

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

Public procurement is a fundamental aspect of governmental economic activities upon which the development and continuous progress of any nation is built, and it is a good yardstick for determining the quality of governance in every society. The existence of a virile public procurement system is synonymous with good governance. Procurement remains the most basic tool at the disposal of governments for responding to the common needs of the citizens. Governments of nations of the world are able to obtain goods, works and services from the private sector for efficient and effective functioning of the modern state and actualization of national development goals through the instrumentality of public procurement. Public procurement is thus the business dimension of government. Nations rely on it to facilitate development in all spheres (Arrowsmith, 1998; Thai, 2001). The strength of organization of a nation's public procurement system and practice determines, to an appreciable extent, the height of the attainment of its desired development aims or targets in the long-run. Adequate government procurement system is therefore essential for the survival of any economy as it involves the utilization of huge state monetary resources to meeting specified collective ends, and hence the biggest expenditure source for all governments.

In all countries, therefore, adequate handling of public procurement is highly essential since the large size of financial outlays in the procurement market tremendously affects the economy (Thai, 2004). Specifically, available data show that the approximate value of the monetary dealings of procurement personnel in the public sector ranges from 10% - 30% of GNP in all countries (Callender & Mathews, 2000). Managing these huge financial outlays efficiently has remained a daunting administrative task for government procurement

professionals (Thai, 2004). Adequate procurement practice constitutes a critical aspect of robust resource governance. While standard procurement practice minimizes cost and yields desired outcomes timely, substandard or inadequate practice results in undue wastages and lateness, compromising government's integrity, trust and competence (World Bank, 2002). This underscores the importance of a well-organized, virile and functional public procurement system for every country, regardless of their development status or conditions. However, efficient and effective government procurement practice remains of utmost importance to developing nations, considering the fragile nature of their economies. This is true as developing countries are desirous of overcoming their development challenges, and to measure up with advanced societies in every aspect.

The wind of reforms that swept through the procurement systems of a considerable number of developing nations, especially African states, can rightly be attributed to this desire to fast-track development in these countries. The need for viable public procurement policies and practices to ensure greater transparency and efficient management and utilization of public resources compelled most countries in Africa to undertake comprehensive procurement reforms. This was further reinforced by the need to respond to the World Bank's call for member nations to carry-out reforms in their public procurement systems and adopt more transparent measures in public sector budgeting and expenditure (Attah, 2009). Anchored on the development stand-point, transparency in procurement process is of utmost importance as government procurement expenditure in developing nations forms 10% to 15% or higher of Gross Domestic Product (GDP) (Odhiambo & Kamau, 2003). Hence, the potential gains of institutionalizing good public procurement practices are self-evidently enormous. In addition to reducing costs, prudent management of state's resources strengthens citizens' confidence in government, while inefficiency or wide-spread corrupt practices result

in significant additional cost, thereby leading to decreased delivery of public goods, services and infrastructures (WB, 2002).

The World Bank is concerned with engendering good governance practices for development across the world. Consequently, the Bank offers to assist in examining the existing public procurement systems and practices of its client member states with the primary aim of building or restructuring them for optimal efficiency and effectiveness (WB, 2002). As the Bank reveals, “a further objective is to assess, in practice, the efficiency, transparency, and integrity of a country’s entire procurement and the risk it may pose to the use of Bank funds” (WB, 2002, p. 1). The World Bank carries-out the diagnosis on the public procurement systems of the member nations and attempts to assist them in revamping their practices by the means of Country Procurement Assessment Report (CPAR). Implementing the World Bank’s directives leaves immense benefits for the public procurement systems in developing countries particularly, as it implies strengthening or replacing existing policy frameworks and practices with recent globally established and acceptable models for improved performance. The initiative seeks to suggest effective measures for ameliorating the weaknesses in the legal, institutional and general administrative frameworks for public procurement in member nations. As such, majority of underdeveloped states have embraced reforms to revitalize their procurement practices.

Nigeria responded to both the international and domestic pressures for public procurement reforms as democracy was reintroduce in the country in 1999. The observed commitment and determination by the then President Olusegun Obasanjo’s administration, to sanitize the existing financial management structures, necessitated aggressive procurement reforms that began in early 2000 and ended in 2007. The reform process began when the Nigerian Federal Government initiated and executed the Country Procurement Assessment Review (CPAR) with the assistance of the World Bank and the International Monetary Fund

(IMF), along with some local private sector specialists and professional bodies. The World Bank-led team carried-out thorough studies on Nigeria's financial management and procurement systems (Ekpenkhio, 2003). Essentially, the reforms aimed at enthroning greater probity and transparency in the discharge of government financial responsibilities, and to eliminate all avenues for corruption and related illegalities that permeate the country's procurement system. The procurement reforms were very revolutionary and significant as they marked Nigeria's departure from the old and obsolete procurement system hitherto dependent on the extant Financial Regulations (FR) and Circulars issued by the Ministry of Finance, to a new regime built on more robust formal legal and institutional frameworks based on international standards.

The enactment of a national public procurement law - Public Procurement Act (PPA), 2007 and establishment of a central procurement regulatory authority - Bureau of Public Procurement (BPP), also known as "the Bureau" or "Due Process Office", were the most remarkable changes and achievements of the procurement reforms. Impliedly, following the reforms, the PPA has become the general legislation governing all procurement activities in the Nigerian Federal Government, while the BPP provides basic institutional mechanism for administering the law in the procurement process. The Bureau thus is responsible for regulating and coordinating all procurement activities at the federal level in Nigeria. It functions to facilitate strict adherence to the procurement law among government procuring entities and private entities doing business with the Nigerian Federal Government. The reforms, therefore, brought about fundamental changes intended to revitalize and reinvigorate Nigeria's procurement system and practice with the view to enhancing its efficiency and ineffectiveness. With the new public procurement policy regime and its emphasis on due process, best value for money, competitiveness, merits, transparency and accountability, among other elements, aimed at facilitating the actualization of the country's development

goals and objectives have become the cardinal principles guiding the implementation of government procurement activities in Nigeria.

1.2 Statement of the Problem

Governments across societies consider procurement an important economic and administrative endeavour. However, the public procurement process and system is often overwhelmed by myriad of malpractices. In public procurement, therefore, the essentiality of regulatory mechanisms cannot be overemphasized (Public Procurement Bureau of Former Yugoslav Republic of Macedonia, et al., 2013). The paramount goal of regulation in government procurement is to ensure competitiveness, enthrone complete openness, uphold high ethical principles and professional standards, and to promote prudence and best value for public money in the procurement process and system, among other important elements (Williams-Elegbe, 2012). Moreover, a country's government procurement law must be in alignment with global quality or merit to make sure that fundamental internationally acknowledged public governance principles are regarded (PPBFYRM, et al., 2013). The Nigerian state obtained her political freedom from Britain in 1960. From 1960 to 2007, the country's governmental machinery had been controlled by different regimes or administrations, both Military and Civilian. In their manner, the military administrators deployed decrees whereas their civilian counterparts run the affairs of the country on the basis of the precepts of its Constitution and other pieces of legislations emanating from the legislative arm, and award of contracts constitutes a greater part of the endeavours undertaken by both governments (Jacob, 2010).

Until 2007, government procurement responsibilities in Nigeria were not undertaken on the basis of any specific formal legislation or Act (Achua, 2011). Hence, the country did not have a formal legal framework that regulated the execution of government procurement functions at the federal level before the afore-mentioned year (Jacob, 2010). What existed in

the country during the period was rather the Financial Regulations and Circulars issued by the Ministry of Finance. As with the Financial Regulations, the Circulars were deficient in that they did not provide any formal directives on procurement, hence, they created rooms for wide-spread corruption in the processes of contracts award and execution (Onyema, 2011). Indeed, the award of contract became a major avenue by which those in positions of authority rewarded their friends and cronies, as well as unscrupulously enriched themselves too (Jacob, 2010). Thus, the Nigerian public procurement practice was characterized by unprofessionalism, inefficiency and ineffectiveness leading to huge wastes of resources, in that for every 1 Naira expended by the country, it lost as much as 60 Kobo to corruption and mismanagement (Onyema, 2011). As a result, on annual basis, amount lost in the procurement arena by Nigeria, as a result of corruption and reliance on poor procurement averaged \$10 billion (Punch, June 16, 2013).

Overall, the appalling state of affairs in the nation's procurement and contract system attracted serious concern on the part of the government and the citizenry. Thus, in appreciating the prevailing situation, on coming to power, following the restoration of democracy in the country in 1999, President Olusegun Obasanjo unequivocally stated in 2000 that "all the elements that enhance efficiency, reliability and continuity of the system had been tampered with resulting in major and severe set-backs for the conduct of Government business in the country" (Ekpenkhio, 2003, p. 1), observably having unprecedented effects on the economy. The main factors responsible for these unimpressive developments were reliance on obsolete procurement methods and practices, coupled with the lack of devoted procurement legislation and regulatory institutions. President Obasanjo further affirmed the necessity of optimal transparency in governance processes to bring about a distinguished and vigorous economy that would promote fairness and equality in the Nigerian society

(Ekpenkhio, 2003). Consequently, government initiated the revolutionary public procurement reforms that produced the PPA and the BPP.

Nick-named the “Due Process Office”, the PPA establishes the Bureau as the principal institution charged with the task of regulating the conduct of all procurement activities in federal MDAs. Since the agency came into existence in 2007, it has been carrying-out the various activities that are intended to facilitate the achievement of its set objectives. However, there are two prevailing perspectives regarding the existence and performance of the agency under the current public procurement regime in Nigeria. While one perspective holds that the Bureau has made considerable positive impact on Nigeria’s public procurement process and system since its establishment, the other perspective maintains a contrary position. This study, therefore, is an appraisal of the Bureau’s performance within the first eight years of the agency’s existence and operations after the completion of the procurement reforms, with the aim of resolving the on-going debates and controversies. In this case, the study covered two respective regimes, namely the administrations of Presidents Umaru Musa Yar’Adua and Goodluck Ebele Jonathan.

1.3 Research Questions

This study attempted to answer the following questions:

- (1) What brought about the reform of Nigeria’s public procurement system?
- (2) What was the role of the Bureau of Public Procurement in enthrone greater transparency in Nigeria’s public procurement process between 2007 and 2015?
- (3) How successful was the Bureau in enforcing strict compliance with the procurement rules in Nigeria between 2007 and 2015?

1.4 Aim and Objectives of the Study

This study examined the performance of the Bureau in Nigeria's public procurement system between 2007 and 2015, covering the administrations of former Presidents Umaru Musa Yar'Adua and Goodluck Ebele Jonathan. The specific objectives of the study were to:

- (1) find-out what brought about the reform of Nigeria's public procurement system.
- (2) investigate whether the Bureau of Public Procurement was able to enthrone greater transparency in Nigeria's public procurement process between 2007 and 2015; and
- (3) examine how successful the Bureau was in enforcing strict compliance with the procurement rules in Nigeria between 2007 and 2015.

1.5 Significance of the Study

This research work is a major contribution to knowledge building in that, until the study, there were merely skeletal or pieces of information in relation to the performance of the Bureau in Nigeria's public procurement system, especially with reference to the first eight years (2007-2015) after the completion of the procurement reforms, as has covered by this study. The specific benefits of the study are as followed:

- (1) The study serves as a good reference material for students of politics - public policy and other researchers that might be interested in conducting further researches on the BPP as well as the Nigerian procurement system and practice in future times.
- (2) The research work constitutes a huge gain for the policy-makers in Nigerian Government as it offers them clear insights regarding the performance of the BPP under the country's current public procurement regime.
- (3) The study provides the entire Nigerian citizens with adequate information on the important developments that took place in the country's public procurement system between 2007 and 2015, thereby increasing the general level of knowledge and awareness about government procurement activities among the civil populace.

1.6 Research Hypotheses

The study aimed to test the following hypotheses:

H1: Nigeria's public procurement system before 2007 was significantly beset by sharp practices than transparency and accountability.

H2: Nigeria's public procurement system and practice showed more promise than concrete accomplishments in the area of transparency between 2007 and 2015.

H3: The level of compliance with the provisions of the Public Procurement Act was not as significant as anticipated between 2007 and 2015.

1.7 Scope of the Study

The study essentially focused on the activities of Nigeria's federal Bureau of Public Procurement. It covers the period from May 29, 2007 to May 29, 2015. Thus, the study covers two regimes, namely the Umaru Musa Yar'Adua and Goodluck Ebele Jonathan administrations. The study focused on the Bureau at the federal level as all the States Governments have not replicated the procurement Act in their domains. The choice of the time-frame (2007-2015) covered by the study is premised on the ground that the period represents complete eight years of the operation of the Bureau under the first two successive administrations following the enactment of its establishment Act in 2007. The chosen period is thus significant as far as Nigeria's history of government procurement is concerned, and is worthy of evaluation. This study based its appraisal of the performance of the Bureau on two parameters, namely; (1) enhancement of transparency in the public procurement process, and (3) enforcement of compliance with established procurement regulations. Based on these parameters, the study examined, first, whether the Bureau was able to enthrone greater transparency in the procurement process between 2007 and 2015, and second, whether the Bureau was able to enforce absolute adherence to the prescribed procurement rules between 2007 and 2015.

1.8 Limitations of the Study

This study encountered certain problems. Firstly, the research work intended to engage the Director-General of BPP and Directors of the selected MDAs in interviews, to obtain the needed information, but this was not possible as the named principal staff were not disposed to granting interviews due to some official exigencies on their part. However, the consents of other top staff and subordinates, who granted interviews, were secured. These included a Principal Procurement Officer and a Senior Procurement Officer for the Bureau; an Assistant Director of Procurement and an Assistant Procurement Officer for the Ministry of Power, Works and Housing; a Deputy Director of Procurement and an Assistant Director of Procurement for the Ministry of Budget and National Planning; and a Chief Procurement Officer and a Procurement Officer for the Ministry of Finance. Secondly, a considerable number of the interviewees exhibited reluctance in releasing some sensitive information while they responded to the questions asked. Notwithstanding, the study resorted to published works by the BPP such as annual reports, official journal publications and other relevant documents to complement the data gathered from the field, and that further enriched the data used. Thirdly, there was limited access to some official procurement documents at BPP's office complex at the Federal Capital Territory (FCT), Abuja. Nevertheless, the study resorted to the agency's official website through which it accessed vital procurement documents that were needed.

1.9 Organization of the Study

The study is structured into seven chapters organized thus: Chapter one which is the introduction consists of the background to the study, statement of the problem, objectives of the study, significance of the study, scope of the study, limitations of the study, and organization of the study; Chapter two is constituted by the review of literature and theoretical framework; Chapter three is the research methodology which contains the research design, data sources, data collection methods, sample population, and method of

data analysis; Chapter four focuses on the evolution of public sector procurement practice in Nigeria; Chapter five dwells on the procurement processes and methods in Nigeria; Chapter six examines the performance of the Bureau of Public Procurement between 2007 and 2015; and Chapter seven comprises of the summary, conclusion and recommendations of the study.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

This study acknowledges that different scholars and researchers have done several works on various topical issues related to public procurement in different countries. However, in this present study, a few of these issues are given attention as the focus is on Nigeria. In view of this, the study reviewed relevant literature along these connected themes: Concept of Public Procurement, Public Procurement and Development, Public Procurement Corruption and Malpractices, Public Procurement Reforms in Africa, Issues in Public Procurement Regulation, and Public Procurement Regulation in Nigeria. As outlined above, these themes are considered one after the other below.

2.1 The Concept of Public Procurement

The term “public procurement” has obviously received considerable degree of attention from scholars and authors who have offered vast array of definitions in an attempt to explain the meaning of the concept. Apparently, the term emanates from the co-joining of two words namely “public” and “procurement”. There is the need, therefore, to separate and explain the meanings of these words, respectively, before defining them as a single concept. The term “public” has its root in Latin word “populous” or “poplicus”, meaning “the people” in relation to issues of general concern. In political science, “public” is used to refer to a mass of people in connection with civic or state affairs (Vasquez & Taylor, 2001). According to Osaghae (1988), the word “public” is used by the ancient Greek philosophers, such as Aristotle and Plato, to refer to the state or city and it is used in contradistinction to things that are private. In a similar manner, Dwight (1955) also uses the term in relation to such words as

government and state. The state or government in this context is conceived as representing the public realm or sector, which involves the entire citizenry.

