Investigating the Extent of Compliance With State Public Procurement Law: Lagos State as an Example

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Abstract

Implementation of State public procurement law has been one of the task assignments on project execution in Lagos State. However, little or no emphasis has been placed on the extent of its compliance. This study attempted to investigate the extent to which State public procurement law using Lagos State. It showed that the policy objective of efficiency, probity, and openness among the various procuring entities has to a large extent being achieved, though with various challenges undermining the implementation of public procurement policy, which needs prompt consideration. It employed both quantitative and qualitative data. In respect to quantitative data, a study population of 1, 401 comprised staff members on GL. 07-17 in the following Ministries: Housing, Finance as well as Works and Infrastructures. A sample size of 15% representing 210 respondents was used to represent the study universe. On the other hand, the qualitative data were drawn from the interview analysis. Conclusively, there is statistically significant relationship between compliance with Lagos State Public Procurement Law variant (openness and efficiency) and procuring entities.
Keywords: state compliance, public procurement law, openness and efficiency

1. Introduction

Public procurement at different tiers of government faces the problems of shoddy implementation, lack of competitive bidding among others. The reasons for this are not far-fetched as procurement in Nigeria is characterized by corruption, lack of value for money, inefficiency among others as a result of non-enactment of procurement Act, Law, or Bye-Law which ought to strengthen the budgetary allocation of various ministries, departments, and agencies (World Bank, 2000). Instead of statute, procurement was guided by financial regulations, which is a tool of the finance ministry in the award of a contract, and it was shielded in secrecy.

The narratives changed with the advent of the fourth republic in 1999 and coupled with the desire of the federal government to sanitize the procurement process and the recommendation of the World Bank that was submitted through the Country Procurement Assessment Report (CPAR). The assessment report prompted the federal government to enact public procurement Law in order to check the abuse of contract processes, inflated contract cost, and ensure value for money so as to end the endemic corruption that characterized the procurement process and which has become a conduit pipe for siphoning off the public money (World Bank, 2000). The report prompted the federal government to set up an office called Budget Monitoring and Price Intelligence Unit (BMPIU) also known as Due Process in 2001, which helps in regularising public procurement process and assists in promoting transparency and accountability to the process of contract award for the first time in Nigeria.

The BMPIU was to make sure that due process is followed in the award of contract and there should value for money, this gradually replaced the old method of issuing circular for procurement. Subsequently, the Bureau of Public Procurement (BPP) was set up because of the enactment of the Public Procurement Act (PPA) 2007, which finally gave constitutional provisions for procurement process in the country. Since the country operates a federal constitution, the Public Procurement Act of the National Assembly is not binding on the states. Hence, each of the states enacts Law that guides the states procurement process in form of domestication of the Public Procurement Act through the passage of Public Procurement Law by State Houses of Assembly. Therefore, the enactment and subsequent assent by the Ex-Governor, Babatunde Raji Fashola of Lagos State, which brought the Lagos State Public Procurement Law (LSPPL) 2011 into existence. The law came with the establishment of the agency called Lagos State Public Procurement Agency (LSPPA), which replaced the State Tender Board for proper implementation of the Law. Section 1 of the procurement Law created the Agency, while section 2 created the Lagos State Public Procurement Agency Governing Board (LSPPAGB), which plays a supervisory role over the Agency (LSPPL, 2011).

The drive to address the sharp practice in the public procurement as a result of the lack of public procurement law with clearly defined roles which the state tender board performs in the award of the contract and the dual functions of the commissioner for establishment, training, and pension, which also chairs the state tender board in the award of a contract, and
this is often done in a joint session with the State Executive Council where contracts are awarded to the preferred contractor (Press release Governor’s Office 2012). Previously, the public procurement in the State was guided by Section 121 of the 1999 constitution as amended that stated the procedures for budget appropriation and various regulations. Section 121 makes provision for budget preparation, appropriation, and spending. However, the section was silent on the payment of mobilization fee, and this was performed in line with the whims and caprices of the State Executive Council who approved contract with little or no objection from the State Tender Board, which was chaired by a member of the State Executive Council. This subsequently gave room for various sharp practices. This lacuna was corrected with the establishment of Lagos State Public Procurement Agency (LSPPA) after the passage and subsequent assent to the Lagos State Public Procurement Law 2011. This Law clearly stated the objectives, functions, and powers of LSPPA in the following sections: 8, 9, and 10 respectively. The Law scrapped the state tenders board and replaced with LSPPA, with separate Head; General Manager, and to be assisted by directors so as to ensure effectiveness, efficiency, value for money, transparency, openness, and accountability *inter alia* (LSPPL, 2011).

