

Effect of Institutional Status on Level of Compliance with Public Procurement Regulations in Public Tertiary Institutions in Southwest Nigeria

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Abstract

Forty-four public tertiary institutions (PTEIs) in Southwest, Nigeria was used to investigate the level of compliance with the Public Procurement Act, 2007 among the institutions. The opinions of Procurement Officers in the institutions were sampled on the compliance level in all the Provisions of the Act applicable to the procurement of construction projects using a structured questionnaire (Cronbach alpha, 0.70-0.91). Data obtained were subjected to descriptive statistics and ANOVA. The results showed that compliance was generally low averaging 53.46%, 54.10% and 48.41% for Universities, Polytechnics/Colleges of Technology and Colleges of Education, respectively ($P < 0.05$). All the PTEIs recorded non-compliance with the Provision of the Act on unrestricted accessibility of unclassified procurement records. Also, compliance was very low in several provisions of the Act, which negates the principle of transparency, integrity, openness, elimination of corruption and ensuring world standards in public procurement in Nigeria. The low compliance was suggestive of sharp practices in the procurement process in the institutions. Therefore, general compliance with the provision of unrestricted access to the institutions' unclassified procurement records for public scrutiny was recommended. Furthermore, full compliance with the Act and in particular those provisions where they recorded very low compliance by all the PTEIs was recommended.

Keywords: Public Procurement Act; Tertiary Education; University; Polytechnic; College of Education.

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1. Introduction

Nigeria's Public Procurement Act (2007) applies to all the processes required in acquiring, purchasing goods, works and services, needed in running Government Ministries, Departments and Agencies. The Act, in line with the international standards, specifies regulations and administrative procedure for procurement of goods, works and services at the operational level. All over, procurement laws emphasize timely awards of contracts to competent contractors, suppliers and service providers following procurement regulations (Lynch, 2013). Also, they ensure value for money because huge sums of tax-payers' money are committed into procurement activities. Besides, it is necessary to ascertain that the funds are expended through a process that ensures accountability and transparency (Hui, Othman, Normah, Rahman, & Haron, 2011).

Being Government-funded, all Public Tertiary Educational Institutions (PTEIs) are expected to comply with the provisions of the Act 2007 in their procurements. In addition to internally generated revenue, the PTEIs received huge funding through Government yearly appropriations (i.e. budgetary allocations) and grants and donations from agencies such as United Nations Educational, Scientific and Cultural Organization (UNESCO), Tertiary Education

Trust Funds (TETFUND), World Bank, etc. Occasionally, the Government granted special intervention funds to the institutions for specific infrastructure development or to mitigate infrastructure deficit. Indeed, the institutions received and expend colossal sums on capital project construction. Unfortunately, Ewa (2013) and Uromi (2014) noted that the majority of construction projects procured in some of the country's PTEIs were abandoned due to compromise in the procurement procedure, among other factors. The breach of procedure had usually resulted in costly disputes, needless claims and abandonment of projects (Abdalla & Hussein, 2002; Kareem et al., 2014). Also, Hyacinth and Yibis (2017) observed an inherent urge to compromise the principles of transparency, efficiency and value for money as some of the reasons for non-adherence to procurement rules in PTEIs. If transparency and value-for-money are desired in the country's PTEIs, investigation of the level of compliance with the procurement regulations is imperative, and consequently, checkmate the managers of the institutions. More so that the institutions will be receiving a boost in funding of infrastructures to match the expected increase in their carrying capacities. The Government is concerned with the teeming youth population that is unable to gain admission into the institutions, and hence encouraging the expansion of the existing institution to widening access. Of course, institution expansion has increased funding as an implication. This scenario calls for probity in the spending of tax payer's funds as it concerns procurement in PTEIs in Nigeria. Consequently, this study examined the extent to which the PTEIs in Southwest Nigeria comply with the Public Procurement Act, 2007 in project delivery. The information would be valuable to the funding Government and the Bureau of Public Procurement as it would serve as feedback and would guide policy on compliance. Also, it would promote probity, accountability and judicious use of public funds.

