

Implication of Construction Contract Termination for Infrastructural Development in Ekiti State Local Government Areas, Nigeria

*Ade-Ojo, O. C., Akinola, J. A., Arijeloye, B. T. and Gabriel, O. S.

Department of Quantity Surveying, Federal University
of Technology, Akure, Ondo State, Nigeria

*Correspondence email: oluwabunmiade@gmail.com

Abstract

Local Government Areas are the third tier of government in Nigeria and the closest to the people. The Local Government Areas are charged with the responsibility of delivering the dividend of democracy to meet the fundamental needs of the local community through the provision of infrastructural facilities. This study assessed the causes and effects of the termination of construction contracts in the 16 Local Government Areas in Ekiti State, Nigeria. The exploratory research design was employed with a purposive sampling of construction project contracts awarded in the Local Government Areas of Ekiti State, Nigeria between 2006 and 2015. A structured questionnaire in Likert's scale was used for data collection and with a response rate of 90%. Data were analysed using Spearman's rank correlation coefficient (r), Percentages and Importance Index Rate (I.I.R.). Results show that Lack of continuity, design error, lack of fund by the local government council, failure of prompt payment, change of executive leadership were among identified factors responsible for contract termination in the study area. The implication of contract termination from the data analysis include delayed completion, abandonment of the project, variance in final cost and cost overrun, change in the quality of the project when completed due climatic effect. It is concluded the rate of construction contract termination in LGAs in Ekiti state is approximately 1 in 5, these terminations are due to project related, political and administrative factors respectively. It therefore recommended that there is need for concerted effort to reduce the rate of construction contract termination in LGAs in the state. There is also need to formulate policies to mitigate the effect of change in government on construction contracts and to ensure that contracts terminated are promptly re-awarded to avoid delay and abandonment. This will afford the people at the grassroots to effectively enjoy the benefits of these infrastructural facilities.

Keywords: Contract termination, Local Government Areas, Infrastructure, Ekiti-State, Nigeria

INTRODUCTION

The Construction industry in Nigeria is responsible for the provision of building and infrastructural facilities. Construction projects are extremely complex undertaking usually governed by highly detailed contract documentation and conditions. Prominent among the conditions of contract is the termination clause, being one of the top ten most important clauses of the construction contract (Kirk, 2005). The aim of construction works is meeting the basic need of the society through quality and adequate infrastructural development at the national, state and local government levels. However, the people's expectations, especially at the local government levels, have always been elusive as many of these construction project contracts are usually terminated before completion. Whenever such contracts are terminated, a large chunk of the public fund is wasted because huge sums of capital outlay are involved. The potential beneficiaries are denied the benefits that would have accrued from the proposed project if completed, the contractor also suffers a loss of whatever amount has been invested and his expected profit forfeited. However, when there is an opportunity for the contractor to

make claims, the process is delayed hence, the contractor's financial resources are tied down until the case is resolved either through litigation or arbitration as the case may be (Agbodike, Igbkwe -Ibeto & Mkah, 2014).

Ekiti State has witnessed unstable governance in the last 10 years from 2004 to 2014. During this period, there was a call for a state of emergency. The state has had three elected Governors within the period leading to the chains of Local Government caretaker chairmen appointed by successive Governors instead of substantive LG Chairmen. The constant change in government has negatively impacted the construction of public projects especially in the Local Government Areas (LGAs) and the state as a whole. Therefore, this study aims to assess the implication of construction contract termination at Local Government Areas in Ekiti state with the view to determining its effect on infrastructural development in the study area.

Construction Contract

Construction contract has usually been defined as “an agreement enforceable by the law between two or more parties to do or obtain from doing some act or acts of intention to create legal relations and to exchange mutual promises by having given something or having promised to give something of value as consideration for any benefit derived from the agreement”. It is also defined as a legal agreement to work for or provide a service.

Contract termination is a situation when a given project is supposed to be closed or finalized because there's no more need or sense for further continuation. Project termination is managed under a respective condition of contract. A valid contract can be terminated due to various reasons, which may not necessarily be on the breach. Nonetheless, the standard form of building contract contains an express clause that provides the employer and the contractor or either with the right to terminate the contract under specified circumstances. The contractual right to terminate a contract does not sometimes require a breach to be proved at all. However, it does provide in certainty the procedures to be followed by either of the parties in the contract. The contract may be terminated by either the client or the contractor for convenience, by expiration or non-renewal. Igbokwe-Ibeto (2012) posits that most Local Government Areas in Nigeria incur huge financial losses and alienation of the citizenry due to poor monitoring and evaluation of projects meant to improve the social and economic well-being of the local community. Riggs (2011) opined that effects of contract termination include consequential damages, increase in the cost of projects, loss of anticipated profits and threat to the community among others

Local Government Areas in Nigeria

Nigeria as a federating entity has three layers of governance namely the federal, the state and the local government areas. Eboh (2010) in reference to the 1999 constitution listed as one of the primary responsibilities of the local government areas as the provision of socio-economic facilities that for the local populace, to provide appropriate development in response to the need of the locality using developmental activities such as feeder roads and public utilities (Igbokwe-Ibeto, (2012). Ehaton (2015) however observed that despite the relatively high revenue coming from the federal allocation in Nigeria, it is not having the expected impact on the people at the grassroots level in terms of provision of services and construction projects. The inability of the local government areas to provide necessary infrastructure needed for the socio-economic development of the people at the grassroots level is not commensurate with the expectation from the LGs, especially in this present democratic dispensation.

