

Effects of Institution Location on the Levels of Compliance with Public Procurement Act, 2007 in Project Delivery among Public Higher Education Institutions in Southwest Nigeria

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Abstract

Procurement in public organizations constitute an important activity which involves a colossal amount of money. Public Higher Educational Institutions (PHEIs) in Nigeria procured infrastructures on yearly basis through grants for infrastructures development. The use of public money for this purpose requires that the principles of transparency, openness and accountability are observed. However, compliance with due process in the procurement process by these institutions remain a contentious issue. This study examines the contributions of institution location on the Levels of Compliance (LOC) with Public Procurement Act (PPA) 2007 in the procurement of building projects in all PHEIs in Southwest Nigeria. The objectives are to investigate the LOC with public procurement Act 2007 and the effects of institution location on LOC with the Act. In all, 44 PHEIs comprising 17 Universities, 17 Polytechnics, and 10 Colleges of Education were used for the study. A questionnaire survey approach covering the entire 44 PHEIs in Southwest, Nigeria were adopted for the study. Data collected were analysed using mean and ANOVA. The results revealed that the LOC with only two (2) provisions of PPA 2007 namely; funding of capital projects by PHEIs and procedure of payment for contractors/suppliers that handled capital projects varied according to the location of the institutions. The study therefore concluded that the location of the PHEIs had effect on the level of compliance with the PPA, 2007.

Keywords: Compliance, higher education institutions, institution location, project delivery, public procurement act.

Introduction

Governments of the nations of the world acquire several necessities in form of goods, works and services for the benefit of their people. The process through which these necessities are acquired, purchased or obtained is referred to as public procurement (World Bank, 1995). It is an integral function of governments in both developed and developing countries of the world (Thai, 2001) The process usually involves a lot of financial commitment and is considered as a vital instrument for achieving economic, social and other objectives (Arrowsmith, 1998). It involves administrative processes in accordance with the countries rules, regulations or laws. Developed and developing countries of the world in line with international standard on procurement operate different laws for the regulation of their procurement. In Nigeria all public procurements are governed by Public Procurement Act 2007.

The Tertiary Educational Institutions in Nigeria comprise of Universities, Polytechnics and Colleges of Education. Presently, Nigeria have 93 Public Federal Tertiary Institutions while the State Universities, Polytechnics, and Colleges of education are respectively totalled 136 (National Board for Technical Education NBTE, 2018; National Commission of Colleges of Education, NCCE, 2019; National University Commission NUC, 2019). Southwest, Nigeria have 44 Public Tertiary Educational Institutions (Federal and State) consisting of Universities, Polytechnics and Colleges of Education located in the six (6) states of Ekiti, Lagos, Ogun, Ondo, Osun and Oyo (JAMB, 2017).

Previous Studies

Nigeria, like other countries of the world began the race of public reforms which dated back to 1999 (Musa, Success & Nwaorgu, 2014). Past government in Nigeria before the year 1999 experience periods of frauds, corruption and many unwholesome procurement practices. This was attributed to prolonged military rule and absence of statutory laws at all the three stages of government namely; local, state and federal levels upon which public procurement are based (Musa, Success & Nwaogu, 2014; Kareem, Asa & Lawal, 2014). Hence government at the time resolved its commitment to adopt transparency, equity, justice and accountability as its guiding principles and policy imperatives. This is in an attempt to provide a difference to what operates in the past governance. Nwankwo (2004) maintained that these principles are to ensure commitment to public policies and good governance. (Nwankwo, 2004). Public and Private Development Centre (PPDC, 2012) maintained that following the return to civil rule in 1999, the Nigerian government realized the enormous level of corruption in the country and took drastic steps aimed at addressing it in the public service. The government initially submitted an Executive Bill to the National Assembly which led to enactment of the Independent Corrupt Practices and Other Related Offences Commission Act in 2000.

In 2001, the Nigerian Government in attempt to ensure credibility, integrity and accountability in public procurement issued New Policy Guidelines for procurement and award of contracts in Government Ministries Departments, Agencies and Parastatals. (Kareem,Asa & Lawal 2014). The Budget Monitoring and Price

Intelligence Unit (BMPIU) now Bureau of Public Procurement (BPP) was created in 2001 to implement public procurement Reforms as one of the transparency pillars in the overall Federal government economic reform programmes (Wahab, 2014).

