

INVESTIGATION OF THE EXTENT OF COMPLIANCE WITH LAGOS STATE PUBLIC PROCUREMENT LAW: A SURVEY IN THE SELECTED MINISTRIES AND AGENCY

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Abstract: *The study investigated the extent of compliance with the Lagos state public procurement law in the study area. These were with a view to assessing the extent to which the implementation of public procurement policy has enhanced openness and efficiency among the Ministries, Departments, and Agencies in Lagos State. The study utilized primary and secondary sources of data. Primary data were collected through administration of questionnaire and conduct of in-depth interview. The study population of 1,398 comprised the staff and stakeholders from agency, ministries, construction companies, and civil societies. The distribution was as follows: Lagos State Public Procurement Agency (100) ministries of Works and Infrastructure (240); Justice (481); Finance (89); and Housing (110). In addition, Hitech Construction Company (70); Craneburg Construction Company (69); Planets Projects (64); and Messers (FIDC) 58. Furthermore, BudgIT (31); Socio-Economic Rights and Accountability Projects (32); Ymonitor (29); and Coalition Against Corrupt Leaders (25). The study adopted a proportionate random sampling technique of 15%. In the long run, sample of 210 respondents were selected for purpose of questionnaire administration. Also, two senior procurement officers in the Ministries of Works and Infrastructure, and Housing, with one senior officer of Lagos State Public Procurement Agency were chosen for in-depth interview. Data collected were analysed using percentage, mean, regression, and content analysis. The study revealed that the implementation of public procurement law enhanced compliance among the procuring entities in the area of professionalism (68.3%), competitiveness (59%), and adjudicatory mechanism (59.9%). The results also showed a statistically significant relationship in the extent of compliance with the public procurement law variant (openness and efficiency) and the selected procuring entities with the result of P-value 0.000, and the chosen α -value of 5%, $0.000 < 0.05$ respectively. The regression indicated multi linear relationship among the procuring entities and variables of probity, openness, efficiency, $N=2.413-0.044P+0.173R+0.212E$. The study concluded that there was low compliance with the Public Procurement Law in the Implementation of Public Procurement Policy in Lagos State.*

Keywords: *compliance, procurement, policy, law, openness, efficiency*

Introduction

The need for government across the globe to sanitize institutional purchases and supplies, which gulped large chunk of establishments appropriated budget, and coupled with the attendant effects on the various activities of procurement expenditure necessitated the adoption of public procurement policy. Government at various tiers deemed it

necessary to address the trend through the various rules, regulations, treaties, and enactment of Law in order to ensure probity, effectiveness, value for money, transparency, and accountability so as to address sharp practices in public procurement and disposal of assets. However, despite these regulations and laws; public procurement still continues to witness hitches especially in most third world countries, where public procurement is characterised with shoddy practices. Similarly, public investments in physical infrastructure, institutional and human capacities, which ought to help in laying foundations for national development has been in a state of despair. Similarly, in the Western world such as the United States of America and the United Kingdom, public procurement was guided with the principle of utilitarianism as posited by Mills (1871), which follows the mathematics of utility as thus: the greatest good for the greatest number of the people. Public procurement must be for the greatest good of the citizenry, or perhaps, the taxpayers which is what good governance entails. In addition, citizens' active participation in the contract award and implementation was lacking in Nigeria as procurement was ridden with sharp practices chief among them are the contract inflated cost, non-budgetary spending, lack of openness, accountability, and transparency (World Bank, 2000).

Public procurement at different tiers of government faces the problems of shoddy implementation, lack of competitive bidding among others. The reasons for this is not far-fetched as procurement in Nigeria is characterized by corruption, lack of value for money, inefficiency among others as a result of non-enactment of procurement Act, Law, or Bye-Law which ought to strengthen the budgetary allocation of various ministries, departments, and agencies (World Bank, 2000). Instead of statute, procurement was guided by financial regulations, which is a tool of the finance ministry in the award of a contract, and it was shielded in secrecy. The narratives changed with the advent of the fourth republic in 1999 and coupled with the desire of the federal government to sanitize the procurement process and the recommendation of the World Bank that was submitted through the Country Procurement Assessment Report (CPAR). The assessment report prompted the federal government to enact public procurement Law in order to check the abuse of contract processes, inflated contract cost, and ensure value for money so as to end the endemic corruption that characterized the procurement process and which has become a conduit pipe for siphoning off the public money (World Bank, 2000). The report prompted the federal government to set up an office called Budget Monitoring and Price Intelligence Unit (BMPIU) also known as Due Process in 2001, which helps in regularising public procurement process and assists in promoting transparency and accountability to the process of contract award for the first time in Nigeria.

