

# DETERMINANTS OF COMPLIANCE WITH PUBLIC PROCUREMENT GUIDELINES IN THE NIGERIAN CONSTRUCTION INDUSTRY

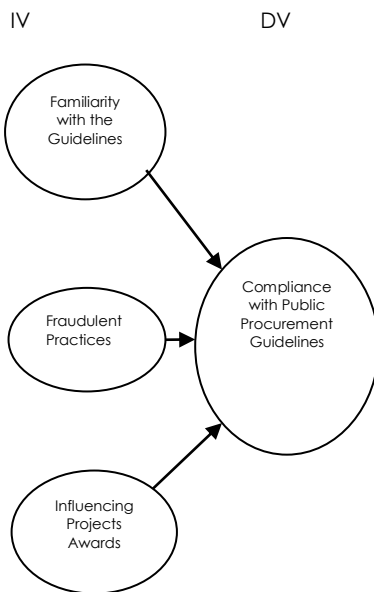
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## Graphical abstract



## Abstract

The Nigerian Construction industry through its procurement activities is contributing immensely to the economic development of the country. Nigeria as a developing nation is still working hard to strengthening the public procurement sector through which public infrastructural facilities are developed. Public Procurement Guidelines are the procedural manual guiding public procurement processes. The guidelines are as provided by the public procurement Act PPA 2007, since then compliance with the guidelines has been facing a lot of obstacles. This paper identified and reviewed three major determinants of compliance with the procurement guidelines to include Familiarity with the procurement guidelines, Fraudulent Practices, and Influencing Projects awards. Thus recommended that, to achieve adequate compliance with the procurement guidelines procurement entities need to create room for awareness through training and workshops. The Bureau of public procurement must also ensure prosecution of procurement offences as part of its mandate. In addition, the National Council of Public Procurement NCPP be established and allow to play its role thus limiting the influences of project awards at the ministry level and at the procurement entity level as well.

Keywords: Procurement, guidelines

## Abstrak

Industri pembinaan Nigeria melalui aktiviti-aktiviti perolehan, menyumbang besar kepada pembangunan ekonomi negara. Nigeria sebagai sebuah negara membangun masih bekerja keras untuk mengukuhkan sektor perolehan awam di mana kemudahan infrastruktur awam dibangunkan. Garis Panduan Perolehan Awam adalah manual prosedur yang membimbing proses perolehan awam. Garis panduan ini sebagaimana yang diperuntukkan oleh Akta perolehan awam PPA 2007, pematuhan garis panduan ini telah menghadapi banyak halangan. Kertas kerja ini mengenal pasti tiga penentu utama pematuhan garis panduan perolehan termasuk kebiasaan dengan garis panduan perolehan, amalan *fraudulent*, dan pemberian projek berpengaruh. Oleh itu disyorkan bahawa, untuk mencapai pematuhan yang mencukupi dengan garis panduan perolehan, entiti perolehan perlu mewujudkan ruang dari segi kesedaran melalui latihan dan bengkel. Biro perolehan awam juga perlu memastikan pendakwaan kesalahan pemerolehan sebagai sebahagian daripada mandatnya. Di samping itu, Majlis Kebangsaan NCPP Perolehan Awam ditubuhkan dan membenarkan peranannya dilaksanakan dengan menghadkan pengaruh pemberian projek di peringkat kementerian dan di peringkat entiti perolehan juga.

Kata kunci: Perolehan, garis panduan

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## 1.0 INTRODUCTION

Public procurement is a cycle involving a series starting with procurement planning, deciding the right strategy, allocation of budget, invitation and subsequent evolution of tenders, selection and award of contract to an appropriate contractor, monitoring and management of the whole contract [1].

Public Procurement forms one of the major functions of government in most developing countries Nigeria inclusive. In Nigeria Public Procurement Processes is been carried out in accordance with the procurement guidelines as provided by the public procurement Act 2007 [2]. Efficient and sound procurement guidelines and policies are often considered as a measuring tool when assessing the performances of government as a public authority in terms of fulfilling its mandate, especially infrastructural projects development [3]. It is in the recognition of the sensitivity of Public procurement sector, that the sector is been put on transformation scale by most developing countries in the past few decades [4].