The term “procurement” is also conceived in different ways by scholars and authorities in the field. According to the Public and Private Development Centre (PPDC) (2011), procurement is regarded by many as a fancy term for “purchasing and supply”, whereas contemporary procurement practices are more extensive than the former concept of purchasing and supply. Procurement, as the PPDC (2011) sees it, entails the process or actions taken to indentify, define and acquire or obtain manpower, materials, services and works required through approved methods in relevant directives. The Nigerian Public Procurement Act, 2007, under Section 60, defines procurement in a simple manner as “acquisition” (Federal Republic of Nigeria, 2007), while the Transparency International refers to the term as the purchase of consumption or investment, goods or services (Okoduwa, 2011). Further, the Organisation for Economic Co-operation and Development (OECD)(n. d.) describes procurement as “the process of identifying what is needed; determining who is the best person or organization to supply this need; and ensuring what is needed is delivered to the right place, at the right time, for the best price and that all of this is done in a fair and open manner” (cited in Okoduwa, 2011, p. 3-4). For Kodiak Rating Community (KRC) (2017) procurement is a vital aspect of supply chain plan in every business with a view to purchase goods and services.

In view of the distinctive meanings of the words “public” and “procurement”, the World Bank (1995) writes that the term “public procurement is broadly defined as the purchasing, hiring or obtaining by any other contractual means of goods, construction works and services by the public sector” (as cited in Odhiambo & Kamau, 2003, p. 10). In an alternative sense, public procurement, according to the World Bank (1995), “means procurement by a procurement entity using funds” (as cited in Odhiambo & Kamau, 2003, p.

10). The National Public Procurement Policy Unit (2005) similarly defines the term as the purchase of works, supplies and services by government organizations either in the form of official or authorized contract or otherwise. “It ranges from the purchase of routine supplies or services to formal tendering and placing contracts for large infrastructural projects by a wide and diverse range of contracting authorities” (NPPPU, 2005, p. 3). In a closely related manner, Kashap (2004, p. 134) says that, “the term public procurement refers to the purchasing by governments and local authorities of the works, goods and services they need to operate - ranging from simple office items to sophisticated high-tech equipment”.

Ssennoga and Telgen (2010) note that, government has the duty to ensure that public monies are used judiciously, in that, there are often a wide range of policy issues competing to be prioritized in the expenditure plan. Thus, “public procurement thus involves a complex set of choices embracing what to buy how to buy it and who to buy it from” (Ssennoga & Telgen, 2010, p. 1). Wittig (1999, p. 3), on his part, writes that “public procurement is a business process within a given political system, with distinct considerations for integrity, accountability, national interest and effectiveness”. The European Union - Asia Inter-University Network for Teaching and Research in Public Procurement Regulation (EU - AINTRPPR) (2010, p. 1) construes the concept simply as “the government’s activity of purchasing the goods and services which it needs to carry out its functions”. “Procurement also includes purchasing, hiring, leasing or any other contractual means of engaging suppliers in the provisions of public services” (Kashap, 2004, p. 134). In Nigeria, the Public Procurement Consultancy Service Regulations simply refers to public procurement “as procurement by procuring entities using public funds” (FRN, 2007b, p. 252). It can be inferred, from the above definitions that government procurement constitutes all goods, contracts and services rendered to, and funded from public account by public authorities.

The responsibility of providing basic goods and services, for example, roads, hospitals, defence needs, among others, to match the demands, or improve the conditions of the citizens largely rests on the government. In most cases these demands are met either by acquiring the required items externally from relevant private sector firms (from within or outside the country), or internally from organisations owned by the government itself. As a result, the public procurement system has widely been acknowledged as serving as the link between governments and what they need and private sector companies providing those things. Just as it is applicable to private companies, governments' decision either to buy whatever they require internally or from external sources using the procurement system, is usually captured in the budgets (Wittig, 1999). It is in the light of this that this present study conceives of public procurement as an aspect of governmental activity or function that directly brings the public sector into direct and closer contacts with the private sector, either locally or internationally, for exchange of goods, works or services for financial or monetary considerations. Public procurement, in this sense, therefore provides a critical arena of interactions for governments and privately established and operated organisations.

Considering its meaning as the various definitions above depict, procurement in the public settings differs significantly in character and function and/or purpose from procurement in private sector organisations. While procurement in the public sector is procurement carried out by or within government organizations, often without the aim of making profit, private sector procurements are procurement operations executed by or within private firms, basically with the intention to make profit (KRC, 2017). The key point to be emphasized here is that, apart from taking place in different contexts – governmental and non-governmental arenas, respectively, public and private procurements vary in respect of purpose or rationale. Procurement in government entities is especially aimed at providing basic social goods and services to the generality of the citizens, but procurement in private

companies is mainly driven by the explicit need to make profit. Public and private sectors' procurements are also differentiated in the areas of regulation. Procurement, undisputedly, means the same thing to both private and public establishments, but 'regulation' is a key factor in substantiating the grounds for dissimilarities between the public and private procurements.

Regulation, as Smith (2017) contends, is possibly the most apparent distinguish factor, even though it can be argued that it is not really the most notable or outstanding. This assertion is hinged on the obvious truth that public procurement in almost all countries is ordinarily characterised and governed in some sort by certain popular legislation, whether at local, regional, national or international level. For example, as in other countries, government procurement in the United Kingdom (UK) is constrained by the UK's set regulations, which are in themselves derivatives of the European Union's (EU) orders or instructions. Even, transcending the national, regional and continental levels, broader regulations for public procurement exist including that of the World Trade Organisation. Government procurement is, to a large extent, constrained by these regulations, unlike in the private organizations where procurement professionals enjoy much more considerable freedom from legislation. This does not imply, however, that there are absolutely no regulations in private sector; there are usually laws that checkmate equality and bribery in private sector (Smith, 2017).

Perhaps, contingent on the existence of regulations in government procurement, the issues of openness and answerability or responsibility and nature of budgets further provides ample basis for distinguishing procurement in private setting from that of government agencies. In examining procurement in private and public sectors, the difference in purposes determines or influences the varying degrees of transparency necessarily needed for both. Public procurement responsibilities are conducted under the regulations of state procurement law, and government organisations involved are ordinarily required to account to the

government and the people regarding how they spent public money. As such, procurement in the government sector is generally expected to be implemented in a more open environment (KRC, 2017). On the contrary, notwithstanding that private companies do report to the members of the board, their owners as well as shareholders, “private sector procurement can cover up their spend in many instances, and has a lesser presence of regulatory reporting” (KRC, 2017, para. 19). This means that there is limited scope for transparency and accountability in private procurement as procurement is primarily focused on serving personal objectives of private individuals than those of government or its procuring agencies. The overall implication, or put differently, a major underlying reason is that there are just few actors playing oversight role on private sector procurement activities than as obtainable in public procurement.

As long as procurement is concerned, the existence of legislations in the public sector is aimed at guaranteeing optimal transparency and ensuring that the people are given the chance to know how their collective financial resources are utilized. The procurement activity in privately owned entities does not necessarily need to attain these standards (Smith, 2017). This is because government procurement is the concern of a vast array of stakeholders including those outside the sphere of the procuring entities. As Smith (2017, p. 7) rightly puts it, “if we consider the largest and most significant public sector expenditure areas, many are of greatest interest, significance and importance to those beyond the organisation doing the buying itself”. From construction works to expenditures related to acquisition of goods and services needed, majority of citizens outside the procuring public entity do show quite considerable interest in the items and works procured, as well as the performance of the suppliers or contractors (Smith, 2017). In relation to the nature of budget, public bodies are highly limited in terms of flexibility in their spending and procedure of funding as money is often appropriated through the budget, making possibilities for alterations extremely difficult,

while there is so much budget flexibility and agility in the private sector (KRC, 2017). Among many more others, the above factors are the most important yardsticks that characteristically differentiate between government sector and private sector procurements.

2.2 Public Procurement and Development

The nexus between government procurement and development is one fundamental issue that has obviously brought all the scholars in the field into a somewhat consensus on what it entails. There exist theoretical and empirical evidences to the effect that adequate procurement system remains the arch-engine of social and economic development in all countries. Unarguably, public procurement has immense potential to bring about authentic transformation by facilitating the attainment of a wide-range of set development goals and objectives in any society. This fact, obviously, cannot be overemphasized. The views and opinions of various scholars in the field clearly lend a strong support to this assertion.

According to Ladan (2009), an enhanced or well-developed public procurement system has so much direct positive impact on the economic situations of any nations. Most especially, in developing nations where the government procurement sector is usually the biggest home market (Wittig, 1999), procurement has inherent potentials to facilitate rapid economic progress in countries if adequately managed (Arrowsmith, 1998). The size of public procurement is quite considerable. As a result, government procurement makes-up an important and great chunk of the total required goods and services and it has become more and more a captivating tool for developing societies and nations. A basic public procurement policy can impact tremendously on a country's well-being as procurement plays a crucial part in advancing the quality level of both public and private sectors of the economy (Choi, 2010). Basheka and Mugabira (2008) explain that a well-functioning public procurement system plays a remarkable role in government's effort at providing public services to the citizens. In

this sense, government purchasing or procurement occupies a dominant place in the entire process of making essential developmental services available to the public.

With regard to its impact on governance, Kashap, (2004) avers that public procurement is one of the pillars of good governance in that it serves as a yardstick for gauging how adequate government and its organizations or agencies utilize public monies in acquiring goods, works, and services by guaranteeing value for money. Relatedly, the NPPPU (2005) believes that a well-structured and result-oriented government procurement practice has the capacity to enhance accountability and value for money facet of acquisition of goods and services by government entities. Underlying this is the embedded potency of any workable procurement policy and practice to save substantial amounts of financial resources which could be used by government to achieve other social and development ends (NPPPU, 2005). As a good governance instrument, a viable procurement system is therefore essentially pivotal in ensuring proper allotment and utilization of the scarce resources available to governments, often emanating largely from citizens' taxes (Kashap, 2004). More so, as the World Trade Organization (WTO) (2010) states, the purchase of goods, works and services by government agencies is essential to the functioning of government as it enhances government's ability to fulfil its basic responsibilities. Ultimately, a well-organized public procurement system facilitates the performance of duties and responsibilities by government by ensuring adequate execution of economic projects and provision of important social services for the citizenry (Mamiro, 2010).

While advancing the same line of thoughts or views, Okoduwa (2011) argues that a good and strong public procurement system is a crucial and required component of good governance as it ensures constructive and productive use of scanty resources to provide citizens needs, while inadequate procurement practices increase the chances of corruption, losses and obstructs or destroys the good intents and purposes of government. It is in support

of these above claims that Onyema (2011) describes the public procurement system as the most widely known potent mechanism for delivering essential goods and services in every society and enhancing proper and efficient utilization of public financial resources. This presumably prompts Kashap (2004) to aver that the core concern of procurement policies is that procuring government bodies strive to achieve value for money while they buy goods and services, which requires them to carefully compare cost and beneficial effects as well as alternatives. Value for money is hence the important ground for justifying any procurements done by public entities (Kashap, 2004). In this sense, adequately functional procurement system also doubles as a virile public financial management system. This further expatiates the general notion that, a state's development successor progress is contingent on the manner of conduct of its procurement activities. This reason is that procurement takes up quite a greater portion of government spending than other concerns in budget across countries and regions.

With specific reference to Africa, for example, it is estimated that yearly budgetary allotments to procurement in African countries reach as large as 70%, according to the African Development Bank (AfDB) (PPDC, 2011). For these countries, therefore, the maintenance of vigorous procurement systems is seen to be very pivotal, not just due to the sizeable amounts of money allocated to procurement sphere, but for the more reasons of reducing the possible consequences of financial or economic calamity and reinstating a degree of economic progress or advancement adequate to minimize poverty. The achievement of these goals would be elusive in the absence of prudence and probity in the procurement system (PPDC, 2011). To take advantage of the inherent transformative capabilities of public procurement, all that is required, therefore, is the institutionalisation of adequate public procurement practice in every society, regardless of whether they are developed or developing states. It is to be stated, however, that most advanced societies can be said to have succeeded in evolving relatively virile and more functional public

procurement systems than developing nations, where governance institutions and structures generally, are yet to be firmly established.

The prevailing situation has stimulated appreciable concern among related global institutions about how to assist these economically weak societies to overcome the problem in their procurement systems so as to create conducive conditions for better development outcomes. For instance, the International Trade Centre (ITC), a multilateral agency with an associated injunction with the World Trade Organization (WTO) and the United Nations through the United Nations Conference on Trade and Development (UNCTAD), has been advising evolving and transiting nations towards enhancing the effectiveness of their procurement systems to support the attainment of the policy plans of government (Wittig, n. d.). Findings from empirical researches indicate that government procurement forms a significant component of developing societies' economies, appraised to be consisting of 9-13% of their Gross Domestic Product. By implication, therefore, if the desired level of attention is devoted to improving the handling of their procurement practices and systems, governments of evolving states would derive immense benefits (Wittig, n. d.). Meanwhile, genuine political will and sincerely devoted commitment by political office-holders in these countries remains a major determinant in the achievement of this feat. This is, expectedly, of utmost necessity since public procurement has overreaching implication for the economic and political situations in the society.

Public procurement is widely regarded as a vital activity of government based on certain grounds. First, the enormity of procurement expenditure greatly impacts the economy and requires proper management (Thai, 2001). As earlier noted, it is approximated that the financial spends of procurement managers in all countries are in the range of 10% B 30% of GNP and 10% and 80% in the private sector (Callender & Mathews, 2000). Issue bothering on the successful management of this large proportion of financial resources raises

considerable degree of anxiety both at the policy and management levels and stands as a challenge to public procurement professionals (Thai, 2004). This is not just because the procurement responsibility requires sufficient technical skills or knowledge, but also for the reason that it is unavoidably prone to abuses and underhand practices. Second, government procurement is a veritable instrument for realizing economic, social, and other goals (Thai, 2004; Thai, 2001; Arrowsmith, 1998). Public procurement is able to vigorously serve this purpose owing to the huge governments' spending in the procurement market. Indeed, as the Commission on Government Procurement (CGP) rightly states, the availability of this enormous financial outlay in the procurement sphere provides the suitable circumstances for the implementation of chosen national policies (Thai, 2001).

Finally, revolutionary changes in technology have resulted in evolution of new procurement methods. At present, the public procurement function is no longer carried-out just as a clerical activity; current changes in the field demand that procurement professionals or personnel display a well-thought-out plan of action (Hinson & McCue, 2004; Office of Management and Budget, 1997). Evidently, advances in computer technology, for instance, have widened the developmental benefits of procurement. The emergence of electronic procurement technology (E-procurement) has shown the capability to connect the procurement function with the wider government's financial management system, as well as make available new mechanisms used in evaluating procurement system's effectiveness. It, indeed, reserves much prospects for tremendous transformation of the procurement activity. The electronic procurement system enhances the streamlining and simplification of procurement processes, and substantially strengthens good governance in public procurement as a result of its attribute of minimizing human interactions, which leads to drastic reduction in corruption rates (Sabiiti & Muhumuza, 2010).

In as much as technological development influences public procurement positively, procurement, however, also impacts meaningfully on the field of technology. Gregersen (1992) argues that many nations serve as technology pace-setters by facilitating sustainable inventions in all sectors. This means that, through public procurement, governments directly and indirectly influence innovation in the technology sector as they constantly make demand for improved technologies for their use. Public procurement is also famous for its use by all countries including the developed societies, in the pursuit of variety of goals. Ultimately, apart from its primary utility, government procurement is also widely employed for the purpose of stimulating the achievement of certain secondary ends including in the social, industrial or environmental arena (Arrowsmith, Linarelli & Wallace, 2000; Cane, 2004; Turpin, 1989).

Watermeyer (2000) makes this position clearer, as he states that, besides buying of goods and services, government procurement can also be deployed to accomplish five key domestic social, economic or political tasks. They include the following:

(1) to stimulate economic activity; (2) to protect national industry against foreign competition; (3) to improve the competitiveness of certain industrial sectors; (4) to remedy regional disparities; (5) to achieve certain more directly social policy functions such as to foster the creation of jobs, to promote fair labour conditions, to promote the use of local labour, to prohibit discrimination against minority groups, to improve environmental quality, to encourage equality of opportunity between men and women, or to promote the increased utilization of the disabled in employment (Watermeyer, 2000, p. 5).