The BMPIU was to make sure that due process is followed in the award of contract and there should be value for money. This gradually replaced the old method of issuing circular for procurement. Subsequently, the Bureau of Public Procurement (BPP) was set up because of the enactment of the Public Procurement Act (PPA) 2007, which finally gave constitutional provisions for procurement process in the country. Since the country operates a federal constitution, the Public Procurement Act of the National Assembly is not binding on the states. Hence, each of the states enacts Law that guides the states procurement process in form of domestication of the Public Procurement Act through the passage of Public Procurement Law by State Houses of Assembly. Therefore, the enactment and subsequent assent by the Ex-Governor, Babatunde Raji Fashola of Lagos

State, which brought the Lagos State Public Procurement Law 2011 into existence. The law came with the establishment of the agency called Lagos State Public Procurement Agency (LSPPA), which replaced the State Tender Board for proper implementation of the Law. Section 1 of the procurement Law created the Agency, while section 2 created the Lagos State Public Procurement Agency Governing Board (LSPPAGB), which plays a supervisory role over the Agency.

The drive to address the sharp practice in the public procurement as a result of the lack of public procurement law with clearly defined roles which the state tender board performs in the award of the contract and the dual functions of the commissioner for establishment, training, and pension, which also chairs the state tender board in the award of a contract, and this is often done in a joint session with the State Executive Council where contracts are awarded to the preferred contractor (Press release Governor's Office 2012). Previously, the public procurement in the State was guided by Section 121 of the 1999 constitution as amended that stated the procedures for budget appropriation and various regulations. Section 121 makes provision for budget preparation, appropriation, and spending. However, the section was silent on the payment of mobilization fee, and this was performed in line with the whims and caprices of the State Executive Council who approved contract with little or no objection from the State Tender Board, which was chaired by a member of the State Executive Council. This subsequently gave room for various sharp practices. This lacuna was corrected with the establishment of Lagos State Public Procurement Agency (LSPPA) after the passage and subsequent assent to the Lagos State Public Procurement Law 2011. This Law clearly stated the objectives, functions, and powers of LSPPA in the following sections: 8, 9, and 10 respectively. The Law scrapped the state tenders board and replaced with LSPPA, with separate Head; General Manager, and to be assisted by directors so as to ensure effectiveness, efficiency, value for money, transparency, openness, and accountability *inter alia*.

The Law gave (assigned) for the agency functions and objectives to be carried out so as to ensure strict compliance by the procuring entities, suppliers, contractors, or consulting firms. The whole essence of the enactment of the public procurement Law is to bring transparency, accountability, and fairness into the business of governance through the acquisition of goods, services, or works for the public. The law made the procurement processes a constitutional matter that must not be breached, and if it is breached, there are adequate sanctions for the erring procuring or disposing entities, suppliers, contractors, and consulting firm to be punished or sanctioned. The enactment of the law, especially in most third world countries became indispensable as corruption takes precedence over and above good governance, and where cronyism and favouritism are considered in the award of the contract. This showed in the rate of flagrant violation of procurement laws, the high cost of procurement of goods, works, or services, cheaper disposal of government goods, and non-disclosure of the actual costs of projects among others.

Literature Review

Public Procurement

Countries in the world engage in public procurement in order to engender growth and development. Public procurement enhances governance as it shows the needs for having value for public funds spent by people's representative, which is the government. Walker and Brammer (2009) posit public procurement as it relates to the taxpayer's money,

and the manner in which public entities use the taxpayer's money in acquiring goods, works, or services. For Walker and Brammer (2009), the efficient and effective use of taxpayers' money in order to acquire public goods, lie at the cores of public procurement. Public procurement should be carried out in accordance with the rules and regulations so that taxpayers' money would be judiciously spent and accounted for. World Bank (2003) posits that public procurement is related to the use of public funds by the government and its various ministries, departments, and agencies (MDAs). Public procurement is undertaking on behalf of citizens in order to better their lives via the acquisition of the right quality and right quantity of goods, services, or public works at the best price, from the best sources, and with best procedures in accordance with the grundnorm. The World Bank's definition of public procurement regards the ground norms as key in the public procurement process which must not be subverted so as to avoid unbudgeted spending as against the appropriated funds in the process of acquiring goods, works, or services.