Furthermore, government in attempt to address the issue of corruption in public procurement also proposed to enact a Public Procurement Bill to introduce international standard practices and regulations in public procurement. In the attempt to realize this, the federal government invited the World Bank to first conduct a nationwide assessment of public corruption. The result of that assessment carried out in conjunction with a national task force, Country Procurement Assessment Report (CPAR) 2000, formed the basis of the Public Procurement Act, 2007. The CPAR was a detailed diagnosis of the Nigerian procurement system and included both findings and recommendations. The report of the CPAR unearthed several inadequacies in the country procurement system. It discovered an absence of a public procurement law and institution with the responsibility of issuing policy direction on public procurement in the country. It also discovered the absence of a well spelt standards for carrying out procurement. The absence of institution for issuing policy direction was discovered to be the emergence of irregularities, sharp practices, graft and bad management of public procurement in Nigeria (Sope, 2014).

This is to ensure that public procurements are carried out in a manner that guarantee transparency and value for money employed in procurement of goods, works and services without sacrificing quality or standards. These procuring entities such as Public Higher Educational Institutions (PHEIs) are expected to comply with the provisions of Public Procurement Act 2007 in the award and execution of construction projects. Public Higher Educational Institutions in Nigeria have Governing Councils that give them some autonomy. Each of the institutions as a result of their autonomy establishes structures for procurement of projects. Procurement are either funded by procuring entities through budgetary appropriation for public procurement as described in Section 16 subsection1(b) of PPA 2007 (FGN, 2007), internally generated revenue by PHEIs or funds obtained through agencies like; Unesco, TETFund, World Bank among others in form of loans, grants or donations. . The drive for the regulation of procurement arise out of the need to ensure prudent management of the huge amount of money involved in the procurement process (Musa, Success and Nwaorgwu, 2014). OECD, (2007) discovered that the major source of misapplication of public fund has always been through mismanagement of procurement activities in public institutions

Wahab, 2014 identified the objectives of Public Procurement Act as; establishing a statutory and institutional framework for public sector procurement; establishing a clear-cut procedure to ensure credibility, integrity and transparency in contract award and; instituting a control mechanism for the review of procedure in contract award. (FGN, 2007) in Section 15 subsection 1 on scope of application of the Act provides that the Act shall apply to all procurement of goods, works and services carried out by; (1) the Federal Government and all its procurement entities and (2) all other entities outside the foregoing that derive at least 35% of the funds appropriated or proposed to be appropriated for every procurement as described in the PPA 2007 from the Federation Share of Consolidated Revenue Fund; (3) Shall not apply to procurement of Special Goods, Works and Services involving national defence, or national security unless President's express approval has been first sought and obtained.

The Act was enacted in 2007 as a regulatory framework for all public procurement in Nigeria. It stipulates clear cut procedures for achieving competitiveness, credibility, accountability and transparency in all procurement financed with public funds. However, several years after the enactment, compliance with the Act is still a major challenge (Ayangade, Wahab and Alake, 2009; Wahab, 2014; Hyancinth & Yibis, 2017).

Several literatures exist on the compliance and implementation of PPA 2007 by Public Institutions. Such studies established corruption and noncompliance with the process of implementation of the procedures specified in the Act by the public procurement entities. However, such studies failed to address the issue concerning the contribution of location of procurement entities and the levels of compliance (LOC) with the provisions of the Act particularly as it relates to Public Higher Educational Institutions in Nigeria. It is on this basis that, this study attempts to fill the gap in literature on the LOC with PPA 2007 and effects of location of PHEIs in Southwest, Nigeria on compliance with the Act. The objectives are to evaluate the LOC with the Act by PHEIs in Southwest, Nigeria and to determine the contributions of the location of the PHEIs on the LOC with the Act by the PHEIs in

Southwest, Nigeria. The achievement of this objective will be valuable to the Bureau of Public Procurement in assessing the compliance levels of the institutions in the southwest geographical region.

