

Bureau of Public Procurement in Nigeria and Price Adjustment Procedures in Project Construction

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Abstract	<i>NG-Journal of Social Development</i>
<p><i>Nigeria is perhaps the largest economy in sub-Saharan West Africa through public procurement of goods, works and services in relatively risky environment of inflation and corruption, challenging the value for money in project execution under the watch of the Bureau of public procurement. The purpose of this paper is to establish the preparedness of the BPP to handle the problem of price adjustment in procurement, with rising inflationary figures in Nigeria. To achieve the objective, the researchers made use of secondary data, and employed the method of survey with content analysis. The Decision theory offered by Simon (1947) underpins the study in response to the fact that current literature has not sufficiently discussed public procurement as a decision making problem. It was found that procurement decision generally is made under tensed condition, yet with a goal to provide value for money. It is concluded that the BPP may be overwhelmed with price adjustment policy and overall political climate in Nigeria. It was recommended that the Bureau should be fully prepared with more powers and frequent training to be able to do price adjustment in accordance with regulations and that the use of direct labour should be encouraged where the Accounting officer has certified knowledge and proven experience.</i></p>	<p><i>Vol. 12 Issue 1 (2023) ISSN(p) 0189-5958 ISSN (e) 2814-1105 Home page https://www.ajol.info/index.php/ngjsd</i></p> <p>ARTICLE INFO:</p> <p>Keyword: <i>Bureau of Public Procurement, Price Adjustment, project construction.</i></p> <p>Article History <i>Received 30th June 2023 Accepted:,17th September 2023 DOI: https://dx.doi.org/10.4314/ngjsd.v12i1.9</i></p>

1. Introduction

Africa is a new frontier of economic investment. There is growing interest in analyzing management practice in the continent. A major focus recently is an understanding of effective public procurement policies and processes. This is critical in view of the unique operational context of African firms which constitute issues on governance, anti corruption, economic recession and emerging digital innovations particularly with regard to procurement procedure in one of the fastest growing economic regions in the world with rising interest to invest in the continent (Peters,2011; De Jonge 2016). With an estimated projected growth rate of 3.2 per cent in 2018 and 3.5 percent in 2019 (World Bank, 2018),it is not surprising that trade relation between Western, Eastern African nations has taken a new turn (Dibie,2017,Giles 2018). As a result of the situation, indicated above, academics interested in understanding management practices (Kamocje et al,2015;Jackson et al, 2013), in addition to studies to promote sustainable public procurement practices have called for further research in this area(Quinot and Williams_Elegbe 2017). In addition to economic growth of African nations, public procurement is increasingly viewed as a powerful tool that can be used to achieve horizontal goals such as free trade union empowerment for less advantaged society (Akenroue et al 2013); Arrowsmith et al 2017). This study is in response to calls for research to analyse factors responsible for successful implementation of price adjustment in public procurement projects, particularly with regard to states among which is Ebonyi. It is not very clear to researchers yet why there seems to be provision of infrastructure miracle in Ebonyi state different from many others in Nigeria within the last 8 years of administration (2015-2023), in spite of high level of corruption and rising inflationary rate in the country, under the watch of the Bureau of public procurement.

The functions of the Bureau of Public Procurement include but not limited to:

1. Formulate the general policies and guidelines relating to public sector procurement for the approval of the council
2. Publicize and explain the provisions of the law.
3. The bureau among other things is to establish pricing standards and benchmarks, ensuring the application of fair, competitive, transparent, value for money standards and practices for the procurement of public assets and services. Also the bureau is expected to monitor the prices of tendered items and keep a state database of standard prices for possible price adjustment purpose. It is evident that the Bureau has high theoretical expectations for a successful implementation of price adjustment in public procurement, subject to the political will, availability of professional procurement personnel and sharp methodological choice.

1.1 The problem and Objectives

The introduction of public procurement reforms in Nigeria followed a World Bank procurement assessment survey conducted in 1999, which established the link between weak public procurement procedures and corruption and its negative consequences on national development, especially in the area of infrastructural development in Nigeria. The assessment report showed that 60k was being lost to underhand practices out of every one #1.00 spent by government and that an average of ten Billion U.S Dollars (\$10b) was being lost annually due to fraudulent practices in the award and execution of public contracts through inflation of contract cost, lack of procurement plan, poor project prioritization, poor budgeting process, lack of competition and value for money among other kinds of manipulations. The enactment of the Nigeria Public Procurement Act was done in the year, 2007. However, research has shown some difficulties in implementing the PPA (Jacobs, 2010; Adegbite, 2015; Enof et al 2017). Some of the challenges that tend to frustrate implementation include but not limited to inflated procurement, poor budgetary provisions, lack of trained workforce, lack of political will and poor government structure (Iyoha et al,2015; Thai, 2017). Also, Aden 2016 argues that the Public procurement system in Nigeria lacks trained procurement specialists to be able to do successful implementation of price adjustment of projects. The problem of price adjustment has made many contracts to be delayed over time and in some other cases, projects are abandoned halfway therefore defeating the project objectives. This problem has created unhealthy relationship between many contractors and the procurement entities, leading to the proverbial notion that when two elephants fight, the grass suffers. This has therefore led to uncompleted projects which next administration may not be willing to inherit. The objective of this paper therefore is to investigate the preparedness of the BPP as it relates to price adjustment in Public procurement projects within the last eight (8) years, through inflationary economy.