Public Policy

Public policy seeks to achieve the desired goals, which is in the best interest of all members of a state or country. Public policy is specific and target driven (Torjman, 2005). Public policy, therefore, is specific on the way and manner in which government performs its responsibilities which are in form of supplies, works, or services, which are expected to be carried out effectively, efficiently, and competently so as to get value for money without compromising the laid down rules and regulations. Dye (1972) argues that public policy is whatever government chooses to do or not to do. This definition is a clear departure from Torjman's definition. In addition, for Dye government action or inaction could be referred to as public policy while Torjman sees public policy as the action of government so as to influence or make things happen. It is, therefore, concluded that public policy is an indispensable act of government, which it is adopted in order to improve upon the standard of living of the citizens, which makes governance felt across the board rather than action or inaction as posited by Dye.

Theoretical Framework

New Public Management (NPM) theory was the swivel in which the study anchored on. The choice of NPM theory was because of the involvement of non-state actors in the implementation of public policies as advocated by Hood (1996) through privatization, the adoption of separation of policy from the delivery agencies so as to ensure that efficiency and effectiveness are enshrined, with public-private partnership evolvement. Also, the theory sees the need for shift from bureaucratic administration of public service to the professional business-like approach in the same way with private investors, individuals, and corporate organisation that carry out the implementation of public procurement policies in order to ensure efficiency, effectiveness, probity, accountability, and openness which are hallmarks of public procurement law through indirect procurement. The theory's relevance is affirmed in the cost of governance in line with a business-like approach, which prioritizes the need for value for money, contracting out several services, and reduction of the stiff hierarchical bureaucracy of public service, in the same manner, the private sector grasps the satisfaction of customers in order to remain in business. The findings of the study showed that business-like approach for public procurement among the procuring entities had not been carried out in the professional business-like manner has advocated by

NPM theorists in the contract award, with emphasis on quality and efficiency of public service in order to ensure the core of citizens in the public procurement activities and as well as how taxpayers money were expended. Similarly, the theory argues on performance through audit, benchmarks, and evaluations which grasps the need to get value for money expended on the part of either the government or the taxpayers, which is most attainable where competitiveness is engendered with the importance of making improvement a continuous strides. The business-like approach management as canvassed by NPM theorists would have been engendered are they being the Lagos State Public Procurement Governing Board (LSPPGB) has been constituted, this would have enhanced the procuring entities procurement through the Lagos State Public Procurement Agency. The changes become imperative as it affects the mode of operation by the government in the public sector, which means there is an urgent need to shift from bureaucratic administration to business-like professional management. Contracts award processes were being undertaken by government representatives, civil society organisation, and professional in order to endear competitiveness, transparency, and accountability. The NPM theory also favours the disaggregation and decentralization of contracts award processes into different MDAs tender board, which is in line with the constitutional provision of Lagos State Public Procurement Law this in according to the reorganization of the procurement process in line with private sector method of acquisition and award of contracts. The approach is adopted so as to address accountability, waste, and inefficiency that characterized centralized procurement in the public sector. Private investors through competitive bidding which is the hallmark of public procurement policy better handle these contracts.

Methodology

This section presents the methodology that was adopted in the study. It further discussed the methods and techniques that were used in order to achieve the paper's objective, with data analysis techniques to test hypothesis. The study was carried out in Lagos state, southwestern Nigeria. The State was created in 1967, formerly comprised of the two parts, the Lagos colony, and part of Western Region. It was administered with the creation of 20 Local Government Area, and with the advent of fourth republic in 1999; the State government created 37 Local Council Development Area. In order to ensure that good governance are brought closer to the grass roots, as the State represents a commercial hub of the country and with its attendant effects on the infrastructures in the state.