Research Methods

To achieve the objectives of the study a field survey was carried out. Nigeria is made up of six geo-political zones, namely; Northwest, Northeast, Northcentral, Southwest, Southeast and Southsouth. Southwest being one of the six geo-political zones constitutes the coverage of this study. The Southwest zone is further divided into six states namely; Ekiti, Lagos, Ogun, Ondo, Osun and Oyo. The study population covers the entire 44 Public Higher Educational Institutions in the Southwest zone and 44 completed building projects done by the institutions in the year 2016. There are 17 Universities, 17 Polytechnics and 10 Colleges of Education in the zone. The project with the highest value procured by each institution in 2016 was selected by purposive sampling technique to make a sample size of 44 projects. In view of the population frame, the entire 44 PHEIs were selected as the sampling frame and size for the study.

Procurement officer of each institution with the responsibility of administration of the institution procurement department and ensuring compliance with and implementation of the provisions of Public Procurement Act 2007 constituted the respondents for the study. The procurement officers were either a builder, architect, engineer or quantity surveyor. Structured questionnaires administered to the respondents of the study and collected by trained research assistants were used as instrument for collection of data for the study. Data were collected on levels of compliance with PPA 2007.

The study selected 39 provisions of PPA 2007 relevant to construction project procurement. Respondents were requested to indicate 'Yes' for the provisions of the PPA, 2007 which they complied with when procuring construction projects in their Institutions and 'No' for provisions they did not comply with. The levels of compliance of each provision was derived as the numbers of PHEIs that complied divided by total numbers (44) of PHEIs.

Data collected were processed with the use of Statistical Package for Social Sciences Version 20 Software (SPSS 20) and were analysed using percentages, mean and ANOVA. The levels of compliance (LOC) with the selected provisions by each category of PHEIs was analysed as percentage of PHEIs that complied with the provision divided by the number of PHEIs. The hypothesis of the study was tested using ANOVA at $p\text{-value} \leq 0.05$, the rule for the rejection of the hypothesis is that when the calculated $p\text{-value} \leq 0.05$, the test rejects the hypothesis but when the calculated $p\text{-value} > 0.05$, the test fails to reject the hypothesis.

Results and Discussions

The results of the analysis of data collected are presented as follows:

Table 1: LOC with PPA, 2007 among Lagos, Ogun, Oyo, Ondo, Ekiti and Osun state

Institution Location	N	Mean	f-value	Df	p-value	Diff
Compliance with the:						
Funding of capital projects by the institutions						
Lagos	10	0.00	3.588	42	0.009	S
Ogun	10	0.80				

Oyo	6	0.50				
Ondo	6	0.50				
Ekiti	4	0.25				
Osun	8	0.38				
Values of project for which CNO is obtained from BPP						
Lagos	10	0.30	2.021	42	0.098	Ns
Ogun	10	0.00				
Oyo	6	0.33				
Ondo	6	0.17				
Ekiti	4	0.75				
Osun	8	0.25				
Basis for the award of contract for construction projects						
Lagos	10	0.90	1.727	42	0.152	Ns
Ogun	10	0.80				
Oyo	6	0.83				
Ondo	6	1.00				
Ekiti	4	1.00				
Osun	8	0.50				
Period when CNO to contract award is obtained						
Lagos	10	0.50	0.264	42	0.930	Ns
Ogun	10	0.70				
Oyo	6	0.67				
Ondo	6	0.50				
Ekiti	4	0.50				
Osun	8	0.50				
Procedure for procurement of capital project						
Lagos	10	0.70	0.596	42	0.703	Ns
Ogun	10	0.90				
Oyo	6	0.83				
Ondo	6	1.00				
Ekiti	4	0.75				
Osun	8	0.88				
Time allowed for bidding before award of contract						
Lagos	10	0.20	1.218	42	0.320	Ns
Ogun	10	0.00				
Oyo	6	0.33				
Ondo	6	0.17				
Ekiti	4	0.00				
Osun	8	0.38				
Minimum number of bids received before contract award						
Lagos	10	0.60	1.092	42	0.381	Ns
Ogun	10	0.60				
Oyo	6	0.83				
Ondo	6	0.50				
Ekiti	4	1.00				
Osun	8	0.88				
Procedure of payment for contractors/suppliers						
Lagos	10	1.00	6.218	42	0.001	S
Ogun	10	1.00				
Oyo	6	1.00				
Ondo						
Language of documentation of bids and contract						
Lagos	10	1.00	0.955	42	0.457	Ns
Ogun	10	0.90				
Oyo	6	0.83				
Ondo	6	1.00				
Ekiti	4	0.75				
Osun	8	1.00				