Literature Review

1. Conceptual framework

The systematic literature review adopted contributes significantly to conceptual, methodological and thematic development of different domains to identify research gaps for future research opportunities. This paper has the potential to serve as base platform/ lens/ springboard for future research because it synthesizes current knowledge, identifies gaps and suggests exciting new directions in the field of procurement management generally and price adjustment particularly. Wittig's (1999) study discovered that the motive of public procurement practice entails having the right items at the right place, and at the right time, to support the actions of any government. This definition is also supported by Fayomi (2013) who argues that procurement is the acquisition of goods, works and services at the best possible total cost of ownership, in the right quantity and quality at the right time, in the right place for the direct benefits or use of government entities, via contracts. According to Van Weels (2004) and Moriceka et al (2008), it is a process where public sector entities acquire goods, works and services from third parties of routine services items to complex expenditures. So public procurement accounts for a substantial portion of government resources and time (Nicol, 2003, Deasey et al 2014;Kasisi etal 2024.

In Nigeria, Public sector has been contending with challenges of implementation of services (Basheka, 2009). Despite several initiated policies on public procurement, issues on inappropriate planning,(Mofokeng and Luke 2014),non-adherence to policy (Munzhedzi, 2016; poor government accountability and transparency, incompetent officers (Okubera, 2016) as well as challenging issues of successful implementation of price adjustment procedure are factors that impede public procurement process generally. This has become necessary in view of the purported use of direct labour in major contracts awarded by some past administrations.

2.1 Price Adjustment

Procurement reforms ensure value for money (VFM) by improving flexibility, quality and efficiency throughout the procurement cycle. FVM is part of the holistic procurement structure with three support pillars namely, efficiency, quality and flexibility. Also, two key principles of transparency and fairness weave across all elements of the structure. According to the publication of the ADB (2023) on price adjustment guide, bidders will factor in the risk of price escalation at the point of preparing their bid depending on the contract specified in the bidding document of which:

i. In a fixed price contract, bidders will factor in the aggregate financial risks associated with price escalation in their bids

ii. In a non-fixed price contract, a price adjustment formula is used to estimate price escalation, hence bidders have the option to reduce their premium associated with risks of price escalation in their bids to remain competitive. A fixed price contract may give certainty to budget and simplify contract management. But it may lead to other problems since it requires bidders to estimate and bear the financial risks associated with price escalations. Usually, if the estimates are too high or events do not materialize, the borrower will pay a steep price that may affect the economy and efficiency of the contract. In the worst case, it may mean that the bid price is then above budget and may lead to a reduction in the requirement or rebidding. If the estimates are too low, it may appear as an abnormally low bid and disrupt contract execution. Therefore, price adjustment provisions are formulas designed to address problems, and can protect both the borrower and contractors from price fluctuations. The formula makes contractors to offer more realistic prices at the time of bidding. However, there is concern that they may lead to budget uncertainties. But price adjustment will always estimate the actual costs implications that will be encountered.

2.2 When to apply price Adjustment

The risk of price fluctuation is most likely:

- i. For goods contracts with long delivery periods
- ii. For works contracts with long completion periods
- iii. For major civil works contract
- Iv For contracts that contain supplies whose prices change significantly over short period

iv. For time-based consulting services such as construction supervision service

Vi .Due to any unusual circumstances in the market

We note that long generally means 18 months or above (ADB, 2023). However, with the increasing fluctuations in Nigeria, prices rise within days and weeks. This can be a serious challenge to the contractor. Therefore within this period of galloping inflationary trend, high interest rate regime and prevailing high exchange rate, it is difficult to indicate when not to apply price adjustment in any contract process.

2.3 Price Adjustment Formulae

Different formulae can be used in price adjustment due to inflation. Some formulae can be show as: Price to be adjusted is $P_1 = P_0 (P_c - 1)$ and $P_c = A_c + B_c (I_{mc}/I_{oc})$,

Where: P_c =Price adjustment factor

A_c =Coefficient (non adjustable) specified in contract data

B_c =adjusted portion specified in the contract data

I_{oc} =Base rate/indices submitted in the contract

I_{mc} = Current rate/indices submitted as specified in the contract

P_1 =price to be adjusted

P_0 =payment during the period under consideration.

This is simply formal where there is possibility of payment being made for activities that are not carried out at the time of payment.