The Korean experience provides a typical case of a socio-economic and political context where adequate procurement practice has proven to be a veritable tool for achieving real and authentic change in the society. Public procurement has had robust and concrete development impacts on virtually every sphere or facet of Korea's national life. Apparently, Choi (2010) observes that public procurement has immensely contributed to Korean social, economic and political development. According to Choi (2010), the role of public procurement in Korean

national development can be classified into five categories namely: economic contribution, leadership in government, social accountability, eco-friendliness, and industry inventiveness.

This prompts the popular assertion by Sadikin (2008, p. 598) that “public procurement is no longer a clerical job that focuses only on buying goods, services, construction and saving money”. Clearly, the responsibilities or concerns of procurement personnel in the government sector have been widened immensely in the recent times. Beyond the traditional assignment of overseeing or handling the purchasing of required goods, services and works, and disposing of government properties, “the procurement professional has to deal not only with market, technologies evolution and financial aspect, but also has to take into account the related issues such as human rights, labour, environment protection, women empowerment, corruption etc” (Sadikin, 2008, p. 598). There is no doubt that the indispensable character of public procurement has attracted widespread recognition as numerous countries have now come to consider it highly importance to exhibit keen commitment to expanding the idea and practice, control or supervision and institutional building. On the other hand, however, there are also many countries, particularly developing and least developed countries that have not adequately recognized the usefulness of the public procurement system as a mechanism for achieving sustainable development (Sadikin, 2008).

Regardless of this, afore evidences amply demonstrate that efficient and effective procurement practice and system is synonymous with development. In all societies, public procurement is an indispensable instrument in development process. To this extent, it is the position of this study that the underdevelopment crises plaguing majority of the world’s countries, most especially the developing countries in general, and African nations in particular including Nigeria, are mainly rooted in the lack of well-designed and functional public procurement systems. As earlier observed, public procurement is a crucial governmental function which entails the management and utilisation of scarce public

financial resources towards achieving national development goals and objectives. The extent to which a country pro-actively coordinates and manages its public procurement system and activities determines how well it achieves its set-out goals and objective in the long-run.

2.3 Public Procurement Corruption and Malpractices

Corruption is a global phenomenon and no country is free of it. However, the state of corruption is a very fundamental health-check on the quality of a society. Corruption is one of the factors that hold back economic development. True, corruption contributes to a low rate of economic development and persistent poverty (Shipman, 2005). In public procurement, corruption occurs when government personnel ask for, accept, or are offered or given any valuable thing to make them behave in certain ways during conduct of procurement proceedings or in the process of executing public contracts (FRN, 2007b). In government and non-government sectors, many organizations have come to regard the phenomenon of public procurement corruption as a highly important issue (Carter, 2000; Cooper, Frank & Kemp, 1997). This is connected with the uniformity in the findings of numerous studies that have continued to prove corruption's pervasiveness in procurement endeavours (WB, 2006; Soreide, 2002). Consequently, the trend has elicited widespread and increased concern among relevant stakeholders including constituted government authorities, civil society as well as international organizations (Thai, 2008).

The concern has spurred growing advocacy for making the procurement circle the central focus of anti-corruption efforts in most country. An inquiry conducted by the OECD in 2005 acknowledged that government procurement needs to be given exceptional consideration or thoughts in the entire effort at curbing graft, in that, it is highly exposed to malfeasance. The OECD's investigation divulged that the incidence of corruption within the

context of public purchasing is around 15% of GDP in OECD member states. It further notes that governmental and non-governmental players are effortlessly captivated to redirect funds for selfish purpose (PPDC, 2011). This applies to all countries without an exception. Basheka and Mugabira (2008) buttress this fact as they argue that procurement remains the aspect of public administration that experiences higher rate of neglect for morality than other areas, and the trend is the same all over the countries. Undoubtedly, every economy in the world is battling with the issue of procurement-associated crimes and the danger or possibility of delinquency or misconduct trails all sectors (OECD, 2007).

Notable improvements in procurement organization of a virile polity as the United States of America aptly validate this claim. As Thai (2004) alludes, cases of dishonesty in relation to government purchasing are repeatedly published in dailies in the US. In the first week of September 2004, for example, there was the broadcasting of an avalanche of reprehensible legal trails of functionaries alleged to have violated state procurement statutes. He goes further to explain that there were disparate newspaper accounts that communicated crimes in tendering process in Illinois, Connecticut, Wisconsin, and Maryland and this is akin to news in dailies across numerous nations (Thai, 2004). In his opinion, therefore, Thai (2004) submits that conquering this problem is a major task in procurement governance. Notwithstanding, while every sector of government acquisition is liable to subversion, a few sectors in the field seem to be unusually unprotected against the menace, as a result of the works' complexities, the usual contracts huge sums and occasionally pertinent and/or relevant domestic safety arrangements. For example, acquisition at the multinational level is exclusively a profit-making spot since securing contracts is tantamount to earning gigantic sums and the propensity cover-up kickbacks across boundaries (OECD, 2007).

A report by the World Bank reveals that governments of evolving countries spend roughly 15-20% of their DGP on acquisition, and with government as the biggest purchaser,

this amount is actually of high significance. In the CARICOM zone, government acquirement pre-occupies and exhausts a sizable fragment of the nations' yearly budgets. For this reasons, the region's procurement arenas have become extremely pleasing and enticing to transnational firms pursuing high-paying governments' deals (Sinclair, 2006). It is therefore not surprising that World Bank's Daniel Kaufman (2004) estimates that hush money of over US\$1,000 billion exchanges hands per annum globally, and the size of this compensation that flow within the government purchasing domain solely is nearly US\$200 billion annually (Thai, 2008). Occasions for dishonest acts equally crop-up in the area of distribution or transmission of development supports, menacing the nobility and success of donor-financed collective projects (OECD, 2007).

Public procurement corruption is thus not the problem of one country or region, nor a feature of a particular category of countries (i.e. developed or developing societies). The phenomenon manifests in all societies though in different forms and at various levels or degrees. Therefore, no country can be said to be utterly devoid procurement corruption since the plague cuts across all countries and thus generates a global concern. According to Self (1993), corruption in procurement was a key major factor that prompted widespread reforms targeted at improving the public sector's efficiency and effectiveness in most parts of the world. One notable and enduring problem being faced by policy-makers and procurement professionals in all countries is that of the non-existence of a sure and holistic strategy that would guarantee absolute elimination, or at least, drastic reduction in the rates of the embedded corruption in the procurement systems. Gelleri and Csaki (2004) equally describe the public procurement field as an extremely risky area. Basheka (2009) goes on to strengthen their view by arguing that procurement is among the major endeavours where corruption thrives. This corruption normally surfaces across the entire stages in the procurement proceedings (Matechak, 2005; cited in Turyahikayo, 2008).

Causes of procurement corruption are numerous. But major corruption risk emerges from opacity, restricted opportunities for information, and absence of accountability measures and manipulation of every phase of the procurement circle (OECD, 2007). Other critical causes include difficulty in accessing news/intelligence, perversion of peculiarities to wide-open general bidding, minimal or ineffectual checks and surveying inside the contracting circle and principally at the stage of executing contracts, and deficit and lucidity at the budgeting juncture (Transparency International, 2006). Another reason why corruption persists in public procurement is that government buying stratagems are oftentimes compounded, and the undertaking is not as simple and open as desired and manoeuvring is cannot easily be detected. Moreover, not too many individuals are attentive or mindful of disclosing criminalities or extortions publicly, as the funds misspent or squandered belongs to government, not them (TI, 2006). According to Okoduwa (2011), the availability of abundance of financial resources in procurement is another prominent factor that breeds extortion in the area of activity since it prompts an unpreventable desire to take part in immoral behaviours due to monumental chance for inducements.

In the opinion of OECD (2010), graft ensue in situations in which state agents utilize public powers to actualize personalized benefit, illustratively, by receiving a pay-off for allotment of a contract in return. Agaba and Shipman (2006) also argue that frauds and misdeeds are aided by the common supposition of all partakers and the populace as a whole, since the belief abides that they are normal behaviours and so that, extortion is an unavoidable tactics for getting government contracts. Hence, they affirm that exemplary leadership and enlightening the entire population as regards the real repercussions of crime is a mighty instrument for substituting that presumption and for inculcating behavioural patterns to resist immoral acts (Agaba & Shipman, 2006). In addition to all these, with respect to Africa, specifically, other notable factors that aggravate procurement corruption include weak

or inadequate imposition of rules and the attendant low level of conformity, and the super-ordinate enticements to engage in illegal actions in progressing African societies (Agaba & Shipman, 2006). The problems of weak procurement laws and processes as well as their poor enforcement, therefore, plagues procurement systems in Africa and resultantly exacerbate the menace of procurement corruption among the countries.

Corruption in public procurement goes along with overarching consequences. In its most basic characteristics, corruption in procurement requires alternative ways of apportioning contracts, instead of following the practice of open competition. Corruption also either causes contracts to be assigned to firms that give bribes, rather than awarding them to the lowest bidders, or creates a condition whereby there is insufficient number of competitors as against the norm. For the most part, the purchaser pays higher compared to the amount he would paid if there was no inducement and in the end has lesser grade work or service. In light of this, bribery and exploitation in government purchasing primarily distorts vigorous competition (Corsi, Gumina & Ciriaci, 2006). Soreide (2002) expresses similar views, asserting that malversation in procurement leaves governments representatives at the brink of making purchases from vendors hoe are ready to give the best in terms of bribe, rather than going for the finest cost-grade mix. The consequence is mostly that building projects would be multiple folds pricey than required, or that items not precisely desired are bought (Soreide, 2002). Moise and Geliso (2004) add that corrupt behaviours result in rendition of inferior commodity or service and bring about lag in the buying process (Basheka & Mugabira, 2008).

Corruption in government procurement also does cause harms to the ordinary people in the sense that it alters the process of distribution of public resources (Ackerman, 1998). In short, the upshots of palm-greasing and dishonesty in government acquirement are diverse, mainly prompting needless, inadmissible, economically inconsiderate and unhealthy and

risky projects alike. More so, bribery and accompanying corrupt acts cannot be separated from other criminal and debasing conducts including money laundering, accounting fraud, deliberate act of avoiding payment of tax and use of force to obtain money (OECD, 2007). To make the entire condition worse, corruption and related illegalities have almost become norms rather than aberrations. More to this, procurement corruption metes-out far-reaching fatalistic consequences for the burgeoning of nations and welfare and prosperity of the populace, in that, aside from wages and social security, purchasing oftentimes composes of the hugest ration of expenses incurred by entire subdivisions of government (Okoduwa, 2011). Accurate calculation of wastes or mislaying arising from corrupt behaviours in public acquisition is impossible because procurement budgetary allocations cannot, in the first place, be easily calculated correctly. Also, there exists difficulty in determining perfectly the mean percentage of procurement outlay missing as a result of fraud in procurement since vendors render contrasting ratios of contracts' prices to divergent unscrupulous bureaucrats (Thai, 2008).

What is known about procurement corruption-induced losses generally is that, it involves the dissipation of large amounts of economic and financial resources. Corruption in procurement thus has huge devastating consequences for the economy and delivering of essential services. Also, there is consensus among scholars in the field that, though corruption exists across all countries, its effects are more severe on developing countries than the developed or advanced nations. In other words, wrongdoing in acquisition process does not affect societies equally in degree or magnitude, but varies from one society to the other. Yadav (2005) agrees with this position as he avers that, though fraud and perversion represent a world-wide dilemma, its implication for the well-being of populations in the yet advancing states is exceptionally catastrophic. In Africa, in particular, malfeasance is a pervading occurrence. The peril escalates or inflates the amounts expended by governments

in delivering general services to the residents and is normally done in secrete to the effect that it is hardly noticed, mostly, small or trivial corrupt deeds as known to be common with low-ranking civil servants, and bigger or main corruption which is usually found among high-ranking officials (United Nations, 2003). All these challenges have triggered off procurement reforms in several countries of the world inclusive of Africa.

2.4 Public Procurement Reforms in Africa

Revelations by the OEDC have shown that the predicted worth of the world-wide public purchasing market is US\$2083 billion, which is equal to 7.1% global GDP or 30.1% of the world's commodities and commercialized services exports in 1998 (Audet, 2002). It was also estimated that about US\$30 to US\$43 billion would be in circulation in Sub-Saharan Africa's government acquisition marketplace (Wittig, 1999). According to Trionfetti (2003), majority of the governments of the industrially advanced economies expend not less than 10% of the GDP on procurement (Agaba & Shipman, 2006). These large amounts of economic and financial resources suggest that grown and growing economies alike require very good and vigorous procurement structures (Agaba & Shipman, 2006). In the opinion of Development Assistance Committee (DAC) (2005), however, less-advanced states, especially need stronger and energetic procurement schemes because purchases by government agencies in those societies commonly make-up a large cut of grand expenses, for example, 40% in Malawi and 70% in Uganda, juxtaposed with a world standard of 12-20% (Agaba & Shipman, 2006).

Developed societies have long realized the crucial contribution of the public procurement system in development process, and thus have institutionalized adequate procurement systems. Government procurement in much of the matured societies are constrained by multinational pacts like the World Trade Organisation's Agreement on Government Procurement, or procurement directives of regional bodies like the European

Union or the North America Free Trade Agreement (Agaba & Shipman, 2006). This shows that developed societies have for a long time evolved robust and virile procurement systems transcending the national level of individual countries to regional levels, and have been brought together under different single platforms for economic cooperation. Lamentably, procurement set-ups in several immature nations remain uncommonly frail or infirm, serving to fiddle away scanty indigenous and non-indigenous resources. Rejuvenating procurement competence in these countries should therefore be considered an all-important factor in the effort at improving socio-economic welfare and an imperative and needful attribute of initiatives intended to support universal dedication to lessening poverty prevalence (DAC, 2005). Prior to the 1990s, when the urgent need for African countries to embark on reform in their public procurement spheres increasingly gathered impetus because of insistent entreaties from both external and international sources, the states largely operated the old public procurement systems and practices that were introduced and left behind by their colonizers.

As Agaba and Shipman (2006) correctly observe, regardless of the fact that states in Africa were colonized by discrete colonial powers, they share an inheritance of colonialism and majority of them have had to retain the procurement fabrics or architectures bequeathed to them by the imperialists, which are now being subjected to reform. Despite this, the states differ in economic and social facets including their procurement exigencies, and no single acceptable prototype of reform is wholly apposite to all (Agaba & Shipman, 2006). The need for reform was therefore partially based on the wide acknowledgement that African countries retained a procurement system that was handed-down to them during colonial era. The desire and pressures for change emanated locally and internationally following the general realisation of the inherent deficiencies and inability of the old procurement systems and practices to deal or cope with the existing realities. Obviously, the old procurement systems in developing African countries were grossly unprofessional, inefficient and ineffective, and

did not meet up with the global best practices and standards in the modern times. Hence, the need arises for the reform of the procurement systems in these states.

In effect, “in recent years, the impetus for reform has increased, partly in consequence of requirements set by the World Bank and other donor organisations as conditions for providing development aid but principally because the inefficiencies of the unreformed systems have become self-evident” (Agaba & Shipman, 2006, p. 373-374). Considering that procurement has both short-term and long-term impact on every facet of national development “most donors consider that a well-functioning procurement system is an essential requirement if their funds are to be used effectively to promote development. Where such a system is not provided by the host country, donors may insist on using their own procedures” (Agaba & Shipman, 2006, p. 374). But, according to Abeille (2003), “there has been a trend in recent years for using national systems where these are suitable, through multi-donor budget support programmes” (as cited in Agaba & Shipman, 2006, p. 374). Since “most developing countries prefer the flexibility that comes with receiving development aid through budget support, they have an incentive to reform their public procurement and financial management systems” (Agaba & Shipman, 2006, p. 374).

The basic rationale for the procurement reform exercise in unindustrialized or developing nations as revealed in a piece with the title “Obstacles to Public Procurement Reform in Developing Countries”, written by World Bank’s Senior Procurement Specialist, Robert Hunja, is “to establish a strong and well-functioning procurement system that is governed by a clear legal framework establishing rules for transparency, efficiency and mechanisms of enforcement, coupled with an institutional arrangement that ensures consistency in overall policy formulation and implementation” (Agaba & Shipman, 2006, p. 376). Nevertheless, giving that much of the pressure for reform in developing states stem from transnational donor institutions, some have conceived the demand for reform in these

nations in terms of a “non-value free” exercise masterminded and supported by the West in order to further expose Africa and rest developing states to the vagaries of western exploitation and control. Others have argued that the reform agenda is an exercise in the right direction which is meant to facilitate and benefit the development needs and desires of the developing countries in the long run, if properly adopted and implemented. Indicatively, issues relating to the current procurement reforms in less industrially developed countries generally have spurred intense debates and disagreements among many who can be rightly categorized or grouped as supporters and critics of the initiative or exercise.

