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Application of Contact Procedures in Promoting Transparency and Accountability in Local Government Administration

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ABSTRACT

Contracts and procurement are channels through which the government expends public funds for the purpose of public service delivery. Recently, there has been an outcry on the large amount of government's spending which is not commensurate with what is seen on the ground. Public infrastructure and services do not seem to equate what the government claims to have spent on them. This paper examined these trends and discussed the need for public officials to adhere strictly to the provisions of the enabling enactments which deal with public contract awards and procurements particularly at the local government level in Delta State. Since accountability is an avowed responsibility of these officials, they should be updated on the necessary procedures for the award of contracts and public procurements at the local government level. The paper elicits interest for both scholars and practitioners involved in public sector management.

Keywords: Accountability, Administration, contract procedures, local government, transparency

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INTRODUCTION

This paper examines the practice of contract award procedures and procurement process as a tool for effective and efficient service delivery engendering transparency and accountability in the local government administration of Delta State. Contract awarding is the method used during procurement in order to evaluate the proposals and award the relevant contract. Usually at this stage, the eligibility of the proposals has been concluded; and it remains to choose the most preferable among the proposed (Bids). The main objective paper is to familiarize relevant industry practitioners with key provisions of the contract award procedure as provided for by the financial memoranda and the Delta State public procurement law. Limitations and challenges of application of these enactments are further highlighted as to provide an in depth grasp and understanding for field practitioners and administrators.

There has been an upswing in contracts and procurement frauds in Nigeria. The efficient and effective utilization of funds and financial accruals by government is a chequered and avowed responsibility of both elected, appointed, and public service officials. Olukoyede (2023), the newly appointed Chairman of the Economic and Financial Crimes Commission reported that “contracts, procurement frauds cost Nigeria N2.9 trillion in 3 years” (Vanguard Newspapers 19th October, 2023 Front Page). This amount can pay for the construction of at least 1,000 kilometers of roads, build close to 200 standard tertiary institutions, and educate 6,000 children from primary to tertiary levels at ₦16 million per child. The procedures for the award of contracts are clearly spelt out in the enabling public service enactments which guide the subject matter.

CONCEPTUAL CLARIFICATION

Critical Factors for Consideration in Bids for Contract award:

- a. Least Price: This is supposed to be the oldest and simplest method. This bid is usually awarded to the best price that is the one that is least in value.
- b. Most Economically Advantage: This yardstick s used when considering contract bids of differing quality within the limits set by the awarding authority, under this arrangement. Bids are graded according to their price for value and the contract usually awarded to the bid with the best grade.
- c. Average or Mean Value: The contract bids which are usually competitive are awarded to the bid closest to the mean value of the proposal.
- d. Exclusion of Extremes: Under this arrangement the bid proposal that deviated most from the mass of the proposals are excluded. Then the selection procedures continue with one of the above methods.

Key Words in Contract Procedures

- a. Contract: An agreement entered in writing.
- b. Contractor or Supplier: Any potential party to procurement contract with the procuring entity and includes a corporation, partnership, individual sole proprietor, joint stock company, joint venture or any legal entity through which business is conducted.
- c. Public Procurement: The acquisition of goods or service by the government.
- d. Accountability: Legal liability involving the establishment of a pattern of control over receipts and expenditures that permits a determination either by the executive or by the legislature (or both) that public monies have been used for public purposes (Abubakar, 1991:6).
- e. Works: This includes all works associated with the construction,

reconstruction, demolition, repair or renovation of a road or building, structure or works, such as site preparation, escalation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to construction such as drilling, mapping, satellite photography, seismic investigation and similar services provided.

- f. Services: This means the rendering by a contractor or supplier of his time and effort and includes any object of procurement other than goods or works.

CONTRACTS INCLUDING JOBBING ORDERS AND LOCAL PURCHASE ORDERS UNDER THE FINANCIAL MEMORANDA

The Financial Memoranda (FM) can be seen as the single most important document that dictates the content of financial management and administration at the local government level. The financial memoranda provide detailed guidance for all financial transactions of the local government. The major weakness of the FM is that it is primarily designed for control rather than for both control and management purposes. The specifics of the FM for instance place a severe constraint on the use of personal initiatives on the financial manager.

When a local government wishes to obtain supplies of local materials such as bricks and, timber or laterite from outside suppliers, to secure the local supply of manufacture of articles such as uniforms and furniture, or wishes to employ contractors to carry out works or services which cannot be under taken by its own Works Department, for example, road making or maintenance, building work, provision of plant and machinery or transport, this should be arranged by the issue of jobbing orders or local purchase orders or through tender and contract procedures.