To ensure economy, efficiency, competition and ethical standard in the entire procurement process and to comply with World Bank recommendations Nigeria pass into law public procurement Act in June 2007 refer to as PPA [5]. Meanwhile public procurement guidelines are part of the contents of PPA 2007 provided as procedural directives for undertaking public procurement processes. Although it's almost eight years now since the enactment of the PPA, but Compliance with the procurement guidelines at the Nigerian construction industry level has not shown any positive result yet [6]. Therefore this paper tends to identify and review factors responsible for non-compliance with the procurement guidelines in the Nigerian Construction industry.

## 2.0 PUBLIC PROCUREMENT GUIDELINES

Nigerian government responded to the World Bank's recommendations by enacting in to law Public Procurement Act 2007. Public procurement guidelines are part of the provisional contents of PPA 2007 and it is reach enough in provision and content taking into consideration all the ethical processes for the procurement of goods and services, construction contract procurement, and it's also applies to the disposal of government's assets [7]. The guidelines as the first of its kind has uplifted the status of the country among other developing nations, although surrounded by non-compliance related issues in addition to ample criticism, misapprehension and doubt [8]. Although Bureau for Public Procurement (BPP) and the National Council on Public Procurement (NCPP) as administrative units were recommended to be establish to ensuring full implementation of the procurement guidelines and

the entire provisions of the PPA [6]. The bureau is also required to review the contents of the guidelines whenever necessary. The guidelines comprise four different parts:

1. Monetary guidelines
2. The procurement process guidelines
3. Responsibilities guidelines
4. Methods guidelines

## 3.0 DETERMINANTS OF NON-COMPLIANCE WITH THE PROCUREMENT GUIDELINES

Figure 1 demonstrates the conceptual framework implemented in this study which consists of independent variables and dependent variables

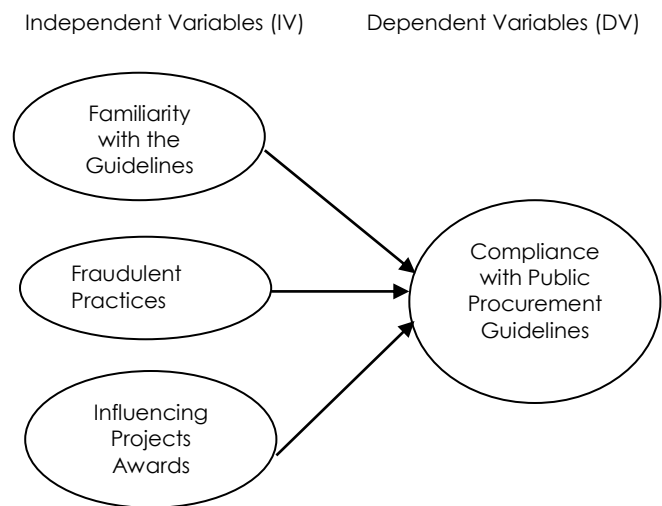


Figure 1 Conceptual framework

### 3.1 Familiarity with the Guidelines

The Nigerian public procurement guidelines implementation process is still at infancy stage, the guidelines were introduced newly after the enactment of the PPA 2007, and hence most of the stakeholders are not familiar with the new guidelines. Misconception and unfamiliarity with the procurement policies are the major factors contributing to the poor compliance with procurement reform mechanism [8].

Non-compliance with the procurement guidelines by the stakeholders is allied with the inadequacy of their familiarity with them, and it has been identified as a major challenge to the moves for effective procurement reform in many African countries despite the fact that they have since enacted their respective Public procurement law [9]. While other stakeholders especially contractors and suppliers are looking at it as a merely an outmoded protocol to slowing the procurement processes and suppliers have wrong perception on the objectives of the entire guidelines [8].