The target study population of this study was one thousand four hundred and one (1401), and this comprised of 1398 respondents and 3 interviewees. This consisted of the top management level and middle level from GL 07 to GL 17 as the majority of the staff in these levels determined the procurement plans in each of the ministries that formed the budgetary allocation for the ministries and agencies of government and which formed procurement for that financial year. The population comprised Housing 110, Finance 89, Works and Infrastructure 240, and Justice 481. The top and middle levels of management in the ministries and agency were considered since they are actively involved in the procurement process that is, award and implementation. Also, 100 staff from LSPPA in the GL 07 to GL 17; the construction companies with their senior employees which formed the respondents are Craneburg Construction Company 69, Planets Projects 64, Hitech Construction Company 70 and the Messers First Investment Property Company 58. Civil

Society Organisations; Coalition against Corrupt Leader 25, Socio-Economic Rights and Accountability 32, BudgIT 31 and Ymonitor 29. The reasons for the selection of these construction companies were in the number of projects they had carried out in the state in the past six years for the two administrations under review and the involvement of new ones by the present administration.

Data Analysis And Interpretation

Testing of Hypothesis

This section analysed and interpreted the hypothesis formulated for this study. A regression analysis was used as the statistical tools for testing the hypothesis. The hypothesis stated that there is no significant relationship between compliance with Lagos State Public Procurement Law in the variant (probity, openness, and efficiency) and procuring entities. To test the above-stated hypothesis, data gathered from respondents on the extent of compliance with public procurement law in the variant (probity, openness, and efficiency) and procuring entities were standardised into regression analysis and was subsequently run on SPSS.

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	2.413	.336		7.178	.000
The public procurement law has brought probity in the procurement process	-.044	.067	-.053	-.649	.517
The ministries compliance with openness in the procurement process has improved public trust	.173	.080	.164	2.163	.032
Procuring entities compliance with procurement law has enhanced efficiency in the contract execution	.212	.076	.209	2.799	.006

a. Dependent Variable: The performance function of the procuring entities complied with procurement law
Source: Fieldwork Analysis, from SPSS, 2019

Interpretation

The regression coefficient table 4.3.1 gives a p-value of 0.000 which is less than 0.05 level of significance, this implies that the model is fit for use as multiple linear regression. The Table 4.3.1 gives the model as $N=2.413-0.044P+0.173O+0.212E$ where N is procuring entities and P, O, and E are probity, openness, and efficiency respectively. The model of the study identifies the strength of the effect of the independent variables of probity, openness, and efficiency on the dependent variable procuring entities. Whereas, the probity figure shows a negative relation with the procuring entities, this implies that an increase in the level of probity process leads to decrease in the procuring entities performance compliance with the implementation of public procurement law unlike the

openness and efficiency which have positive effect on the procuring entities performance compliance with the public procurement law. There is a positive relation in openness and efficiency with the performance function of the procuring entities in compliance with the implementation of public procurement law. That is, an increase in the level of openness and efficiency will lead to an increase in the performance function of the procuring entities compliance with implementation of public procurement policy respectively. The last column depicts the significance of each coefficient (the coefficient is significant if p-value is less than 0.05). From the model both openness and efficiency are statistically significant since the level of significance is (0.05), and p-value for openness is (0.032) and efficiency is (0.006) respectively. Therefore, the model is now $N=2.413+0.173O + 0.212E$ in accordance with the statistical significance of the variant tested.

The column of the standardised coefficient gives the relative importance of each variable to the dependent variable. The importance is ranked base on the absolute value of its standardised coefficient, in this case the variables in their order of importance is efficiency, openness, and then probity. It is therefore apposite to infer that the importance of efficiency, openness, and probity among various variable of public procurement cannot be over emphasized in the level of compliance with the public procurement law in the various procuring entities of government. Conclusively, there is statistical significant relationship between compliance with Lagos State Public Procurement Law variant (openness and efficiency) and procuring entities.

Extent of Compliance with the Implementation of Lagos State Public Procurement Law among the Procuring Entities

This part investigated the extent of compliance with the implementation of Lagos State Public Procurement Law among the procuring entities. In order to achieve this, items in the research instrument were designed to gather perception of the respondents on the extent of compliance with the policy. The measurement scale adopted were very large extent (5), large extent (4), undecided (3), fair extent (2), and less extent (1). The responses were rated so as to infer the perception of the majority of the respondents regarding the extent of compliance to the implementation of the Law with very large extent and large extent were assigned significant while less extent and fair extent were assigned insignificant. The decision rule is that any responses which are more than 50% are either significant or else insignificant.

