Public Procurement Act 2007 and Economic Growth in Nigeria: South-South Perspective

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ABSTRACT

Economic development may be achievable through efficient and effective allocation of resources. In same vein, effective and cost effective resource allocation can only be powered by an equally 'effective and transparent' procurement process or system. Accordingly, the PUBLIC PROCUREMENT ACT 2007, was established to among other reasons, midwife an effective procurement system for the country that will ensure value for money for resource allocation. Annual capital expenditure provision in national budgets for the last five years had averaged about 24.7%. Records available from the Bureau of Public Procurement (midwife of the Act) indicated that the South-South geo-political zone did enjoy (probably not commensurate with her resource contributions) part of these national budgetary allocations. Analysis of same records, unfortunately showed that the intent to achieving value creation and development in the area could not have been achieved, for many reasons including, inadequate provisions and allocations, poor conception/implementation/execution, inadequate monitoring for the referenced restive region. Given the findings above, it is therefore suggested amongst others that there should be establishment of strong and compelling institutions, amidst the pervading corruption that has become Nigeria socio-cultural value. Also, there should be domestication of public procurement law by all the 36 states and the entire 774 local governments in Nigeria. All these will contribute towards an effective creation of 'value for money' in resource allocation for desired regional economic development.

Key Words: Bureau, Public, Procurement, Act, Economic Growth, South-South

1. Introduction

Public procurement plays a significant role in the administration, size and policy of most economy in the World. Every year the Federal Government of Nigeria prepares annual budgets (Recurrent, Capital and Special provisions) for its expenditure framework. Capital and some special budgets are usually for procurement for infrastructure or enablers of development. The legal framework for public procurement is contained in the Public Procurement Act 2007 (PPA), and driven by the Bureau of Public Procurement (BPP). Records obtained from the Bureau of Public Procurement shows that the South-South geopolitical zone (region), made of the six states of Akwa Ibom, Bayelsa, Cross River, Delta, Edo, and Rivers, during the period under review, had their share of the capital provisions like other geopolitical zones, administered through government Ministerial Departments and Agencies (MDAs), after clearance by the BPP for certain procurement thresholds. The objective of this paper is to examine the effect of capital budgets on the South-South (SS) region of Nigeria.

2. The South-South Geopolitical Zone

The South-South (SS) Geopolitical, one of six in Nigeria, is made up of the States of Akwa Ibom, Bayelsa, Cross River, Delta, Edo, and Rivers. These six contiguous states occupy 94,587km² of Nigeria's 923,768 km² land mass. According to the 2006 census, the region had about 21.01m inhabitants representing approximately 15% of Nigeria's population of 140.43m projected estimates for 2016 had the region's population at 28.82m and

178.50m for the Nation (see Table 1). The region is home to more than 90% of Nigeria's proven oil and gas reserves, and therefore contributes more than 90% of Nigeria's foreign earnings. Though some oil/and gas related establishments are sited within the region, the people are predominantly subsistence farmers and fishermen. The region's major cities are Port Harcourt, capital of Rivers State, Calabar, capital of Cross Rivers State, Uyo, capital of Akwa Ibom, Benin, capital of Edo State, Warri of Delta State and the traditional settlement of Yenagoa, which serves as the capital of Bayelsa State.

Table 1: South-South Population and GDP

State	Population (2006)	Projected Population (2016)	GDP
Nigeria	140,431,790	178,500,000 (approx.)	
Akwa/Ibom	3,902,051	5,482,177	11,179,000.00
Bayelsa	1,704,515	2,277,961	4,337,000.00
Cross River	2,892,988	3,866,269	9,292,000.00
Delta	4,112,445	5,663,362	16,749,000.00
Edo	3,233,366	4,235,595	11,888,000.00
Rivers	5,198,716	7,303,924	21,073,000.00
Total	21,044,081	28,829,287	74,518,000.00

Source: National Population Commission, National Bureau for Statistics

3. Public Procurement and Economic Development public

Procurement deals with how goods and services are secure in the interest of public authority. Thus, public procurement covers all works and contracts of public authority with the exception of military acquisitions which account for huge some of public financing. The Great Britain Procurement Act (GPA) and the European Union (EU) procurement laws allow of exceptions, where public tendering would violate a country's essential security interests. Additionally, certain interventionist, politically or economically sensitive procurements may also be treated differently.

The enablers of development are pivotal to any economy. The 'enablers' entail the critical infrastructure needed to achieve meaningful economic growth and development in any nation. Enablers such as power, transportation, science and technology, and equitable justice must be available and of sufficient quality to propel economic growth and development. According to Dada, Okikiolu & Oyediran (2006), infrastructure development remains a sine-qua-non to national development regardless of the method used to procure projects.

