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RESEARCH ARTICLE

AN ASSESSMENT OF THE IMPACT OF PROFESSIONAL ETHICS ON THE PROCUREMENT OF CONSTRUCTION PROJECTS IN NIGERIA

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ABSTRACT

The construction industry is a unique industry given the nature of its products and the huge financial requirements necessary for the actualization of these products. The role of the industry as an economic regulator cannot be overemphasized as evident in the amount of spending observed in the industry during periods of economic boom or recession; moreover, the product of the construction industry is consumed by virtually every other industry in the economy. It is common knowledge that construction products are complex in nature and require substantial amount of finance to actualize. Quantity surveyors are construction industry professionals saddled with responsibility of ensuring financial probity in the conceptualization and execution of both new works and refurbishment works in the construction industry; they are critical stakeholders in the construction industry procurement system as they are quite visible in the processes leading to the selection of a suitable contractor. To this end, this paper seeks to portray the critical role of professional ethics in the procurement procedure for construction contracts in the Nigerian construction industry. Recommendations were made on what must be done to eliminate unethical practices in the procurement process including the need for continuous training and re-training of professionals in the construction industry by respective professional bodies to ensure that relevant ethical standards are imbibed this the authors believe will give impetus to sustainable development.

KEYWORDS

Construction Industry, Professional Ethics, Procurement, Professional, Quantity Surveyor.

1. INTRODUCTION

1.1 Background of The Study

One of the cardinal objectives of the construction industry is the realization of value for money invested or spent in actualizing construction projects. This important objective of the industry can be achieved through effective service delivery that is based on sound ethical standards by relevant construction industry professionals saddled with various responsibilities in the line of achieving the construction product (Adeyinka et al, 2003). The primary objective of all professions is to carry out its professional services to the ultimate benefit of the general public (Murdoch and Hughes, 2008). The implication of this is that a true professional puts public good ahead of personal rewards (including financial and other gains) even when acting in this mannerism may conflict with an individuals or clients interest. This theory is a fundamental component of very many professional codes of conduct.

Based on empirical substantiation, good public procurement practice and system have been adjudges the best means of guaranteeing the delivery of projects and enhancing public expenditure management. Prior to the enactment of the Nigerian Public Procurement Act (PPA) 2007, public procurement practice was fraught with many irregularities, loopholes and abnormalities including unprofessionalism, wastefulness and ineffectiveness. This was mainly because public procurement was then based on 1958 treasury circular which provided only guidelines for procurement; implying that all procuring entities were at liberty to adopt a procurement strategy that suits it. An analytic study carried out in 2001 by the Budget Monitoring and Price Intelligence unit (BMPIU) in 2005 into the procurements in Federal Government projects aptly revealed that the country may have lost several hundred billions of naira over a period of 20 years. This huge loss was attributed to factors such as:

- Brazen Abuse of Procedures for Award of Public Contracts
- Bloating of Contract Costs
- Absence of Limpidity
- Lack of Capability Based Competition and Excellence as A Fundamental Criteria for Award of Public Projects

Infact, the Nigerian nation lost 60% of every One Naira spent in the procurement of public goods and services (Emeka, 2007). It was this situation that gave rise to the setting up of the Budget Monitoring and Price Intelligence unit (BMPIU) domiciled in the presidency. Codes of Ethics can theoretically be seen as:

"*Broad guidelines to professional conduct; these codes are designed to help professionals uphold the highest level of ethical conduct and maintain standards of practice and integrity pertaining to their professional duties. Generally, these guidelines include but not limited to protecting the public interest, demonstrating professional competence, preserving confidentiality, attending to conflict of interest and perpetuating social responsibility.*"

Accordingly, codes of ethics are developed to guide the conduct and performance of each professional body in their respective professional

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groups (Lewis et al, 1999; Saif and Kombo, 2015). The professional bodies also use the codes of conduct to make judgement especially when association members fall short of their code of ethics.

1.2 The Building Industry

The construction industry is made up of a wide range of various organizations and groups which must work together collectively to build, alter and maintain a wide range of infrastructure projects including buildings and civil engineering works. The nature of the product of the industry which is physical in nature makes it quite unique from other industries. Each project/product is unique as no two project sites are the same (Seeley, 1984). The industry which is made up of a wide range of various organizations is also assembly in nature as the products of other industries are brought to site and assembled in order to actualize the construction product (Stone, 1983). Project drawings often portray the intentions of the designer while skilled, semi-skilled and unskilled operatives carry out the actual construction work on site using both the drawings prepared by the designer and other relevant documents. Because the assembly of the product is carried out under the weather, work is usually bound to be affected by the weather together with ground conditions.

