

Assessment of Due Process Proceedings and Practice for Public Building Procurement in Nigeria A Case Study Of Abia State

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ABSTRACT: The aim of the research is to access the efficacy of Due Process mechanism in maintenance of standard in procurement proceedings and award of contracts. A total of 86 questionnaire were retrieved out of 110 that were administered to the respondents who were practitioners in public procurement system and other personnel in the construction industry, the data was analysed using frequency distribution, measures of central tendency and percentage score method. The critical index method was used for the ranking process while chi-square test was used to test the hypotheses at variance 5% level of significance. From the study it was imperative to encourage due process policy in procurement procedure which led to the government of the day having value for money in projects executed. The Chi Square test result shows that there is a direct correlation between efficient procurement practice with well trained personnel. It is also recommended that the government of the day demonstrates its political will in supporting this policy for effective implementation since it is a worthwhile mechanism that checkmates the leakages of funds that arise in building procurement process, and that the government should also minimize undue interference with procurement proceedings and empower the monitoring mechanism to carry out its duties. In conclusion one's value for money can only be achieved if transparency, accountability, fairness and probity is entrenched in the procurement proceedings.

KEYWORDS: Procurement, Due process, Contract, Bureau for public procurement, Abia State, MDA's (Ministries, Departments and Agencies).

I. INTRODUCTION.

Nigeria as a third world country is confronted with a high demand for infrastructural

facilities owing to the increase in the size of its population which has made available government funding to meet infrastructural needs almost impossible. According to available facts the Federal Government of Nigeria would require between US\$13 billion and US\$15 billion, annually in meeting these infrastructural deficits [1]. Generally the infrastructure and amenities in the country has been described as inadequate when compared to the investment that has gone into the sector [2]. It is in this view that various procurement options have been employed in facilitating the development of various kinds of infrastructure which include roads, buildings, jetties, silos, and many more, for ease of delivery and enhancement of value for money [1].

The public procurement system has been identified as being characterized by non-compliant with tendering principles in the selection of contractors with the financial, technical, and managerial know-how to complete projects on time, on budget, and to the required standard over time. Increased allegations of public procurement system corruption in Nigeria's three levels of government have resulted in massive losses of resources in various public projects [3]. This revealed that the country may have lost billions of Naira over the years due to misuse of procedures, contract cost inflation, lack of transparency, lack of competence-based competition, and an absence merit as the primary criterion for awarding public contracts. [4]. There was also the problem of influence peddling, sycophancy, and use of primordial considerations, over blotting of contract price, favouritism in the award of contract, nepotism and the lack of political will to enforce that which is right; consequently, enhancing the reduction of service delivery [5]. According to [6], The situation was so bad that contractors were often given complete control over the scale, reach,

need, expense, and mode of payment for contracts or projects funded by the public treasury. Most public construction projects in Nigeria suffered from project abandonment, project delays, cost escalation, low quality of work, and high initial project costs before the introduction of the 'Due Process' Policy [7].

Based on the aforementioned trend the world bank helped Nigeria to drive a reform on Public Procurement Act by conducting a procurement assessment and discovering that the Nation Procurement system is deficient and there was no institution with responsibility for issuing policy direction on public procurement, and no defined standards for conducting procurement. It's no surprise that public procurement is riddled with inconsistencies, bribery, abuse, and mismanagement. The Nigerian government enacted the Public Procurement Act (PPA) in 2007 to regulate public procurement by federal agencies in response to the recommendations in the country procurement assessment [8]. This reforms Acts gave to the creation of The Budget Monitoring and Price Intelligence Unit (BMPIU) also referred to as Due Process Policy [9]. Due Process is aimed at instilling the necessary fiscal discipline and sound economic principles in order to ensure transparency, accountability, and restore public confidence in governance by focusing on the mechanisms that have been violated [c]. The Due Process framework was created, among other things, to restore sanity to the country's public procurement system by achieving these performance targets: ensuring sustainable participation by reputable, competent and reliable contractors; settlement of contract price at near marginal cost; faith by tenders in the tendering mechanism and value for money in projects execution and delivery [3]. Among other legislative functions, the system is responsible for controlling and setting requirements to implement harmonized bidding and tender documents, formulating general policies and guidelines on public sector procurement, maintaining professional ethics, and reporting erring employees [6]. The State Government became interested in the policy considering the successes the Federal Government has achieved within a short period of its commencement [9]. Many states began to pass the Public Procurement Act in to Law to facilitate Probity, Fairness, Accountability in its procurement sector, Abia state government in 2011 pass the procurement Act in to Law at the state level to enhance value for money at the state procurement level.