2. Materials and Methods

All the Government-funded Tertiary Education Institutions comprising 17 Universities, 17 Polytechnics/Colleges of Technology and 10 Colleges of Education in the Southwest Nigeria geopolitical zone were used for the study. The geopolitical zone covers six States namely Lagos, Ogun, Oyo, Osun, Ondo, and Ekiti States. All the institutions were either owned by either the Federal Government or the State Government. The institutions appointed a Procurement Officer heading Procurement Department in each institution and hence charged with the responsibility of the administration of procurement transactions. Consequently, 44 Procurement Officers served as respondents in the study. The study adopted a field survey using a structured questionnaire as the test instrument for the survey. The test instrument was validated and the reliability coefficient (Cronbach alpha = 0.70-0.91) was obtained before its use for the survey.

The test instrument equipped with structured questions tested respondents' knowledge of and compliance with or otherwise selected 39 provisions of the Public Procurement Act 2007 relevant to construction project procurement. Data collected were subject to one-way ANOVA using SPSS version 20 (2016) and Microsoft Excel's Statistical Toolkit.

3. Results and Discussion

Table 1 shows the characteristic of the PTEIs used in the study. Universities and Polytechnic/College of Technology constituted 38.6% each, while Colleges of Education was 22.7%. Majority of the institutions (56.8%) were State Government-funded, while the Federal Government funds 43.2%. The distribution among the State indicated that Ekiti State had the least (9%) whereas Ogun State had the highest (23%). Ondo State had the highest number of universities (9.1) while Oyo State and Ekiti State the least (4.5%). Ogun State had the highest number of Polytechnic/Colleges of Technology, while Ekiti State had the lowest (2.3%). The most Colleges of Education (9.1%) were found in Lagos State, whereas the least occurred Ogun, Oyo, Ondo and Ekiti State with 2.3% each.

The spread of the Federal Government-owned or funded institutions in the three categories of tertiary education in the geo-political zone of the country appeared even. The State Government-owned institutions complemented the Federal Government's efforts only and were established to further meet the needs of the individual States. Hence there is a disparity in the overall number of PTEIs in the States.

Table 1: Characteristics of the PTEIs and the respondents

	Percent of PTEIs (%)	University	Polytechnic	College of Education
Characteristic of PTEI				
Category of PTEI	100	38.6	38.6	22.7
Ownership of PTEI				
Federal Government	38.6	15.9	13.6	9.1
State Government	61.4	22.7	25.0	13.6
PTEI's Location				
Lagos State	20	6.8	4.5	9.1
Ogun State	23	6.8	13.6	2.3
Oyo State	14	4.5	6.8	2.3
Osun State	18	6.8	6.8	4.5
Ondo State	16	9.1	4.5	2.3
Ekiti State	9	4.5	2.3	2.3
Characteristics of respondents				
All respondents	100	38.64	38.64	22.72
Age (yrs.)				
<30	9.1	4.5	4.5	0.0
≥30	90.9	34.1	34.1	22.7
Educational Qualification				
National Diploma	2.3	0.0	0.0	2.3
Higher National Diploma	18.2	6.8	2.3	9.1
Postgraduate Diploma	2.3	0.0	2.3	0.0
Bachelor of Science	18.2	4.5	11.4	2.3
Master of Science	56.8	25.0	22.7	9.1
Doctor of Philosophy	2.3	2.3	0.0	0.0
Status at workplace				
Technical Officer	31.8	13.6	6.8	11.4
Professional	56.8	18.2	27.3	11.4
Deputy Director	6.8	2.3	4.5	0.0
Director	4.5	4.5	0.0	0.0
Length of service at the				

workplace				
<20	68.1	25.0	29.5	13.6
≥20	31.8	13.6	9.1	9.1

The respondents were matured with 90.9% of them being older than 30, with those below 30 constituted 9.1% (Table 1). The maturity shown in the ages of the respondents was reflected in their workplace status where all of them were senior personnel. However, the majority (68.1%) were less than 20 years in service. The respondents had a National Diploma (2.3%) as the lowest and Doctor of Philosophy Degree (2.3) as the highest educational qualification. Meanwhile, the majority (56.8%) had a Master of Science Degree. The minimum position held by the respondents was a Technical Officer, and the highest was Director. Majority of them were professionals in the building and engineering profession. Very few of them were in the Director position and were in the university sector.

