

EFFECT OF CORRUPTION AND FRAUD IN PUBLIC PROCUREMENT IN NIGERIA

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Abstract

The study adopts secondary data to examine the effects of corruption, fraud on public procurement in Nigeria. The study reveals that public procurement is susceptible to corruption and fraud because of colossal sums of resources. The study further established that corruption and fraud in procurement has impeded national growth and development. Therefore study recommends for an effective oversight functions of legislative arm of government, uncompromising judiciary and capacity building of procurement officials to enhance professionalism as ways of checkmating corruption.

Keywords: Public Procurement, Corruption, Fraud, Nigeria

Introduction

The African Development Bank (2009) has noted that public procurement accounts for as much as seventy percent of government budget across Africa. Over past decades, government spending in most countries in the continent, including Nigeria has been rising, but the continent has remained the poorest in the

world. Public procurement in the continent has remained unproductive, as it has failed to facilitate economic growth to enhance human development, due mainly to prevalence of corruption. Procurement has been identified as the key channel through which public officials embezzle public funds by conniving with contractors and service providers to inflate contract costs in government establishments. The problem of Nigeria sector, according to Awosika (2006) has been misappropriation of resources, embezzlement, looting of treasury, bribery and corruption. This problem has significantly permeated the public procurement practices in the country. The monster of corruption, sharp practices and abuses in public procurement system has not helped things to work well in governance and development efforts. According to News Bulletin of Economic and Financial Crime Commission (EFCC 2013), Nigeria has between 2010 and 2012 lost several trillions of naira to corruption through dysfunctional procurement system . The consequences of this unwholesome development according to Awosika (2006) were increase in the cost of doing business, rise in the cost of provision of goods and services, promotion of unproductive investments, decline in social infrastructure, rise in the country indebtedness, dwindling resources and foreign exchange earnings and absolute poverty in the land.

Since the introduction of the public procurement policy in Nigeria, a lot of questions, misconceptions, doubt and criticism and cynicism have been trailing its implementation. The enthusiasm which greeted the introduction of the policy is giving way to pessimism and making the policy increasingly unpopular because of some lapses perceived in its implementation. Attah (2011) observed that the bulk of corrupt practices in Nigeria are linked to public procurement which accounts for about seventy percent of government daily activities. The continuous rating of Nigeria by Transparency International and other International anti-corruption organizations among the most corrupt nations of the world are located within the ambit of weak governance embedded in a weak public procurement system that has blighted the development of

many parts of Nigeria to date. The feedback from the implementation of procurement policy has generated diverse mixed reactions among Nigerians and in government cycle. The policy is seen as slowing down the execution of much needed projects and impacting negatively on national development.

Wahab (2004), noted that Nigeria's experiences of poverty in the midst of abundant resources is essentially attributable to deficiencies in public procurement system, which has been easy to manipulate. Government is a trust, and it is imperative for any government in power to ensure that the nation's resources are deployed in the overall interest of the people from whom it derives its legitimacy.

Procurement process usually attracts a lot of corruption because of colossal sums of money involved and the opportunities that are available to unscrupulous people. Outside of salaries and social benefits, procurement accounts for the largest share of public expenditure at all tiers of government. The enormous amount involved in procurement presents irresistible lure for corrupt practices because of the tremendous opportunity of bribes, kickbacks and other payoff. Corrupt people therefore continually work for ways to circumvent regulation or vitiate due process in handling of procurement. (Attah,2011). Corruption in public procurement include the gamut of practices engaged in by the participants in the procurement process through which means they can wrongfully and illegally exploit their positions of trust for private and selfish gains. Corruption in procurement may include transient practices such as conflict of interest, bribery, embezzlement, kickbacks, tender rigging, contract splitting, illegal gratuity, extortion and the like (Kofi, 2012).

Jason (2010) argued that corruption can arise in various forms in each phases of procurement process. During procurement planning and budget phase, the government entity needs to determine what good or service it would like to purchase and how much it would like to spend. In both of these cases, there are opportunities for corruption. In determining the requirements, reports could be

prepared that falsely justify current or future departmental needs, falsely inflated actual needs or falsely report damaged equipment in order to create an excess supply that could be used for corrupt purposes. The procurement requirements could also be written to favour or disfavour particular suppliers. Budget could even be set artificially high so that excess allocations can be stolen or diverted.