One major challenge of the LGAs is that their activities are directly under the control of the state governments although not in line with the constitutional provision (Olaniyan, 2012). The local government administration is dependent on the state government for its operations. This is more prominent in the provision of infrastructural facilities where the state government determines the type and quantity of projects that can be embarked upon by the local government areas. Thus, any change in government at the state level especially under the present democratic dispensation directly impacts the flow of activities at the local government level (Akuta, 2009; El-Rufia, 2012; Ewa, 2013) resulting in the proliferation of abandoned projects.

METHODOLOGY

The research is a case study of Local Government Areas (LGAs) in Ekiti state. It is a mixed study employing both quantitative and qualitative designs. The study populations are construction contracts awarded from 2006 to 2015 in the 16 Local Government Areas in Ekiti State, Nigeria totaling Seven hundred and six contracts within the study period.

Data Presentation and Analysis

Table 1: Construction contracts awarded by LG Areas in Ekiti State from 2006 to 2015.

S/N	LGAs in Ekiti state	Project Awarded	Projects Terminated	Percentage Projects Terminated (%)	Rank
1	Ikole	58	12	21	4
2	Ijero	48	8	17	8
3	Oye	45	5	11	10
4	Ekiti Southwest	50	10	20	5
5	Ilejemeje	35	6	17	8
6	Ido/OSI	52	10	19	6
7	Ise orun	36	8	22	3
8	Ado	42	5	12	9
9	Ekiti West	60	15	25	1
10	Ekiti East	48	11	23	2
11	Emure	34	4	12	9
12	Ikere	30	6	20	5
13	Moba	57	10	18	7
14	Gboyin	41	4	10	12
15	Efon	28	5	18	7
16	Irepodun/ Ifelodun	42	8	19	6
Total		706	127	18	

Source: Local Government Areas in Ekiti State, Nigeria, 2015

Purposive sampling of the local government personnel involved in the contract was carried out while secondary data on the contracts details were collated for the study. A structured questionnaire on an ordinal scale of 5 to 1 (from high to non) was constructed to provide relevant information on the causes, stages and effects of the termination of construction contracts in local government areas. Ninety out of the 100 questionnaires distributed were returned representing 90% success rate. Based on the assertion by Moser and Kalton (1971) that the result of a survey could be considered as biased and of little value if the return rate was lower than 30–40%, the return rate of 90% is considered adequate.

The data analysis ranked the severity of factors responsible for termination of construction contracts in LGAs in Ekiti state using the importance index rate (Sambasivan *et al.*, 2007).

Table 1 shows the rate of construction contracts termination in the local government areas from 2006 to 2015. From the table, 18% of the total contracts awarded were terminated. This implies that the financial resources and time deployed for 18% of the construction contracts awarded in all the 16 Local Government Areas in Ekiti state were wasted and the potential beneficiaries were denied the opportunity of using such infrastructural facilities. The rate of contract termination is not directly proportional to the volume of contract awarded. Although Ekiti west local area has the highest number of projects (60) with corresponding highest percentage termination of 25% which implies that for every 4 projects awarded, one was terminated. This is followed by Ikole 58 projects with 21% termination, Moba 57 projects with 18% rate of termination. However, Ekiti East has the second highest rate of termination of 23% out of 48 projects followed by Ise orun with 22% out of 36 projects.

Table 2: Correlational analysis of projects awarded and terminated

	Project Awarded	Projects Terminated
Project Awarded	1	
Projects Terminated	0.808644	1

Table 2 shows a high level of Spearman correlation analysis of the number of projects awarded and number of projects terminated at 0.05 confidence interval is 0.81. This implies that the more projects awarded in the Local government areas, the more project termination experienced.

Table 3: Stages of Termination

S/N	Construction Stages	IIR (%)	Ranking
1.	Concrete Floor bed	83	1
2.	Suspended floor slab	80	2
3.	Roof covering	79	3
4.	Below ground floor level	74	4
5.	Block and concrete wall above suspended slab	70	5
6.	Block and concrete wall	58	6
7.	Floor wall and ceiling finishing	58	7
8.	Electrical and plumbing Installation	47	8
9.	Below suspended slab	34	9
10.	Painting and decoration	30	10

Table 3 shows the construction stages at which the projects were terminated. Termination of the contracts at the level of concrete floor bed was most prominent with 83% IIR. This implies that the projects were just above the foundation level. This is followed by termination at the Suspended floor slab stage with I.I.R of 80 % while Roof covering was ranked third with I.I.R of 79%.