The compliance level of the institutions with each of the 39 Provisions of the Public Procurement Act, 2007 is shown in Table 2. The results indicated that compliance varied among the institutions where the Universities, Polytechnics/Colleges of Technology and Colleges of Education exhibited 0 - 94%, 0 – 100% and 0 – 100%, respectively. Zero compliance with the Provision on unrestricted public access to the institution’s unclassified procurement records for scrutiny was recorded. Total compliance with the Provision on the national currency stating contract value was observed in the Polytechnic/Colleges of Technology and Colleges of Education, with 94% compliance was observed in the Universities. Also, only the Polytechnic sector complied completely with the prescribed bidding method with the institution observed the Provision. These results seemed to suggest that the institutions kept away information about their procurement records from public scrutiny. It negates the principle of the Act on transparency, openness and elimination of corruption in the public procurement process.

Table 2. The extent of compliance with the provision of the Public Procurement Act, 2007 by PTEIs in Southwest Nigeria

Provision of the Procurement Act, 2007	Level of compliance (%)*			
	University	Polytechnic and Colleges of Technology	College of Education	±SEM +
1 Source of funding of capital projects	47	47	20	9.000
2 Values of projects for which ‘Certificate of No Objection’ is obtained from the Bureau of Public Procurement, BPP	29	12	40	8.145
3 The basis for awards of contracts for construction projects	88	88	60	9.333
4 The period when the ‘Certificate Of No Objection’ to contract award is obtained from BPP in your institution for capital project	59	47	70	6.642
5 Option adopted for Procurement of capital project	82	82	90	2.667



6	The time allowed for bidding before awarding of contracts	12	18	30	5.292
7	Minimum number of bids received before award of contract	65	71	80	4.359
8	The procedure for payment of contractors/suppliers that handled capital projects/supplies	94	82	100	5.292
9	The criteria used for the selection of contractors for capital projects	56	58	46	3.712
10	The process applicable to the consideration of bids excluded from the evaluation	24	24	00	8.000
11	The language of documentation of bids and contract agreement	88	94	100	3.464
12	The time it takes the institution to prepare and transmit records of procurement proceedings and contract awards for each financial year to BPP	29	12	40	8.145
13	The accessibility of the public to your institution's on unclassified procurement records for scrutiny	0	0	0	0.000
14	The processes applicable to the award of contract of a capital project in your institution				0.000
15	The person responsible for the final selection of winning tender	94	94	70	8.000
16	The powers of the Tenders Board	41	41	13	9.333
17	The requirement for participating in bidding	76	88	80	3.528
18	The mode of the primary form of dispute resolutions in the procurement contract agreement	29	41	10	9.025
19	The national currency in which the contract value is stated in the contract agreement	94	100	100	2.000
20	Does your procurement contracts contain warranty statements	47	49	50	0.882
21	Whom is the approving authority for the conduct of procurement?	47	76	40	11.020
22	Procurement planning	48	53	42	3.180
23	Processes carried out on the implementation of the institution's procurement plan	60	65	61	1.528
24	Organs/committee in place and	69	72	58	4.256

	involved in the procurement of construction project				
25	Composition of Procurement Planning Committee	56	57	57	0.333
26	Processes adopted in the procurement of construction projects	77	80	62	5.568
27	Mode of bidding/tendering for construction projects	47	49	53	1.764
28	Activities performed during the bid opening	60	72	53	5.548
29	Processes carried out during bid solicitation	36	43	34	2.728
30	The margin of mobilization awarded to contractors/suppliers	29	24	20	2.603
31	The basis for granting mobilization to a contractor	62	76	45	8.963
32	The procedure of payment of procurement of goods, works and services	31	33	33	0.667
33	Procurement practices for construction projects	54	68	50	5.457
34	Bidding method	94	100	60	12.454
35	Approval procedure from BPP on restricted bidding	59	65	50	4.359
36	Compliance with the value of consultancy services for which open bidding is solicited	76	82	50	9.821
37	Procedure for procuring consultancy services for construction projects	31	44	40	3.844
38	Procedure for evaluating bids	59	59	48	3.667
39	Procedure for selecting bids	36	44	33	3.283

