

NIGERIA’S IMPLEMENTATION OF CHAPTER 11 OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC)

BACKGROUND

Nigeria signed the UNCAC on the 9th of December 2003 and ratified on the 24th of October 2004. Prior to the coming into force of the UNCAC, Nigeria has through both legislative and administrative measures taken steps to implement many of the initiatives contained in the UNCAC and other regional instruments with a view to ensuring transparency and accountability and strengthening the National Integrity System.

ARTICLE 7 –PUBLIC SECTOR

Art 7(1) - Recruitment of Personnel, Regulation of Remuneration

There is a *Federal Civil Service Commission* which has the responsibility to recruit personnel into the Civil Service after due advertisements and interviews. Further, to ensure equitable representation in appointments to offices, the *Federal Character Commission* set up under the Constitution monitors and ensures merit and ‘federal character’ in appointments and promotions to offices in the Public Service. Currently the country is implementing a National Strategy for Public Service Reforms superintended by the Bureau for Public Service Reforms (BPSR) to ensure proper implementation of the laws and administrative processes in compliance with the UNCAC and other instruments. The Strategy focuses on a performance based management system to ensure efficiency and promote a merit –based approach. The National Salaries, Income and Wages Commission regulate wages of Public Servants and provides for a consolidated salary scheme within the Public Service.

The challenges of implementation of this article is trying to create a balance between merit and efficiency and ensuring federal character, inclusiveness, and adequate representation across the ethnic and religious diversity.

Training of Public Servants

Nigerian Public Servants benefit from structured training and capacity building programs to ensure proper performance of duties. There are dedicated service –

wide training institutions such as the Public Service Institute (PSI), as well as sector specific training institutions. Nigeria has also benefited from several training programs facilitated by bilateral and multi-lateral donors.

Articles 7(2) and Articles 7(3) - Selection and Funding of Political Parties

The Nigerian Constitution prescribes criteria for qualification for election into elective offices such as that of State and Federal Legislatures, State governors and their deputies as well as the President and Vice President. The Electoral Act also provides regulations in respect of political party financing, sanctions for breach, and empowers the Independent National Electoral Commission(INEC) to monitor and enforce the regulations therein.

Article 7(4) and Article 8- Conflict of Interest, Code of Conduct for Public Officers

The Code of Conduct for Public Officers enshrined in the Constitution and administered by a dedicated agency- *The Code of Conduct Bureau* has specific provisions relating to Conflict of Interest. *Section 5* of the Code of Conduct and Tribunal Act provides as follows: ‘*A Public Officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities*’. The Code also addresses other issues such as prohibition of gifts from private entities who have dealings with the government; maintaining foreign accounts; receiving benefits for acts done or omitted to be done; membership of secret societies; restriction on loans; abuse of powers; and running of private businesses, profession or trade while holding public office.

Declaration of Assets

The Code of Conduct for Public Officers makes it mandatory for all public officers to declare their assets at the assumption of public office, every four years thereafter, and at the end of the service. Public Officers are also required to declare the assets of their spouses as well as that of unmarried children below the age of 18 years. A sample Asset Declaration is attached as **Annexure 1**.

The Code of Conduct applies to all officers within the public service and includes elected officials such as legislators, governors and their deputies as well as the President and the Vice President. There is a dedicated court – *The Code of Conduct Tribunal* which tries and sanctions Public Officers who are in breach of the Code. The Sanctions for breach are quite severe and include

vacation of elective or appointed office; disqualification from holding public office and seizure and forfeiture of property.

Conflict of Interest

The Code of Conduct Bureau investigates and prosecutes cases of Conflict of Interest among Public Officers. A short list of the cases being prosecuted by The Bureau in 2012 is attached as **Annexure 2**.

The challenge of implementation of this article lies mainly in the capacity to verify the declarations of assets given the number of Public Servants at the federal, states and local government levels who are mandated to declare their assets under the law. The Code of Conduct Bureau has however prioritized the verification of assets of Politically Exposed Persons (PEPS) and high ranking Public Servants.

