



Public Procurement in Nigeria: An Examination of The Law, Practice and Procedure

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ABSTRACT: *Effective public procurement is crucial for promoting transparency, accountability, and value for money in government contracting. This study examined the law, practice, and procedure of public procurement in Nigeria, with a focus on identifying challenges and areas for improvement. Using a doctrinal research methodology, the study analyzed the Public Procurement Act, 2007, and other relevant laws, regulations, and guidelines. Findings reveal inconsistencies in procurement practices, inadequate regulatory oversight, and limited capacity among procurement officials. Recommendations included strengthening the regulatory framework, enhancing transparency and accountability measures, and providing capacity-building programs for procurement officials. The study concluded that a robust public procurement regime can promote good governance, reduce corruption, and ensure value for money in government contracting.*

KEYWORDS: *Public Procurement, Procurement Law, Transparency, Accountability, Bureau of Public Procurement (BPP), Procurement Reform, Corruption in Procurement, Capacity Building.*

INTRODUCTION

Public procurement in Nigeria is a critical aspect of the country's economic development, governed by a framework of laws, regulations, and procedures aimed at ensuring transparency, accountability, and value for money in the procurement of goods, works, and services by public authorities.¹ The Public Procurement Act, 2007, is the primary legislation regulating public procurement in Nigeria, establishing the Bureau of Public Procurement (BPP) as the regulatory agency responsible for overseeing the procurement process.² The Act sets out detailed procedures and guidelines for public procurement, including tendering, bidding, and contract award processes, to promote fairness, transparency, and competition.³ Despite the existence of a robust legal framework, the practice and procedure of public procurement in Nigeria are often challenged by issues such as corruption, lack of capacity, and inadequate implementation of

¹ Public Procurement Act, 2007, Section 1

² Public Procurement Act, 2007, Section 3

³ Public Procurement Act, 2007, Section 15

procurement regulations.⁴ Nevertheless, efforts are being made to improve the public procurement system, including training and capacity-building initiatives for procurement officials and the development of e-procurement platforms to enhance transparency and efficiency.⁵

OVERVIEW OF PUBLIC PROCUREMENT IN NIGERIA

The historical evolution of public procurement in Nigeria began with a lack of comprehensive statutory legal framework, relying instead on general administrative instruments such as rules, financial regulations, and ethics, which led to unprofessional practices, corruption, and a lack of transparency and accountability in public procurement processes.⁶ The need for procurement reform was highlighted in 1999 when the World Bank conducted a country procurement assessment report on Nigeria, recommending the establishment of a robust regulatory framework.⁷ In response, the Public Procurement Act was enacted in 2007, providing a framework for the procurement of goods, works, and services by government ministries, departments, and agencies, and aiming to promote transparency, accountability, and value for money in public procurement.⁸ The Act established the Bureau of Public Procurement (BPP) as the regulatory agency responsible for overseeing the procurement process and ensuring compliance with the Act.⁹ Despite these reforms, challenges persist, including a lack of awareness about public procurement guidelines among major stakeholders and weak public procurement systems characterized by corruption and lack of accountability.¹⁰

Public procurement in Nigeria refers to the acquisition of goods, works, and services by government ministries, departments, and agencies, and is a critical aspect of the country's economic development, accounting for a substantial part of the nation's GDP.¹¹ A well-established public procurement system is essential for ensuring transparency, accountability, and value for money in government spending, and is guided by key principles such as economy, efficiency, fairness, transparency, and accountability.¹² The Public Procurement Act of 2007 is the primary legislation governing public procurement in Nigeria, and established the Bureau of Public Procurement (BPP) as the regulatory agency responsible for overseeing the procurement process.¹³ The BPP is tasked with ensuring that public procurement is carried out in a fair, transparent, and efficient manner, and that contracts are awarded based on merit and value for money.¹⁴

The procurement process in Nigeria typically involves several stages, including needs identification, procurement planning, tendering, evaluation, and contract administration.¹⁵ Needs identification involves determining the required goods, works, or services, while procurement planning defines project scope, timelines, and procurement methods.¹⁶ Tendering