The construction industry is a critical sector of any economy. The industry as a sub-sector of the economy is set up and works around a framework that is quadrangular in nature (Oforeh and Alufohai, 2006). The quadrangular framework comprises the:

- Construction firms
- Professional organizations that operate within the industry
- Relevant laws and legislation governing construction and allied matters
- Employer or owner of the structure

Activities in the industry is influenced by a wide range of dynamics including

- General economic climate
- Rate of interest
- Availability of credit facilities
- Public policy relating to control of public spending

The housing sector of any economy generally mirrors the position of the construction industry (Seeley, 1984).

1.3 Operative System of the Construction Industry

The national economy of any developing nation like Nigeria often has the construction industry as a major sector. The cause for this is not farfetched – the products of the construction industry are infrastructure products which are required by all the other sections of the economy for their effective and optimal performance. The construction industry also ensures the provision of social capital amenities (Oforeh, 2008). The construction industry is radically different from other industries in many ways, firstly, the nature of the goods produced by the industry makes it different and secondly, the procedure for price determination for construction goods also makes it quite different from other industries in the economy. Typically, the pricing of products are generally fixed as soon as the products are manufactured prior to the product getting into the market. Here, production is established and prices fixed before the product gets to the final customer. For the construction industry, the reverse is always the case as the final customer/employer/client is often known prior to fixing prices and completing the manufacture of the construction project. A flow diagram for price determination in other industries will show that products are designed, produced, finished, priced and put on shelves before they are made accessible to the final consumers. For the construction industry however, the flow diagram will show that the product is designed by the consumer after which pricing (contract sum) would be done by the consumer and the contractor; thereafter the building is produced (erected) and finished for the occupation of the consumer/client (Oforeh, 2008). It is important to note that most principles of economics analyses are based on the procedure for price determination in other sectors of the economy rather than the construction industry's.

Other factors that make the products of the products of the construction industry radically different from the products of other industries include:

- The products of the construction industry are not movable, that is to say that they cannot be transferred from one location to another when completed. They are thus produced at the specific locations where they will be consumed.
- The consumers of the product are known from the onset in most cases. They the size, quality and nature of the product to be produced (erected).
- iii. The products are very large, occupy large spaces and often take a long time to produce when compared to the products of other industries where hundreds and thousands of the products can be produced in a very small time frame.

2. Procurement and Procurement Process

Construction procurement refers to the procedure of identifying, selecting and authorizing the efforts needed for the provision of new infrastructure together with all necessary preliminary works or amendment, modification, renovation, maintenance, extension or demolition of an existing building or structure (Oso, 2017). The selection of a most suitable method of procuring a construction project is most vital to the actualization of desired results. Procurement can therefore be described as a the procedure adopted to obtain a project. It involves the selection of a contractual framework that will clearly identify the responsibilities and authorities of all participants embedded within the building process. This determines the overall satisfaction of the client as well as the success of the project. Beyond selecting the right contractor, it is also very imperative that the contract documentation and form of contract are adequate too for the project. The procurement process refer to the entire procurement cycle which commence with the need identification and terminate at the completion of the project (Sukulpat, 2007; Haris and McCaffer, 2005). The procurement process requires the possession of a wide variety of skills which will often require training and development to acquire. Series of actions and operations must be put together in order to actualize the objectives of a project; that is what procurement process is all about.

One of the most common procurement methods is the traditional method. This is followed by the design and build option. Other procurement options only make up a small proportion of construction procurement transactions. The structure of the traditional procurement option is considered a successive method because the client often takes his schemes to a very advanced stage with the assistance of team of consultants before appointing a contractor. The designer is the clients' representative saddled with the responsibility of advising the client on matters of design. He also ensures that the works is kept within the cost limit of the client while also ensuring compliance with requisite standards. When engaged on the project, quantity surveyors usually provide assistance and support on the following areas