Article 8(4) Reporting Corruption

There are procedures within the Public Service Rules and the processes and mandate of the Public Complaints Commission (The Ombudsman), for Public Servants to report cases of misconductⁱ, administrative anomalies, acts contrary to any law etc.ⁱⁱ. The acts envisaged under these provisions include acts of corruption. Further the enabling laws of the dedicated anti-corruption agencies- The Independent Corrupt Practices and Other related Offences Commission (ICPC) and the Economic and Financial Crimes Establishment Act (EFCC) require citizens including Public Servants to report acts of corruption to these agencies.ⁱⁱⁱ

The Anti-Corruption Agencies (ACAs) carry out public enlightenment programs (trainings, workshops, radio and television jingles, and talk shows) to educate citizens on issues of corruption including where and how to report cases of corruption.

Nigeria has a number of anti-corruption agencies focusing on different aspects of corruption. These agencies raise awareness and sensitize the public on corruption related issues.

The Economic and Financial Crimes Commission-EFCC and Public Enlightenment.

The EFCC runs weekly programmes on radio and television, (*The Eagle*), as part of its intensive anticorruption and publicity campaign. *The Eagle* runs on three Nigerian television networks –The Nigerian Television Authority (NTA), the Africa Independent Television (AIT) and Channels Television and also on satellite. The radio version *The Eagle* airs on the Federal Radio Corporation of Nigeria (FRCN) network. The programs draw attention to the evils of corruption and encourage citizens’ participation in the anticorruption war, by, among other obligations, reporting acts of corruption to the Commission. The EFCC also has hotlines through which citizens report corruption and works with several NGOs and CBOs in this activity. Since the radio and television programs started in March 2009, the two programmes have run over 150 consecutive editions each.

In addition, the EFCC also publishes a quarterly magazine, *Zero Tolerance*, which incorporates (in print form) all the above mentioned Radio/TV programmes, as well as a user friendly website which is regularly updated.

The EFCC also has a robust public education and enlightenment programme, involving projects carried out through dedicated units. Some of these include holding regular town hall meetings and the formation of Zero Tolerance Clubs in tertiary institutions, and Integrity Clubs in secondary schools across the country. The Commission organises periodic anticorruption training for teachers and public office holders at the local council and State levels.

The Independent Corrupt Practices and Other Related Offences Commission- ICPC and Public Enlightenment.

The ICPC runs publicity campaigns through syndicated radio programmes, adverts and jingles, mainly on state radio stations nationwide.

In addition, there are various tailor-made and impactful training/workshop/sensitization and public empowerment platforms such as *the*

National Anti-corruption Volunteer Corps (NAVC); National Anti-corruption Coalition (NACC); Local Government Integrity Training(LGIT); Anti-corruption and Transparency Monitoring Units (ACTUs) located in Federal Government Ministries, Departments and Agencies; Anti-corruption Clubs in Secondary schools and Anticorruption Vanguard in Tertiary institutions; Triennial sensitization lecture/Training programmes at National Youth Service Corps (NYSC) orientation camps nationwide; Engagement with Community Development associations(CDAs); National Value Curriculum(NVC) and Integrity Lecture series in schools and; and The commemorative campaigns during the Annual International Anti-Corruption day. The aggregated data on some of these campaigns is attached as **Annexure 3.**

Further, the ICPC has formulated and disseminated a number of publications to raise awareness and provide critical information to the public on anti-corruption issues. These include “*About ICPC*”, “*Frequently Asked Questions*”, “*Integrity Made Easy*”, “*Local Government Training on Institutionalizing Integrity*”, and “*Curbing Corruption on Nigerian Roads*”

Article 9 –PUBLIC PROCUREMENT AND MANAGEMENT OF PUBLIC FINANCES

Nigeria has since 2007 codified rules governing public procurement at the Federal level with the enactment of the Public Procurement Act 2007 (PPA). The PPA establishes the Bureau of Public Procurement (BPP) and invests it with powers to regulate and supervise procurement activities in the Ministries, Departments and Agencies. The PPA provides for wide distribution of information of opportunities for participation in the procurement process; criteria for participation; publication of pre-determined selection and award criteria; and a six week period for notification of bidders. The law also establishes a system of domestic review and appeal procedures. There are also provisions to regulate the conduct of personnel responsible for public procurement such as declaration of interest; screening; and training requirements. To ensure effectiveness, a procurement cadre has been established in the Public Service. *The Nigerian Public Procurement Regimen goes beyond the requirements of the UNCAC by requiring bidders to accompany bids with affidavits of disclosure on any interest of the officers of the procuring entity, in the bidding company.* The PPA also provides for a mandatory citizens observation of the procurement process and access to procurement information.