The position of supporters of reform, as Development Assistance Committee (2005) explains is that:

There are persuasive arguments that procurement reform is likely to produce the most beneficial outcomes when it is approached as an integral part of a broader programme of reform, including developing the rule of law, improving the investment climate, reducing corruption, implementing e-government, enhancing service delivery and improving public financial management (Agaba & Shipman, 2006, p. 389).

They argue further that the “integration of procurement reforms with complementary efforts to improve other aspects of financial management, so that procurement is made a mainstream part of the public financial management system, are seen as crucial to overall success” (Agaba & Shipman, 2006, p. 389). On their part, opponents are of the opinion, according to Abeille (2003), that: “Developing countries are more or less forced to embrace some procurement standards that are influenced by international organizations such as the World Bank, World Trade Organizations, Free Trade Area of the Americas (FTAA) and other important donor organizations”(Schrouder, 2010, p. 5).

The critics strongly maintain, as Schwartz (2003) notes, “that pressures to adopt western “best practices” for government contracting constitute an attempt to remake the developing world in the image of the West and to reinforce the hegemony of the USA and

other advanced capitalist democracies” (cited in Agaba & Shipman, 2006, p. 387). According to Schwartz (2003), they advocate, therefore, that “procurement reforms should reflect a range of models from developed and developing countries” (cited in Agaba & Shipman, 2006, p. 387). For them, “although these organizations tend to present a myriad of opportunities for growth, transformation and transparency in the procurement process they also tend to be the major beneficiaries of some of the implemented policies” (Schrouder, 2010, p. 5). Regardless of critics’ arguments, the supporters of reform hold the view that the exercise would yield desired development results in the developing African countries if the reform effort receives genuinely devoted political support and backing of the top-most echelons or hierarchies of governmental authority (Agaba & Shipman, 2006). In furtherance of their argument, they stress that “political leadership is needed not only in support of the passage of public procurement legislation through Parliament but in demonstrating that all the forces of government will be used to make the procurement reforms a success and to punish those who commit malpractices” (Agaba & Shipman, 2006, p. 389).

This debate is on-going and it currently pre-dominates public procurement discourse in most developing African countries. Notwithstanding, many of these countries have adopted and implemented the public procurement reforms framework as advocated by the international donor agencies and organisations, as a way of overcoming the shortcomings of the unreformed systems and practices, as well as to conform to current public procurement globally acceptable standards and best practices. Thus, in spite of the arguments by critics over the intentions of the international donor agencies or organisations, most especially the World Bank, for propelling Africa and other developing regions to embrace reforms, many African countries, including Nigeria have reformed their procurement systems in anticipation of positive outcomes.

2.5 Issues in Public Procurement Regulation

Procurement, by its innate characteristics, as has earlier been observed, is a delicate state's administrative responsibility with direct impact on the economy. Fundamentally, public procurement is riddled with corrupt practices in all countries. This makes regulation a crucial aspect of any acclaimed virile, well-organized and functional procurement and contract system. Governments promulgate rules and regulations to protect the integrity and credibility of procurement system so as to be certain that expected development successes or outcomes are attained. As the EU-AINTRPPR (2010, p. 24) concurs:

The conduct of public procurement is generally government by controls that take the form of formal regulatory rules (for example, those requiring competitive tendering). Often these are legally binding on procuring entities and procuring officers to whom they are addressed, and are also often legally enforceable by interested persons-which often include other suppliers.

It is this salient feature of government procurement that differentiates it from private procurement. Even though there may be rules guiding procurement activities in non-public establishments or domains, the rules always largely remain flexible compared to those of the public entities. In his present study, regulation in government procurement entails the whole gamut of mechanisms employed to protect states' procurement systems against indiscriminate practices through the instrumentality of a body of laws supported by specially designated independent institutions to enforce the rules.

In the modern era, public procurement practice in most countries is not self-operational neither does it exist in isolation of certain legal and institutional structures. It rather exists within the context of popularly known formal legislation regulated by a statutorily established and devoted authority or body, which provides institutional structure for procurement governance. Given their political peculiarities as well as purposes they serve in countries, government procurement regulatory instruments differ respectively in terms of origin, names, powers as well as functions. However, while their origins may not necessarily be the same,

the rationales for institutional and legal regulatory mechanisms for public procurement remain the same for all countries. For instance, the legal instrument for public procurement can be dubbed different names such as Public or Government Procurement Law, Ordinance, Decree, Act, Statute, Principles, among other names. Distinctively, procurement regulatory institution is variously named Public Procurement Agency or Authority, Contracting and Purchasing Authority, Bureau for Public Procurement, among other names. Irrespective of the titles, a common fact about public procurement regulatory institution is that, it enforces compliance with rules and regulations governing the procurements procedures.

Even at trans-national levels, the need for effective procurement regulation that would guide against discriminatory practices has also precipitated the multiplication of regional and global procurement regulatory instruments, agreements and organizations. Some examples include: the European Commission Procurement Rules (UN, 2004; Arrowsmith, 2011; Rosenberg, 2010), World Trade Organization's Government Procurement Agreement (WTOGPA) (Anderson, 2007; Global Media Alliance, 2010; Reich, 2009; Silva, 2008), World Bank Procurement Guidelines (WB, 2009), and the Organization for Economic Co-operation and Development (OECD) Procurement Principles (OECD 2009; Rodney, 2007), among many others. However, the most popular of such instruments is the United Nations Commission on International Trade Law (UNCITRAL), prototype government procurement legislation and a blueprint introduced to guide countries in undertaking procurement legal reform (Arrowsmith, 2004; 2005; 2011). The existence of these agreements and organizations implies that the important task of controlling or regulating government procurement business is not merely a national concern but reaches global and regional echelon.

At national level, practical effort at establishing formal laws and supporting institutions for effective public procurement regulation has remained a common trend among countries including African States. For example, Public Procurement Act, 2003 (Act 663) provides the

legal framework for government procurement in Ghana (WB, 2010), while Ghanaian Public Procurement Board (GPPB), also known as the Public Procurement Authority (PPA), is the supporting institutional structure established by the Act (Aigheyisi, & Edore, 2015).

The objective of the Board according to the Public Procurement Act (2003) is to - harmonize the processes of public procurement in the public service to secure a judicious, economic and efficient use of state resources in public procurement and ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner (Aigheyisi & Edore, 2015, p. 114).

As Aigheyisi and Edore (2015, p. 115) explain: “Public procurement in Tanzania is regulated by the Public Procurement Act No. 7 of 2011, which repealed the erstwhile Public Procurement Act of 2001. The regulatory body of public procurement in the country is the Public Procurement Regulatory Authority (PPRA) set up under section 5 of the Act”. As added “to the regulatory functions, the PPRA is charged with oversight powers and responsibilities on all public procurement activities carried out by all public bodies in mainland Tanzania” (Aigheyisi & Edore, 2015, p. 115).

The Federal Acquisition Regulation, 48 C.F.R. is the main legislation regulating all procurement activities in the United States’ federal government (Duvall, Elling, & Taylor, 2013), while “the Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget (OMB) has primary responsibility for public procurement policies and regulations. The OFPP shapes the policies and practices that federal agencies use to acquire the goods and services they need to carry out their responsibilities” (Duvall, Elling, & Taylor, 2013, p. 8). In Brazil, “Procurement Law (8.666/93) and the Reverse Auction Law (10.520/02) together constitute the legal framework, regulating all types of procurement (goods, works, and services, including consultancy services)” (WB, 2010b, p. 57). The unit responsible for establishing federal government’s procurement policies in Brazil is Ministry of Planning, Budget and Management (MPOG). However, in practical terms, “Brazilian

Federal government procurement is centrally regulated by the Secretariat for Logistics and Information Technology (SLTI), an agency of the Ministry of Planning, Budget, and Management” (WB, 2010b, p. 36).

Before 2003, “public procurement in the Philippines was governed by more than 60 laws, executive orders, presidential decrees and administrative orders, including issuances from government agencies applicable to respective departments” (Government of the Philippines, World Bank & African Development Bank, 2003, p. 88). However, in 2003, the Philippines Government enacted a new procurement law; “the Government Procurement Reform Act was signed into law by the President on January 10, 2003 as Republic Act 9184” (GP, WB & ADB, 2003, p. 88-89).

The law requires all agencies to hook up to a central internet portal that will be the definitive source of information on all government procurement, including a Public Tender Board for posting procurement opportunities, notices, awards, and reasons for award; an Electronic Catalog, to support purchases of goods and services; and a Supplier Registry, which is an electronic database of all manufacturers, suppliers, distributors, contractors, and consultants registered under the system (International Monetary Fund, 2004, p. 2).

This way, the Philippines Government Reform Act of 2003 “has imposed a uniform procurement system within the public sector, clearly specifying, amongst other things, the methods and stages of purchasing to be followed, the roles, responsibilities, accountability and manner of appointment of procurement officials and committees” (Jones, 2007, p. 5). The Government Reform Act, 2003 creates the Government Procurement Policy Board as the governing agency laden with the duty to “review the implementation of the Act and its implementing regulations, to monitor and enforce compliance to them, and to recommend changes in procurement policy and rules. It is also responsible for drafting bidding documents and providing procurement training” (Jones, 2007, p. 8). The existence of legislative and

regulatory frameworks for procurement in different countries shows that public procurement regulation is highly critical in evolving a robust and result-oriented system and practice.

2.6 Public Procurement Regulation in Nigeria

The need for effective and efficient mechanisms for regulation of public procurement activities is largely responsible for the recent wave of massive reforms sweeping through the procurement systems of most developing countries. In particular, Africa has been influenced by the drive for reform as the governments of most African countries have instituted public procurement reforms (Dza, Fisher & Gapp, 2013). This quest has occasioned the advent of modern legislation and institution for public procurement regulation in these countries, completely replacing the obsolete and inadequate practices and/or methods in most instances, as the case of Nigeria. As the Public and Private Development Centre (n. d., p. 3) observes:

As part of its quest for effective governance and economic development, the Federal Government of Nigeria embarked upon far reaching institutional, legal and regulatory reforms between 2003 and 2007. In relation to the field of public procurement, the reforms seek to achieve legal and regulatory reforms as well as the harmonisation of standards and practices and to achieve transparency, competitiveness and value for money in public procurements.

With the completion of reforms in Nigeria's public procurement system by the Federal Government in 2007, in accordance with the core provisions and standards advocated by the World Bank which mainly catalyzed the procurement reform in the country (Williams-Elegbe, 2012), the procurement regulatory environment in Nigeria has changed dramatically. The reform produced a new legislation, the Public Procurement Act (PPA) 2007, which has become the main statute regulating all government procurement activities in the federal government. The emergent public procurement law (PPA) establishes an institution, the Bureau of Public Procurement (BPP), as the main regulating authority for public procurements. While "the PPA is a comprehensive statute that governs the procurement of

goods, construction works, services, and disposal of state assets” (Williams-Elegbe, 2012, p. 346), the PPDC (n. d., p. 5) in its words describes the regulatory institution (BPP) thus:

BPP is the Bureau of Public Procurement (also known as the Bureau) which is the agency charged with the implementation of the Public Procurement Act and the regulation of every aspects of public procurement involving the federal government and its agencies, as well as all projects involving other bodies where not less than 35% of project costs is proposed to come from the Federal Budget.

Thus, being responsible for the application of the procurement law, “to fill in the gaps in the PPA and clarify nay areas of ambiguity, the Bureau of Public Procurement also issues a set of regulations that provide more detail on the regulation and management of the procurement function” (Williams-Elegbe, 2012, p. 346). The Bureau has been in operation in the Nigerian public procurement field since its establishment in 2007.

However, like in many developing African countries, where reforms have been initiated and implemented to engender adequate legal and institution frameworks for public procurement regulation, there have emerged in Nigeria serious debates on whether the reforms have produced any substantial positive changes. The subsisting controversy revolves around the performance of the Bureau in relation to procurement regulation. Specifically, the argument centers on whether the intervention of the Bureau has brought about any significant improvements in the regulation of Nigeria’s public procurement processes since it resumed active operations. The debate has drawn considerable attention from the various quarters of the Nigerian societies, and polarized public procurement scholars and close watchers or observers of the country’s procurement activities into two broad divergent groups. In other terms, the debate has given rise to two different perspectives, constituted by the proponents of the Bureau on the one hand, and its opponents on the other hand. Proponents of the Bureau are of the view that the existence and operation of agency has engendered remarkable

improvements in the regulation of Nigerian public procurement process, while the opponents posit that the Bureau has not recorded any concrete achievements in his regard.

Alluding to documented evidence in existing literature on the on-going debate, it is vehemently held among the proponents that, as the public procurement regulatory institution for the country, “the Bureau of Public Procurement, BPP, whose establishment was provided for by the Law, is in existence and is performing creditably” (Onyema, 2011, para. 4). Thus, in their opinion, its supporters posit that the BPP, “based on its statutory functions and powers, has been scrutinizing the activities and performances of the MDAs under its public procurement review mechanism to ensure transparency, accountability, value for money, timeliness, among other essentials of a good procurement practice” (Onyema, 2011, para. 4). Similarly, Onyekpere (2013) affirms that “the Bureau of Public Procurement has made tremendous contributions in the area of setting new standards and reforming existing ones, public sensitisation and capacity building, establishment of a procurement cadre in the civil service”, among others. Onyema (2011, para. 5) adds that the Bureau has institutionalized “public procurement processes that will ensure efficient and effective practice” in Nigeria.

Regardless of these above claims by the proponents, critics argue that the Bureau basically exists under the procurement law to ensure adequate application of, as well as absolute conformity with the procurement Act at the federal level, but the performance of the Bureau in this regard has been generally appalling (Punch, June 16, 2013). Supporting this position, the Global Integrity 2010 maintains that, in practice, public procurement regulations are not effectively enforced in Nigeria, alluding that companies guilty of major violations of procurement regulations are not always blacklisted (Business Anti-Corruption Portal, 2013). Hence, in its own opinion, the Senate contends that since 2007, the Bureau has not been able to resolve the plethora of challenging issues characterizing government procurement in Nigeria for reason of inability to fully implement the Act (Babangishiri, 2012). Allegations

also abound that, the establishment of the Bureau was partly informed by the need to curtail shortcoming of the previous procurement practice, such as the involvement of officials, including ministers in the public procurement process, but the Bureau's functions have instead, been usurped by the Federal Executive Council (Punch, June 16, 2013). These two varying perspectives dominate much of the available literature on Nigeria's public procurement practice.

In view of the existing literature reviewed in this study, some obvious gaps are identified. These are as follow:

1. There is lack of consensus regarding the role of the Bureau of Public Procurement in regulating the nation's public procurement process and system.
2. There is yet the absence of systematic evaluative works on the performance of the Bureau of Public Procurement under the current procurement policy regime in Nigeria, especially one that covers the period covered by this present study.
3. There is little or inadequate scholarly attention paid to issues related to the current public procurement policy and practice in Nigeria generally.

This present study, therefore, attempts to fill the above knowledge gaps in the existing body of literature on public procurement system and practice in Nigeria.

2.2.1 Theoretical Framework

The study acknowledges that many theories, such as Structural Functionalism and the General System Theory are relevant and applicable to this research work. However, the study employed the Institutional Theory as the basic explanatory tool because the theory is most suitable and appropriate in examining the subject matter of the research work; the theory enabled proper treatment of the set research questions and achievement of the study's broad and specific objectives. The institutional theory is one of the foremost and dominant frameworks of analysis used by social scientists in conducting research. In the discipline of

political science, the theory has gained greater prominence and immense relevance in investigating political phenomena over a long period. Primarily, “the focus of the approach is the uniqueness of institutions and structures, both in time and place” (Ayee, 2008, p. 16).

According to Ayee (2008, p. 16) “it is instructive to note that institutions and structures have taken a central and particular place in the origins of the discipline of political science, because they define how a political system operates”.

The founding scholars of political science treated institutions such as the executive, legislatures, bureaucracies and courts as key components of public life, worthy of study in their own right. Their importance was reinforced by the significance of institutions in the classical works of political theorists such as Alexis de Tocqueville, and in the Federalist Papers (Ayee, 2008, p. 16).