Jobbing Orders

Jobbing Order or Form LGT 65 shall be issued:

1. For a single work or service including the cost of materials for carrying out the services.
2. Where the total does not exceed ₦10,000 or such other limits as the Governor may direct.

No sum of money shall be advanced in respect of a jobbing order before the work or service is completed. Jobbing Order signed by the Head of Personnel Management to the Local Government shall be made in quadruplicate and distributed as follows:

1. Original/duplicate copies to the Supplier/Contractor
2. Triplicate copy to the Treasury
3. Quadruplicate copy retained in the book for record purposes.

When the works or services ordered on a jobbing order have been completed, the payment procedure shall be as follows:

1. The Officer Controlling the vote will:
 - a) Certifies his own and the supplier's/contractor's copy the jobbing order and indicate the amount due thereon;
 - b) Prepares and authorize a payment voucher for the amount due. Where appropriate, the technical officer supervising the work shall certify on the payment voucher that the materials have been correctly supplied or the work or service satisfactorily completed. Any supplier's invoice, and the original (supplier's/ contractor's

- copy) or the jobbing order must then be attached to the payment voucher.
2. The payment voucher shall then be submitted to the Finance Department where procedure will be to:
 - a) Examine the supplier's / contractor's copy of the jobbing order and compare it with the 'Treasury copy';
 - b) Examine the payment voucher and ensure that it is correct in all respect;
 - c) Endorse details of the payment of both the supplier's/contractor's copy and the Treasury copy of the jobbing order;
 - d) Pass the payment voucher for payment if it is correct and pay the supplier/contractor.
 3. authority to incur expenditure (if any), shall be entered at the top of the order form;
 3. So far as is possible, separate local purchase orders shall be issued for articles to be changed to different votes or an A.I.E.
 4. The Local purchase order shall be signed by the Head of Personnel Management and The Officers Controlling the Vote or the person who holds an authority to incur expenditure;
 5. The Local purchase order shall bear the official stamp of the Local government and be distributed as follows:
 - a) Original and the duplicate copies to the suppliers;
 - b) Third and fourth copies will be left in the book.
- When the goods ordered are supplied, the procedure will be:

Local Purchase Orders

Local Purchase Orders on Form LGT 66 shall be issued:

1. for the purchase of stores or materials;
2. where the total cost does not exceed ₦10,000;

In exceptional circumstances (example to purchase a motor vehicle), a local purchase order may be issued for a higher amount subject to the approval of the Executive Committee. Local Purchase Order shall be printed in quadruplicate and prepared as follows:

1. Full details of the items required shall be entered in the appropriate places, each separate item being numbered. The order form must be ruled off immediately after the last item to prevent unauthorized additions;
2. Details of the Head and sub-head of account to be charged and of the

1. The supplier / contractor must return the original Local purchase order with his own invoice (or in the case of goods supplied from a government store with the government stores issue voucher).
2. The instruction in section (b) or (c) of the local purchase order must be completed on the original and triplicate order and both of these sent to the authorized person receiving the goods.
3. The receiver of the goods shall verify that the items have been received in good order, complete with the appropriate certificate, return the original order to the person who authorized it and retain the triplicate copy. If the goods have taken on charge in a store, the stores ledger reference shall be entered on the order and the triplicate copy used as the store receipt voucher.
4. The original local purchase order and the quadruplicate copy of the

local purchase order must be marked "Cleared".

Authority of Issue

It is forbidden to split jobbing orders and local purchase orders in order to circumvent the limit fixed under Financial Memoranda 2.1, 2.4 and 2.9. Jobbing order (printed in quadruplicate) and local purchase orders (Printed in quadruplicate) shall be numbered consecutively. The books shall be subject to the controls laid down in Financial Memoranda Chapter 2 for receipt and other revenue earning books and:

1. Their receipt and issue shall be recorded in separate section of the Receipt Book Register and Receipt Book Distribution Register;
2. They shall be kept under lock and key when not in use.

Tenders and Contracts

Except where approval has been given under Financial Memorandum 17.5, all transactions for works, services, materials and stores costing over ₦10,000.00 or for ordering suppliers at intervals over a period, or for current works and services to be undertaken or supplied over a period, must go to open tender contract. All contractual agreements, Local Government Purchase Orders, Job Order Forms or such other documents relating to contracts, supplies etcetera shall be signed by the Head of Personnel management Department only after the appropriate approving authority has given the necessary approval. If the head of Personnel Management Department observes any irregularities, he shall invite the attention of the approving Authority to it. However, if that authority insists, he shall raise an audit alarm.

