecting a successful procurement Act was looked in to and from findings, as shown in Table 3, absence of monitoring mechanism rank firsts followed by, inappropriate bidding process, corruption in procurement, indiscipline among erring contractors by procure ring entity, indiscipline among erring procuring officers, non-adherence to pre-qualification criteria, absence of advertisement, execution of project not being budgeted for, delay in payment of contractors, leakages of tender price, ranking second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth respectively. Factors influencing successful procurement proceedings in relation to highly trained procurement professionals was also considered with project planning before contract award ranking.

Discussions

This study which focused on appraising the effectiveness of due process policy in the procurement of construction projects in Taraba State. It employed the survey approach. Majority of the

respondents were professionals from the construction industry who have well over 5 years of experience in project procurement. The research shows that, there is a major understanding of the passage of the public procurement Act it to Law in Taraba State. The result from the respondents shows that 89.36% of professional in the construction industry are abreast about the law. These findings concur with the study in to the awareness of due process [12].

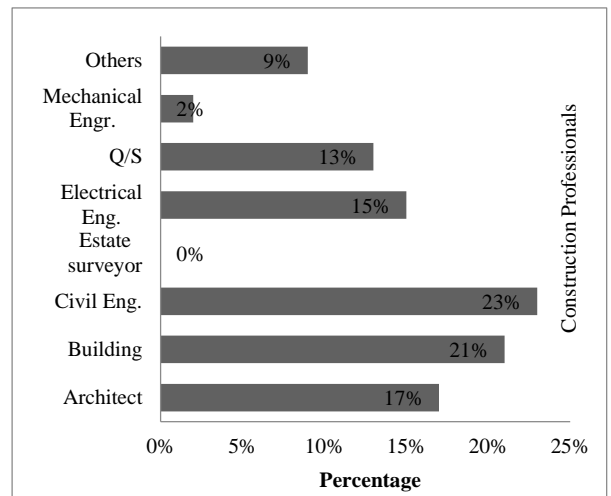


Figure 2. Construction Professionals.

The level of compliance of the various organisation to this policies is on the above average ranking, furthermore it was discovered on the course of the study that professional staffing on procurement in the various ministries and departments is also on the average side with the highest respondent of 33.33%. The survey also examine the training of professionals on procurement policy, it was observed that the training of procurement professionals ranked on the average mark with a yes response of 48.14%, hence training of professionals should be encouraged by MDA’s. It was also discovered that better results and performance are enhanced when staff are trained in public procurement a cumulative percentage of 77.78% was the score recorded on this. The Chi-Square test analysis indicate the calculated value ($\chi^2=56.02$) as against the table value of ($\chi^2=21.03$) for value for money and calculated value ($\chi^2=80.16$) as against the table value of ($\chi^2=26.23$) for well-trained procurement staff; which reveals that there is a significant relationship between Due process policy and value for money and also successful procurement proceedings with well trained staff in Taraba State are related.

Table 1: Training and Staffing on due process policy in MDA's and construction professionals

Variable	Frequency	Percentage
Due Process Professional Staffing In MDA's		
Excellent Staffed	0	0
Well-Staffed	11	23.4
Averagely Staffed	19	40.4
Poorly Staffed	10	21.3
Very Poorly Staffed	3	6.4
Do not Know	4	8.5
Training of Construction Professionals on Public Procurement Policy		
Yes	26	55.5
No	17	36.2
Do not Know	04	8.5
Impact of Training on Due Process Policy in Organisations		
Excellent	04	8.5
Very good	07	14.9
Good	19	40.4
Bad	09	19.2
Very Bad	-	-
Do not Know	08	17.2
Impact of Professional Staffing in Actualisation of Successful Procurement Proceedings in MDA'S.		
Excellent High	01	2.13
Very High	20	42.6
Averagely	14	29.8
Poorly	10	10.6
Very Poorly	02	4.3
Do not Know	05	10.7

Table 2: Value for money, Effectiveness and Understanding of Public Procurement Act.

Variables	Frequency	Percentage
Savings of Contract Cost as a result Of due process policy.		
Yes	26	55.3
No	09	19.1
Do not Know	12	25.6
Knowledge about passage into law Regarding due process policy.		
Yes	42	89.4
No	02	4.30
Do not Know	03	6.4
Effectiveness of Public procurement Act 2012.		
Extremely effective	-	-
Very Effective	13.0	26.7
Averagely Effective	19.0	40.4
Seldom Effective	5.0	10.6
Not Effective	5.0	10.6
Do not Know	5.0	10.6

Table 3: Factors Affecting the Successful Implementation and of Due Process Policy in Contract Award; Influencing Value for Money.