[10] defines procurement as a term 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". [11] procurement is also characterized as the management of the entire project delivery process, which includes the management of the design and its development from conception to completion. In the same vein, [12] Procurement is defined as the process of creating, managing, and fulfilling contracts. It is a necessary component of construction projects and may occur at any phase of a project's life cycle.

[13] Procurement is the term used to describe the various contractual arrangements available for choosing a contractor to construct a building. This includes not just the purchase of materials but also the hiring of contractors or consultants, necessitating the use of proper procurement procedures to improve productivity and get the best value for money. Furthermore [14] describes project procurement as the organizational structure adopted by the client for the management of the construction and design of a building project, therefore proper procurement is indispensable to the viability and stability of any country's economy. If any nation has to be economically efficient its procurement laws and proceedings for construction contracts have to be sound and adhered to.

II. METHODOLOGY

2.1 Study Area

Abia is a state located in the south eastern region of Nigeria, it occupies about 6,320 square Kilometers, with Umuahia as its capital, Aba is the major commercial nerve center, and is also one of the most populated cities in Nigeria. Its over 2.4 million People in Population. Abia State, is bounded on the north and northeast by the states of Ebonyi, Anambra, and Enugu [15]. It's also the country's 5th most industrialized state, with the 4th highest human development index, thanks to a plethora of economic activities and a rapidly growing population, as reported by the United Nations in early 2018. Economic activities and developmental strides are evident in the state, more so being one of the oil producing states makes it attractive to both foreign and local investors.