- a) The inspectorate Department of the Office of the Deputy Governor shall continue to provide technical

assistance, advice and guidance (not control) to Local Government as and when necessary;

- b) All approval for expenditure shall be in writing.

Tenders for materials to be supplied or works or services performed at a cost of more than ₦10,000 shall be invited by open advertisement in the form determined by the Council. The Local Government may:

1. Accept any tender or portion of tender; or
2. Reject all or any tenders; or
3. If all tenders have been rejected, direct that fresh tenders be obtained.

Subject to Financial memorandum 2.14 the Local Government shall accept the lowest tender submitted unless valid reasons exist for not doing so, for example, there is good reason to doubt the ability of the contractor to carry out the contract. The Local Government shall record its decisions and reasons for accepting or not accepting any tender. Subject to the provisions of this Chapter of the Financial Memoranda, all contracts entered into by a Local Government shall comply with relevant section of the Law and Standing Orders of the Local Government relating to tenders and contracts.

A contract shall be drawn up by the Local Government in at least quadruplicate for every accepted tender in a form determined by the Governor's office. A contract shall be signed by the Contractor and the Head of Personnel Management and shall be stamped duty requirements. Copies of a contract document shall be distributed as follows:

1. The Original: to the Treasurer who shall number all contracts in serial order and keep them in a safe;
2. The duplicate: to the Contractor

3. The triplicate: to the Officer controlling the vote or other person supervising the work.
4. The quadruplicate: to the Auditor-General for Local Government.

Contracts and Procurement under the Procurement Act 2007 (Act No. 14)

The Delta State Public Procurement Law 2020 and others matters connected therewith is the domesticated version of the Procurement Act 2007 intended to regulate, guide and direct procurement procedures at the state level. Major highlights of this enactment particularly those dealing with core issues of the contract award procedure have been dealt with by the financial memoranda. However, it is noteworthy to point out that a domesticated version of the Delta State Public Procurement Law is required for the local government system such an enactment will take care of the local peculiarities drawing from the historical development of such local governments.

ACCOUNTABILITY

Accountability stands out as a cherished goal of every government Abubakar (1991) narrowly defined accountability “as legal liability (involving) the establishment of a pattern of controls over receipts and expenditures that permits a determination either by the Executive or by the Legislature (or both) that public monies have been used for public purposes”. Abubakar (1991:6) further contends that accountability should be seen to broadly encompass the following:

1. Fiscal Accountability: Responsibility for public funds
2. Legal Accountability: Responsibility for obeying laws
3. Programme Accountability: Responsibility for carrying out programmes

4. Process Accountability: Responsibility for carrying out Procedures.
5. Outcome Accountability: Responsibility for results

Although, our major concern would appear to be with first type of accountability, i.e. fiscal accountability, a close look at the other forms of accountability will reveal that this cannot be effectively attained in isolation to the others. It follows; therefore that when we talk about or institute measures to ensure fiscal or financial accountability we must also bear in mind that for accountability to be complete and effectively attained it has to encompass all facts.

In the present local government set-up, the Chairman is the Chief Executive and the Accounting Officer. In effect, he has responsibility for all the facts of accountability enumerated above. There is a tendency for Local Government Chairman to confuse the accounting responsibility with that of the finance officer who is the treasurer. The Chairman’s accounting responsibility is not only for men, money and materials, but also for policy and the attainment of results. The concern for fiscal accountability in the conduct of the financial affairs of any public organization stems largely from the common adage that: what a man does with his own money is his business and what he does with other people’s money is their business”. Local Government Finance has of course very much to do with other people’s money and due account of its raising and its use be rendered to the public at large. This indeed is the genesis of accountability. It is therefore expected that in the conduct of his public life the elected official must remember that he has a responsibility to ensure that their taxes are prudently and judiciously spent, a responsibility to hold sacrosanct, the public trust reposed in him.

CONCLUSION

The scrupulous adherence to the provisions of these various enactments in the general conduct of government business particularly as it affects contract awards processes will definitely ensure effectiveness and efficiency in service delivery. It will also guarantee that there is value for money spent. It is noteworthy to point out here that the public service cum the polity is pervaded with politics of poverty, most of the political cum public office holders occupy offices based on what they can make out of the system rather than services to the people. Thus, the spirit of accountability and transparency become illusive in governance. However as core public service practitioners we are duty bound by our calling to uphold the cherished tenets of the service and ensure at all time the application of these time tested rules and enactments.

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