The major challenge in implementing Article 9 is the Country's fiscal federalist structure which gives legislative autonomy to the federating states in matters such as public procurement. As a result, the federal legislation cannot be implemented in the states and the states are required to pass their own public procurement laws.

However, due to intensive advocacy, we are happy to report that at present 18 states out of the 36 states of the Federation, have passed Public Procurement Laws and have established Public Procurement Bureaus. The states are **Adamawa, Anambra, Bauchi ,Bayelsa, Delta ,Ebonyi, Ekiti, Enugu, Imo, Jigawa, Kaduna ,Kebbi, Kwara, Lagos , Niger, Ondo, Osun, and Rivers.**

Corruption in Procurement:

The BPP, the course of its activities identify cases of corruption in the procurement process and reports same to the anti-corruption enforcement agencies. A list of such cases reported to the EFCC from 2010 to 2012 is attached as **Annexure 4.**

Article 12 –Preventing Corruption in the Private Sector-Enhancing Accounting and Auditing Standards

The Companies and Allied Matters Act (CAMA) provides a statutory framework for the regulation of the operation of private companies and provides specific guidelines on their formation, registration, ownership, accounting, filing of annual returns and reporting of company affairs. The CAMA establishes the Corporate Affairs Commission(CAC) which is a depository for all company information and ensures compliance with regulations. It also enables access to information on legal and natural persons behind corporate entities.

Further, all professional bodies in Nigeria such as the Nigerian Bar Association, The Medical and Dental Council, etc. are established by statute and these enabling laws provide for issuance of Codes of Professional Conduct as a mechanism for complaint and sanctions. There are also several sector specific industry regulators such as the Central Bank of Nigeria (CBN) and the Nigerian Deposit Insurance Company (NDIC) in the banking and financial sector; The Special Control Unit Against Money Laundering (SCUML) dealing with designated non- financial institutions (DNFI); The Securities and Exchange

Commission (SEC) regulating The Capital Market; and the Nigerian Extractive Industries Transparency Initiative (NEITI) for the Extractive sector.

In respect of accounting and auditing standards in the private sector, The National Accounting Standards Board (NASB), a government regulatory body has the mandate to issue commercial accounting standards for the Country and monitor compliance.

There are several Public /Private Initiatives to curb corruption and ensure transparency and accountability such as the anti-money laundering initiatives between the CBN, ACAs and the Banking and Financial sector; The Code of Corporate Governance developed by the SEC, the CAC and private sector companies; The United Nations Global Compact and the Business Action Against Corruption (BAAC) which Nigeria has signed on to.

There are codified Conflict of Interest rules enshrined in the Code of Conduct for Public Officers and the Public Procurement Act.

The challenge in implementing this article stems from the fact that there is a huge informal sector with many businesses operating outside the CAC framework thereby making monitoring of compliance with regulations problematic. However, there are on-going efforts to intensify the regulation of this informal sector. The CBN in collaboration with SCUML has just issued guidelines to Banks not to deal with DNFI's who are not registered with SCUML. This will ensure a comprehensive mapping of this sector and improve compliance with Article 12.

ⁱ Section 030304 Of the Public Service Rules

ⁱⁱ Section 5 of the Public Complaints Commission Act CAP 377 LFN

ⁱⁱⁱ Section 23(1) ICPC Act.