According to Reich, (2009) as well as Wahab and Lawal (2011) public procurement is very crucial to global economy that makes developing nations spent the minimum of 10% and maximum of 30% on public procurement. In like manner, Thai (2005) as well as Familoje, Ogunsemi & Awodele (2015) affirms that the magnitude of the procurement expends influence critically on the nation and its effect is challenges. The global effort to achieve economic development is a goal of the United Nations, the World Bank, Intra-continental, multilateral and bilateral development agencies. In order to achieve development as expected, the development agencies recommend that appropriate measures be put in place to effectively and efficiently apply scare resources to achieve 'Value for Money'.

The United Nations, the World Bank and indeed all other world bodies have so established effective and efficient procurement systems. The World Bank, in addition, also administers outreach programs to help governments and private organisations to strengthen their procurement systems. In the global private sector, most international blue chip organisations, have heeded the call by the World Bank to establish distinct and semi-autonomous desks or systems to handle procurements.

3.1 Public Procurement in Nigeria

Locally, Nigeria has had a long history of tinkering with the critical public matter of getting her procurement system right. The World Bank plays a significant role in the reformed PPA 2007 in Nigeria (William-Elegbe, 2016). In 1999, there was a clear understanding by the government that weaknesses in the existing procurement

system were contributing to the nagging issue of corruption (Jacob, 2010). The World Bank Country Procurement Assessment Report (CPAR) revealed that Nigeria was losing an average of \$10 Billion (Ten Billion United states dollars) annually due to various abuses associated with public procurement and contract awards. It is reported that N40 out of every N100 was lost through various malpractices in procurement in Nigeria before the enactment of the PPA. Though the president Olusegun Obasanjo administration did set up the Budget Monitoring and Price Intelligence Unit (BMPIU) as a stop-gap measure, in the absence of legal framework, Nigeria's public procurement was not formally regulated at the federal, state or local government levels, until 2007. Government obviously realized that sound public procurement policies and practices are among the essential elements of good governance. It was further realised that good procurement practices reduce costs and produce timely results, whereas poor practices lead to waste and delays and often lead to allegations of corruption and government inefficiency. The passage of the PPA brought a sense of regulation or framework to the procurement process. Thus Nigeria became one of the African countries with a new legal framework for public procurement, meeting the benchmarks described by the African Development Bank Concept note.

Ten years into the application of the PPA, and the reluctance by the States and Local Governments to domicile of same, the law has received various assessments. For example, Ossai (2014) observed that the apparent successes attained at the federal level as a consequence of Public Procurement Law 2007 are taking too long for replication by across the geopolitical zones in Nigeria. It is disheartening to note that no single local government in Nigeria deemed it fit to pass public procurement edict despite the volume of money that are expended in Nigerian by local government system.

4. The Public Procurement Act of 2007 and the Bureau of Public Procurement

The existing government policies and practices by regulating, setting standards and developing the legal framework and professional capacity for public procurement in Nigeria; and other related matters, was made on 4th day of June, 2007. The core Objectives of the Public Procurement act are Economic Efficiency, Competition - Providing level playing ground for all strata of bidders, Value for money, and Transparency.

4.1 The Procurement Process by the Bureau of Public Procurement (BPP)

Procurement of goods and services are administered by MDAs according to thresholds. The BPP has published procurements methods, and has also established basically five levels of contract awards for works and thresholds at the Federal level (except for NNPC) as shown in table 2 below

Table 2: Works' Threshold Approval

s/n	Value of works	Approving Authority	BPP Certificate of no objection
1	N1billion and above	Federal Executive Council	Issues 'Certificate of no Objection'
2	N10m and above, but less than N1b	Ministerial Tenders Board	No
3	N5m and above but less than N250m	Parastatal Tenders Board	No
4	Less than N10m	Accounting Officer – Permanent Secretary	No
5	Less than N5	Parastatal or Agency CEO or Director	No

Source: BPP Abstract of Statistics

Though the BPP trains, posts or second procurement officers to all MDAs, procurements less than one billion Naira, are managed within the MDAs without corresponding reports by BPP, and this portends perceived and ominous danger in the negative effects of contract splitting, partial and inefficient allocation of resources.

5. **The Capital Budget of Nigeria 2012-2016**

Table 3 – Nigeria Aggregate/Capital budget

Year	Aggregate Budget(Nb)	Capital Budget (Nb)	% Capital Budget
2012	4,749	1,329	27.98
2013	4,987	1,588	31.8
2014	4,642	1,101	23.7
2015	4,460	557.0	14.1
2016	6,060	1,587.4	26.2
Average	4979.6	1232.48	24.76

Source: Budget office/Bureau of Statistics

Performance or implementation of the five years under review is presented below. The average performance is 61.42%

Table 4- Nigeria Capital Budget Performance

Year	Capital provision (Nb)	Capital budget implementation (releases Nb)	% performance
2012	1329.00	744.42	56.01
2013	1,588.00	912.87	57.49
2014	1,101.00	587.61	53.37
2015	557.00	362.39	65.06
2016	1,587.4	1191.97	75.09
Average			61.42