Table 1: LOC with PPA, 2007 (continued)

Ekiti	4	1.00				
Osun	8	0.50				
Criteria used to select contractors for capital projects						
Lagos	10	0.57	0.493	42	0.779	Ns
Ogun	10	0.56				
Oyo	6	0.49				
Ondo	6	0.67				
Ekiti	4	0.50				
Osun	8	0.48				
Process applicable to bids excluded from evaluation						
Lagos	10	0.20	1.445	42	0.231	Ns
Ogun	10	0.10				
Oyo	6	0.50				
Ondo	6	0.00				
Ekiti	4	0.00				
Osun	8	0.25				
Time taken to prepare procurement proceedings						
Lagos	10	0.20	0.714	42	0.617	Ns
Ogun	10	0.10				
Oyo	6	0.33				
Ondo	6	0.17				
Ekiti	4	0.50				
Osun	8	0.38				
Process applicable to unclassified procurement records						
Lagos	10	0.00	-	42	-	
Ogun	10	0.00				
Oyo	6	0.00				
Ondo	6	0.00				
Ekiti	4	0.00				
Osun	8	0.00				
Choice of contractor for award of contract						
Lagos	10	0.50	1.503	42	0.212	Ns
Ogun	10	0.20				
Oyo	6	0.50				
Ondo	6	0.83				
Ekiti	4	0.75				
Osun	8	0.50				
Person responsible for final selection of winning tender						
Lagos						
Ogun	10	1.00	2.093	42	0.088	Ns
Oyo	10	0.80				
Ondo	6	1.00				
Ekiti	6	1.00				
Osun	4	1.00				
	8	0.63				
The powers of the tenders' board						
Lagos	10	0.50	0.465	42	0.800	Ns
Ogun	10	0.20				
Oyo	6	0.50				

Table 1: LOC with PPA, 2007 (Continued)

Ondo	6	0.33				
Ekiti	4	0.75				
Osun	8	0.38				
Engagement of sub-contractor/supplier						
Lagos	10	0.80	1.966	42	0.106	Ns
Ogun	10	0.80				
Oyo	6	1.00				

Ondo	6	1.00				
Ekiti	4	1.00				
Osun	8	0.50				
Process of primary form of dispute resolution						
Lagos	10	0.00	2.079	42	0.089	Ns
Ogun	10	0.40				
Oyo	6	0.67				
Ondo	6	0.17				
Ekiti	4	0.25				
Osun	8	0.38				
Currency for stating values in the procurement						
Lagos	10	1.00	0.653	42	0.661	Ns
Ogun	10	0.90				
Oyo	6	1.00				
Ondo	6	1.00				
Ekiti	4	1.00				
Osun	8	1.00				
The contents of procurement contract						
Lagos	10	0.40	1.305	42	0.282	Ns
Ogun	10	0.40				
Oyo	6	0.61				
Ondo	6	0.50				
Ekiti	4	0.59				
Osun	8	0.54				
The approving authority for the conduct of procurement						
Lagos	10	0.40	1.113	42	0.370	Ns
Ogun	10	0.80				
Oyo	6	0.67				
Ondo	6	0.67				
Ekiti	4	0.25				
Osun	8	0.50				
Processes regarding the planning of procurement						
Lagos	10	0.43	0.307	42	0.906	Ns
Ogun	10	0.51				
Oyo	6	0.57				
Ondo	6	0.50				
Ekiti	4	0.40				
Osun	8	0.50				
Processes of implementation of procurement plans						
Lagos	10	0.60	0.696	42	0.630	Ns
Ogun	10	0.52				
Oyo	6	0.70				
Ondo	6	0.72				
Ekiti	4	0.73				
Osun	8	0.59				
The organ/committee in place for procurement						
Lagos	10	0.70	0.504	42	0.771	Ns
Ogun	10	0.66				
Oyo	6	0.80				
Ondo	6	0.73				
Ekiti	4	0.55				

Table 1: LOC with PPA, 2007 (Continued)

Osun	8	0.60				
The composition of the procurement planning committee						
Lagos	10	0.60	0.266	42	0.929	Ns
Ogun	10	0.52				
Oyo	6	0.53				
Ondo	6	0.67				
Ekiti	4	0.59				