Corruption is a widespread problem in procurement all over the world. To a very big extent, the impact of corruption on public procurement performance can be substantiated. The World Bank has estimated that roughly \$1.5 trillion in public contract awards are influenced by corruption, and that the volume of bribes exchanging hands for public sector procurement alone, estimate to about \$200 billion per year (Kaufmann, 2005). In Ghana, about seventy percent of corrupt practices are affected through the purchasing and supply of basic items for some Ministries, Departments and Agencies. Similarly, in the United States, overall organizations lose seven percent of their revenues to procurement corruptions each year (Kwofie, 2001). Savuth (2012) observed that corruption in procurement pose serious threats to the ability of organizations to achieve its operational objectives. It can hamper the implementation of programmes and projects. Public procurement corruption can also threaten legitimacy of government and as such, policies and procedures should be created to curb any possible corruption activities and enhance transparency, accountability and integrity.

According to African Peer Review Mechanism Report (2007), Uganda loses \$258.6 million annually through corruption and fraud in public procurement. Corruption and fraud in public procurement impacts directly or indirectly on the quality of social services that are intended to benefit the poor people. It has led to significant losses of public fund through manhandled procurement and outright embezzlement.

Objective of Study

The objective of the study is to examine corruption and fraud in public procurement in Nigeria, its consequences and to identify ways the menace can be curbed in order to enhance transparency, accountability and integrity in governance. In other word, the study would unravel corruption and fraud in public procurement practices in Nigeria and make the necessary requisite recommendations to make the policy effective and development oriented.

Methodology

This study adopts survey research methodology. It uses more of secondary sources of data which also served in the area of literature review and other aspects. It is important that the major concepts in the research are examined and explained for the purpose of clarity and more so due to the fact that concepts are germane to research study.

Corruption

One of the greatest development challenges facing developing countries in today's global world is the high incidence of corruption. Nigeria, like most countries in the Sub-Saharan African region has been vigorously confronted with the Malaise of corruption. Thus, the spate of corruption in Nigeria has found expression not only in public offices and institutions but other critical social milieu namely, the family, schools, places of worship, and electioneering activities. Corruption whether political, economic, judicial, institutional or bureaucratic could by and large impede the progress of any society where such attitudes are widely tolerated and accommodated in the scheme of things. (op.cit). Corruption in its many facets has been viewed in several ways. Just as there are multiple phases of corrupt practices in the society, the concept of corruption varies. Otite (1986) viewed corruption as the pervasion of integrity of state affairs through bribery, favour or moral depravity. To him, corruption involves the injection of additional but improper transaction aimed at changing the moral course of events and altering judgments and positions of trusts. It consists in the doer's and receiver's use of informal, extra legal or illegal act to facilitate matters.

Yagboyaju (2005) believes that corruption is any act perpetrated by the political class, civilian, military or a highly placed public official aimed at changing the moral or lawful course of events, especially when the perpetrator uses such a position of authority for the purpose of personal or group interest at the expenses of public interest. Dike (2013) on his part corroborated the point of view of Yagboyaju (2005), when he situated corruption at the highest level of political authority in Nigeria. Thus, to him, corruption occurs when politicians and other important state decision makers, whose duties are to formulate and implement policies on behalf of the electorate, are themselves corrupt. In this sense, corruption could be said to have taken place when public policy formulation and legislation are tailored to benefit political office holder to the abject neglect of the mass of the people.

Nye (1967) sees corruption as a deviation from the formal duties of a public role because private regarding pecuniary exercise of certain types of private regarding influence. This include such behaviour as bribery (use of reward to pervert the judgment of a person in position of trust) nepotism (appointment by reason of ascriptive relationship rather than merit) and misappropriation (illegal appropriation of public resources for private regarding use). Similarly, Huntington (1968), defined corruption as behaviour of public officials which deviates from accepted norms in order to serve end. Johnson (2009), believed that corruption has pervasive and debilitating effect on national development, national rectitude and national integrity. It distorts incentives because able individuals allocate their energies, natural abilities and intellects to corrupt practices, it hampers political development and contributes to political instability; hinders economic growth by the plunder of the funds that would have been invested in meaningful and productive projects; it causes unemployment; unequal distribution of income; erosion of public confidence in government and its institutions; it is a purveyor of inflation and distorter of monetary and fiscal policies of government. According to (Doig and Theobald, 2000), the phenomena of corruption manifest itself in different forms ranging from accepting bribe, violation of

procedures to enhance private benefits, intervention by political leaders in the Judicial Process and false claims of execution of contracts. Based on this definition, corruption becomes an issues to reckon with, if any meaningful development is to be achieved. A public servant has a role to play in terms of executing policies, devoid of sentiment, favour or personal biases, since he operates in a bureaucratic organization.