The Law gave the agency functions and objectives to be carried out so as to ensure strict compliance by the procuring entities, suppliers, contractors, or consulting firms. The whole essence of the enactment of the public procurement Law is to bring transparency, accountability, and fairness into the business of governance through the acquisition of goods, services, or works for the public. The law made the procurement processes a constitutional matter that must not be breached, and if it is breached, there are adequate sanctions for the erring procuring or disposing entities, suppliers, contractors, and consulting firm to be punished or sanctioned. The enactment of the law, especially in most third world countries became indispensable as corruption takes precedence over and above good governance, and where cronyism and favouritism are considered in the award of the contract. This showed in the rate of flagrant violation of procurement laws, the high cost of procurement of goods, works, or services, cheaper disposal of government goods, and non-disclosure of the actual costs of projects among others (LSPPL, 2011).

Therefore, the Law becomes indispensable for the State so as to make sure that those supplies, services or works are procured as stipulated in the procurement plan and appropriated Law. The essence of the Procurement Law in the state is to stem the level of leakages, strengthen the level of openness and competitiveness, check the reckless abandonment of projects, address contract splitting, reduce to the barest minimum the flagrant abuse of procedures for awarding public contracts, procuring without regard for procurement planning, and spending separate from the budget appropriated. The LSPPL also advocated public-private partnership so as to ensure efficiency, accountability, and transparency in government procurement. All these necessitate the need to investigate the extent of compliance of government ministries and agencies with State public procurement law, especially in Lagos State; hence this study.

2. **Methodology**

The study employed both qualitative and quantitative techniques, with the use of descriptive
and inferential statistics in analysing data that were gathered. The target study population of this study was one thousand four hundred and one (1401), and this comprised of 1398 respondents and 3 interviewees. This consisted of the top management level and middle level from GL 07 to GL 17 as the majority of the staff in these levels determined the procurement plans in each of the ministries that formed the budgetary allocation for the ministries and agencies of government and which formed procurement for that financial year.

The population comprised Housing 110, Finance 89, Works and Infrastructure 240, and Justice 481. The top and middle levels of management in the ministries and agency were considered since they are actively involved in the procurement process that is, award and implementation. Also, 100 staff from LSPPA in the GL 07 to GL 17; the construction companies with their senior employees which formed the respondents are Craneburg Construction Company 69, Planets Projects 64, Hitech Construction Company 70 and the Messers First Investment Property Company 58. Civil Society Organisations; Coalition Against Corrupt Leader 25, Socio-Economic Rights and Accountability 32, BudgIT 31 and Ymonitor 29. The reasons for the selection of these construction companies were in the number of projects they had carried out in the state in the past six years for the two administrations under review and the involvement of new ones by the present administration. While the civil society organisations were selected since, their activities were on anti-corruption, profitability, efficiency, transparency, and among others.

The study at the first stage employed the stratified probability sampling technique, which was used in the four ministries and these included Housing, Justice, Works and Infrastructure, and Finance that were selected in the following categorization of ministries. The Works and Infrastructure/Home Affairs/Education/Information and Strategy/ Economic Planning and Budget; Justice, Commerce, Industry and Cooperatives/ Local and Community Affairs/ Special Duties, and Intergovernmental Relations/Transportation; Housing/Energy and Mineral Resources/Tourism, Arts and Culture/Environment/Health; Finance/Science and Technology/Physical and Urban Development/Women Affairs and Poverty Alleviation/Youths and Social Development respectively.

The second stage involves the purposive selection of Lagos State Public Procurement Agency. The selection of LSPPA is based on its direct involvement in the implementation of public procurement policy, and the constitutional roles it plays in the procurement processes while Hitech Construction Company, Craneburg Construction Company, Planets Project, Messers First Investment Property Company, BudgIT, Socio-Economic Rights and Accountability Projects, Coalition Against Corrupt Leaders, and Ymonitor were selected because of their activities and responsibilities in the implementation of public procurement policy. At the last stage, a proportionate random sampling technique was used in selecting a sample size of 210 respondents representing 15% of the study population.