Osun	8	0.48				
Processes adopted for procurement						
Lagos	10	0.73	0.506	42	0.770	Ns
Ogun	10	0.72				
Oyo	6	0.84				
Ondo	6	0.88				
Ekiti	4	0.72				
Osun	8	0.68				
Modes of bidding/tendering for construction projects						
Lagos	10	0.50	0.047	42	0.999	Ns
Ogun	10	0.50				
Oyo	6	0.50				
Ondo	6	0.47				
Ekiti	4	0.46				
Osun	8	0.50				
Activities performed during bid openings						
Lagos	10	0.58	1.058	42	0.399	Ns
Ogun	10	0.68				
Oyo	6	0.58				
Ondo	6	0.79				
Ekiti	4	0.44				
Osun	8	0.66				
Activities to be performed during bid solicitation						
Lagos	10	0.36	0.906	42	0.487	Ns
Ogun	10	0.40				
Oyo	6	0.32				
Ondo	6	0.54				
Ekiti	4	0.29				
Osun	8	0.38				
Margins of mobilization to be granted to a contractor						
Lagos	10	0.20	0.370	42	0.866	Ns
Ogun	10	0.30				
Oyo	6	0.33				
Ondo	6	0.33				
Ekiti	4	0.00				
Osun	8	0.25				
Basis for granting mobilization to a contractor						
Lagos	10	0.60	0.670	42	0.648	Ns
Ogun	10	0.65				
Oyo	6	0.67				
Ondo	6	0.75				
Ekiti	4	0.75				
Osun	8	0.50				
Procedure for payment for procurement						
Lagos	10	0.33	0.851	42	0.523	Ns
Ogun	10	0.33				
Oyo	6	0.33				
Ondo	6	0.33				
Ekiti	4	0.33				
Osun	8	0.29				
Contents of procurement proceedings						
Table 1: LOC with PPA, 2007 (Continued)						
Lagos	10	0.47	0.963	42	0.452	Ns
Ogun	10	0.67				
Oyo	6	0.45				
Ondo	6	0.76				
Ekiti	4	0.61				
Osun	8	0.57				

Approved bidding method for procurement						
Lagos	10	0.90	0.404	42	0.843	Ns
Ogun	10	0.80				
Oyo	6	0.83				
Ondo	6	1.00				
Ekiti	4	1.00				
Osun	8	0.88				
The use of restricted bidding						
Lagos	10	0.40	0.799	42	0.558	Ns
Ogun	10	0.80				
Oyo	6	0.50				
Ondo	6	0.50				
Ekiti	4	0.75				
Osun	8	0.63				
Values of consultancy services soliciting open bidding						
Lagos	10	0.80	0.867	42	0.512	Ns
Ogun	10	0.60				
Oyo	6	1.00				
Ondo	6	0.67				
Ekiti	4	0.50				
Osun	8	0.75				
Procedure for procuring consultancy services						
Lagos	10	0.32	0.412	42	0.838	Ns
Ogun	10	0.40				
Oyo	6	0.40				
Ondo	6	0.50				
Ekiti	4	0.30				
Osun	8	0.35				
The procedures for evaluating bids						
Lagos	10	0.50				
Ogun	10	0.48	0.796	42	0.560	Ns
Oyo	6	0.67				
Ondo	6	0.77				
Ekiti	4	0.55				
Osun	8	0.53				
The procedures for selecting bids						
Lagos	10	0.38	0.432	42	0.824	Ns
Ogun	10	0.37				
Oyo	6	0.39				
Ondo	6	0.47				
Ekiti	4	0.37				
Osun	8	0.36				
Overall LOC with PPA 2007						
Lagos	10	0.52	0.787	42	0.565	Ns
Ogun	10	0.54				
Oyo	6	0.61				
Ondo	6	0.60				
Ekiti	4	0.55				
Osun	8	0.52				

N = No. of Respondents, Df = Degree of Freedom, Diff. = Differences, S = Significant, NS = Non-Significant
CNO = Certificate of "No Objection"