$$*\text{Compliance level (\%)} = \frac{\text{Number of Institutions complying with the Provision of the Act}}{\text{Total number of Institutions}} \times 100\%$$

$$*\text{Standard error of the mean (SEM)} = \frac{\text{Standard deviation}}{\sqrt{N}}$$

The average overall compliance level in all the three categories of tertiary institutions surveyed and the test of difference are shown in Table 3. The mean values were 53.46%, 54.10% and 48.41% for the University, Polytechnic/Colleges of Technology and Colleges of Education, respectively. Also, both the university and the polytechnic/College of Technology sectors had similar and higher average overall compliance with the Regulations than the Colleges of Education sector. However, the differences were not significantly different ($P < 0.05$).

The areas of the Procurement Regulations that were seriously flouted are: Values of projects for which ‘Certificate of No Objection’ is obtained from the Bureau of Public Procurement, BPP; The time allowed for bidding before awarding of contracts; The process for the consideration of bids excluded from evaluation; The time it takes the

institution to prepare and transmit records of procurement proceedings and contract awards for each financial year to BPP; The powers of the Tenders Board; The mode of the primary form of dispute resolutions in the procurement contract agreement; Processes carried out during bid solicitation; Margin of mobilization awarded to contractors/suppliers; Procedure of payment of procurement of goods, works and services; Procedure for procuring consultancy services for construction projects; and Procedure for selecting bids.

The attitude demonstrated by the institution as shown by the results tended to suggest abuse of powers of Tenders Board and unethical practices through non-adherence to the laid down Procurement Regulation. The implications are that the procurement procedures and documentations the institutions were not checked, certified and cleared by BPP before contract award letters were issued to the contractors. The non-observance of the supposed clearance procedure might be responsible for the inability of most of the institution to allow unrestricted access to the procurement records for public scrutiny and to remit their yearly Reports to the Bureau. This, in turn, would affect the institutions' access to further funding from the Government because submission of the Reports is a pre-condition for accessing funds from such Government Agency like TETFUND. The irregularity observed in the non-observance of Regulations for engagement of consultants for the project execution in the institution has consequences in poor project design, valuation, supervision and delivery. Perhaps, this might be the reason for persistent and continued Workers' Unions agitation and lamentation of the inadequacy of infrastructures in the PTEIs in the country.

Table 3: Summary of Descriptive Statistic and Analysis of Variance

Groups	Count	Sum	Average	Variance		
University	39	2085	53.46154	648.6761		
Polytechnic	39	2110	54.10256	780.7787		
College of Education	39	1888	48.41026	689.722		
ANOVA						
Source of Variation	SS	df	MS	F	P-value	F crit
Between Groups	758.2735	2	379.1368	0.536723	0.586131	3.075853
Within Groups	80528.72	114	706.3923			
Total	81286.99	116				

4. Conclusion

From the foregoing, the study successfully compared levels of compliance with the Public Procurement Act, 2007 among PTEIs in Southwest, Nigeria. Compliance was generally low averaging 53.46%, 54.10% and 48.41% for Universities, Polytechnics/Colleges of Technology and Colleges of Education, respectively. All the PTEIs did not comply at all with the Provision of the Act on unrestricted public access to the institution' unclassified procurement records for scrutiny. Also, the institutions recorded very low compliance in several provisions of the Act, which negates the principle of the Act that centred on transparency, openness, elimination of corruption in the public procurement process and ensuring world standards in public procurement in Nigeria. The low compliance could lead to various sharp practices in the procurement process in the institutions. Therefore, general compliance with the provision of unrestricted access to the institutions' unclassified procurement records for public scrutiny was recommended. Furthermore, full compliance with the Act and in particular those provisions where they recorded very low compliance by all the PTEIs was recommended.



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