3. Discussion of Findings

This part investigated the extent of compliance with the implementation of Lagos State Public Procurement Law among the procuring entities. In order to achieve this, items in the research instrument were designed to gather perception of the respondents on the extent of
compliance with the policy. The measurement scale adopted were very large extent (5), large extent (4), undecided (3), fair extent (2), and less extent (1). The responses were rated so as to infer the perception of the majority of the respondents regarding the extent of compliance to the implementation of the Law with very large extent and large extent were assigned significant while less extent and fair extent were assigned insignificant. The decision rule is that any responses which are more than 50% are either significant or else insignificant.

The result of the survey showed that compliance with the implementation of the procurement law has not engendered value for money with an insignificant level of compliance extent. This position was buttressed by 58% of the respondents and with a mean value of less than 3 ($\bar{x} = 2.49, \sigma =1.57$). Another finding also showed the extent of compliance with probity in the implementation of the procurement law was significant with 56.4% of the respondents. This implies that probity in the implementation of the procurement law has brought about the needed appreciable level of confidence in the contract processes. This was further buttressed by ($\bar{x} = 3.01, \sigma =1.60$).

Another variable tested was the level openness in the procurement process. The survey sought to know the extent of compliance among the ministries and improvement it had brought to public trust as it relates to contract. The result showed that a significant level of compliance with openness has been achieved with 54.4% of the respondents that agreed to the claim. The distribution affirmed this ($\bar{x} = 3.30, \sigma =1.25$) with the inference that openness has had a greater impact in the implementation of the procurement law through the competitive bidding relatively adopted by the procuring entities. The result of the survey also revealed that procurement law has enhanced efficiency in the contract being executed. 71.2% of the respondents agreed with the assertion, with the extent level of being significant. Therefore, the extent of compliance with the implementation of the procurement law has significantly enhanced efficiency in the award and implementation of contract in the state. Also, the distribution result of ($\bar{x} = 3.61, \sigma =1.30$) acknowledged this claim.

The performance function of the procuring entities complied with procurement law was verified here. It was shown from the survey result that their compliance with the procurment law was significant with the respondents level of agreement at a 69.8%. The result was as well asserted by the distribution of ($\bar{x} = 3.62, \sigma =1.44$). In conclusion, it now suffices to infer that the procuring entities extent of compliance with the implementation of the procurement law has been huge and significant in the state. The sixth assertion was to determine if the procurement law has ensured cost-effectiveness. The result of the survey proved contrary as 55.9% of the responses showed an insignificant level of compliance with the claim. This was further confirmed by the distribution of ($\bar{x} = 2.78, \sigma =1.51$). This result showed that compliance with cost-effectiveness in the contract implementation has not been adequately adhered to.

The respondents rated the extent of compliance with professionalism in the implementation of the procurement law as significant with 68.3% most effective responses. This implies that the state of professionalism in the implementation of the procurement law has considerably and significantly been impressive. This was further supported by the mean value of 3.46 and a standard deviation of 1.36 which avowed the views of the respondents.
The responses generated as it regards to the competitiveness in the award of contract showed that extent of compliance level with competitiveness in the implementation of the procurement law among the ministries was significant with 58.5% of the respondents confirmed this assertion, with the distribution of (x̄= 3.34, σ =1.58) that also affirmed the claim. 55% of the respondents rated the appropriated budget and actual release of a fund as significant in the extent of compliance with the implementation of the procurement law. This implies that the significant level of compliance with the procurement law among the ministries has been attributed to the accessibility of funds. This was further confirmed by the (x̄ = 3.28, σ =1.60) which subsequently avowed the respondents’ views.

The extent of compliance with the establishment of adjudicatory mechanism has been insignificant with 59.9% of the respondents which affirmed this claim as it concerns different legal issues and cases in the contract implementation in the state. This was also confirmed by distribution with a mean value of 2.61 and a standard deviation of 1.31. The conclusion from the above therefore was that the adjudicatory mechanism of different ministries in conjunction with the Ministry of Justice has been insignificant as it concerns the implementation of the procurement law in the state.