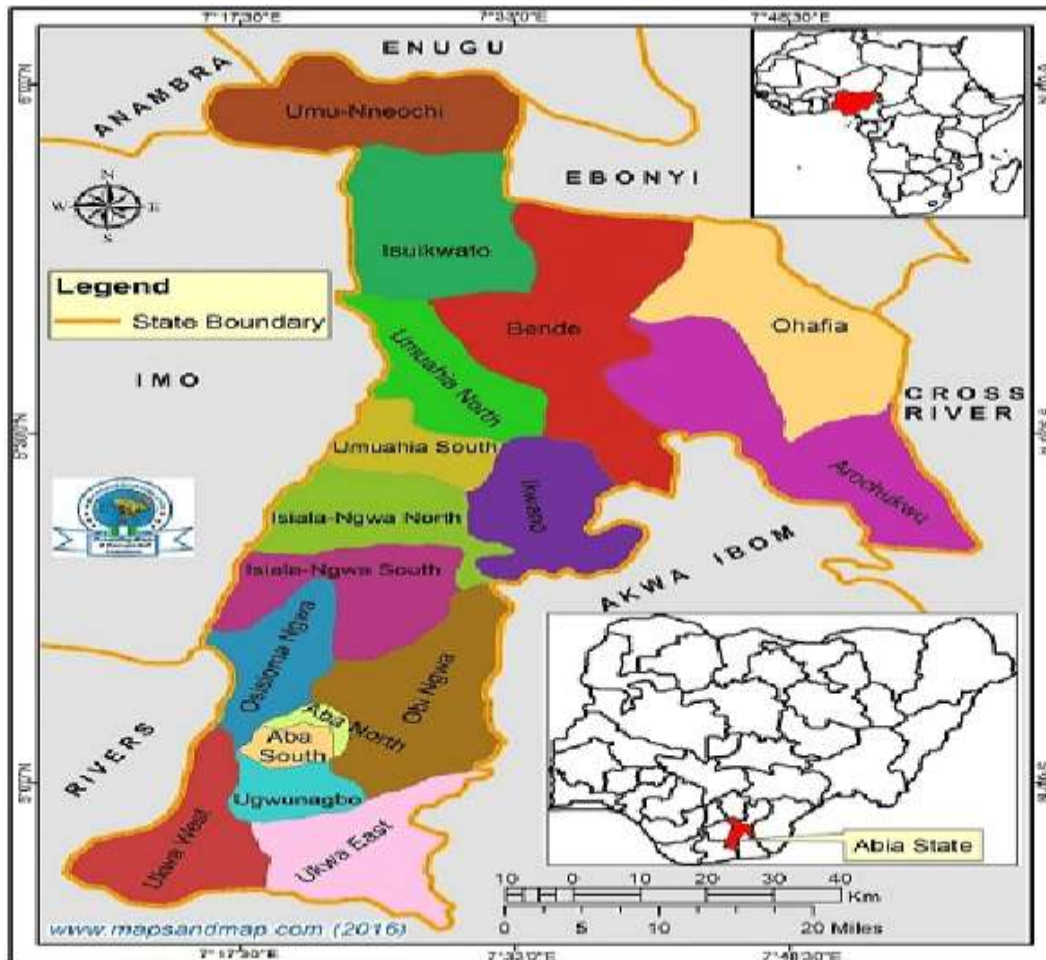


Figure 1: The study Area, Map of Nigeria showing Abia State

2.2 Study design, sampling technique, and sample size

This was a descriptive study, which involves both quantitative and qualitative research. The study assessed the compliance of parastatals, ministries, government agencies, and private construction firms with due process policies, as well as the factors influencing such policies. It also sought to understand construction professionals' awareness and adherence to the policy. 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 the sampling the population under study, this gives an unbiased input from the professional which helps to increase the validity of the result.

Random sampling technique was employed, within government departments, ministries, agencies and private construction firms in Abia 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 9 organizations were selected involving ministries, departments, Parastatals, and due process office across the state, basically only viable and functional government organizations 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 in Abia metropolis.

Selected ministries were Abia State Polytechnic (ASP), Federal Emergency Road and Maintenance Agency (FERMA), Bureau for public procurement (BPP), Federal Medical Centre (FMC), Abia State University (ASU), Abia State Ministry of Works (ASMW), Abia State Ministry of Housing and Urban Development (ASMHD), Abia State Primary Board (ASPB), and Federal Ministry of Work (FMW).

A draft questionnaire numbering 110 was circulated to various stakeholders in the construction industry and associated workers in due

process offices. The research population was drawn from 86 professionals from the study area.

III. DATA PRESENTATION AND ANALYSIS OF RESULTS

3.1 Results

Majority of the respondents that filled the questionnaires were professionals from the construction industry, with Civil Engineers having 24%, Builders 17%, Architect 15%, Electrical Engineers 14%, Quantity Surveyors 13%, Estate Surveyors 6%, the remaining are less than 12% of the total population (Figure 2). About 28% of the respondents agree that there are well trained professional staff in MDA’s regarding due process, while over 34% agree that professional staff in these regards are on the average level, furthermore 49% 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 20% agree to have a very good impact and over 49% agree that the impact of the training is good. On the impact of professional staffing on the successful actualization of procurement proceedings; Over 78% of the

cumulative respondents agree positively that the impact is yielding positive results (Table 1).

In Table 2, 63% of the respondent agree to the fact that there is savings of contract cost as a result of due process policy implementation. While 94% of the respondent, agree to the awareness (Knowledge) of the Law of due process policy, over 34% of the respondent believe in the effectiveness of the procurement Act 2011.

In Table 3 Factors affecting successful procurement Act was looked in to and from findings, 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 the underlisted findings; project planning before contract award rank fist, award and signing of contract.