Public Procurement

Eze (2011) in his explanation of Public Procurement notes that it is a process of engaging third party providers by public institutions in the course of budget implementation when government procures works, goods and services for its citizens. He believes that improvement in the Public Procurement System has a direct and beneficial impact on the overall economic situations of a country. He opined further that Public Procurement should have attributes of transparency, accountability, fairness, corruption free and delivers value for money to promote economy growth and development. Public procurement is the use of public funds by government through its Ministries, Department and Agencies, on behalf of its citizens, for the acquisition of goods, services and works with the best quality and right quantity, at the best possible price, from the right place or source and for the right purpose using the best method(s) and in line with the laid down rules and regulations, following due process (World Bank, 1995). The essence of public procurement is to deliver value for money which manifest in enhanced human welfare and improved economic growth and development.

Public Procurement according to Afemikhe (2011) refers to acquisition of goods and/or services at the best possible total cost of ownership, in the right quality and quantity, at the right time, in the right place and from the right source for the direct benefit or use of individuals, companies or governments. He states further that procurement is generally carried out through a contract and can also apply to the selection of human resources for an organization. What this simply means is that, procurement is the purchase of goods or merchandise by a business association,

organization, or an individual. It also means buying goods from suppliers at the lowest possible price and the best way of doing this is to let the suppliers contend with each other so that the investment cost of the buyer is kept at minimum.

According to Momodu (2012), Public Procurement is when government buys input for vital public sector investments. These investments are grouped into three categories, to include civil works, goods and services. According to him, Public Procurement policies and practices are one of the elements of good governance. He believes that good practices reduced costs and produce time result while poor practices lead to waste and delays, and are often the cause of allegation of corruption and government inefficiency. The author further observes that a good Public Procurement must have the following characteristics;

- i. Economy - it is a purchasing activity whose purpose is to give the purchaser the best value for money.
- ii. Efficiency - it is simple and swift, producing positive results without protracted delays.
- iii. Fairness - it is impartial, consistent and reliable. It offers all interested contractors, suppliers, and consultants a level playing field on which to compete and thereby, extend the purchasers options and opportunities.
- iv. Transparency- it establishes and maintains rules and procedures that are accessible and unambiguous.
- v. Accountability and Ethical Standard - it holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or bending those rules.

Public Procurement in the view of Monye (2012) refers to acquisition of goods, works and services in the public sectors. He states further that it is to promote the tenets of transparency, fairness and value for money in the conduct of government business and transactions. Oando (2006) defined Public Procurement as the acquisition of good and services in terms of right price, right quantity, right quality, right time and right place (5Rs) in the public sector. It has also identified Procurement cycles in modern business to include information gathering, suppliers contact,

background review, negotiation, fulfilment, consumption and renewal.

According to the World Bank, corruption procurement guidelines are the abuse of public entrusted power for personal gains. Okoduwa (2011) observes that corruption in public procurement practices in Nigeria oftentimes involves a network of persons and went further to highlight a chain of corruption in project contract award as follows:

- i. Contractor influencing project to suit himself;
- ii. Consultant over-designing or designs to suit a particular product or contractor technology;
- iii. Contractors/consultants lobbying Legislative Assembly to over-appropriate funds or admit project into national budget;
- iv. Consultants manipulating figures/documents/process to suit a pre-arrange outcome usually with connivance of the Ministries, Departments and Agencies (MDA);
- v. Contractors delivering poor quality job, consultant looks the other way, quantity overstated, consultants/contractors/MDA collude; Okoduwa (2011) further highlighted variety of sharp practices and abuse of due process which take place within procurement process in Nigeria to include:

Collusion - Collusion between public officers and contractors or suppliers. For example, guidelines allow that as an exemption from open competitive bidding, at least three relevant quotations be obtained for a procurement which does not exceed a particular amount. Rather than source the quotations separately, public officers do collude with a preferred suppliers/contractor to submit all the quotations, one of which would be in the company's registered names and the other two often time, are in fake names with higher quoted prices, giving the fraudulent impression that the quotations are from three different contractors. The pre-determined contractors, of course with the least price then get the job.

Abuse of guidelines on Advertisement/Notification Guidelines stipulates that notice be place in conspicuous places on notice

boards of procuring entity on projects for a specific period of time. This is usually not complied with as notices are backdated and placed one or two days before the expiration of the invitation period. Obviously, only favoured contractors/suppliers would have heard prior information on the procurement invitation.