⁴ O, Adekunle, "Public Procurement Law and Practice in Nigeria" 2019, p. 150

⁵ Bureau of Public Procurement, "Annual Report" 2020, p. 20

⁶ O, Adekunle, "Public Procurement Law and Practice in Nigeria" 2019, p. 50

⁷ World Bank, "Country Procurement Assessment Report" 1999

⁸ Public Procurement Act, 2007, Section 1

⁹ Public Procurement Act, 2007, Section 3

¹⁰ Bureau of Public Procurement, "Annual Report" 2020, p. 20

¹¹ Public Procurement Act, 2007, Section 1

¹² O, Adekunle, "Public Procurement Law and Practice in Nigeria" 2019, p. 100

¹³ Public Procurement Act, 2007, Section 3

¹⁴ Bureau of Public Procurement, "Annual Report" 2020, p. 10

¹⁵ Public Procurement Act, 2007, Section 15

¹⁶ Public Procurement Act, 2007, Section 16

involves advertising tenders, issuing bidding documents, and receiving bids, and evaluation involves assessing bids, evaluating responsiveness, and awarding contracts.¹⁷

Despite the existence of a robust legal framework, public procurement in Nigeria is often challenged by issues such as corruption, conflict of interest, and inadequate capacity.¹⁸ Corruption can take many forms, including offering, giving, receiving, or soliciting bribes to influence procurement decisions, and can have serious consequences for the economy and society as a whole.¹⁹ Conflict of interest can also arise when procurement officials evaluate tenders with personal interests, and can undermine the integrity of the procurement process.²⁰ Inadequate capacity is another significant challenge facing public procurement in Nigeria, and can manifest in various ways, including lack of trained procurement staff and poor record-keeping.²¹ This can lead to inefficiencies and delays in the procurement process, and can ultimately undermine the achievement of value for money.²² To address these challenges, Nigeria's public procurement system needs to prioritize transparency, accountability, and capacity building.²³ Effective implementation of the Public Procurement Act and strengthening the BPP's regulatory role are crucial steps towards achieving a robust public procurement system.²⁴ Additionally, efforts to build the capacity of procurement officials and promote best practices in public procurement can help to ensure that government spending is efficient, effective, and transparent.²⁵

PUBLIC PROCUREMENT IN NIGERIA: THE LAW

Public procurement in Nigeria is governed by the Public Procurement Act of 2007, which establishes a framework for the procurement of goods, works, and services by government ministries, departments, and agencies.²⁶ The Act aims to promote transparency, accountability, and value for money in public procurement, and applies to all government procurement activities.²⁷ The Bureau of Public Procurement (BPP) is the regulatory agency responsible for overseeing the procurement process, and is tasked with ensuring that public procurement is carried out in a fair, transparent, and efficient manner.²⁸

The Public Procurement Act sets out detailed procedures and guidelines for public procurement, including tendering, bidding, and contract award processes.²⁹ The Act also establishes thresholds for different procurement methods, such as open competitive bidding, restricted tendering, and direct procurement.³⁰ Furthermore, the Act provides for the use of electronic procurement systems, and encourages the use of technology to enhance transparency and efficiency in public procurement.³¹