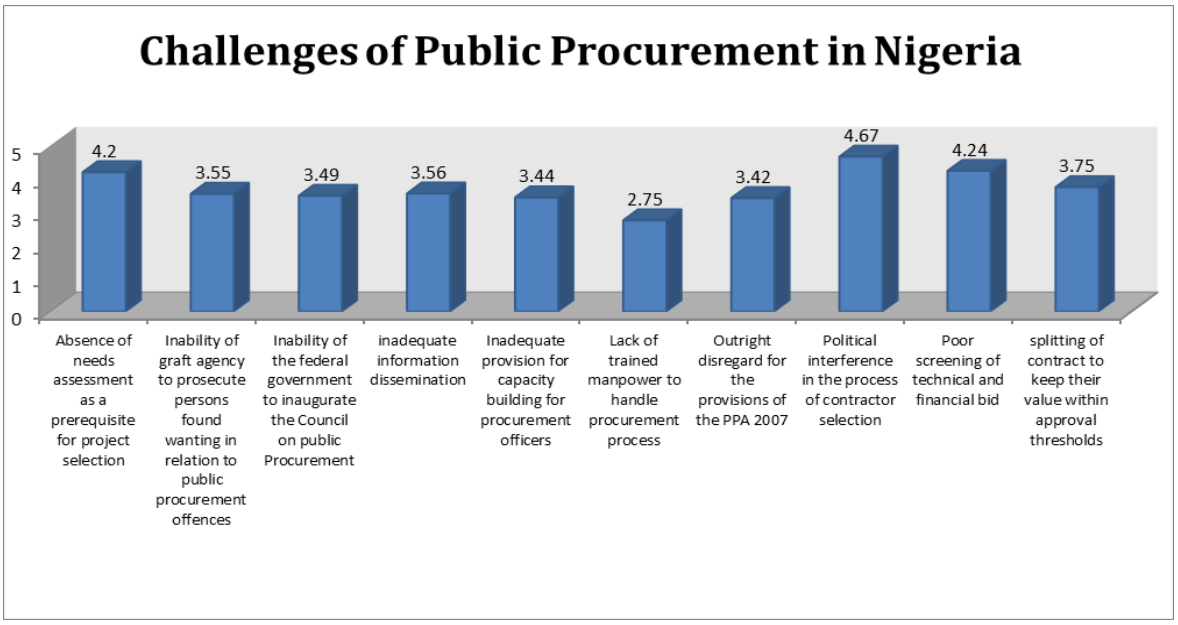
- Feasibility studies of capital projects, design costs and budgets.
- Cost modelling which involves the preparation of bills of quantities, cost estimates, budgets, cost planning, cost monitoring and cost control.
- Contract documentation which include the preparation tender documents, providing advice on tendering/bidding procedures, contractual arrangements including tender analyses and reporting.
- Contract administration and management of construction work and cost during construction including interim valuation and final accounts.
- Valuation of variations.

In the traditional procurement setting, the contract sum are based usually on the estimates provided by the consultant quantity surveyor through the bills of quantities which essentially comprise quantifications whose accuracy are dependent on availability of detailed designs and drawings provided by the design team which is led by the consultant Architect. The consultant structural, mechanical and electrical engineers are also engaged to provide requisite advice on expert aspects of the project. The contactor is only responsible for erection of the project as designed by the design team; he does not participate in the design of the project. It is the clear need for the separation of the responsibility of design and construction which is the hallmark of the traditional procurement method together with the funding options that gave rise to other alternative procurement options (http://www.scquantitysurveyors.com/ services/ procurement/Quantity Surveyors).

2.1 Challenges of Public Procurement in Nigeria

The bar chart below shows the outcome of a survey carried out to assess the perception of respondents to some identified challenges of public procurement in Nigeria. The bar chart shows the various means from the

outcome of the survey to determine the most significant challenge of public procurement in Nigeria (Maduekeh et al., 2017). From the chart, all the challenges tested with means of 3.0 and above affirmed that all the challenges considered were actually considered by the respondents as challenges of procurement in Nigeria. However, only one of the challenges (lack of trained n[manpower to handle the procurement process) with a mean of 2.75 which is considered a negative response and which suggests that lack of trained manpower to handle procurement process is not a challenges of public procurement in Nigeria. Political interference in the process of contractor selection with a mean of 4.67 and poor screening of technical and financial bid with a mean of 4.24 ranked highest and highest respectively as challenges of public procurement in Nigeria.



- Absence of needs assessment as a prerequisite for project selection;
- Inability of graft agency to prosecute persons found wanting in relation to public procurement offences;
- Inability of the federal government to inaugurate the Council on public Procurement
- inadequate information dissemination;
- Inadequate provision for capacity building for procurement officers;
- Lack of trained manpower to handle procurement process;
- Outright disregard for the provisions of the PPA 2007;
- Political interference in the process of contractor selection;
- Poor screening of technical and financial bid.
- Splitting of contract to keep their value within approval thresholds;

Source: Maduekeh et al, 2017

3. Professionals and Professional Bodies

The BBC English dictionary described a professional as someone who does something to earn money rather than as a hobby. The term can also be used to describe the educational standard and training required to imbue members of a given profession with the requisite skills and competence required to carry out their professional tasks effectively to the satisfaction of all. Professionals are expected to be guided by the codes of conduct controlling their profession which usually includes rigorous ethical and moral obligations which are typically agreed to and maintained through recognised professional bodies.