Deliberate skimpy information on Pre-qualification Requirement - Some procuring entities deliberately do not state pre-qualification requirements clearly and completely such that those submitting tenders on the skimpy information are disqualified to pave way for favoured contractors. **Abuse of Guidelines on Bids Opening** - According to guidelines, bids is to be opened immediately after the close of submission in the presence of those who submitted tenders. Some procuring entities however, do not open their bids until long after, thereby creating room for corrupt manipulation of bids.

Manipulation of Bids Evaluation - Abuse of the procurement process do occurs at the point of bids evaluation especially when transparent process throws up an unfavoured contractor as the best responsive bid. In this type of situation, procuring entity then factors on previously undisclosed criteria to disqualify the best bid. **Splitting of Tenders** - Officers of procuring entities often time split tenders illegally to circumvent guidelines on approval threshold. **Substitution of Poor Quality Goods and Services** - In collusion with public officers of procuring entities and in order to increase project and make up kickbacks and bribes, suppliers/contractors substitute lower quality goods and services for what was originally quoted and paid for. This type of scenario usually involves a network of public officers including the internal Auditor, Stores officials and procurement officers.

Inflated Fees for Middlemen - Sometimes middlemen such as agents and consultants are used in a procurement arrangement not so much to add value to the process but to siphon huge sums of money through inflated and bogus fees which would then be split with officers of the procuring entities. **Use of Phony Technical Jargon to Manipulate Process** - In the procurement of technical goods and services, technical jargon is used deliberately to shut out potential

bidders and it is also a trick for the favoured contractors/suppliers to quote astronomical figures.

Corruption opportunities also abound at the contract award and performance phase of the procurement process. For example, an offer or could propose an unrealistically low offer in the hopes that after the contract is awarded, procurement officials will allow amendments to increase costs. Likewise, a firm could offer exceptionally high caliber products or less qualified personnel to meet a particular requirement and then upon contract award substitute inferior products or personnel. It is also possible to corruptly require sub-contractual relationships with favoured suppliers (op.cit).

In view of Galleri and Csaki (2003), corruption in public procurement sector include submission of fictitious and exorbitant invoices for materials and labour as well as bribes in return for work and even prompt payment. In some cases, procurement officials were found to have connived with contractors and consultants to indulge in unethical practices such as issuance of fraudulent certificates and certified payment for job not done, leaking of privilege information to intending contractors and manipulation of bid process to favour cronies.

Shakantu (2006), also observed that proprietary information infringement and stealing other people's drawings during stage design; collusive bidding during the tendering stage, cash inducements (bribery) for over-valuing work performed during the site operation stage, negligence in form of poor quality documents during production documentation stage, fraudulent conduct such as covering up poor workmanship during site operations are some of the corrupt practices going on in the procurement process. Proceeding of the National Conference for cleaner Public Life (2003), Identified several forms of corruption in procurement to include influencing the law-making process, forming of cartels by bidders; bribing of the decision makers in order to win bids, conflict of interest and massaging of the process to favour a particular bidder, bribery, embezzlement and fraud.

Ameyaw (2013) believed that tender evaluation stage of the procurement process is the most susceptible to corruption practices

and the evaluation panel as provided by the law should be given a close monitoring to fail any attempt by unscrupulous bidders to bribe officials at this stage. This is significant as a lot of things happen during this stage. Evaluation panel are sometimes pressurized to disqualify the most competitive tender and rather recommend favourites of politicians or those in authority. Other times, corrupt bidders pay their way through the evaluation team to use all foul means to disqualify other bidders to their advantages.

In addition, Kalubanga (2012), contend that an increasing number of organizations using suppliers based in emerging economics, potential opportunities for fraud and corruption especially within procurement sphere are likely to escalate. Accordingly, fraud can happen when the tender process has not been followed so that fraud can be committed. Fraud can also occur when there are payment claims for good or services that were not delivered or were inferior to what was specified in the order. According to the scholars, procurement fraud include bribes and kickbacks to cover up falsified pricing, product substitution, substandard quality issues, anti-competitive policy violations and counterfeit goods. Such frauds can also focus on the acquisition of raw materials, services, finished goods and components. Perpetuators of procurement fraud include the internal buyer, external suppliers or rogue employer with enough authority to approve purchases and possibly, invoice payments.

Corruptions occur in various demeanours. Apart from tailored and multiple specifications by government officials to favour particular persons who in turn facilitate kickbacks, there are enormous information restrictions about contracting opportunities, subsequently done in an obscure approach that no one sees or understand procedures during pre and post implementation.