The institutional theory primarily lays emphasis on the formal structures of governmental institutions themselves as units of analysis rather than individuals that occupy the institutions. The theory sees political actors, both individuals and organizations as being affected by the operational environments. Kraft and Furlong (2007, p. 4) assert that “institutional theory is policy-making that emphasizes the formal and legal aspects of government structures”. The “institutional theory attends to the deeper and more resilient aspects of social structure. It considers the processes by which structures, including schemas, rules, norms, and routines, become established as authoritative guidelines for social behaviour” (Scott, 2004, p. 2). “It inquires into how these elements are created, diffused, adopted, and adapted over space and time; and how they fall into decline and disuse” (Scott, 2004, p. 2).

As John (2002, p. 40), holds, “it is the variety of traditions embodied in institutions that explains the complexity of political behaviour and unlocks the intricacies of the policy process.” On his part, Ayee, (2008, p. 16) opines that: “Institutions and structures are regarded as the arena within which public policy making takes place. They include political organizations, laws and rules that are central to every political system”. Most fundamentally,

“institutions constrain how decision makers behave. They divide power and responsibilities between the organizations of the state. They confer rights on individuals and groups, and impose obligations on state officials to consult and to deliberate” (Ayee, 2008, p. 16). Furthermore, “not only do institutions affect the distribution of power, they also render political life manageable by formalizing rules and norms of behaviour” (Ayee, 2008, p. 16).

Within the institutional school of thought, the term “institution” does not enjoy any single general definition. However, “all three forms of institutionalists define institutions broadly” (Amenta & Ramsey, 2010, p. 16).

Political and historical institutionalists see institutions as formal or informal procedures, routines, norms, and conventions in the organizational structure of the polity or the political economy, whereas sociological institutionalists add cognitive scripts, moral templates and symbol systems” that may reside at supstate or supraorganizational levels (Amenta & Ramsey, 2010, p. 16-17).

Ayee (2008, p. 17), however, posits that “institutions are habits of decision making and belief systems. They are embedded within the institutional framework, which in turn affects the power of groups in the policy process”. This implies, therefore, that “institutions endure” (Clemens & Cook 1999, p. 441). To this extent, “they are an independent factor affecting political behaviour” (Ayee, 2008, p. 17). Hence, the assertion that: “Institutions are social structures that have attained a high degree of resilience. They are composed of cultural-cognitive, normative, and regulative elements that, together with associated activities and resources, provide stability and meaning to social life” (Scott, 1995, p. 33). This means that “institutions by definition connote stability but are subject to change processes, both incremental and discontinuous” (Scott, 1995, p. 33).

The main thrust of the institutional theory is that: “The patterning of social life is not produced solely by the aggregation of individual and organizational behaviour but also by institutions that structure action” (Clemens & Cook 1999, p. 442). Therefore, the theory

argues that, while investigating social or political phenomena, focus ought to be on “institutions that structure action” rather than on the “aggregate individuals’ actions”, or on “interaction pattern” among them (Clemens & Cook 1999). As a considerable number of institutional theorists maintain, “to be institutional, structure must generate actions” (Tolbert & Zucker, 1996, p. 179). According to the theory, “institutions are emergent, “higher-order” factors above the individual level, constraining or constituting the interests and political participation of actors without requiring repeated collective mobilization or authoritative intervention to achieve these regularities” (Jepperson, 1991, p. 145). In other words, the position of the institutional theory, in simple terms, is that the actions and behaviours of actors or individuals in governmental organizations or structures are shaped or constrained by the formal rules and procedures operational in those organizations.

The theory holds, however, that “the influence and durability of institutions is a function of the extent to which they are inculcated in political actors at the individual or organizational levels, and the extent to which they thereby tie up material resources and networks” (Amenta & Ramsey, 2010, p. 17). From the above, the theory thus emphasizes institutional level of analysis rather than individual level. The survival, efficiency and effectiveness of any governmental structure or organization could then be best seen in the light of how well the actors or individuals that occupy it conform to adhere to formal rules and standards in the institution. Institutions are in ultimate sense independent variables causing changes or influencing the behaviours of individuals, the dependent variables.

Some criticisms have been levelled against the institutional theory. Notable among these criticisms are: Firstly, some scholars argue that the theory is predominantly descriptive and preoccupied with administrative details and formal procedures, and that it does not take into cognisance the fact “that actors and groups often circumvent institutions in the pursuit of their interests” (Ayee, 2008, p. 16). Secondly, the institutional theory fails to recognize that

“it is through the actions of individuals that institutions have an effect on political outcomes” (Hall & Taylor, 1996, p. 939), since institutions do not operate themselves but are operated by individuals. Yet, the theory over-emphasizes the primacy of formal institutions in analysis while undermining the role of individuals that occupy the institutions. Despite these criticisms, the institutional theory remains one of the useful theories often employed mainly by Political Scientists in investigating and analyzing a plethora of political phenomena.

Hence, in this study, the theory has been deployed due to certain underlying reasons. First, it is true that institutions do not operate themselves but by individuals. However, it is pertinent to note that it is institutions that regulate the behaviours or conducts of individuals in governmental structures or organizations. Although the role of individuals is critical to the performance of formal structures, it is the institutions that shape the actions of individuals operating in those structures. Thus, while individuals in governmental apparatuses or structures are important in political analysis, institutions are rather more important as they constrain or direct the actions of individuals, meaning that they in greater measures affect decision-making and political outcomes. To understand the reasons why individuals in political structures behave in certain ways therefore necessitates proper understanding of the institutions operational in the political structures within which they function.

Without the institutions in place, individual occupying governmental structures would be left to act unrestrained, and this can have detrimental consequences for the performance and survival of such structures. Secondly, institutions are enduring; they are established systems of decisions-making, and are embedded within the formal structures. As Ayee (2008, p. 16) explains: “Institutions embody cultures and past political decisions. Formal rules and structures agreed or introduced long ago, influence how political actors exercise their choices”. To this extent, institutions are resistant to changes. They are independent factors that affect political behaviours (John, 2002; March & Olsen, 1989).

Individuals come and go, but institutions most times remain the same. In other words, institutions are permanent features of social and/or political structures while individuals are temporal elements. Following this, institutions supersede the individuals occupying formal structures. The institutional theory, therefore, is highly relevant in understanding the primacy of established rules, laws, norms, values and procedures in investigating and analysing the activities or operations of governmental institutions or structures. This underlining fact informs the suitability of institutional theory in appraising the performance of Bureau of Public Procurement, with particular attention to its role in enhancing transparency of the procurement process and enforcing strict adherence to procurement rules by all participants and stakeholders.

CHAPTER THREE

METHODOLOGY

This chapter is dedicated to explaining the methodological approach employed in executing the research work. The main rationale is to provide detailed and thorough description of the data collection method or technique as well as method employed for the analysis of the data collected. The chapter begins with the research design which explains the methodological basis for the study. Following the discussion of the research design is the segment on the population of the study which offers insight into the constituent members of the sampling frame. The next segment discusses the sources of data used for the study. Following this is the segment on the data collection method, while the last segment explains the method or technique adopted in analysing the data collected and used for the study.

3.1 Research Design: The study employed the survey and documentary research designs. These methods were adopted as they were considered appropriate for examining the performance of the Bureau of Public Procurement in Nigeria's public procurement system.

3.2 Sample Population: The sample population for this study consisted of the major stakeholders in Nigeria's public procurement process. This included a total of twenty (20) participants/respondents comprising of staff of the Bureau of Public Procurement, some selected Federal Government ministries, namely; the Ministry of Power, Works and Housing; Ministry of Budget and National Planning, and Ministry of Finance, and some selected private contracting companies and civil society organizations, all based in Abuja, the Federal Capital Territory. The choice of selecting participants in the sample population solely from

Abuja was informed by the city's higher concentration of entities and/or individuals with richer knowledge and understanding of the Bureau's operations and the public procurement process, than other parts of the country, owing to their constant dealings with the agency. The purposive sampling technique was used to select the participants in the sample population. The sample population for the study therefore represents the three major segments of the Nigerian society, namely government/public sector, private sector, and the civil society. The table below shows the three categories of the sample population, number of elements selected, and the total number of respondents for each category.

Table 3.1: Categories of the Sample Population of the Study.

S/N	Sector	Number of Elements Selected	Total Number of Respondents
1	Government/Public (MDAs)	4	8
2	Private (Contracting Companies)	3	5
3	Civil Society Organisations (CSOs)	4	7
Cumulative Total		11	20

Source: Author's Compilation.

With the exception of the Bureau, being the main object in this research, government entities - Ministries were selected based on their perceived adequate knowledge about the activities of the Bureau and the public procurement process in Nigeria, owing to their closer working relationships and constant interactions with the agency. The private companies are among the Service Providers, Suppliers and Contractors/Bidders certified and registered with the Bureau, and doing business with the Federal Government. Hence, they were selected on the basis of their presumed sufficient knowledge and understanding of the Bureau's activities and the public procurement procedures in Nigeria. The selected CSOs are among the accredited SCOs by the Bureau, participating in procurement monitoring and observation in

Federal Ministries, Departments and Agencies in Nigeria. They are anti-corruption CSOs representing Nigerian citizens in the procurement sphere through their monitoring role in the public procurement process, and also with close working relationship and proper understanding of the activities of the Bureau. Across the categories, respondents were selected based on their level of knowledge and experience on the operations or activities of the Bureau and the procurement process.

The Bureau's officers interviewed were of the ranks of Principal Procurement Officer and Senior Procurement Officer. At the Federal Ministry of Power, Works and Housing, an Assistant Director of Procurement and an Assistant Procurement Officer were interviewed. At the Federal Ministry of Finance, a Chief Procurement Officer and a Procurement Officer were interviewed. At the Federal Ministry of Budget and National Planning, officers interviewed were a Deputy Director of Procurement and an Assistant Director of Procurement. At one of the selected private contracting companies, a Procurement Manager and a Warehouse Manager were interviewed. At another private contracting company, an Accounting Officer and a Purchasing Officer were interviewed, while a Quantity Surveyor was interviewed at the next contracting firm. An Executive Director and a Public Procurement Designer respectively, were officers of one of the selected CSOs interviewed. At another selected civil society organization, an Acting Head of Secretariat and a Monitoring and Evaluation Associate were interviewed. A Programme Officer and a Procurement Monitor were interviewed at another selected civil society organization, while a Lead Director was interviewed at the next selected civil society organization.

3.3 Data Sources: The data for the study were derived from primary and secondary sources.

3.4 Data Collection Method: The primary data for the study were derived through in-depth interview (IDI). On the other hand, the secondary data for the study were sourced from government publications, reports, magazines, periodicals, newspapers, and the Nigerian BPP.

3.5 Method of Data Analysis: The primary and secondary data collected were analyzed using the qualitative-descriptive method of data analysis, consisting of content analysis, inferences and logical arguments techniques. This method was found appropriate as it enabled the achievement of both the central and specific objectives of the study.

CHAPTER FOUR

EVOLUTION OF PUBLIC SECTOR PROCUREMENT PRACTICE IN NIGERIA

This chapter takes a cursory look at the evolution of public procurement practice in Nigeria. Within this broad context, the chapter discusses a wide range of related issues, namely: the public procurement system and practice in Nigeria before 2007 and its criticisms; the emergence of the current public procurement policy regime; the Public Procurement Act, 2007 – its goal, scope of application and main objectives; the Bureau of Public Procurement - its objectives, statutory functions and powers, as well as organizational structure and functions of the departments of the agency.

4.1 The Public Procurement System and Practice in Nigeria Prior to 2007

The practice of public procurement in Nigeria is traceable to the colonial days, specifically between 1885 and 1914 (Kolawole, 2005). During the period, the Ministry of Works was responsible for carrying-out all public procurement activities and for the provision of infrastructures such as roads, housing, transport, office furniture and fittings, among others in other ministries and public places. As at then, the Ministry of Works operated under the Stores Section, which was an exclusive reserve for public officers of proven integrity working under conditions of strict probity and accountability. The essence was to guarantee greater efficiency, effectiveness and focus on value for public money and satisfaction (Achua, 2011). In 1960 when Nigeria gained independence from the British colonial powers and the subsequent take-over of the mantle of leadership and governance of the country by Nigerians, the public sector procurement policies, rules and procedures were undoubtedly so stringent

that an officer or a member of staff posted to the Store regarded the transfer as a punishment (Adegbola, et al., 2006).

Not until Nigeria's independence, the function of the Stores was not considered as a specialized career function. It took barely ten years after the Stores function was already professionalized in the UK's public sector in 1967 before the structure, job grading and responsibilities of the Stores class were eventually specified in Nigeria through Federal Establishment Circular No. 8/1466/VII/79 of 19th February 1976. Subsequently, the Stores class was further enhanced in the Revised Financial Regulations of 1979 (Chapter 40, Section 4002(a)) which included the Heads of Stores in the membership of the Departmental/Divisional Tenders Boards. Afterwards, increased pressure and agitation gave rise to Decree 43 of 1988 which established Supplies cadre up to the post of Deputy Director (Supplies) with the materials management concept, bringing Purchasing and Stores under a single unit (Adegbola, et al., 2006).

As an irony, however, the purchasing and supplies function was reversed while other professionals retained their status when accountants, pharmacists and engineers were graded under Professionalization of the Public Service. The function of the Stores class was de-professionalized in the Nigerian public service at a time when other countries were making it a professional career. As a matter of example, the Government of Britain issued a White Paper in 1995 which officially set the Chartered Institute of Purchasing and Supply's (CIPS) professional qualification as a standard to be attained by staff making procurement their main career (Adegbola, et al., 2006). In the early 1990s, the universal accolade and acceptance of the Japanese model of just-in-time (JIT) had a great impact on public sector procurement reforms during the period. The Japanese just-in-time model principally aims at eliminating waste associated with public procurement activities and preventing the tying-up of huge amount of money in stock and the accompanying storage costs. The philosophy emphasized

by the Japanese model is the importance of establishing just-in-time purchasing and supplies as a way of reducing the levels of inventory and inspection and to produce standard or quality products (Achua, 2011).

Prior to this development and coupled with the oil boom in Nigeria, the practice of external contracting emerged in the public sector. Following this, the public procurement function was eventually decentralized and procurement was ceded to external contractors who bid for contracts through tender. This development resulted in the establishment of the departmental and public tender boards which in principles were to serve as a check on abuse of the procurement process. But with time, it was realized that rather than checking corruption, the tender boards allegedly promoted it in the procurement process (National Integrity Systems, 2004). As Obinna (1997) observes, from 1970, the use of contract awards for execution of national projects, arguably for expediency, facilitated the breeding of the culture of excessive costs, corrupt management and ill-considered contracts in Nigeria. This was thus a major deviation from the principles of the Japanese just-in-time which “has to be seen as an organizational philosophy which requires changes in attitude within firms and systems of firms” (Linge, 1991, p. 316).

Reforms in the public procurement sector were not also without major structural and institutional deficits. Public procurement reforms in Nigeria during the period were not backed by specific Acts of the National Assembly until 2007. What obtained was the Financial Regulations issued by the Federal Ministry of Finance which regulated and delegated public procurement and financial management functions at the federal levels (Achua, 2011). The extant Financial Regulations “stipulated the composition and award limits of contract-awarding authorities (such as Tender Boards) for each government entity. But it neither prescribed tender procedures nor created procurement regulatory functions” (Udeh, 2015, p. 2). Therefore, the Financial Regulations was an administrative document, not

a law or an Act. To this effect, it was amended without recourse to fundamentals, and was even employed by the Minister of Finance as a political instrument (Achua, 2011).

In addition, “there was no independent body exercising oversight on public procurement practices; except that the Minister undertook routing finance management control to ensure fiscal discipline in public expenditure” (Udeh, 2015, p. 2). And there existed no officially recognized provision for the inclusion of the citizens and citizens’-based organizations in the public procurement process (Udeh, 2015). Invariably, majority of Nigerians had little or no knowledge of how their collective financial resources were utilized and there were no accountability mechanisms. Over time, however, the powers of the Federal Ministry of Finance in relation to public procurement regulation were weakened, as many administrative bodies at both federal and state levels began issuing circulars and guidelines on public procurement. The result of this was multiplication of circulars issued at federal and state levels by various public entities with the aim of clarifying components of the Financial Regulations on issues related to procurement (Achua, 2011). “For example, the Presidency issued circular (SGF/OP/I/S.3/T.1/172) of 11th October, 2000, spelling out the “policy guidelines” for the federal administration which contained an update on thresholds for different tender boards and a policy of open competitive tender” (Achua, 2011, p. 326-327).