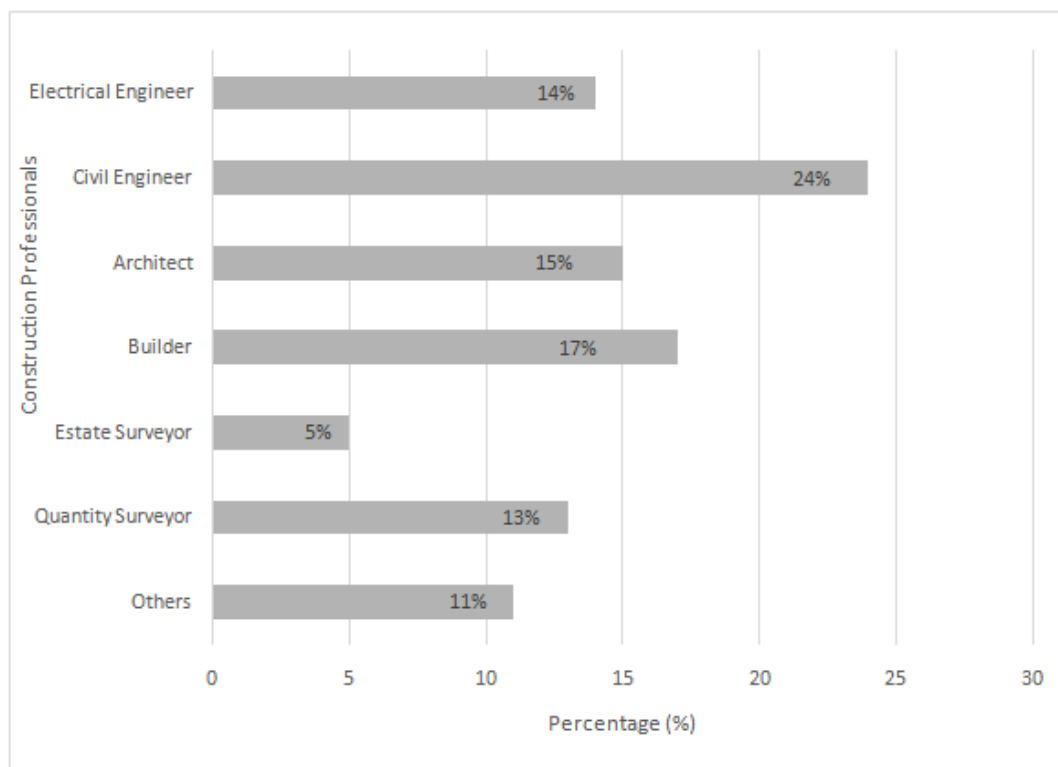


Figure 2: Construction Professionals

Source: Field Survey,

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 Staff	0	0
Well Staff	24	27.91
Average Staff	29	33.72
Poorly Staff	26	30.23
Very Poorly Staff	04	4.65
Do not Know	03	3.49
Training of Construction Professionals on Public Procurement Policy		
Yes	42	48.84
No	36	41.86
Do not Know	08	9.30
Impact of Training on Due Process Policy in Organisations		
Excellent	07	8.14
Very good	17	19.77
Good	42	48.84
Bad	18	20.43
Very Bad	-	-
Do not Know	02	2.33
Impact of Professional Staffing in Actualisation of Successful Procurement Proceedings in MDA'S.		
Excellent High	0	0.00
Very High	44	51.16
Average	23	26.74
Poorly	10	11.63
Very Poorly	0	0.00
Do not Know	09	10.47

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	54	62.79
No	16	18.60
Do not Know	16	18.60
Knowledge about passage into law Regarding due process policy.		
Yes	81	94.19
No	05	5.81
Do not Know	-	-
Effectiveness of Public procurement Act 2011.		
Extremely effective	-	-
Very Effective	29	33.72
Average Effective	33	38.37
Seldom Effective	09	10.47
Not Effective	05	5.81
Do not Know	10	11.63

Source: Field Survey,

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	312	3.63	0.242	Significant	1 st
Nepotism	174	2.02	0.135	Not Significant	15 th
Administrative bottle necks	249	2.90	0.193	Not Significant	13 th
Civil Unrest	210	2.44	0.163	Not Significant	14 th
Lack of political will to enforce due process policy	264	3.07	0.205	Significant	11 th
Absence of tender board	279	3.24	0.216	Significant	9 th
Absence of advertisement	267	3.10	0.207	Significant	10 th
Non adherence to prequalification criteria	309	3.59	0.240	Significant	2 nd
Delay in payment of contractors	291	3.38	0.226	Significant	5 th
Execution of project not being budgeted	263	3.06	0.204	Significant	12 th
Absence of monitoring mechanism	303	3.52	0.235	Significant	3 rd
Inappropriate bidding process	286	3.33	0.222	Significant	6 th
Leakages of tender price	285	3.31	0.221	Significant	7 th
Indiscipline among erring contractors by procure ring entity	282	3.28	0.219	Significant	8 th
Indiscipline amongst erring procurement officers.	297	3.45	0.230	Significant	4 th

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

Source: Field survey.

Table 4: Factors Influencing Successful Procurement Proceedings.