For better accurate determination of price escalation, a more complex formula is available as found by ADB (2018). It states that :

$$P_n = A + b L_n/L_o + c M_n/M_o + d E_n/E_o + \text{etc}$$

Where,

P_n =price adjustment factor

A =Coefficient. This is also a fixed coefficient. This is also a fixed coefficient. Generally its value is 0.015.

b. labour coefficient or proposed weight tag of labour in escalation

c. construction material coefficient shall be submitted by contractor while bidding

d. Equipment coefficient shall be submitted while bidding

L_n = current labour index value

M_n =Current construction material index value

L_o = Base period labour index value

M_n =Base period construction material index value

E_n = Base period equipment material index value

The values of b, c, d, are provided by the contractor while bidding. It is argued that many options need more decisions and this assumes needs of research to know the existing patterns or trends of price fluctuations and practice of price adjustment.

2.4.Theoretical Framework

Researchers from different disciplines have used several theoretical frameworks to analyse public procurement. Some of the frameworks often used include principal –agent theory, Institutional theory, General systems theory, supply chain management theory and process theory (Flynn and Davis, 2014). Although these theories were deemed appropriate, within the specific studies, we argue here that decision theory (Simon 1947) proffers a viable theoretical lens to analyze successful implementation of price adjustment procedures in public procurement projects in Nigeria. Decision theory as Berger et al (2013) stated is concerned about decision making as choice. The theory looks at organizational or individual goal-directed behaviour in the presence of several choices. Accordingly, Zadeh et al 2014 stated that most decisions are not momentary, they mostly take time, and thus they are divided into categories which are deciding between giving up resources to influence others' decisions and taking decision for the benefit of the stakeholders. Current literature hardly offers an indepth discussion of public procurement as a decision making problem. It is argued that individuals involved in public procurement process are faced with challenges of taking decision on procurement of goods, services and works. The nature of the decisions affects the degree to which public activities can be implemented (Yusser, 2013). Procurement decision is made under tensed environmental condition. It is assumed that most decision –makers are influenced about how to maximize personal gains as against others involved in the process. One of such major decisions is price adjustments. The Bureau for public policy has provision for price adjustment. The procurement reforms intend to ensure Value for Money (VFM), improving flexibility, quality and efficiency throughout the procurement cycle. Further it addresses the application of price adjustment in contracts for goods, works and plant that are financed in whole or in part by the government. It clarifies the principles of price adjustment and discusses aspects that should be considered in the procurements of goods, works, and plant that include price adjustment provisions. It provides explanations of components in the price adjustment with some sample applications which may be used as reference during project preparation, the procurement process, and for contract management. It is believed that effective use of price adjustment provisions may increase efficiency, fitness for purpose, and value for money. Bidders will factor in the risk of price escalation when preparing their bid, depending on the contract specifics in the bidding document as mentioned above.

2.5 Conclusion

The BPP has oversight function of monitoring price adjustment standard and benchmark in order to ensure competitive, transparent, value for money in public procurement of public assets. The infrastructure development in Ebonyi state over the past 8 years appear to have defeated well documented challenges identified in public procurement management. Some

state governments may not have followed due process in public procurement in line with provisions. The formulae for price adjustment may not have been applied due to lack of sufficiently trained manpower to do so in the country. However, if the motive of public procurement practice actually entails having the right items at the right place, and at the right time, for the people to have VFM standard, then the government may be credited with the achievements in public procurement as evident in the infrastructural provisions. The construction of Ebonyi shopping Mall, Ebonyi International Market, Ebonyi International Airport, New Government House, Centenary city , numerous aesthetic Flyover bridges, concrete urban and rural roads, to mention but a few were completed and commissioned within 8 years term in office. A sound procurement system is said to be one that combines efficiency, economy, fairness, reliability, transparency, accountability and ethical standards. The professional qualification of the then Accounting officer as civil engineer probably influenced decision making choice. He took decision on procurement of goods, services and works. He had the political will to deliver the dividends of democracy in line with divine mandate of his time. It is difficult to conclude that resolution to use direct labour in procurement decisions; has no sign of corrupt practice though projects were delivered. However we can infer that the qualification of the Accounting officer has direct relationship with determination to deliver especially with regard to infrastructural provisions at any price adjustment framework.

2.6 Recommendations

Based on the findings, the following recommendations have been made:

1. Due process should be followed in procurement management in the states, especially with regard to price adjustment. The difference between previous price and current price of items can make for the desired adjustment for simple applications.
2. The BPP should be given more powers structurally, to ensure compliance with rules and regulations guiding public procurement, especially with regard to price adjustment
4. Training and retraining of concerned procurement officials will equip them with current knowledge to take responsibilities, especially with regard to price adjustment.
5. Defaulters should be made to face the law, no matter how highly placed, and devoid of immunity.
6. The extent of direct labour procurement which prevents advertisement inviting bidders should be limited further, to ensure fairness in competitive bidding and award of contracts.
7. Use of direct labour should be encouraged where the Accounting Officer has related knowledge and certified experience because of the self- motivation to demonstrate learning as worthy decision.

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