Levels of Compliance with Public Procurement Act, 2007 by PHEI Southwest Nigeria

Table 1 revealed the compliance level of the institutions with each of the 39 Provisions of the Public Procurement Act, 2007. The results indicated that compliance varied among the institutions locations where the Lagos, Ogun, Oyo, Ondo, Ekiti and Osun each exhibited 0 – 100%. All the PHEIs in Lagos, Ogun, Oyo, Ondo, Ekiti recorded 100% compliance in procedure for payment of contractors/ supplier while Osun state recorded 50%. Zero

compliance was recorded by institutions in all the six different locations with the Provision on unrestricted public access to the institution's' unclassified procurement records for scrutiny. The implication of these results is that the institutions did not maintain openness in their procurement exercises as their procurement records were kept away from public scrutiny as specified by the Act. It contradicts the principle of the Act on transparency, openness and elimination of corruption in the public procurement process

Total compliance with the provisions on person responsible for final selection of winning tender and the currency for stating value of procurement was recorded by institutions in all the states except Ogun which recorded 80% and 90% compliance respectively. Similarly, on compliance with the provision on procedure for procurement of capital projects only Ondo state recorded full compliance, as only Ekiti state recorded total compliance on minimum number of bids required to be received before award of contract. Also, only Oyo state recorded total compliance with value of consultancy services for which open bidding is solicited

Effects of Institutions Location on the Level of Compliance with PPA, 2007

One of the objectives of this study is to examine the difference in the LOC with PPA, 2007 based on institutions' locations. For the purpose of this objective, a research hypothesis was formulated. The hypothesis states that there is no significant difference in the LOC with PPA 2007 based on institutions locations. The hypothesis was tested for significant differences between the LOC with provisions of PPA, 2007 and institutions locations using ANOVA at $p \leq 0.05$. The rule for the rejection of the hypothesis was that when $p\text{-value} > 0.05$, the test fails to reject the hypothesis, but when $p\text{-value} \leq 0.05$, the test rejects the hypothesis. The results are presented in Table 1.

Table 1 revealed that out of the 39 provisions of the PPA, 2007 investigated, the p-values for the test of difference in the LOC with only two (2) provisions of the Act among PHEIs located in the six states are less than the critical p-value (0.05). The affected two provisions are: funding of capital projects by PHEIs (0.010) and procedure of payment for contractors/suppliers that handled capital projects (0.001). Therefore, the test rejects the hypothesis that there is no significant difference in the LOC with PPA, 2007 by PHEIs based on their locations. The implication of this result is that there is a significant difference in the LOC with the two provisions based on the location of PHEIs.

The descriptive results of the LOC with the funding of capital projects by PHEIs showed that the LOC varied according to the location of the institutions. Table 1 showed that the PHEIs located in Ogun state had the highest compliance (mean = 0.80), followed by PHEIs located in Oyo and Ondo state (mean = 0.50), PHEIs located in Osun and Ekiti states came next (mean = 0.38 and 0.25). None of the PHEIs located in Lagos state complied with the provision (mean = 0.00). Table 1 further showed that on compliance with procedure of payment for contractors/suppliers that handled capital projects, five (5) states namely: Lagos, Ogun, Oyo, Ondo and Ekiti recorded the same LOC (mean = 1.00 each) while PHEIs located in Osun state had the least compliance (mean 0.50).

The results therefore indicated that the location of the PHEIs had effect on the level of compliance with the PPA, 2007 in two provisions. The p-values for the test of difference in the LOC with the remaining 37 provisions are higher than the critical p-values (0.05). Other 37 provisions from Table 1 have their p-value greater than the critical p-values 0.05. Therefore, the test fails to reject the hypothesis that there is no significant difference in the LOC with PPA, 2007 based on the institutions' location. The implication is that the LOC with all the provisions are the same among institutions located in the six states.

Conclusion

The study has investigated the LOC with public procurement Act 2007 and the effects of educational institutions located in Southwest, Nigeria on LOC with the Act. Results indicated that the overall level of compliance by all the institutions from the different location is 55% and that none of the PHEIs in the different locations complied with the inspection of unclassified procurement records by the public. The study therefore concluded that LOC is

low and PHEIs in all the locations are not transparent enough in their procurement exercises as stipulated by the PUBLIC Procurement Act. Results of the test of research hypothesis revealed that the difference in the level of compliance among the institutions in the different locations differ significantly only in two provision namely; funding of capital projects by PHEIs and procedure of payment for contractors/suppliers that handled capital projects. The study therefore concludes that institution locations have effect on level of compliance with PPA 2007.

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