By implication, conditions for contracts award in Nigeria were merely protected by the goodwill of the government of the day. The proliferation of circulars and guidelines on public procurement from different sources was a clear indication of the major deficiencies and inadequacies of the Financial Regulations which created confusion and allowed rooms for corruption which were readily exploited in the public procurement process. The entire scenario signalled the urgency for procurement reform with a view to establishing “due process” standards. And as an upshot, New Policy Guidelines (Circular F. 15775 of 27th

June, 2001) pertaining to procurement and contracts award was issued by the federal government (Achua, 2011). Emanating from the Federal Government, the emergent procurement policy directives, contributed significantly in facilitating the processes leading to the reform of Nigeria's procurement system at the dawn of the country's Fourth Republic.

4.2 Observed Weaknesses of the Old Public Procurement System and the Need for Reforms

The Nigerian Federal Government embarked on the reforms of the country's public procurement system and practice as a result of the observed weakness of the unreformed system. The old procurement and contract system in Nigeria was beset by a number of deficiencies or shortcomings which rendered it inefficient and ineffective. One fundamental weakness or deficiency of the old procurement system and practice which necessitated the introduction of reforms was the absence of a known formal central legislation and designated authority or institution that administered or regulated procurement proceedings at the federal level. Williams-Elegbe (2012) attests to this fact as she states that Nigeria lacked a government procurement law and an oversight institution just as procurement was not also conducted based on any known and clearly defined standards. In other words, conduct of procurement activities in Nigeria during the period was not based on a specific law enacted by the country's Legislature neither was there any central body dedicated to overseeing the conduct of procurement process in the MDAs. As a consequence, the processes of awarding and implementing public contracts by procuring entities were haphazardly conducted, and subjected to manipulations by government officials.

As at then, public procurement and financial management activities in the federal government were controlled through Financial Regulations (FR) issued by the Federal Ministry of Finance (WB, 2000). Worthy of mention here is that the FR were merely a set of inner guidelines for controlling the use of financial and/or economic resource in the federal

government, and it consisted of directives pertaining to the structures of Tenders Boards (TB) and the scope of their powers and control, as well as directives regarding the substantial procurement procedures (WB, 2000). So, it was not surprising that massive irregularities, fraud, corruption and mismanagement characterized public procurement in Nigeria then (Williams-Elegbe, 2012). Jacob (2012) further reinforces this position as well as identifies the huge price Nigeria had to pay for not having a model law that regulated public procurement activities during the period. As he states, in the years preceding 2007 there existed no specific legal instrument guiding the award of government contracts in Nigeria, and as a result, government officials used the procurement and contract system as a means of compensating their acquaintances and acquiring riches illegally at the expense of the good of the masses. Jacob (2012) goes further to posit that majority of the popular wealthy Nigerian business tycoons got their wealth through favouritism or preferential treatment in public contracts awards during previous administrations/regimes. The absence of legislation for procurement governance thus had much negative effects on the conduct of government procurement functions throughout the period of the nation's dependence on the unreformed system.

The subsisting Financial Regulations released by the Federal Ministry of Finance did not constitute a body of laws, but were rather mere administrative documents (Achua, 2011). World Bank (2000) expatiates this point as it holds that the FR was neither a law nor an act, but an administrative document subject to amendments by the Minister of Finance without recourse to supplier/contractors' basic rights. The security of the rights of the suppliers and contractors in the unreformed procurement system only depended on the goodwill of the government of the day (WB, 2000). Also, apart from the fact that the Financial Regulations emanating from the Finance Minister were largely inaccessible to all including bidders (Williams-Elegbe, 2012), the Financial Regulations appeared peripheral in terms of their legislative or discretionary control of the substantive procurement operations (WB, 2000).

Furthermore, given the lack of a principal procurement policy-making body, both the Ministry of Finance's Financial Regulations and the circulars rolled-out under its authority did not provide mechanism for formalizing and/or submitting complaints on issues arising from public procurement activities (WB, 2000).

What is more, at the state and federal levels, there were quite numerous administrative entities releasing circulars and instructions as regards procurement (WB, 2000b). The multiplication of circulars on procurement at both the federal and state levels resulted from the need to explain components or features of the Financial Regulations, and the sizeable volume of the various circulars and directives emanating from different government bodies constituted a key weakness of the Financial Regulations (World Bank, 2000b). By and large, the directions prescribed by these circulars in relation to government procurement activity were completely deficient and increased the chances for massive corruption and improper practices in the administration of government contracts (Onyema, 2011). Indeed, the circulars were highly exposed to all sorts of manipulations in the contract award processes (Achua, 2011). Beside this, the circulars were in their very nature weak and myopic to govern such an important government function as procurement. Thus, the scope of corruption and associated secrete and dishonest practises in government procurement was widened by the defects in the circulars and guidelines, thereby rendering the system grossly inefficient and dysfunctional.

The issuance of the circulars and guidelines on public procurement by several public authorities as a result of the lack of a single authority or institution that regulated procurement policies also generated confusion owing to a multiplicity of circulars and directives from different sources (Achua, 2011). The system suffered from lack of a clear-cut procurement procedures and rules. The scenario validates the position of Hunja (2003) who alludes that excessive replication of procurement instructions results in varied understandings and application of extant laws across and within the numerous government agencies, and

absence of supervisory duties for effective working of the procurement system which makes imposition of rules problematic (as cited in Bodurin, 2016). Therefore, as Agaba and Shipman (2012) states, the procurement apparatus was plagued with a variety of malfeasances, such as increased rate of interest, intrusion and insider perversions and intermittent cases of retrospective endorsement or authorization of contract (cited in Bodunrin, 2016). Non-availability of a procurement regulatory authority suggests that there were no channels through which contractors and bidders could channel or report their grievances which possibly emanated from abuses or unfair treatments by officials of procuring entities during procurement and contracts award processes.

Another source of the weakness of the old procurement system was the syndrome of unprofessionalism, or the unconventional practice of using non-professionals or unskilled manpower to carry-out government procurement activities. This was because government procurement function during the pre-PPA era was not regarded a professional activity; hence, procurement staff of MDAs were not subjected to appropriate professional trainings. More so, there was no recognized specialized Procurement Officers Cadre in the country's Federal Civil Service as against the conventional practice (Onyema, 2011). To this effect, personnel of MDAs saddled with the task of coordinating government's spending and contracts were without skills and competence to adequately plan and handle public procurement activities because they did not appropriate training (Onyema, 2011). The World Bank (2000) confirms this as it reports that in Nigeria then, procurement responsibilities were habitually not handled by skilled and capable work force; they were managed by anyone, and this attracted a low regard for the procurement occupation. This was majorly for the reason that the public officials largely had too little knowledge about procurement proceedings as a result of the low admiration for the career and unavailability of funding (WB, 2000). Consequent upon this, as Onyema (2011) explains, Nigeria's public procurement then was largely inept or

incompetent, badly organized and unproductive. The un-professionalization of public procurement made it possible for the public procurement functions to be executed by staffs that lacked requisite training and skills on the job, leading to huge wastages of scarce public financial resources, with the accompanying devastating consequences for the country's economy.

Associated with the issue of little consideration or attention to the procurement profession and staff in Nigeria's public service was the problem of poor remunerations and incentives for procurement personnel in MDAs. Under the old procurement system, as the World Bank (2000) rightly observes the wages and welfare packages of the procurement officers, just like those of the majority in the public service, were too meagre to take care of the primary needs of a nuclear household and were generally below that of the private sector. Also, the standards or yardsticks for promoting the procurement personnel were too many including merit, seniority, vacancy, among other things. In spite of this, the entire process and arrangement was ambiguous and unclear to most government officials (WB, 2000). It is not surprising, therefore, that bribery or kickbacks, collusion between public officials and contractors or suppliers, awarding of contracts to contractors or suppliers ready to pay any agreed percentage of contract sum and inflation of contracts value, resulting most often in embezzlement and diversion of funds meant for execution of public projects into private pockets, delivering of works or goods below desired quality, outright abandonment of government projects, among others, commonly characterised the old procurement era in Nigeria. Given the meagreness of their salaries and unavailability of related work benefits, resulting in their inability to cater for their families' needs, procurement staff in MDAs would ordinarily yield to any temptations to maximise personal gains through illegal or corrupt means. This, to a very large extent, contributed to the endemic corruption that grossly ruined

the viability of the defunct procurement administration in Nigeria, rendering it a source of colossal waste and drain on the nation's economy.

The unreformed procurement system in Nigeria was also deficient in the area of representation and/or citizens' participation. Obviously, under the old procurement order, there was no avenue for the representation or participation of the citizens in the procurement process through relevant professional bodies and civil society organizations (CSOs) (Udeh, 2015). In democracies, a vast array of private sector individuals, groups, and organizations such as "trade associations, professional associations, and business firms or companies (commonly known as interest groups) are actively involved in all aspects of the public procurement system" (Thai, 2001, p. 34). This was not so in the Nigerian system before 2007. Consistent with conventional notion, corruption represents a betrayal of citizens' trust (Achua, 2011). Therefore, civil society is laden with a pivotal responsibility in the fight against corruption since corruption depicts a collapse of a structure meant to serve the people and protect public virtue. As a key constituent of the third sector, CSOs and NGOs, in particular, occupy a central place in this effort (Achua, 2011). The absence of CSOs means that the old procurement practice did not allow for citizens participation, and therefore was not subjected to adequate scrutiny and monitoring by the citizens. The system thus lacked adequate accountability and transparency mechanisms. Williams-Elegbe (2012) corroborates that one major pitfall of the previous procurement order in Nigeria was absence of clarity.

Perhaps, the most important criticisms and reason for reforming Nigeria's old procurement system and practice was its unprecedented adverse consequences for the nation's overall progress - infrastructure-wise, socially and economically. The Public and Private Development Centre (n. d.(b)), explains that corruption was more expressed in the procurement system than in other areas, and that procurement was a major avenue through which huge national revenues were expended. Misappropriation, imprudent use and diversion

of government monies into personal pockets, mainly through the procurement channels worsened the poverty situation and sufferings of Nigerian citizens. Unarguably, in Nigeria, corruption remains the principal propeller of poverty. Nigeria is rich in oil, but it houses one of the biggest populations of poverty-stricken citizens in Africa and one of the elevated incidences of maternal death on the global level, which the World Health Organization puts at 800 per 100,000 births (PPDC, n. d.(b)), due to systemic corruption.

Nigeria, owing to its size and natural blessings in terms of human and materials resources and economic capability, has what it takes to emerge as the economic behemoth on the African continent. Unfortunately, poverty is rife in Nigeria, and it has continued to worsen by the day over the years, resulting in a situation whereby more than 60 percent of the country's citizens, as against the 46 percent in 1985, live below poverty level of around 1 U.S. dollar daily, and corruption and economic mishandling remain the primary causes (WB, 2000). It is for this reason that Nigerian is mainly regarded as a contradiction; the country is richly blessed, but majority of its citizens suffer acute poverty and deprivation (Fayomi, 2013). The World Bank (1996) affirms that the country's economic predicament can largely be attributed to lack of transparency and accountability, coupled with pervasive corruption. Public procurement involves the handling of large amounts of financial resources for the government and the citizens. Nigeria's procurement system prior to 2007 was more of a channel of huge drain and wastage due to overarching abuses. Beginning from the time of its independence in 1960, Nigeria has been suffering from colossal lost and waste of scarce resources in the procurement circle due to misutilization and perversion as the principles and proceedings for awarding and implementing government contracts were unpretentiously desecrated (Fayomi, 2013). According to Fayomi (2013, p. 40), "these were evident in over-invoicing, inflation of contract costs, and proliferation of white-elephant projects and diversion of public funds through all kinds of manipulation of contract system".

Public procurement corruption under the former procurement regime therefore deepened Nigeria's economic crises. This is true considering Fayomi (2013) assertion that the consistent increase in the incidence of corruption is inexorably connected with the government procurement apparatus, coupled with the fact that almost 10 percent of GDP is channelled through procurement. Although it is difficult to ascertain or estimate the degree of damage done to Nigeria's economy owing to the failures or shortcomings of the old procurement arrangement, it must be mentioned that the poor state of infrastructural development in Nigeria today is attributable to the weaknesses of the defunct procurement practice. Other notable flaws of the former procurement practice include that the arrangement was deficient in terms of competitiveness and openness in contract awarding processes, giving rise to soaring values or prices of administering projects; MDAs' proposed budgets were largely unrelated to valid demands; and projects were mostly not properly packaged and defined, thereby exacerbating the problem of ineffectuality (Fayomi, 2013). Also inclusive was the issue stemming from the fact that, under the unreformed procurement regime there was no prioritization, recording and synchronization of projects between MDAs in such a manner that enabled them to advance the course of attaining uniform or related needs at the same time. This resulted in paucity of economic productivity and efficacy which further created the problems of convergence and squandering (Fayomi, 2013).

Furthermore, there was a general predisposition towards new projects, a situation that encouraged constant abandonment of ongoing projects and drives the culture of distaste for maintaining, rehabilitating and refurbishing current basic amenities and structures (Fayomi, 2013). This must have partly propelled the World Bank (n. d.) to assert that nearly 50 percent of Nigeria's projects die even prior to their actual commencement, in that, they are often initially conceived and planned to be stalled along the line since the intention has never been to accomplish them, but rather to leverage on them to plunder public money. Rather than

contribution towards the improvement of the economy, therefore, delivering of projects in Nigeria becomes economic drain pipes (WB, n. d.). A functional government procurement scheme runs on a good measure of clearness, rectitude or probity, competency, and value for money (Achua, 2011). The Nigerian procurement system before 2007 was lacking in these important elements. The need to ameliorate the above observed deficiencies of the old government procurement and contracts award system, gave rise to the procurement reforms introduced and implemented in the system by the federal government in the Fourth Republic.

4.3 Public Procurement Reform in the Fourth Republic in Nigeria

Following the reinstatement in Nigeria of democratic rule in 1999, the then President Olusegun Obasanjo-led administration appreciated the old procurement system's gross inadequacies and shortcomings. Chief Olusegun Obasanjo came to power and realized that the long-lived method of managing government's transactions had deteriorated to a point that statutes, monetary directives and ethos as well as standards of the nation's public service were discarded as a result of utter inexperience and self-serving purposes. President Obasanjo lamented that every component that promotes coherence or productivity, authenticity and constancy in the system had been meddled with, and consequently there was a great and acute difficulty and mishap in the supervision and performance of government's business (Ekpenkhio, 2003).

President Obasanjo also recognized the pervasiveness of corruption and its effects on every sphere of Nigeria's public life when he stated that corruption was typically systemized as a norm and basis for governance in the country in the years preceding 1999, resulting in government organisations deteriorating and breaking down to an extraordinary measure as chances and privileges were ceased and personalized by the mighty and those in control (Obasanjo, 2003). It was unsurprising, therefore, that the report of an appraisal (Country Procurement Assessment) done on Nigeria's procurement system in 1999 by the World Bank

exposed basic deficiencies in policies and practices that stimulated gratification and impacted adversely on the nation's advancement, notably as regards improvement in infrastructures (Bureau of Public Procurement, 2016). More astonishing and poignant about the discoveries detailed in the World Bank's report, was the aspect that showed that Nigeria constantly and irrecoverably lost as big as 60k in each N1.00 spent by the government, culminating in the country losing \$10 billion on the average yearly, owing to fraud and related malpractices in government procurement and contract award and execution processes. These crimes usually take the forms of disproportionate hike of contracts prices for personal enrichment, deficits in procurement strategies, shoddy prioritization of projects, weakness in budget preparation routines, dearth of rivalry, and value for money (BPP, 2016). Little wonder Attah (2011) posits that the larger proportion of frauds in Nigeria happen within the procurement circle, accounting for nearly 70 percent of government's day-to-day activities. Public sector procurement corruption also makes-up more than seventy per cent (70%) of the overall annual budgets of the Nigerian government, thereby leaving much adverse consequences for the performance of government expenditures and limiting efforts at increasing the standards of living of its citizens (Attah, 2009).