The summary of corruption in public procurement is that it 'takes two to tango'. 'Where there is a willing taker, there is equally an ever willing giver'. It is safer to conclude that corruption is bad for the Public Procurement system irrespective of its consequences because it constitutes a breach of the corrupt official's duty to his

employer. It is illegal, immoral, unconventional and against public good.

Effects of Public Procurements

Martins (2012) argued that the damaging effect of corruption on public procurement cannot be over emphasized as its impact is both financial and economic. This according to him, is evident in the bad choices of projects, high cost of purchases, operational, maintenance and debt servicing liabilities that burden government with financial obligations, thus increasing the level of poverty and inequality as funds are diverted away from addressing the pressing special needs of the populace. According to Adewumi (2011), corruption in public procurement has enormous negative consequences on the delivery of services that are supposed to be beneficial to the populace. It is a grand scale jamboree that involves politicians, government officials and the private sector, conspiring to siphon money off government budget. It is also the direct misuse of power by top level officials. The leakage of public funds caused corruption to affects the government ability to provide basic services to its citizens. It also increases the burden of tax payers, and reduces the quality of work done for projects. There is ample evidence across the world that corruption in public procurement hinders economic development, reduces social services, diverts investment in infrastructure and social services and impacts the poor disproportionately.

Other consequences of failed procurement systems are abandoned projects, high cost of goods and services as in some public establishment where services are commercialised. These have tended to impoverish the people, deny them access to public welfare services and infrastructure. Obanda (2010), notes that Public procurement corruption if not arrested, can significantly, impact negatively on procurement performance. According to Landa Kinball and Martyn (2007), Procurement fraud squanders limited funds, threatens safety and national defense. It cheats taxpayers and harms the government efforts to obtain goods and services needed for its mission. Wesley (2004) confirms that fraud losses continue to impact virtually every business enterprises. The

cost of fraud are passed on to the society in the form of increased customer inconvenience, opportunity costs, unnecessarily high price for goods and services and criminal activities funded by fraudulent gains. Similarly, political economists, policy makers as well as International Monetary Fund (IMF) generally agree that corruption in procurement is detrimental to both economic and political growth. According to Magnouloux (2006), corruption has a lot of economic consequences on the allocation of resources, on economic environment and then on the way economic decision maker analyze courses of action. From the foregoing, it is imperative for every nation across the globe to strategize in the fight against corruption in all sectors of the economy, and more especially in the procurement process.

Conclusion and Recommendations

Positive effort towards the reduction in the public procurement process would have direct and significant impact on the overall economic development of a country, as corruption in public procurement hinders economic development, increases contract cost, reduce social services, diverts investment in infrastructures and social services and impacts the poor disproportionately. The following recommendations could go a long way in curbing corruption and fraud in public procurement practices.

- i. Procurement law and process should strictly be followed and enforced.
- ii. Procurement staff and other staff involved in financial decision should be trained on how to identify procurement fraud.
- iii. Access to information particularly as it relates to the procurement procedure and criteria for evaluating bids are critical to improve transparency. Procurement rules should be clear and there should be well documented explanation of the contract award.
- iv. Competition does not necessarily reduce corruption. Applying international prices as benchmarks for procurement negotiations and requesting standardised goods and services can reduce the potential for corruption.
- v. Companies that satisfy and meet the conditions and guidelines of anti-corruption bodies should be considered eligible for contract awards.
- vi. The legislative arm of government should ensure through its oversight functions that procurement practices are transparently

- carried out. They should monitor, question and evaluate the activities of procurement entities and their managers. They should perform surveillance and enforcement responsibilities.
- vii. The judiciary should sanction violators of public procurement law to serve as deterrents to others. If the violations of the public procurement laws are not sanctioned or apprehended, the abuses of the policy will not abate, no matter the amount of effort by government.
 - viii. There is the need of an Audit alarm to be created in Ministries, Departments and Agencies (MDAs) as unit to report cases of procurement corruption and fraud to appropriate authorities in order to curb the fraudulent practices.
 - ix. It is also important to continuously develop the capacity of public officials involved in public procurement to promote professionalism.
 - x. The executive arm of government on the other hand, must be prepared to provide good leadership.
 - xi. Government should ensure that a procurement manual containing the procurement Act 2007 is mass produced and widely circulated at no cost to stakeholders and public officers. This is imperative, because unless the public officers are aware of the public procurement guidelines, they could hardly be expected to adhere to or follow the process, as awareness enhances discipline.

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