The result of the survey showed that compliance with the implementation of the procurement law has not engendered value for money with an insignificant level of compliance extent. This position was buttressed by 58% of the respondents and with a mean value of less than 3 ($\bar{x}= 2.49, \sigma =1.57$). Another finding also showed the extent of compliance with probity in the implementation of the procurement law was significant with 56.4% of the respondents. This implies that probity in the implementation of the procurement law has brought about the needed appreciable level of confidence in the contract processes. This was further buttressed by ($\bar{x} = 3.01, \sigma =1.60$).

Another variable tested was the level openness in the procurement process. The survey sought to know the extent of compliance among the ministries and improvement it had brought to public trust as it relates to contract. The result showed that a significant level of compliance with openness has been achieved with 54.4% of the respondents that

agreed to the claim. The distribution affirmed this ($\bar{x} = 3.30$, $\sigma = 1.25$) with the inference that openness has had a greater impact in the implementation of the procurement law through the competitive bidding relatively adopted by the procuring entities. The result of the survey also revealed that procurement law has enhanced efficiency in the contract being executed. 71.2% of the respondents agreed with the assertion, with the extent level of being significant. Therefore, the extent of compliance with the implementation of the procurement law has significantly enhanced efficiency in the award and implementation of contract in the state. Also, the distribution result of ($\bar{x} = 3.61$, $\sigma = 1.30$) acknowledged this claim.

The performance function of the procuring entities complied with procurement law was verified here. It was shown from the survey result that their compliance with the procurement law was significant with the respondents level of agreement at a 69.8%. The result was as well asserted by the distribution of ($\bar{x} = 3.62$, $\sigma = 1.44$). In conclusion, it now suffices to infer that the procuring entities extent of compliance with the implementation of the procurement law has been huge and significant in the state. The sixth assertion was to determine if the procurement law has ensured cost-effectiveness. The result of the survey proved contrary as 55.9% of the responses showed an insignificant level of compliance with the claim. This was further confirmed by the distribution of ($\bar{x} = 2.78$, $\sigma = 1.51$). This result showed that compliance with cost-effectiveness in the contract implementation has not been adequately adhered to.

The respondents rated the extent of compliance with professionalism in the implementation of the procurement law as significant with 68.3% most effective responses. This implies that the state of professionalism in the implementation of the procurement law has considerably and significantly been impressive. This was further supported by the mean value of 3.46 and a standard deviation of 1.36 which avowed the views of the respondents.

The responses generated as it regards to the competitiveness in the award of contract showed that extent of compliance level with competitiveness in the implementation of the procurement law among the ministries was significant with 58.5% of the respondents confirmed this assertion, with the distribution of ($\bar{x} = 3.34$, $\sigma = 1.58$) that also affirmed the claim. 55% of the respondents rated the appropriated budget and actual release of a fund as significant in the extent of compliance with the implementation of the procurement law. This implies that the significant level of compliance with the procurement law among the ministries has been attributed to the accessibility of funds. This was further confirmed by the ($\bar{x} = 3.28$, $\sigma = 1.60$) which subsequently avowed the respondents' views.

The extent of compliance with the establishment of adjudicatory mechanism has been insignificant with 59.9% of the respondents which affirmed this claim as it concerns different legal issues and cases in the contract implementation in the state. This was also confirmed by distribution with a mean value of 2.61 and a standard deviation of 1.31. The conclusion from the above therefore was that the adjudicatory mechanism of different ministries in conjunction with the Ministry of Justice has been insignificant as it concerns the implementation of the procurement law in the state.