4. Testing of Hypothesis

This section analysed and interpreted the hypothesis formulated for this study. A regression analysis was used as the statistical tools for testing the hypothesis. The hypothesis stated that there is no significant relationship between compliance with Lagos State Public Procurement Law in the variant (probity, openness, and efficiency) and procuring entities. To test the above-stated hypothesis, data gathered from respondents on the extent of compliance with public procurement law in the variant (probity, openness, and efficiency) and procuring entities were standardised into regression analysis and was subsequently run on SPSS.

The regression coefficient table 4.3.1 gives a p-value of 0.000 which is less than 0.05 level of significance, this implies that the model is fit for use as multiple linear regression. The Table 4.3.1 gives the model as N=2.413−0.044P+0.173O+0.212E where N is procuring entities and P, O, and E are probity, openness, and efficiency respectively. The model of the study identifies the strength of the effect of the independent variables of probity, openness, and efficiency on the dependent variable procuring entities. Whereas, the probity figure shows a negative relation with the procuring entities, this implies that an increase in the level of probity process leads to decrease in the procuring entities performance compliance with the implementation of public procurement law unlike the openness and efficiency which have positive effect on the procuring entities performance compliance with the public procurement law. There is a positive relation in openness and efficiency with the performance function of the procuring entities in compliance with implementation of public procurement law. That is, an increase in the level of openness and efficiency will lead to an increase in the performance function of the procuring entities compliance with implementation of public procurement policy respectively. The last column depicts the significance of each coefficient (the coefficient is significant if p-value is less than 0.05). From the model both openness and efficiency are statistically significant since the level of significance is (0.05), and p-value for
openness is (0.032) and efficiency is (0.006) respectively. Therefore, the model is now \( N=2.413-0.173O + 0.212E \) in accordance with the statistical significance of the variant tested.

The column of the standardised coefficient gives the relative importance of each variable to the dependent variable. The importance is ranked based on the absolute value of its standardised coefficient, in this case the variables in their order of importance is efficiency, openness, and then probity. It is therefore apposite to infer that the importance of efficiency, openness, and probity among various variable of public procurement cannot be over emphasized in the level of compliance with the public procurement law in the various procuring entities of government. Conclusively, there is statistical significant relationship between compliance with Lagos State Public Procurement Law variant (openness and efficiency) and procuring entities.

Table 1. Regression Coefficients

| Model                                                                 | Unstandardized Coefficients | Standardized Coefficients | t   | Sig. |
|-----------------------------------------------------------------------|-----------------------------|---------------------------|-----|------|
| (Constant)                                                           | 2.413                       | .336                      | 7.178 | .000 |
| The public procurement law has brought probity in the procurement process | -.044                       | .067                      | -.053 | -.649 | .517 |
| The ministries compliance with openness in the procurement process has improved public trust | .173                        | .080                      | .164 | 2.163 | .032 |
| Procuring entities compliance with procurement law has enhanced efficiency in the contract execution | .212                        | .076                      | .209 | 2.799 | .006 |

a. Dependent Variable: The performance function of the procuring entities complied with procurement law
Table 2. Extent of Compliance with the Implementation of Lagos State Public Procurement Law among the Procuring Entities (N=202)