Source: Budget Performance Reports by Budget office

Table 5: Value of Certificates of no Objection issued by BPP

Source: Author's compilation from published values of certificates of 'no objection' by BPP

Year	Reported national (NN) values of all certificates of 'no objection' issued by BPP (Nb)	Reported values of 'no objection' certificates issued for projects domiciled in the SS (Nb)	% of SS/NN
2011	1,121.59	601.44	53.62
2012	2,253.14	370.04	16.41
2013	1,601.39	603.66	37.70
2014	4,025.03	1,073.73	26.68
2015	600.14	115.80	19.30
	9,601.3	2,764.66	28.80 (average)

The issuance of a certificate of 'no objection' by the BPP is only an approval procedure recommended by the BPP for projects valued above N1b. The actual execution of projects would depend on the availability and release of funds by the Ministry of Finance and the Accountant General office. Indeed, release of funds to MDAs may be with or without cash backing, and MDAs would also comply with laid down procedures to access or utilize the funds. Therefore certificate of no objection issued is not a guarantee that a project would be

executed. Accordingly, table 6 below, in my estimation would depict a more realistic funding of BPP reported capital projects issued certificate of 'no objection' in the SS region.

Table 6 – Estimated value of capital budget releases to the South-South (SS) Region

	Reported values of 'no objection' certificates issued for projects domiciled in the South South (SS)	% capital performance from table 4	Estimated actual value of projects in the SS
2012	601.44	56.01	336.81
2013	370.04	57.49	212.74
2014	603.66	53.37	322.17
2015	1,073.73	65.06	698.57
2016	115.8	75.09	86.95
Total	2764.67		1657.24
Average		61.42	

Source: Author's compilation/computations

Table 6 reveals that for the period 2012 to 2016, capital projects reported by BPP received only about N1.66 trillion, out of about N2.76 trillion expected to have been invested in the provision of much needed infrastructure or enablers of development in the region. These poor releases are attributable to poor budget performances arising from inadequate budget funding and administrative bottlenecks. This unfortunately shows that the intent to achieving value creation and the drive to development in the SS region could not have been achieved, for many reasons including:-

1. Corruption: Some high level contract-racketeering is prevalent in the MDAs. Ossai (2014) reported that 45% of companies were expected give gifts to public officials in order to secure government contracts
2. Threshold provisions and approval processes encourage contract splitting and manipulations, with a view to avoiding global reports by BPP
3. Inadequate or ineffective PPA: Some identified loopholes included ambiguity in the qualification criteria of a procurement manager, failure to provide methods for dispute resolution, no provision for effective monitoring and enforcement, etc.
4. Inadequate and absence of strong and compelling Institutions to enforce PPA
5. Inadequate provisions and allocations: Public procurement has suffered from anticipatory procurement even when procurement entity knows that there is no funding to back up such procurements. Current experiences also reveal that project funding is still anticipatory, because all funding's must be budgeted yearly.
6. Unjustifiable gap exist between budgets and actual releases, leading to underfunding, delayed completion, price escalation and project abandonment.
7. Poor conception/implementation/execution, including absence of economic cost/benefit analysis of projects
8. Restive region: A credible reason for poor project execution and abandonment is the restiveness in the region powered by militancy.
9. Lack of competition and transparency in project procurement leading to high cost of projects.
10. Projects not prioritized and harmonized, consequently, several MDAs pursue similar programs simultaneously without coordination.
11. New administrations prefer new projects to the detriment of the completion of on-going projects; they also reject maintenance/refurbishment of existing ones. Cases of government project reversals abound.

5. Conclusion and Recommendations

Though a legal framework for procurement (PPA) had been established some ten years ago, its impact on the socioeconomic development Nigeria is not noticeable. In other words, the intent of the law to engender, competitiveness, transparency and value for money in resource allocation can hardly be seen to have met its mission. This is largely attributed to high level of corruption or mismanagement of public resources closely linked up with the public sector procurement systems. This is quite noticeable in the South-South, with nothing to show for its share of capital provisions. It is recommended therefore that -

- 1) All levels of capital procurements should be under the BPP
- 2) Establishment of strong and compelling institutions, amidst the pervading corruption that has become Nigeria socio-cultural value
- 3) Act should be centralised and allocation should be in consonance with the JAC provisions, so that allocations are not subject to political considerations
- 4) The domestication of public procurement law by all the 36 states and the entire 774 local governments in Nigeria promises
- 5) Although the Nigeria's Senate had made three proposed major amendments to the PPA in 2009, a full and thorough review be undertaken by the National Assembly to take care of all the short comings of the existing Act
- 6) Constituency projects are in complete negation of the procurement act, and the South- South suffers most from this arrangement.
- 7) Robust amendments needed to make it more reliable and effective for the procuring and delivering of assets in Nigeria.
- 8) Effective project monitoring and reporting for complete project life-cycle
- 9) Formulate realistic and credible budgets and as well release appropriate funds as at when due.

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