Table 4 shows the factors responsible for construction contract termination in LGAs in Ekiti State starting with project related factor to political related factors, administrative, financial and contractor related factors with IRR of 69.24, 68.92, 65.7, 64.96 and 58.14 respectively. The first three factors are related to the way the projects are handled and administered. It is established that the local government councils are dependent on the state governments for its

operation hence; construction projects are greatly influenced by who governs the state. Out of the 25 factors listed, lack of continuity ranked first with 88% IIR followed by design error and lack of fund by the local government areas. The implication of this is that when the governor is changed at the state level for whatever reason, it directly affects projects that have been awarded or ongoing. Ekiti state has witnessed numerous changes at the helms of affair thus the high percentage rate of contract termination as earlier discussed.

Table 4: Factors responsible for construction contracts termination in LGAs in Ekiti

Causes	IIR (%)	Ranking (Within Group)	Ranking
A. Political Related Factors			
1 Lack of continuity	88.2	1	1
2 Change of executive leadership	75.4	2	5
3 Declaration of state of emergency	69.6	3	9
4 Change in government policies	57.6	4	17
5 Political interferences	53.8	5	21
	68.92		
B. Administrative Related Factors			
6 Failure prompt payment	77.2	1	4
7 Bureaucracy in the system	69.6	2	9
8 Workers strike	67.5	3	12
9 Disruption	60.1	4	15
10 Transfer of officer in charge	54.1	5	20
	65.7		
C. Project Related Factors			
11 Design error	84.1	1	2
12 Project management problem	73.9	2	6
13 End user consideration	69.6	3	9
14 Lack of adequate planning	67.5	4	12
15 Weather condition	51.1	5	22
	69.24		
D. Contractor Related Factors			
16 Material breach	71.1	1	7
17 Death or physical disability of contractors in sole proprietorship	63.9	2	14
18 Disregards laws-ordinances of public authority	55.3	3	18
19 Failure to pay sub-contractors	50.4	4	24
20 Lack of adequate qualified Personnel	50	5	25
	58.14		
E. Financial Related Factors			
21 Lack of Fund by the Local Government Council	83.1	1	3
22 Delay in Payment	70	2	8
23 Financial Capability of Contractors	60.1	3	15
24 Interest	55.3	4	18
25 Embezzlement	52.3	5	23
	64.16		

Table 5 shows that cracks and decolouration of block works, roof and ceiling carcass failure/collapse and weed and plant growing on wall and floor are the most prominent effects on the building elements of the terminated projects. This will negatively affect the quality of the project if ever it is completed since the initiators do not usually come back to power.

Table 5: Effects of termination on building elements

S/N	Effects	Mean Score	Ranking
1.	Cracks and decolouration of block works	3.33	1
2.	Roof and ceiling carcass failure/collapse	3.21	2
3.	Cracks and weed growing on ground floor bed	3.14	3
4.	Cracks and plant growing on wall below and above suspended slab	3.11	4
5.	Vandalising of roof and other building materials	3.06	4
6.	Suspended floor slab failure complete building	2.92	6

Delay of the project, abandonment and that the quality of the project will be affected are respectively ranked as effect of contract termination on construction projects as shown in table 6. This implies that the intended beneficiaries usually the local communities do not get to enjoy the benefits of such projects since they are subject to delay, or total abandonment. Apart from negatively affecting the available infrastructure in the local community, it also inhibits the ability of the local community to develop socially and economically.

Table 6: Effects of termination on construction contracts

S/N	Effects	IIR (%)	Ranking
1.	Delay of the Project	80.0	1
2.	Abandonment of the project	78.8	2
3.	Quality of the project affected	67.7	3
4.	Variance in final cost	67.3	4
5.	Cost overrun	60.5	5
6.	Climate effect on the project	51.1	6

SUMMARY OF FINDINGS

The findings revealed that 18% of the total construction contract project awarded in the last 10 years in Local Government Areas in Ekiti State experience termination. This implies that an average of one in every 5 projects awarded is terminated at the end of the day. An average of thirteen projects is terminated annually at the local government councils. Since the local government areas are meant to provide functional infrastructure for the socio-economic development of the people, it then remains a mirage given the rate of contract termination.

The high rate of construction contract termination also posits a great danger to the economy of the people since a large chunk of the financial resources of the local government areas through the state are committed to these projects. Also the National Bureau of Statistics (NBS, 2010) reported that about 20,000 persons were employed by the construction industry in Ekiti state as at 2010. When these contracts are terminated, it thereby means that 18% or more of this population are rendered jobless.