Obviously where procurement stakeholders and units officers are not familiar with the guidelines, definitely there is a high expectation of non-compliance. Hence compliance is said to be completely fulfilled when rules, regulations, legislation and procedures, are strictly adhered to [10].

In Netherlands unfamiliarity was observed to have slowed down the process of implementing new procurement directives and the situation remained the same in most of the EU state countries where the EU procurement directives were introduced [11].

### 3.2 Fraudulent Practices

Procurement fraudulent and other related irregularities are seen as global phenomenon [12].

Fraud, bribery and conflict of interest are some of the major corrupt practices associated with the Nigerian public procurement processes. These were largely due to the absence of any statutory provisions and legal framework that governed the procurement protocols prior to the enactment of the PPA 2007 [13]. Those developing countries linked with fraudulent practices are at the same time highly characterised by non-compliance with the procurement regulations practices [14].

Ample other fraudulent practices cases were raised [8], that hinders the proper implementation of the public procurement guidelines and the entire provisions of the PPA 2007 in Nigeria; these include leakage of bidding information to potential bidders, anticipatory contract approval among others .

### 3.3 Influencing Projects Awards

Besides the above, influence is further identified as a key variable that has persuade compliance. Influence plays a significant role in terms of project award in the Nigerian construction Industry. There is assertion that even prior to the first moves of the procurement process by the procuring entities a prospective project is normally planned to be awarded to a favoured bidder [6].

One opinion affirms that direct involvement and the influences in public procurement by the government functionaries is the most challenging barrier to the compliance with procurement guidelines in Nigeria [13]. Influence as one of the choosing determining factors to compliance with the public procurement guidelines is considered only because the government has not fully implemented the PPA 2007 which is the Act that that highlighted the public procurement guidelines [15].

Influencing project award could be by external parties here referring to those in the political power or high level officers at the government ministries, departments and organisations that are not within the procurement units. On the other hand, Project may perhaps also be influenced by internal stakeholders, those officers and procurement staff within the procurement units. The influence normally depends on the magnitude of the project as well as

the influencing power either of the two categories have [8].

The final contract sums of such influenced based projects are always irrationally high in order for the contract to take care the settlements portion of the influencing party as well as the greediness of the contractor. Thus, contributing to the continuing problem of cost overrun in the industry [16].

In most developing countries including Nigeria, external influence comes from high political office holders, where tendering process is highly influenced by ministerial directives at the ministry level and director of procurement entity at government agencies and organisations [15]. Another form of external influence is the substantiate occurrences of presidential wavers on some federal capital projects approvals, and the anticipatory approvals of projects with or without establishing the accurate projects documents and technical specifications [8].

The provision of the PPA 2007 requires that Federal government project be approved by National Council on Public Procurement NCPP. NCPP and BPP are the two regulatory bodies shouldered with the administrative responsibility of overseeing, monitoring, management and reviewing all the aspects of public procurement practices in Nigeria [13]. At the moment the duties imposed on NCPP is undertaken by the National Executive Council NEC, thus given room to the immense interference of political office holders in Federal government projects [15]. The federal executive council is made up of all the serving ministers with the president as the chairman, NCPP is neither commissioned by the government nor do they discharge their appropriate responsibilities.

## 4.0 CONCLUSION

Public Procurement guidelines as highlighted by PPA 2007, is the procedural manual used for the procurement of goods and services in Nigeria including construction procurement. There are a lot of issues affecting Compliance with the guidelines especially among the construction procurement stakeholders. This paper identified and reviewed some determinants of compliance with the procurement guidelines which include familiarity with the guidelines, fraudulent practices, and influencing project awards. In order to achieve adequate compliance with the guidelines procurement entities need to create room for awareness. The Bureau of public procurement must also ensure prosecution of procurement offences as part of its mandate. In addition, the National Council of Public Procurement NCPP be established and allow to play its role thus limiting the influences of project awards at the ministry level and at the procurement entity level as well.

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