The country was therefore losing huge proportions of resources to various kinds of corruption in its procurement processes owing to the legal and institutional weaknesses of the procurement system. Hence, it was quickly recognized at the dawn of democracy in 1999 that Nigeria had urgent need to launch reforms in her public procurement structure as well as to install due process measures in the public sector as a whole (Obasanjo, 2004). The urgency for reform also became more profound as studies concluded that the country's budgets would unavoidably go on to perform very unimpressively, unless the entire procurement administration was drastically transformed, in that, all countries or organizations depend on active movement of goods and services for survival and progress (Attah, 2011). Moreover,

President Obasanjo had earlier acknowledged and stressed the utmost need for government transactions to be done in clear and open manners as a way of engineering a strong, vibrant and influential economy and to guarantee an equitable and impartial society. It was on this premise that the government authorized the World Bank to work together with a few Nigerian private experts to embark on an examination of the Nigeria's fiscal management structures and broad procurement activities (Ekpenkhio, 2003).

To be specific, the World Bank-led team was tasked with the primary responsibility of helping Nigeria to evolve and erect public procurement and monetary management mechanisms that would be strongly driven by cardinal principles, such as productivity or competency, liability, honesty and translucence or clearness. The predominant motivation for embarking on the memorable review of the nation's general financial and procurement systems remains to curtail the pervasiveness of corruption and accompanying malpractices in public procurement so as to bring about greater efficiency in its public expenditures management (Ekpenkhio, 2003). After conducting the study, the World Bank-led team submitted the results to President Obasanjo in 1999 under the broad title "Country Procurement Assessment Report" (CPAR) (Fayomi, 2013). This was submitted alongside the result of the evaluation of the financial system tagged "Country Report on the Financial Systems". Therefore, World Bank's-led study team generated and submitted two reports on Nigeria's general financial and procurement systems respectively. As pertaining to public procurement, the assessment caught across the then present statutory structure, bureaucratic burden and proficiency of government agencies, current methods or processes and practices, the dependability of accounting techniques and the potency of budget-making schemes in channelling resources towards predetermined intents (Ekpenkhio, 2003).

The World Bank and its accompanying local experts made comparison of the Nigerian systems in each of the concerned areas – Finance and Procurement Systems, to discern the

differences between Nigeria's practices and established international best standards. The review adopted a participatory approach involving the collaboration of all levels of government – federal, state and local governments alongside private sector delegates. For proper accomplishment, a working party was inaugurated which leaned on the support of foreign and domestic specialists, and funded by the World Bank. The team organized two workshops before the Country Procurement Assessment Report (CPAR) eventually emerged (Ekpenkhio, 2003). The CPAR demonstrated that Nigeria needed to institute and undertake reform in her procurement system to position it in alignment with the United Nations Commission on International Trade Law (UNCITRAL) model which was claimed to have made positive impacts in many developing countries, such as Lithuania, Estonian and Tanzania (Fayomi, 2003). Most essentially, the CPAR showed that the then existing government procurement system in Nigeria was characterized by certain major defects including the lack of a modern procurement law and a regulatory institution, among many others (Ekpenkhio, 2003).

The study's (CPAR) findings therefore revolve mainly around the institutional and organizational structures of the existing procurement order (WB, 1999; cited in Fayomi, 2013). There was also a revelation that the existing guidelines on public procurement in the country suffered implementation problem; a problem that was argued came about as a result of the lack of performance of cost and benefit analysis of projects. Moreover, competition and the much desired openness and transparency were apparently compromised following persistent manipulation of rules and processes to favour a preferred contractor. Serious concerns were also raised in relation to the issues of costs over-estimation and delay in completion as well as rampant abandonment of public projects (Ezekwesili, 2005). The CPAR puts forth important recommendations targeted at addressing the above identified inadequacies of the Nigerian procurement system including the need for a procurement law

made after the UNCITRAL model law and a procurement regulatory and oversight institution, among others (Ekpenkhio, 2003). These commendations as contained in the CPAR were intended to enable Nigeria evolve a modern public procurement system and practice that would be based on global principles and best practices. This, notwithstanding, hinged on the political-will and readiness by the then government of the day, to accept the recommendations of the report and ensure their full and adequate implementation.

Actions that precipitated the emergence of the present procurement policy in Nigeria therefore began after the then government of the day welcomed the suggestions of the CPAR by the then government of the day. The Federal Government accepted the entire recommendations put forward in the CPAR by the World Bank-led team, but not with ones that bother on Registration of Contractors (this was however subsequently accepted and implemented) as well as participation of political office-holders including the Minister and/or Commissioner in awarding any contract worth more than N50m, an idea also opposed by the report itself (Ekpenkhio, 2003). The government accepted the recommendations of the CPAR in order to seal-up avenues for the “Business as Usual Syndrome” and to establish standards for improved openness, competence and productive utilization of resources in the country’s procurement system and processes (Ezekwesili, 2005). Precisely, the initial concrete step taken in attempt to instate transparentness in the management of government enterprise, then, was the dissemination of Circular No. F. 15775 dated 27th June, 2000, regarding brand-new protocols for administering procurement and contracts awarding exercises in MDAs. In clear and understandable manners the circular plainly specifies the methods and heights or layers of approvals in terms of the worth of contracts to be awarded by procuring authorities, in accordance to global ideal practices (Ekpenkhio, 2003).

The Procurement Reforms Steering Committee designed a work-plan for the implementation of the reform which included the following items (Ekpenkhio, 2003, p. 3 - 6):

(a) Methodology: The Steering Committee set up four respective Sub-Committees on four different areas to execute the reforms agenda, namely on: “Administration and Legal, Rules and Procedures, Circular Review, and Price Intelligence and Monitoring” (Ekpenkhio, 2003, p. 3-4). These sub-committees, as their names differ distinctively focused on specific areas and performed varying but complementary tasks tailored towards carrying-out the reform programme. Expectedly, while the Administration and Legal Sub-Committee was designated to handle general administrative and legal related matters, the Rule and Procedure Sub-Committee was to prepare the procurement handbook. The Circular Review Sub-Committee was mandated to assemble and re-examine commentaries, considerations and experiences of subsisting Finance and Treasury Circular purposely to produce a revised Circular on procurement guidelines, while the Price Intelligence and Monitoring Sub-Committee had the responsibility to collect and congregate costs or estimates of items, intended to be used in building a price data bank and supervising contracts.

(b) Public Enlightenment Programmes: Mass awareness creation events such as Workshops and Seminars were organized to express and educate the public on the significance of the government procurement reform. Practically speaking, two of these types of events were held at Abuja and Port Harcourt respectively, by the Procurement Reforms Steering Committee.

(c) A Two-week Study Tour of the USA: The Steering Committee’s representatives visited the United States for a two week research tour, sponsored by the US Department of Commerce. The envoys registered physical presence at special procurement organizations where they had deliberations and exchanges mainly pertaining to procurement governance as it relates to multisector and liberalized or free trade economy settings.

(d) Public Sector Procurement Manual: A preliminary handbook on government procurement to be used in Nigeria's federal civil service, which popularized proceedings that did not deviate from the immediate Finance and Treasury Circulars, was made ready. The guide-book further embodied the UNCITRAL procurement practices. More so, it contains uniformed guidelines on procurement proceedings for every government's procuring entities or agencies which aim to maximize effectiveness and productive use of resources. It is intended that the application of the manual guidelines would stimulate and enhance greater involvement in government procurement processes, encourage healthy contest as well as offer level playground for all bidders. Furthermore, it was anticipated that the application of the Manual would increase or boost accountability, rectitude/morality and clarity in procurement and fiscal administration setups in the public sector. There is provision for periodic up-dates to the manual to encapsulate recent developments that would improve the operational effectiveness of the suggested law on government procurement.

(e) A Composite Bill on Legal Framework on Procurement and the Establishment of Public Procurement Commission:

A draft composite bill on the setting-up of a procurement authority was produced by the Procurement Reforms Steering Committee, which consisted of a replica of the UNCITRAL legislative frame and the integration of existent Nigerian Government's processes and protocols with respect to procurement. It was envisaged by the drafters that the bill when made a law would modulate procurement activities in government agencies and strengthen integrity, responsibility/answerability and clarity in the system. The proposed law, in essence, was expected to bring about suitable and competent legislative, institutional and fiscal machinery that would facilitate the achievement of government's

commendable intentions and pragmatic efforts to make the procurement system and practice more transparent, accountable and equally accessible to all interested entities.

All these culminated into what enabled the Obasanjo government to undertake reforms in the Nigerian procurement system and introduced on 27 June, 2002 a new public procurement practice known as the “Due Process Policy” (through the Ministry of Finance Treasury Circular No, TRY/F15775), which aspires to increase the level of clarity, ability/performance, potency and realization of value for money being spent by the government (Fayomi, 2003). The policy ensures that government’s business-related undertakings are done in the most unconcealed manners while guaranteeing economy and transparency and eliminating opportunities for favouritism and corrupt practices (Ezekwesili, 2004). The rationale is to be certain that procurement rules and procedures are designed and organized in implementable and enforceable form. As earlier noted, Due Process is expected to bring to an utter end the numerous maladies in the Nigerian public sphere. In the words of Obasanjo, the Due Process instrument ensures that only projects that have been examined and proven or certified to be properly implementable are funded by the government. The procedures for awarding such projects should also be found to have complied absolutely with the global competitive method of bidding (Obasanjo, 2003).

Fayomi (2003) explains that the Due Process technique secures uncompromising obedience or regard for key principles guiding government’s contracts awarding exercise, such as accessibility and/or simplicity, competitiveness, price correctness/reliability, and laid-down ordinances and approaches. Being a programme to reposition the federal procurement organization, the policy is goaded by integrity and spending based on budget stipulations and limits. Further, Due Process guarantees that government’s goods, services and projects are promptly performed and delivered with optimal achievement of value for money, while maintaining specified qualities and criteria. The overall aim of the Due Process Policy is to

strengthen adherence to formal regulations on government procurement. It aims to effectuate complete adherence by every federal spending entity to official directives regarding budget-making, procurement and expenditure. While emphasizing open and competitive procedure, the policy also ascertains the authenticity and reasonability of contracts monetary values in comparison to national, regional or international prices (Fayomi, 2013). In essence, Due Process is especially geared towards making formally established rules and procedures the bedrock of public procurement process implementation in Nigeria.

As Ezekwesili (2004) expresses, in terms of vision or mission, the Due Process strategy aims at ensuring proper administration and handling of government funds and properties in a way that curtails corrupt practices, enhance system planning and project preparation works, in a bid to enable correctness in costing, and in analyzing costs and benefits and prioritizing, when determining the order of spending and plan for particular year. Moreover, it intends to serve as a measure for improving financial administration by instituting more efficacious and constructive spending regulation, organizations, procedures and supervision apparatuses. Besides the goal of achieving more optimal resource allocation, the policy is to enable decisions that would aid the attainment of plainly or distinctly enunciated public policy ambitions and targets by enhancing/upgrading the techniques for indentifying the prices and gains of another or different disbursement arrangements (Fayomi, 2013). From the above, Due Process is an aggressive, reformative, integrative, viable and productivity-driven policy tool envisioned to launch completely new public sector governance in Nigeria.

In order to implement aspects of the key recommendations of the CPAR, specifically on institutional mechanism for the moderation of the procurement process, the Federal Government in 2001 set-up the Bureau of Price Monitoring and Intelligence Unit (BMPIU), to among other things, mitigate the apparent lapses in the nation's procurement system and practice (Onyema, 2011). This implies that the BMPIU aimed to prevent the re-occurrence of

the associated anomalies of the previous procurement system, in the current procurement era. The BMPIU is referred to as “The Due Process Office” as it was created to regulate due process in government procurement and award of contracts. According to Aduba (2007), the BMPIU was envisioned to reinforce the norms of clearness, rivalry, expertise and attainment of value for money in government’s contracts award and prosecution operations, while the agency was goaded to impose or administer designated rules and measures for procurement of works, goods and services in the federal government.

Ezekwesili (2003) affirms that the BMPIU was an autonomous and self-governing agency in terms of operations, and led by the Senior Special Assistant to the President on the Unit, with crop of personnel comprising of highly skilled professionals in the area of project management, construction and procurement (Nwosu, 2015). Operating in line with essential tripartite tactics or blueprints of goal, objective and implementation, the unit was designed to certify all government contracts and procurement of items and works (Aduba, 2007). Its objectives included the following, namely:

1. Coordination and promotion of current government programmes/laws on procurement;
2. Determination of the observance of Due process by government agencies in the purchase of services and contracts;
3. Advancement of higher level of sincerity/confidence, blameworthiness and clearness/comprehensibility in the procurement proceedings;
4. Formulation and revision of pricing requirements and yardsticks for any supplies made to government;
5. Overseeing projects prosecution exercises and offering intelligence on productivity, conformity with blueprint/stipulation and objectives; and
6. Making sure that projects for which monies have been budgeted alone are permitted

to be pursued (Aduba, 2007).

In response to the increased clamour by the citizens that the procurement reforms programme should be legally supported and established, the leadership of the BPMIU articulated a Public Procurement Bill in 2003/2004 and sent it to the National Assembly (BPP, 2016). Later on, on 31 May, 2007, the bill became law following its adoption by the assembly. Afterwards, it received formal approval as a law by the then President Umaru Musa Yar'Adua (late) on 4 June, 2007, despite the campaigns against it by its critics (Onyema, 2011), and it became known as “the Public Procurement Act, 2007” (BPP, 2016, p. 15). As Fayomi (2003, p. 40) notes, this legislation as made by the senate brought Nigeria into the confederation of modern states that have standard body of laws guiding the disbursement of public money. Since the Act was enacted, it has been in force, and the Bureau regulates it (Onyema, 2011). Therefore, the PPA, 2007 and the BPP are the end-products of the procurement reforms. The next section offers important insights on the Act (with regards to its goals, objectives and scope of application) and the Bureau (in relation to its principal objectives, statutory functions and powers).

4.4 The Necessity and Features of Nigerian Public Procurement Act, 2007

The need to forestall the perceived flaws that characterized the Nigerian public procurement system and practice during the pre-reform era and provide a formal legal basis for the country's procurement administration precipitated the enactment of the Public Procurement Act, 2007 by the legislature. Since it came into force, the PPA has become the most important singular legislation regulating the procurement activities of MDAs of the Federal Government in Nigeria. The promulgation of the Act rightly puts Nigeria on the list of countries in the world with standard procurement legislation, especially patterned after the UNCITRAL style. The UNCITRAL model provides the most recognized international best practices and standards for adequate and result-driven procurement governance globally.

Additionally, the Nigerian Federal Government was propelled to adopt the PPA to modernize, revitalize and energize the procurement system to exploit, boost and appropriate the country's resources to better the citizens' living conditions (Fayomi, 2013).

4.4.1 Goals of the Public Procurement Act

Nigeria ratified the PPA primarily for the purpose of establishing key regulatory authorities/institutions for government procurement in the nation, namely the National Council on Public Procurement and the Bureau of Public Procurement (Fayomi, 2013). The Council and Bureau have the regulating responsibilities to supervise and oversee government procurement activities, as well as unify and organize actual government programmes, actions and rules through adequate control, establishment of codes and evolvement of the statutory structure and professional competence for procurement and other associated issues (Fayomi, 2013). The two agencies are thus the overall and most critical authorities for the administration of government sector procurement activities at the national or federal level in Nigeria.

4.4.2 Objectives of the Public Procurement Act

The PPA aims to regulate government procurement activities in Nigeria towards achieving the following four main objectives, namely (Fayomi, 2013):

- (1) Prudence and productivity;
- (2) Rivalry through provision of equal chance of participation for every class of bidders;
- (3) Monetary worth; and
- (4) Clarity.

These foregoing sets of fundamental objectives constitute the main rationale for the promulgating the PPA. The application of PPA's stipulations in Nigeria's procurement system is thus geared towards actualizing these objectives with the aim of enthroning an

efficient and effective practice. Thus, overall, the PPA portends to be a valuable instrument for facilitating the achievement of Nigeria's long-desired socio-economic change or progress.

4.4.3 Scope of Application of the Public Procurement Act

As a national legislation, the PPA enjoys widespread application as it extends or applies to every buying and selling of valuables/property by federal government (PPDC, 2011). With respect to acquisition, the Act applies to construction works, goods and services. In terms of disposal of assets, the Act, in consistence with Section 16(23), covers tangible assets (for example, sale of public physical property) and intangible assets (for example, sale of licenses, oil blocks, etc.). Therefore, for to all purchases or procurements and disposal of assets, every federal MDA, without exception comes under the scope of the Act, including the military institutions when the procurements are not related to special defence and security equipment (PPDC, 2011).