Professions are often linked with the concept of 'service delivery (Appelbaum and Lawton, 1990). This implies that a profession can be described as a group of people organized to serve and provide specialist knowledge driven service in that will be beneficial to the public. In the same vein, it was established that professions are occupations which require both the acquisition of advanced education and the mastery of a specialized form of understanding and thereafter embark on upholding with the intent to ensure or safeguard and in the interest of the welfare of others (Whitbeck, 1998). The responsibilities of the professions have been described innumerably to also include the satisfaction of an key and favourable societal necessity as well as a goal of service to the public (Murdock and Hughes, 2008). Professionals do not operate in isolation; they operate within a society peopled with colleagues, other specialists, clients as well as the general public (Pressman, 1997).

By design, professionals once engaged, become the agent of his client and are expected to act on his behalf in matters which the client considers to be of abundant ethical, physical and financial significance. The matters in question are usually such that they are beyond the ability of the client to resolve by himself. It therefore becomes extremely important that the client should have an equitable guarantee that it is sagacious to surrender the control of such important aspect of his undertakings to his professional and that his agent will be truthful, dependable and upright in his area of specialization and dealings with his client. The demand for the services of a professional organization is only maintained by their continued demonstration that they are most capable, skilled and adept in the provision of an expert service than any private individual or any quack service provider.

Ultimately, the duty of a professional body involves the professional body substituting the corporate standing of the organization with that of its individual members. This gives credibility to the individual member and encourages public trust. The role of professional institutions is such that it tends to protect and advance the interests of their members while also assuming a public duty in trying to safeguard the interest he general public from the expert activities of members of the professional association in the event of conflict.

3.1 Professional Ethics

Standard personal and business behavioural values and guiding principles that are professionally acceptable for a particular profession is known a professional ethics. It may also be described as professionally acceptable measures of both the individual and business conduct of an individual. Professional ethics is more or less a code of conduct applicable to various professional groups. Such codes are set up by expert members of such professional groups. The bottom line idea of having professional ethics is to ensure that individuals involved in particular professional line of duty are guided by the same and uniform ethical conduct. Hippocratic (the medical doctor's pledge to prescribe only useful cures, in accordance with his skills and assessment and refraining from causing injury or hurt whilst leading an exemplary individual and professional life) oath usually undertaken by medical practitioners is an example of professional ethics practiced today (www.quora.com/what-are-professional-ethics).

Codes of practice are meant to provide guidance to members of a professional organization in the discharge of their duties all in accordance to sound and consistent ethical principles. It also encompasses both personal and corporate standards of practice expected from professionals. Originally, the word professionalism related to vows of a religious order. By the year 1675 at least, the term had become applicable to three learned professions including Divinity, Law and Medicine (hptts://en.m.wikipedia.org/wiki/professional_ethics).

Common ethical behaviours such as obligation, duty and responsibility that are usually expected from people generally also apply to professionals. Professionals are bound by a set of principles, attitudes and personality disposition that is relevant to the way a particular profession is practiced; this is professional ethics and relates to potential challenges challenging members of a professional organization and their impact on the society (McDowell, 1991; Johnson, 1991). This suggests that fairness should be applicable to the client, colleagues as well as the general public. Conflict of interest was identified as an important factor that is responsible for the inability of some professionals to meet up with their obligations to their clients and the society (Coleman, 1998). Another issue is the relevant professional right usually referred to as right of conscientious refusal which simply refers to the right of an employee to refuse to participate in a perceived unethical practice when compelled to do so by his employer whether it is in a work or non-work situation and may not necessarily be a criminal act. Conscientious refusal can be achieved by either outright refusal to participate in the act adjudged to be unethical or making public protest in order to draw attention to the perceived unethical practice (Whitbeck, 1998).