| Assertions                                                                 | VLE (f (%) | LE (f (%) | UD (f (%) | FE (f %) | LE (f %) | \(\bar{x}\) | \(\sigma\) |
|---------------------------------------------------------------------------|------------|-----------|-----------|----------|----------|------------|-----------|
| Compliance with the procurement law engendered value for money             | 28 (13.9)  | 48 (23.8) | 9 (4.5)   | 27 (13.4)| 90 (44.6)| 2.49       | 1.57      |
| Public procurement law brought probity in the procurement process          | 38 (18.8)  | 76 (37.6) | 7 (3.5)   | 13 (6.4) | 68 (33.7)| 3.01       | 1.60      |
| Ministries compliance with openness in procurement improved public trust   | 36 (17.8)  | 78 (38.6) | 10 (5.0)  | 67 (33.2)| 11 (5.4) | 3.30       | 1.25      |
| Compliance with procurement law enhanced efficiency in contract execution  | 53 (26.2)  | 91 (45.0) | 5 (2.5)   | 33 (16.3)| 20 (9.9) | 3.61       | 1.30      |
| The procuring entities complied with public procurement law                | 59 (29.2)  | 82 (40.6) | 3 (1.5)   | 41 (20.3)| 39 (19.3)| 3.62       | 1.41      |
| Procurement law compliance ensured cost-effectiveness in contract process   | 38 (18.8)  | 44 (21.8) | 7 (3.5)   | 61 (30.2)| 52 (25.7)| 2.78       | 1.51      |
| Compliance with the procurement law stimulated professionalism in contract process | 43 (21.3) | 95 (47.0) | 4 (2.0)   | 31 (15.3)| 29 (14.4)| 3.46       | 1.36      |
| Compliance with procurement law promoted fairness                           | 69 (34.2)  | 49 (24.3) | 4 (2.0)   | 41 (20.3)| 39 (19.3)| 3.34       | 1.58      |
| Appropriated budget and actual release of fund enhanced compliance         | 70 (34.7)  | 41 (20.3) | 8 (4.0)   | 41 (20.3)| 42 (20.8)| 3.28       | 1.60      |
| The agency complied with the procurement law in establishing adjudicatory mechanism | 14 (6.9)  | 61 (30.2) | 6 (3.0)   | 75 (37.1)| 46 (22.8)| 2.61       | 1.31      |

Source: Fieldwork Survey, 2018

VLE (very large extent), LE (large extent), UD (undecided), FE (fair extent), LE (less extent) \(\bar{x}\) (Mean), and \(\sigma\) (standard deviation)
f=frequency, %=percentage

Qualitative data were as well gathered to complement the findings from the quantitative analysis on the extent of compliance with the implementation of the procurement law among the procuring entities. The qualitative data emerged through the responses from open-ended questions answered and the interviews conducted.

The researcher sought to know discrepancies in the extent of compliance to the procurement law among the procuring entities. It was gathered through the interview conducted on the senior officers in the ministries and agency. The interviewees acknowledged the procuring entities compliance with the procurement law in line with provisions of the law. To them, the procuring entities could not adopt any discrepancies in their compliance, each of the procuring entities was answerable to the most senior officers in the ministries, departments, and agencies through the Public Procurement Agency in addressing any distortion among the procuring entities. “The discrepancies in any ministry if noticed could only arise if there is an emergency or natural disaster which needs prompt attention, and could not be subjected to various procurement processes which often is intermittent.”

Contrary to the above views, responses from the open-ended questions answered by both civil society organisations and contractors question the extent of transparency as the law provided for. “The change in the leadership of the state with its subsequent attendant showed that procuring entities adopted discrepancies in the extent of compliance with the implementation of the law. The new administration most often came with preferred contractors for the various strategic projects and which involved huge and ambitious projects as witnessed in the two administrations who had come into being after the enactment and subsequent implementation of the procurement law in the state which was a flagrant abuse of the law especially transparency compliance.

The assistant director of procurement in the public procurement agency, head of procurement in the ministry of works and infrastructure, and his counterpart in the ministry of housing were unanimous in their views that the “regular workshop, seminar, and retreat among others which were organised so as to enlighten and keep workers abreast” in every ministries most especially those that work in procurement units and others whose work involved procurement activities so as to ensure that accountability and efficiency are adhered to firmly. All these were put in place to ensure significant compliance with the procurement law. The contractors also affirmed the significance of the regular workshop, seminar, and retreat which all meant to facilitate the compliance level with procurement law in the state. On the contrary, the civil society organisations alleged unwholesome conduct and practice which the programmes facilitated, this often resulted in the divulging of relevant information and collusion in the contract award processes.

5. Concluding Remarks

The study showed that the policy objective of efficiency, probity, and openness among the various procuring entities as to a large extent being achieved, though with various challenges undermining the implementation of public procurement policy, which needs prompt
consideration. The study also showed that public procurement law, of variant (probity, openness, and efficiency) had [a p-value of 0.000, which is less than critical value of 0.05] a significant relationship with the extent of compliance among the procuring entities. In addition, it was discovered that the procuring entities complied with openness in the implementation of public procurement policy. The study also gathered that the procuring entities complied with efficiency in the implementation of public procurement policy. The study found from the qualitative findings, the various procuring entities that did not exercise discrepancies in their compliance level to the implementation of the policy.

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