Factors	%	Xn	Critical Index	REMARK Xn ≥ 3	rank
Project planning before contract award.	281	3.27	0.218	Significant	9 th
Advertisement of contract prequalification before bidding.	259	3.01	0.201	Significant	15 th
Invitation to Bid for project	274	3.19	0.212	Significant	11 th
Informing contractors after prequalification	270	3.14	0.209	Significant	12 th
Effectiveness of competitive bidding	289	3.36	0.224	Significant	7 th
Invitation to tender	276	3.21	0.214	Significant	10 th
Enforcement of Bid Bond or bid security	267	3.10	0.207	Significant	13 th
Contract Certification above 1 million Naira	230	2.67	0.178	Significant	17 th
Duration of contract processes	295	3.43	0.229	Significant	4 th
Bid Opening	292	3.40	0.226	Significant	5 th
Examination of Bid	290	3.37	0.225	Significant	6 th
Evaluation of Bid	308	3.58	0.239	Significant	3 rd
Contract performance guarantee	387	4.50	0.300	Significant	1 st
Award and signing of contract	309	3.59	0.240	Significant	2 nd
Enforcement of retention fee	288	3.35	0.223	Significant	8 th

Monitoring	263	3.06	0.204	Significant	14 th
Level of organisational significance to due process in contract awards.	251	2.92	0.195	Significant	16 th

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

Source: Field survey.

IV. DISCUSSION

This study which focuses on the assessment of due process proceedings and practice for public building procurement in Nigeria a case study of Abia state the study employed the survey approach. The majority of the respondents were construction sector professionals with more than 5 years of project procurement experience. The results of the study indicate that there is a significant understanding of the enactment of the Public Procurement Act into Law in Abia State, with 94.19 percent of professionals in the construction industry being aware of the law. These findings are consistent with the findings of the study on due process knowledge [5]. The level of compliance of various organizations with this policy is above average, and it was also discovered during the analysis that specialist procurement staffing in various ministries and departments is also above average, with the highest respondent of 33.75 percent. The survey also looks at professional training on procurement policy, and it was discovered that procurement professional training ranked on the average with a yes response of 48.48 percent, indicating that MDAs should promote professional training. It was also discovered that when workers are trained in public procurement, they achieve better outcomes and perform better, with a total score of 77.78 percent. The Chi-Square test analysis shows that the calculated value ($X^2=49.17$) for value for money is higher than the table value ($X^2=21.03$), and the calculated value ($X^2=49.27$) for well-trained procurement personnel is higher than the table value ($X^2=23.68$), suggesting that there is a significant association between due process policy and value for money, as well as efficient procurement proceedings and well-trained procurement staff in Abia state.

V. CONCLUSION AND RECOMMENDATION

It is well known that the procurement Act was enacted to ensure transparency in the nation's

procurement process. This became important due to the multiple irregularities that have plagued the nation's procurement sector in recent years. According to the findings of the study, there is an awareness of the procurement Act's passage into law, as well as the need for proper training of staff on public procurement in Abia State to allow them to carry out their appropriate functions effectively is inevitable. The value of providing a functioning monitoring system cannot be overstated, as having an efficient monitoring mechanism would help eliminate many scuttles in the procurement activities.

Furthermore, no penalties tend to be levied on errant contractors or procurement officers. Corruption is one of the factors that affects due process policy. Other factors include bottlenecks in the administrative process owing to a lack of political will to uphold the policy of due process, due to the lack of a tender board, the absence of advertising, non-compliance with prequalification specifications, contractors not being paid on time, execution of a project that was not budgeted for, Absence of a control system in place, improper bidding process, leakages of tender price before contract award, indiscipline among faulty contractors by procuring entity, indiscipline on the part of unruly procurement officers; Clients should be able to objectively analyze these factors from the outset of the procurement process and provide remedies to these factors in order to get the best results in any procurement proceeding. These factors can be significantly minimized if the government enforces its political will by ensuring that procurement policies are followed, a monitoring system is put in place and empowered to operate, and there is no undue intervention by the ruling class; when this is accomplished, one's value for money is assured.

Lastly, Adequate budgetary arrangements should be made for budgeted works, and works that have not been prepared for or budgeted for should not be carried out, as this could result in contract

price fluctuations over the course of the job, which could ultimately lead to cost overruns. Every procurement officer's watchwords should be transparency, equality, justice, and accountability, as well as client equality.

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