The study also revealed political related factors after project related factor and followed by administrative related factors were major factors responsible for construction contract termination in Ekiti. The increased clamor for local government autonomy is to reduce the

undue influence of the state executives in determining what happens at the LGAs. One of such undue influence is the lack of continuity of construction projects anytime there is change of executive leadership after changes in government either through election or others as witnessed in Ekiti State over the study period. AS a result, many on-going public sector projects of previous governments were flagrantly abandoned or neglected without considering the importance's of such project to the immediate community and national development. The contracts for the project are either terminated or relocated to a preferred site irrespective of the amount of fund already expended on the project at its original site. Ayodele and Alabi (2011) and El-Rufia (2012) in reference to previous studies noted that changes in government have often meant changes in policies and programs. The import is that new construction projects are initiated to the detriment of projects already started by previous political administrations (Akuta, 2009).

Another prominent factor for construction contract termination in LGAs is the project related factors. Design error, Project management problem and end user consideration ranked from first to third in this group. Design error has been identified as the cause of other construction problems such as rework (Ade-Ojo, Adewumi & Akinola, 2016, Cost and time overrun (Lopez & Love, 2012), Vachara, P. & Rothmony (2015) and variation (Dosumu & Aigbavboa). Project related problems are prominent due to the unprofessional manner in which the projects are procured. By using executive power, the political administrators do not usually allow due diligence and due process in the conceptualizing and procurement of the projects. The desire to jettison projects by previous administration and the urge to kick start their choice projects usually result in many project management issues from design to execution. Different problems in building construction have been associated with design error.

Administrative related factors are ranked third among the factors responsible for contract termination in LGAs. Delayed payment is first in this group thus many contractors are unwilling to commit their personal funds to projects but only work within the release sums as a result of delay I getting payments. Ewa (2005) noted that default by contracting organisations to disburse progress payments on time to contractors causes them not to keep to credit terms with their bankers and thus incur interest charges on loans. This is echoed by Presidential Projects Assessment Committee (PPAC, 2011) in its report which observed that 'consistent delays in payment to contractors lead to massive claims for overhead costs, interests and additional costs El-Rufia (2012). Being a public project and subject to the wills of the administrative head, the government officials involved in the project do the biddings of their chief executives. This affects the quality of planning and supervision given to the project as observed by Ewa (2005) and Ayodele and Alabi (2011).

The study also reveals that a greater percentage of construction contract termination occur after the concrete floor bed and the suspended floor slab among others. When construction projects are terminated at this stage the probability of revisiting the project is very slim. As an important structural component of the building, the unnecessary exposure to adverse weather conditions results into cracks in the concrete work and de-colouration of the blockwork. Hence, the quality of the project if and when it is continued is affected. The effect of termination of construction contracts in the LGAs as revealed by the study includes delay in completion of the project, abandonment of such project, reduced, variation in the final cost and adverse climatic effect on the project. Considering the huge sums of money required for infrastructural development, the negative effect of construction contract termination cannot be overemphasized.

CONCLUSION

From the data analysis and discussion of findings, the study concludes that:

There is a high rate of construction contract termination in Ekiti state between 2006 and 2015 at 18%. Hence approximately one in every 5 projects awarded is terminated. It is also observed that contractor related factors came last of the five factors responsible for contract termination. Lack of continuity in government and its policies as a result of change in government is most prominent. Hence incessant changes of the executives both at the state and local government levels do not augur well for the socio-economic development of the local government areas. The study also concluded that while most of the contract termination occurred just at the concrete floor bed level, it has always resulted into cracks in the foundation walls, failure of roof and carcassing members and crack and de-colouration of the block wall. The overall implication of construction contract termination in Ekiti State includes delay in completion, abandonment and reduced quality of the project if and when completed among others. Hence construction contract termination portends great danger for infrastructural development needed for the socio-economic life of the state.

Recommendations

In view of the above, it is recommended that:

1. Given the high rate of construction contract termination in Ekiti state, there is need for concerted effort to reduce the rate of contract termination to ensure that the people at the grassroots are not consistently denied access to infrastructural facilities needed for their socio-economic development.
2. Policies should be put in place to mitigate the effect of change in government on projects that have already been awarded. The will help to bring to a minimum projects that are terminated due to lack of continuity in governance. Clients need should be properly articulated and represented to reduce design error while the overbearing nature of the state government on the local government should also be minimized to allow the LGAs allocate funds according to their needs.
3. If and when construction contracts are terminated, it should be quickly re-awarded to ensure that the potential beneficiaries are not denied the benefit to be derived from such projects. This will also reduce the risk of abandoning such projects in the long run and still maintain the quality of the project.

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