ANNEXTURES

ANNEXTURE 1 –Sample Asset Declaration Form (Hard Copy Only)

Annexure 2- CONFLICT OF INTEREST CASES **CASES OF CONFLICT OF INTEREST INVESTIGATED**

1. FRN VS UZOMA ATTANG

- Engaged and participated in the management and running of private companies engaged in business and trade in contravention of S. 6(b) of the Code of Conduct Bureau and Tribunal Act.
- Charged to the Code of Conduct Tribunal on 3/7/12
- Charge No. CCT/ABJ/10/12

2. FRN VS DAUDA ASHIGYE

- Registered and participated in full running of a private company engaged in Hotel Management and General Contract in contravention of the Code of Conduct Bureau and Tribunal Act.
- Charged to Code of Conduct Tribunal on 3/7/12
- Charge No. CCT /ABJ/6/12

ANNEXTURE 3 – ICPC DATA ON PUBLIC ENLIGHTENMENT CAMPAIGNS

S/N	Platform	No. of Campaigns (2007- 2011 only)	No of people impacted
1.	NAVC	115 campaigns	= 36,110
2.	NACC	335 campaigns	= 46,900
3.	LGIT	9 separate sessions to date	2,078
4.	ACTUs	355 campaigns by MDAs	159,750
5.	Anti-corruption Clubs and Anti-corruption Vanguard	863 campaigns	= 366,775
6.	Lectures/Training programmes at the orientation camps of National Youth Service Corps (NYSC)	11 campaigns	20510
7.	Engagements with Community Development Associations(CDAs)/Nigerian Unions of Road Transport Workers(NURTW)	3 campaigns so far	= 1335

8.	NVC – Teachers’ orientation	One major campaign	67 Master-trainers
9.	Integrity Lectures in series in Secondary schools	88 schools covered (291 teachers trained)	6,011 persons
10	Commemorative campaigns for the Annual International Day against Corruption.	5 campaigns	750 persons
11	Sensitization and Public-hearing sessions during System Study/Review exercises	58 exercises since 2007	2,900 persons
12	Other public lectures and fora	N/A	N/A
13	Publications	N/A	N/A

ANNEXTURE 4

LIST OF CASES ON INFRACTION OF THE PPA, 2007 FORWARDED TO EFCC FOR INVESTIGATION FROM 2010 TILL DATE

S/N	SUBJECT MATTER	PROCURING ENTITY RECOMMENDED FOR INVESTIGATION	DATE
1	Request For Further Investigation Into Breach Of The Public Procurement Act, 2007 By The Federal Mortgage Bank Of Nigeria	Federal Mortgage Bank Of Nigeria	29/09/2010

2	Recommendation For Investigation. Re: Policy Of Exclusion In The Procurement Process At Nnamdi Azikiwe University Awka (Unizik); With Particular Reference To The Contract Award For Construction Of Access Road From University Second Gate To Rufai Garba Square/Ifite Gate	Nnamdi Azikiwe University	07/07/2011
3	Investigation Of Likely Breach Of The Public Procurement Act, 2007 In The Bid For The Award Of Contract To Supply Dynamo/Solar Battery Powered Multi-Band Radio To National Poverty Eradication Programme(NAPEP)	National Poverty Eradication Programme (NAPEP)	20/07/2011
4	Recommendation For Investigation: Re: Surreptitious Move To Scheme Against Sykaphia International Consult Ltd In The 2010 (Special) Intervention Projects At Nasarawa State University, Keffi.	Nasarawa State University	01/08/2011
5	Re: Application For Administrative Review Of Award Of Contract For The (1) Maintenance Of Ado-Ilumoba-Agbado-Ikare In Ekiti State, Sect B,(2) Lafiagi-Mokwa Road In Niger State.	Road Sector Development Team, Federal Ministry of Works	23/01/12

6	Re: 2011 Capital Project: Forged Bid Security Used As Instruments For Getting Contract Jobs At The Federal Ministry Of Environment.	Federal Ministry of Environment	01/03/12
7	Re: Forwarding Of Report Of Procurement Audit At The Federal Ministry Of Education: Request For Investigation	Federal Ministry of Education	21/06/12
8	Re: Procurement Of 100 Nos. Channel Buoys For Nigerian Ports Authority: Request For Investigation	Federal Ministry of Transportation	23/05/12