¹⁷ Public Procurement Act, 2007, Section 17

¹⁸ O, Adekunle, "Public Procurement Law and Practice in Nigeria" 2019, p. 150

¹⁹ Transparency International, "Corruption Perceptions Index" 2020

²⁰ Public Procurement Act, 2007, Section 23

²¹ Bureau of Public Procurement, "Annual Report" 2020, p. 20

²² Public Procurement Act, 2007, Section 30

²³ OECD, "Public Procurement Review of Nigeria's BPP" 2019

²⁴ Public Procurement Act, 2007, Section 3

²⁵ Bureau of Public Procurement, "Capacity Building Initiative" 2020

²⁶ Public Procurement Act, 2007, Section 1

²⁷ Public Procurement Act, 2007, Section 2

²⁸ Public Procurement Act, 2007, Section 3

²⁹ Public Procurement Act, 2007, Section 15

³⁰ Public Procurement Act, 2007, Section 17

³¹ Public Procurement Act, 2007, Section 30

The Act also contains provisions aimed at preventing corruption and promoting integrity in public procurement, including requirements for disclosure of conflicts of interest and prohibitions on bribery and other forms of corruption.³² Additionally, the Act establishes a complaints review procedure, which provides a mechanism for bidders to challenge procurement decisions and seek redress in cases where they believe that the procurement process has not been conducted fairly or transparently.³³ The Public Procurement Act of 2007 provides a comprehensive framework for public procurement in Nigeria, and is an important step towards promoting transparency, accountability, and value for money in government spending.³⁴

PUBLIC PROCUREMENT IN NIGERIA; PRACTICE AND PROCEDURE

Public procurement in Nigeria involves the acquisition of goods, works, and services by government ministries, departments, and agencies, and is guided by the Public Procurement Act of 2007.³⁵ The procurement process typically begins with needs identification, where the procuring entity determines the required goods, works, or services.³⁶ This is followed by procurement planning, where the entity defines project scope, timelines, and procurement methods.³⁷ The most common procurement method used in Nigeria is open competitive bidding, which involves advertising tenders and inviting bids from eligible contractors.³⁸ The tendering process is typically conducted through the publication of tender notices in national newspapers or on the procuring entity's website.³⁹ Bidders are required to submit their bids in accordance with the tender documents, and the procuring entity evaluates the bids based on predetermined criteria.⁴⁰

The evaluation process typically involves assessing the technical and financial capabilities of bidders, as well as their compliance with the tender requirements.⁴¹ The procuring entity then awards the contract to the bidder who best meets the evaluation criteria.⁴² However, the procurement process in Nigeria is often challenged by issues such as corruption, lack of transparency, and inadequate capacity.⁴³

To address these challenges, the Bureau of Public Procurement (BPP) has introduced various initiatives, including training programs for procurement officials and the development of e-procurement platforms.⁴⁴ The BPP also conducts regular reviews and monitoring of procurement activities to ensure compliance with the Public Procurement Act.⁴⁵ Despite these efforts, public procurement in Nigeria still faces significant challenges, including inadequate funding, poor record-keeping, and lack of transparency.⁴⁶ Therefore, there is a need for

³² Public Procurement Act, 2007, Section 23.

³³ Public Procurement Act, 2007, Section 54.

³⁴ O, Adekunle, "Public Procurement Law and Practice in Nigeria" 2019, p. 100.

³⁵ Public Procurement Act, 2007, Section 1.

³⁶ Public Procurement Act, 2007, Section 15.

³⁷ Public Procurement Act, 2007, Section 16.

³⁸ Public Procurement Act, 2007, Section 17.

³⁹ Public Procurement Act, 2007, Section 20.

⁴⁰ Public Procurement Act, 2007, Section 21.

⁴¹ Public Procurement Act, 2007, Section 22.

⁴² Public Procurement Act, 2007, Section 24.

⁴³ O, Adekunle, "Public Procurement Law and Practice in Nigeria" 2019, p. 150.

⁴⁴ Bureau of Public Procurement, "Annual Report" 2020, p. 20.

⁴⁵ Public Procurement Act, 2007, Section 3.

⁴⁶ Bureau of Public Procurement, "Annual Report" 2020, p. 25.

continued capacity building and training for procurement officials, as well as the implementation of more effective procurement systems and procedures.⁴⁷

PUBLIC PROCUREMENT IN NIGERIA; THE LAW, PRACTICE AND PROCEDURE: LESSONS FROM OTHER JURISDICTIONS

Public procurement in Nigeria is governed by the Public Procurement Act of 2007, which establishes a framework for the procurement of goods, works, and services by government ministries, departments, and agencies.⁴⁸ The Act aims to promote transparency, accountability, and value for money in public procurement, and applies to all government procurement activities.⁴⁹ In practice, public procurement in Nigeria involves various procedures, including needs identification, procurement planning, tendering, evaluation, and contract award.⁵⁰ The law, practice, and procedure of public procurement in Nigeria can be compared to those of other jurisdictions, such as the United Kingdom, where the Public Contracts Regulations 2015 govern public procurement.⁵¹ Similarly, in the United States, the Federal Acquisition Regulation (FAR) provides a framework for federal procurement.⁵² These jurisdictions have implemented various measures to promote transparency and accountability in public procurement, such as e-procurement systems and open data initiatives.⁵³