Table 2 Extent of Compliance with the Implementation of Lagos State Public Procurement Law among the Procuring Entities (N=202)

Assertions	VLE f (%)	LE f (%)	UD f (%)	FE f (%)	LE f (%)	$\bar{x}$	σ
Compliance with the procurement law engendered value for money	28 (13.9)	48 (23.8)	9 (4.5)	27 (13.4)	90 (44.6)	2.49	1.57
Public procurement law brought probity in the procurement process	38 (18.8)	76 (37.6)	7 (3.5)	13 (6.4)	68 (33.7)	3.01	1.60
Ministries compliance with openness in procurement improved public trust	36 (17.8)	78 (38.6)	10 (5.0)	67 (33.2)	11 (5.4)	3.30	1.25
Compliance with procurement law enhanced efficiency in contract execution	53 (26.2)	91 (45.0)	5 (2.5)	33 (16.3)	20 (9.9)	3.61	1.30
The procuring entities complied with public procurement law	59 (29.2)	82 (40.6)	3 (1.5)	41 (20.3)	39 (19.3)	3.62	1.41
Procurement law compliance ensured cost-effectiveness in contract process	38 (18.8)	44 (21.8)	7 (3.5)	61 (30.2)	52 (25.7)	2.78	1.51
Compliance with the procurement law stimulated professionalism in contract process	43 (21.3)	95 (47.0)	4 (2.0)	31 (15.3)	29 (14.4)	3.46	1.36
Compliance with procurement law promoted fairness	69 (34.2)	49 (24.3)	4 (2.0)	41 (20.3)	39 (19.3)	3.34	1.58
Appropriated budget and actual release of fund enhanced compliance	70 (34.7)	41 (20.3)	8 (4.0)	41 (20.3)	42 (20.8)	3.28	1.60
The agency complied with the procurement law in establishing adjudicatory mechanism	14 (6.9)	61 (30.2)	6 (3.0)	75 (37.1)	46 (22.8)	2.61	1.31

Source: Fieldwork Survey, 2018

VLE (very large extent), LE (large extent), UD (undecided), FE (fair extent), LE (less extent) $\bar{x}$ (Mean), and σ (standard deviation) f=frequency, %=percentage

Discussion of Findings

The paper interrogated the extent of compliance with public procurement law among the procuring entities. The study finding showed that there is a significant relationship between the compliance with procurement law of variant (probity, openness, and efficiency) and procuring entities with result of p-value less than 5%; ($0.000 < 0.05$).

From the study, it was revealed that the public procurement law variant that has desired relationship with procuring entities are openness and efficiency. It was concluded from the result that an increase in openness and efficiency would lead to increase in the of compliance level by the procuring entities which enhances judicious spending of budget appropriated and minimum expenditure on frivolities is enhanced so as to achieve the policy's target of accountability. This affirmed the work of (Eyaa & Oluko, 2011) on the

need to ensure compliance with efficiency in the public procurement policy among the procuring entities. It suffices to say that the importance of complying with openness and efficiency in the procurement process by the procuring entities is the heart and soul of the government procurement process. That is the procuring entities compliance with minimum expenditure on materials, time, cost, among others would ensure accountability and transparency. This is in line with the view of Amayi and Ngugi 2013 who both postulated that a government gets more on its commitment if efficiency is complied with strictly in the course of procurement process. This was further supported by the study with 71.2% respondents of the quantitative data verified the fact that efficiency drives the ministries' activities. This is in pact with the finding of Agbesi (2009) where he recommended that efficiency should be entrenched and sustained in the public procurement process across ministries, department, and agencies.

The second variant, openness was also impactful as it subsequently had relationship with the procuring entities as revealed from the model. Also, an increase in the extent of compliance with public procurement law with the variant openness would have a direct relationship in the activities of procuring entities. The quantitative finding affirmed this result with 56.4% of the respondents who agreed strongly. The summary of the finding, therefore, affirmed the need to embrace openness closely in the procurement process of the procuring entities so as get value for money expended and to improve people's confidence in the procurement process. This result also got literature support from the work of Dakwanya and Murispshaka (2017) where both discussed extensively on the need to ensure compliance with openness in the public procurement policy.

Conclusion remarks

The study further showed that the policy objective of efficiency, probity, and openness among the various procuring entities as to a large extent being achieved, though with various challenges undermining the implementation of public procurement policy, which needs prompt consideration. Policy should be formulated which would mandate audit of account for money expended on all the capital expenditure contracts so as to strengthen and empower the agency's activities on how funds were appropriated, released, and expended as provided for in the appropriated budget. Hence, budget for the previous year should be audited and published for each of the ministries, departments, and agencies before the passage of the current year's appropriation. This would further ensure stricter compliance with fiscal discipline as envisaged in section 19 of Lagos State Public Procurement Law 2011 (LSPPL) as well as the provisions of the Fiscal Responsibility Act 2007 respectively

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