3.2 Factors Affecting the Implementation of Ethics

A survey identified some factors affecting the implementation of ethical codes to include the following (Sakyi and Bawole, 2009):

- Inadequacy of the education of professionals on professional ethics;
- Problems of inconsistencies and partiality in the administration of code of ethics;
- Difficulty in accessing copies of codes of ethics by professional members;
- Non implementation of the provisions of codes by senior professional members;
- Challenges of interpretation of the codes;
- Dearth of quality leadership
- Inadequate mentorship resulting from poor supervision and monitoring;
- Perceived non sanction to people found to have broken the codes;
- Undue societal pressure on professionals;
- Poor public service organizational structure
- Letting defaulters off the hook without administering adequate and prescribed punishment.

From the foregoing therefore, it is granted that in order ethics in the construction industry, there is a great need to start from the education of the professionals. The acquisition of good ethical knowledge should not end at the higher institution but should continue and be on going through out the professional working life (Chan and Chan, 2002). Twenty seven (27) factors that impact the ethical behaviour of the construction industry professionals were identified in another survey (Tow and Loosemore, 2009). From their survey, they identified the absence of adequate ethical training program and absence of reward system for professionals who diligently observe and operate good ethical practice in the construction industry as the most prevalent factors affecting the ethical behaviours of construction professionals in the construction industry (Sakyi and Bawole, 2009). Enforcing standards by way of adequate monitoring of adherence to contract documents and building codes will ensure an acceptable quality in the service delivery of the construction industry thereby eliminating unethical practices (Palalani, 2000).

According to a survey carried out to determine how code of ethics are implemented among quantity surveying firms in Nigeria. Ten (10) ethical issues were surveyed and it was discovered that insincerity to clients and other professionals ranked highest with a mean of 3.08. It was also the only issue with a positive response (mean above 3.00). other surveyed issues including concealing professional errors, using information with intention to mislead, incompetence, bribery and collusion with contractors, failure to submit essential documents on time, padding of bills of quantities, contract sum inflation, irregularity, making claims from client for work not executed, revealing official secret, collusion with other professionals and involvement in conflict of interest all have means less than 2.5 indicating negative responses to frequency of occurrence of ethical issues among quantity surveying firms and ranked in the order they are listed here above (Olatunji et al., 2016).

However a survey also carried out to determine the influence of code of ethics in curbing unethical and dishonourable practices among quantity surveying firms in Nigeria revealed that all the thirteen (13) unethical practices surveyed came back with means ranging from 4.24 to 4.63 for involvement in conflict of interest and bribe taking and collusion with contractors respectively by (Olatunji et al., 2016). This indicates very high positive means showing that codes of ethics has very high impact in curbing unethical practice in quantity surveying firms in Nigeria. A list of the thirteen (13) unethical practices surveyed is shown below in the order which they are influenced by the application of codes of ethics are listed below:

- Bribe taking and collusion with contractors
- Revealing official secrete
- Incompetence
- Insincerity to clients and other professionals
- Concealing professional errors
- Inflating contract sum
- Collision with other professionals
- Charging client for work not done
- Inflating quantities in Bill of Quantities
- Failure to submit essential documents promptly
- Using information with intention to mislead
- Irregularity
- Involvement in conflict of interest

4. Conclusions and Recommendations

4.1 Conclusions

When codes of conduct are adhered to strictly, they tend to promote the value of service delivery by the professional thereby attracting respect and regards from the general public. Furthermore, when professional ethics are fully implemented, they tend to reduce to the barest minimum the incidence of unethical practices among construction industry professionals and within the construction industry; this gives integrity to professionals and practices in the construction industry especially to clients and the general public at large. It has been revealed that firm adherence to professional ethical codes can translate to the eradication of all known unethical practices by Quantity Surveying professionals in the construction industry. Good ethical conduct in the construction industry will no doubt go a long way in Upholding accountability; Reducing unethical conduct; Creating credibility; Improving decision making; Eschewing corrupt practices; Improve the quality of construction output; Inculcating work place ethics; Shaping ethical behaviours; Preventing dispute and Inhibiting wrong doings in organizations amongst other things.

4.2 Recommendations

From the foregoing, the following recommendations are hereby proposed:

- The process of acquisition of ethical values is expected to continue even after one has gone through formal educational institutions but should continue throughout the practicing lifetime of any professional especially those in the built environment. To this end, Professional bodies in the construction industry must incorporate professional ethics in their continuous professional development programmes for their members.
- As a way of deterring their members from engaging in unethical practices, professional bodies must met out sanctions to erring members while deserving members should also be recognised and rewarded.

The curricular of professional courses such as Quantity Surveying should be reviewed to ensure the issue of professional ethics are properly and adequately captured. That way graduating students would have been well schooled in matters relating to ethics in professional practice.

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