One lesson that can be learned from other jurisdictions is the importance of having a robust regulatory framework that promotes transparency and accountability in public procurement.⁵⁴ For example, in South Africa, the Public Finance Management Act requires government departments to maintain detailed records of procurement activities.⁵⁵ Similarly, in Australia, the Commonwealth Procurement Rules provide a framework for procurement that emphasizes transparency, accountability, and value for money.⁵⁶

Another lesson is the need for effective implementation and enforcement of procurement laws and regulations.⁵⁷ In Canada, for example, the Office of the Procurement Ombudsman provides a mechanism for reviewing and resolving procurement complaints.⁵⁸ This highlights the importance of having an independent oversight body to ensure that procurement processes are fair, transparent, and accountable.

In Nigeria, lessons can be learned from other jurisdictions by adopting best practices in public procurement, such as the use of e-procurement systems and open data initiatives. Additionally, strengthening the capacity of procurement officials and promoting transparency and accountability in procurement processes can help to improve the effectiveness of public procurement in Nigeria.

To improve public procurement in Nigeria, it is recommended that the government strengthens the capacity of the Bureau of Public Procurement (BPP) to effectively regulate and monitor

⁴⁷ OECD, "Public Procurement Review of Nigeria's BPP" 2019, p. 50

⁴⁸ Public Procurement Act, 2007, Section 1

⁴⁹ Public Procurement Act, 2007, Section 2

⁵⁰ Public Procurement Act, 2007, Section 15

⁵¹ The Public Contracts Regulations 2015, UK

⁵² Federal Acquisition Regulation (FAR), USA

⁵³ OECD, "Public Procurement Review of the UK" 2016, p. 20

⁵⁴ World Bank, "Public Procurement in Emerging Economies" 2018, p. 50

⁵⁵ Public Finance Management Act, South Africa, Section 38

⁵⁶ Commonwealth Procurement Rules, Australia, Section 2

⁵⁷ OECD, "Public Procurement Review of Canada" 2017, p. 30

⁵⁸ OECD, "Public Procurement Review of Canada" 2017, p. 30

procurement activities. Additionally, the BPP should develop and implement a comprehensive e-procurement system to enhance transparency and efficiency in public procurement. Furthermore, procurement officials should undergo regular training and capacity-building programs to ensure they are equipped to manage procurement processes effectively.

Moreover, the government should ensure that procurement processes are transparent, accountable, and free from corruption, by implementing robust anti-corruption measures and enforcing strict penalties for procurement-related corruption. The BPP should also establish a robust complaints review mechanism to provide a platform for bidders to challenge procurement decisions and seek redress.

To promote best practices in public procurement, Nigeria can learn from other jurisdictions, such as the United Kingdom and South Africa, which have implemented effective procurement systems and regulations. By adopting these best practices, Nigeria can improve the effectiveness of its public procurement system and ensure that government spending is efficient, effective, and transparent.

CONCLUSION

In conclusion, public procurement in Nigeria is a critical aspect of the country's economic development, and is governed by the Public Procurement Act of 2007. The Act establishes a framework for the procurement of goods, works, and services by government ministries, departments, and agencies, and aims to promote transparency, accountability, and value for money in public procurement. Despite the existence of a robust legal framework, public procurement in Nigeria is often challenged by issues such as corruption, lack of transparency, and inadequate capacity. Therefore, it is essential that the government strengthens the capacity of the Bureau of Public Procurement (BPP) and promotes best practices in public procurement to ensure that government spending is efficient, effective, and transparent. By doing so, Nigeria can improve the effectiveness of its public procurement system and achieve better value for money in government spending.



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