Factors	% Score method	Xn	Critical index	REMARK Xn ≥ 3	Rank
Corruption in procurement	178	3.79	0.253	Significant	3 rd
Nepotism	120	2.55	0.170	Not Significant	14 th
Administrative bottle necks	152	3.23	0.216	Significant	11 th
Civil Unrest	114	2.43	0.162	Not Significant	15 th
Lack of political will to enforce due process policy	151	3.21	0.214	Significant	12 th
Absence of tender board	147	3.13	0.209	Significant	13 th
Absence of advertisement	160	3.40	0.227	Significant	7 th
Non adherence to prequalification criteria	163	3.47	0.231	Significant	6 th
Delay in payment of contractors	158	3.36	0.224	Significant	9 th
Execution of project not being budgeted	159	3.38	0.226	Significant	8 th
Absence of monitoring mechanism	186	3.98	0.264	Significant	1 st
Inappropriate bidding process	179	3.81	0.254	Significant	2 nd
Leakages of tender price	157	3.34	0.223	Significant	10 th
Indiscipline among erring contractors by procure ring entity	168	3.58	0.238	Significant	4 th
Indiscipline amongst erring procurement officers.	165	3.51	0.234	Significant	5 th

KEY: 1= Not significant, 2= slightly significant, 3=Significant, 4= Very significant, 5= Extremely Significant.

Source: Field survey.

Conclusion

It is a known fact that the procurement Act was passed to entrench transparency in the procurement process of the nation, this became necessary because of the many anomalies that have bedevil the nations procurement sector in years gone by. From the study it can be concluded that there is an understanding of the passage in to law concerning the procurement Act , the need for proper training of staff on public procurement in Taraba State to enable them carried out there appropriate functions effectively was agreed upon by respondents. The need for a functional monitoring mechanism cannot be overemphasis, as having an effective monitoring mechanism will help reduce a lot of scuttles in the procurement process.

Furthermore, sanctions don't seems to be meted out to erring contractors or procurement officers. Factors affecting due process policy which includes Corruption, Administrative bottle necks, Lack of political will to enforce due process policy, Absence of tender board, Absence of advertisement, Non adherence to prequalification criteria, Delay in payment of contractors, Execution of project not being budgeted, Absence of monitoring mechanism, Inappropriate bidding process, Leakages of tender price, Indiscipline among erring contractors by procure ring entity, Indiscipline amongst erring procurement officers; Clients should be able to look in to these factors critically from the very onset of procurement process and proffer solution to these factors so as to get the best in every procurement

proceedings. These factors can be greatly reduced if the government enforces its political will by ensuring that procurement policies are adhered to, Monitoring mechanism should be put in place and empowered to function, and there should be no unnecessary interference by the ruling class; when this is achieved one's value for money is assured.

Based on the research of this work the following recommendations are proffered:

1. Training and retraining of professionals in public procurement has to be on a consistent basis so as to adhere to relevant guidelines and abreast oneself with the best practises on public procurement in the country.
2. The government of the day must show its political will in backing this policy for effective implementation,

because no matter the training of professionals without the government enforcing the policies it will all be a waste of time.

3. Adequate financial provision should be made for budgeted works and works that have not been planned for and budgeted for should not be carried out, this may lead to variation in contract price on the course of the work which may eventually lead to cost overrun.
4. Erring contractors and procurement officers should be penalised accordingly without any bias.
5. Transparency, equity, fairness, accountability should be the watch word of every procurement officer, and client inclusive.

For Further Study the following recommendations are made:

Table 4: Factors Influencing Successful Procurement Proceedings.

Factors	% Score method	Xn	Critical Index	REMARK	
				Xn ≥ 3	Rank
Project planning before contract award.	185	3.94	0.232	Significant	1 st
Advertisement of contract prequalification before bidding.	161	3.43	0.202	Significant	10 th
Invitation to Bid for project	159	3.38	0.199	Significant	13 th
Informing contractors after prequalification	153	3.26	0.192	Significant	15 th
Effectiveness of competitive bidding	161	3.43	0.201	Significant	12 th
Invitation to tender	166	3.53	0.208	Significant	8 th
Enforcement of Bid Bond or bid security	155	3.30	0.194	Significant	14 th
Contract Certification above 1 million Naira	149	3.17	0.187	Significant	16 th
Duration of contract processes	174	3.70	0.212	Significant	3 rd
Bid Opening	161	3.43	0.202	Significant	3 rd
Examination of Bid	166	3.53	0.208	Significant	8 th
Evaluation of Bid	170	3.62	0.213	Significant	6 th
Contract performance guarantee	165	3.51	0.207	Significant	10 th
Award and signing of contract	184	3.91	0.230	Significant	2 nd
Enforcement of retention fee	173	3.68	0.217	Significant	5 th
Monitoring	170	3.62	0.213	Significant	6 th
Level of organisational significance to due process in contract awards.	144	3.06	0.180	Significant	17 th

KEY: 1= Not significant, 2= Slightly significant, 3=Significant, 4= Very significant, 5= Extremely Significant.

Source: Field survey.

1. Investigate the impact of Public Procurement Act on Bureau for Public Procurement.
2. Evaluate the difference between Budget Monitoring and Price Intelligence Unit and Bureau for Public Procurement.

3. Appraising the win-win scenario in public private partnership procurement system in Nigeria.

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