Subject to the dictates of the PPA also are all procurement functions carried out by other entities that derive 35 percent of their monies from Federal Government, whether they are state or federal government MDAs. The Act, however, does not apply where the special purchases or procurements of pertaining to national defence and security are involved, unless a formal approval by the President has been obtained (PPDC, 2011). Hence, "most activities of autonomous government agencies such as the Nigeria National Petroleum Corporation (NNPC), the Nigerian Communications Commission (NCC), the Central Bank of Nigeria (CBN) come under the purview of the Act" (PPDC, 2011, p. 24). The PPA, therefore, ultimately enjoys a relatively wide scope of application within the Federal Government.

4.5 The Establishment of the Bureau of Public Procurement

The BPP is a creation of the PPA. The Act under Part 2, Section 3(1), recognizes the creation and existence of the Bureau as the procurement procedures' regulatory authority in Nigeria. Based on its legal status, the Bureau, as Jacob (2010) observes, administers procurement laws, programmes/strategy and precepts in Nigeria and imposes conformity with its guidelines. This stems from the fact that the Act establishes the Bureau as an authorized regulating agency in Nigeria statutorily laden with the duty to supervise and conduct oversight activities on procurement. The BPP is also responsible for coordinating the prevailing government's procurement programmes/arrangements and processes by the ways of standardizing, erecting norms or requirements and constructing the procurement legal architecture and professional capability in the country (BPP 2016).

As an institution established with a great sense of purpose, the Bureau's vision is to fashion and maintain for Nigeria a procurement formation/structure that conforms to globally acceptable model. Its mission is to make the procurement operation professional by bolstering its clearness, performance/productivity, competitiveness, sincerity and actualization of monetary value to augment the nation's advancement (BPP 2016). Summarily, the Bureau's vision and mission vividly indicate that the agency came into being for the purpose of the revolutionization of Nigerian public procurement system and practice.

4.5.1 Objectives of the Bureau of Public Procurement

The intentions for establishing the Bureau are clearly spelt out in the Act. As the PPA stipulates in Section 4(a-d) under Part 2, they include to (FRN, 2007):

- (a) harmonize government procurement policies and ensure integrity, accountableness and openness in the procurement process;
- (b) establish principles for determining prices;
- (c) uphold the tenets of impartiality, competitiveness, clarity, value for money in the process of procuring for, or disposing government properties and services; and

- (d) make the procurement system transparent, competitive, cost effective and competent.

4.5.2 Statutory Functions of the Bureau of Public Procurement

Section 5(a-s) of the PPA stipulates the functions to be performed by the Bureau. According to the said Section, the Bureau's functions include (FRN, 2007):

- (a) formulating the broad programmes and instructions on government procurement for the Council's endorsement;
- (b) publicizing as well as clarifying the Act's specifications/requirements;
- (c) contingent on the Council's authorized limits, confirming/accrediting federal procurement before contracts are awarded;
- (d) inspecting and directing the application of entrenched procurement protocols;
- (e) invigilating the costs/estimates offered on items and storing an organized collection of data on costs benchmark for the nation;
- (f) publicizing the particulars/facts about main contracts in the procurement journal;
- (g) producing electronic and papery versions of the procurement journal and managing a repository for the journal;
- (h) retaining a nationwide directory/catalogue of the details and classes and categories federal vendors;
- (i) gathering and preserving in a depository all federal procurement outlines and data/intelligence;
- (j) initiating procurement study and reviews;
- (k) running skills acquisition and advancement curriculum or procurement specialists/experts;
- (l) regularly scrutinizing/analyzing the social and economic impact of procurement practices and admonishing the Council appropriately;
- (m) developing and revising standard bidding and contract documents;

- (n) averting dishonest/deceitful and unjust procurement and where pertinent invoking mandatory disciplinary measures;
- (o) revising the procurement and contracts award steps of MDAs that come under the PPA;
- (p) doing procurement investigations every six months and sending the records to the legislature;
- (q) recommending, building, renewing and keeping relevant coordinated set of data and technologies;
- (r) setting-up sole internet site for the purpose of making available entire data on government's procurement activities at every time; and
- (s) providing suitable coaching programmes to increase organizational proficiency.

These are the statutory responsibilities the BPP is established to undertake under the current procurement regime. The Bureau is bound by the PPA to operate only within the limit of the above set of functions.

4.5.3 Powers of the Bureau of Public Procurement

Given the strategic importance and responsibilities placed on it, the PPA equips the Bureau with adequate measure of powers to enhance the agency's capability to proactively discharge its duties and accomplish its objectives in the long run. As evidently stipulated in the Sections 6(1)(a-m) of the PPA, the BPP has powers to (FRN, 2007):

- (a) effectuate the fiscal and pre-review limits put in place by the Council for the imposition of PPA's preconditions across MDAs;
- (b) dependent on paragraph (a) of sub-section (1) of Section 6, release "No Objection" authorization/license for contracts awarded not outside the pre-review bounds, for every procurement under the sphere of the Act;

- (c) occasionally specify/lay down clearly to MDAs the modes and requisite credentials for obtaining “No Objection” authentication within the ambit of the Act;
- (d) if the need arises:
 - (i) demand the probe or appraisal of a procurement dealing/undertaking to guarantee obedience to the stipulations of the Act;
 - (ii) check/scrutinize and ascertain if MDAs have defied the conditions of the Act;
- (e) suspend/disqualify any vendors that negate either of the terms or specifications of the PPA as well as statutes made in conformity with the law;
- (f) uphold a countrywide database of firms having business dealings with the federal government and without including MDAs, specifically classify and categorize the enterprises on the inventory;
- (g) conserve a register of corporations and individuals that are blacklisted/disqualified from engaging in government procurement activities and disclose their details in the procurement journal;
- (h) request such data, evidences, files, and details pertaining to either part of a procurement transaction in which a flaw, misdeed, delinquency, abuse and/or complicity by a government agency or vendor is allegedly rumoured;
- (i) in a case of insistent or severe disregard for the PPA or its directions/precedents or injunctions, suggest to the Council to:
 - (i) suspend the officials involved with the buying or selling procedure in reference;
 - (ii) replace the official heading the agency or any member of the agency’s purchasing or selling/disposal unit or may be the principal officer of the Tenders Board;
 - (iii) take disciplinary actions on the Accounting Officer of purchasing entities;
 - (iv) momentarily relinquish a government agency’s buying and selling task to an intermediary purchasing agent; or

- (v) mete out an additional penalty that would be considered proper by the Bureau;
- (j) require that account books, schedule, files be produced, and investigate individuals with respect to any acquisition course;
- (k) take actions regarding grievances based on the directions of the Act;
- (l) invalidate all or segment of an acquisition action or contracts awards that traduces the Act;
- (m) do any additional things that would enable it to fruitfully accomplish its assignments within the Act.

Section 6(3)(a-c) of the PPA further confers additional set of powers on the Bureau as it states that, the agency, conditional upon the Council's approbation can (FRN, 2007):

- (a) secure contractual or collaboration agreement between it and business organisations or individuals on the ground that such step would smoothen the performance of its duties;
- (b) ask for and get from MDAs facts as well as expositions, notices/announcements and accounts inspection records, together with alternative intelligence necessary for attainment of its statutory purposes; and
- (c) network with related domestic and intercontinental establishments or organizations to boost or improve its functional proficiency within the confines of the Act.

It is within the scope of these sets of powers that the Bureau works to discharge its responsibilities, striving towards the attainment of its objectives within Nigeria's public procurement context. Any attempt by the agency to extend its operational powers beyond the limits of the provisions of the PPA would be considered a fundamental violation of the law.

4.5.4 Organizational Structure of the Bureau of Public Procurement

The Bureau is chaired by a Director-General, who doubles as the institution's Chief Executive and Accounting Officer. The Director-General undertakes the task of

implementing the procurement policy and daily steering of Bureau's affairs. The Office of the Director-General is made up of six (6) special units. These are: Service Compact (SERVICOM), Legal, External Cooperation, Public Relations and Protocol, Procurement, Internal Audit, and Information Technology units. Aside the Director-General's Office and its various units, the Bureau is composed of eight (8) major Departments or Units, each of which is headed by a Director (BPP, 2014). Below is a diagrammatic presentation of the Bureau's organizational structure, followed by highlights of the responsibilities of the various departments within the agency.

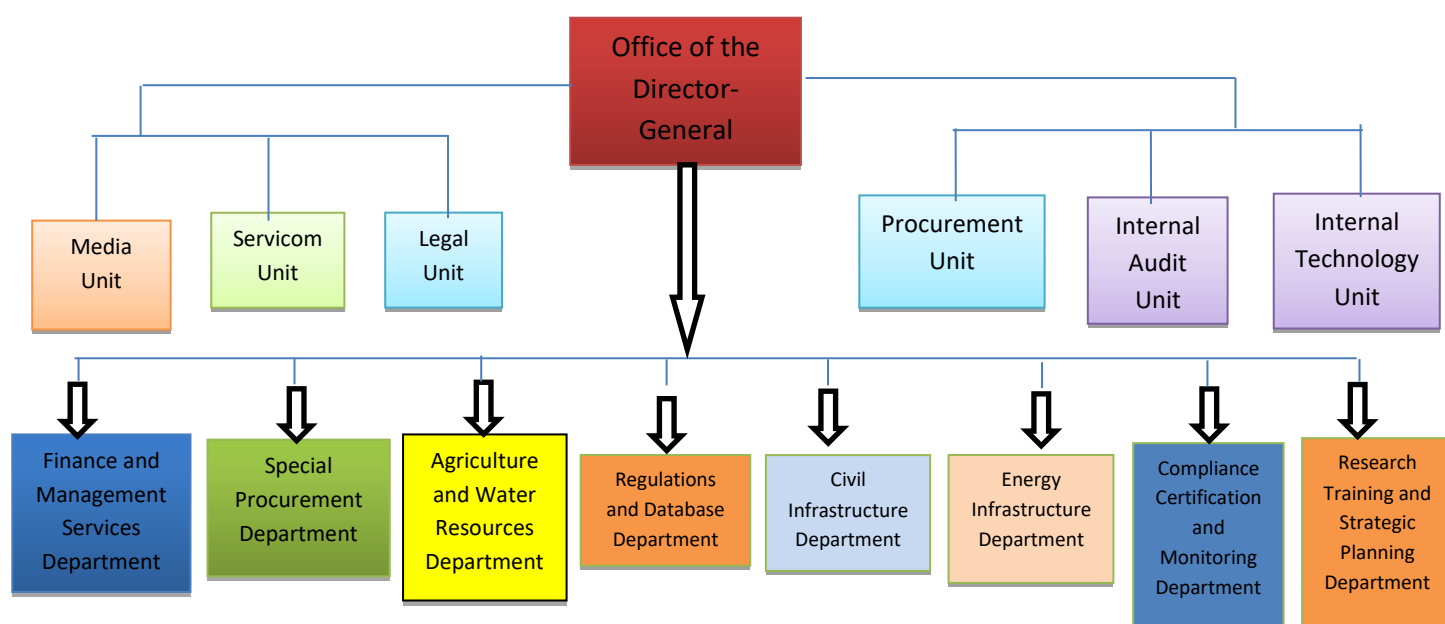


Figure 4.1: Organizational Structure of the Bureau of Public Procurement (BPP)

Source: BPP (2015, p. 11).

4.5.5 Responsibilities of the Departments/Units of the Bureau of Public Procurement

The functional responsibilities of the BPP's different departments/units are detailed below as followed (BPP, 2014, p. 15-16):

- (a) **Finance and Management Services Department:** This department is saddled with the responsibility of providing financial and logistics support to the different departments and

units of the Bureau in order to enable them achieve their mandates. It coordinates the preparation of the Bureau's budgets and liaises for the Bureau with related agencies responsible for public finance administration. It also reports on the Bureau's expenditures and ensures that the Bureau's transactions comply with the required levels of transparency and accountability. The unit also manages the Bureaus' human and material resources as well as ensures that its personnel adhere to the established work ethics.

(b) **Special Procurement Department:** This department undertakes the review of procurement proceedings carried-out by MDAs in relation to National Security, Defence, Specialized equipment, among others. Apart from this primary duty, staff members of the unit are also seamlessly incorporated into other establishment activities of the Bureau, due to their professionalism and dynamism.

(c) **Civil Infrastructure Department:** This department is charged with the responsibility of reviewing requests from MDAs in respect of allotment of the due process "No Objection" certification mainly as it pertains to Civil Engineering works or projects such as:

(a) Building of Expressways: Roads and Bridges.

(b) Building of Airports: Erection of Runways, Delivering and Planting of Lighting Apparatuses and Construction of Terminal.

(c) Sea Port/Harbour Works Constructions: Deep Seaports, Quays, Harbour Moles, Capital and Maintenance Dredging for Port Rehabilitation and Expansion.

(d) Railways Construction: Railway Construction and all Ancillary Facilities.

(e) Erosion and Flood Control Projects: Dredging, Land Reclamation and Restoration.

(f) Inland Water Ways (Ports): Inland River Port Construction, River Training and Dredging of Inland Water Ways.

(g) Provision of Engineering Infrastructures to emergent Localities in the FCT.

(h) Consultancies: Evaluation of Engineering patterns and Resident control/surveillance for Civil Engineering Projects.

(i) Oil and Gas Infrastructures: Servicing of pipeline and gas conditioning facility.

(d) **Agricultural and Water Resources Department:** The department is concerned with reviewing the procurement procedures of MDAs in the agricultural and water resources development sectors with the view to issuing the Due Process Certificate of “No Objection” for projects that fall within the related areas. Such projects are: construction of dams and water supply projects, irrigations, erosion and flood control projects, procurement of fertilizers and improved seedlings for agricultural purposes.

(e) **Energy Infrastructure Department:** This unit evaluates MDAs’ acquisition processes and activities in the energy sector. Its review task in this sphere encapsulates many areas, some of which include:

(a) Transmission lines (132-330 kv lines, single and double circuits).

(b) Distribution lines (0.24 kv – 33 kv lines).

(c) Injection substations.

(d) Transmission substations.

(e) Power plants.

(f) Gas pipelines.

It also reviews the legal instrument for power reform, as well as purchase agreements and consultancies within the energy sector.

(f) **Regulations and Database Department:** The department effects the collection and analysis of data for management decision making and procurement policy development. It deploys technologies such as goPRS Web, goPRS Enterprise, Archive System and Procurement Management System in administering government procurement system. Its functional responsibilities include implementation of the enrollment of federal

entrepreneurs and vendors on the Nationwide Database to facilitate the classification and categorization of these organizations on the basis of their capabilities and specializations.

(g) **Certification, Compliance and Monitoring Department:** The responsibility of the department is the issuing of Certificates of “No Objection” to the procuring entities after the review departments might have treated their requests for contracts, consultancy and services.

(h) **Training, Research and Strategic Planning Department:** The unit is charged executing BPP’s obligations in respect of training and sensitization of concerned actors and participants in Nigeria’s procurement space on PPA’s prerequisites and application. These stakeholders include the MDAs, the legislature, vendors, experts’ bodies, civil society groups and the citizenry. This department also undertakes procurement exploration and assessments in accordance with Section 5 of the PPA.

CHAPTER FIVE

PUBLIC PROCUREMENT PROCESS AND METHODS IN NIGERIA UNDER THE FOURTH REPUBLIC

This chapter highlights the authorized procedures and methods for procurement of goods, works and services and the methods of disposing public property by all federal MDAs under the existing public procurement policy dispensation in Nigeria. Following this is the discussion on the constituents of public procurement offences under the PPA and rules pertaining to applicable sanctions. Next to this is an examination of the Bureau's mechanisms for carrying-out surveillance on the public procurement process and system.

5.1 Public Procurement Process in Nigeria

The PPA provides in a transparent manner the proceedings that all federal MDAs under the law are meant to diligently and duly follow in discharging their acquisition course of action. These procedures are laid-down in Section 19(a-j), Part V of the PPA, and are subject to the regulation of the Bureau and under the direction of the Council. The said Section 19 of the Act requires that, while effectuating their purchasing programmes MDAs are to (FRN, 2007):

- (a) announce and notify potential bidders of opportunity to bid as the Act declares and based on the criteria infrequently set by the Bureau;
- (b) call two trustworthy individuals to come and watch the acquisition operation, and either of the individuals must come from a reputable;
 - (i) individualized/independent specialized group with adequate experience regarding what is to be bought, and

- (ii) non-public association concerned with advocating for clarity, answerability and strengthening of anti-graft measures in governance, who are not to interfere with the purchasing activities but are free to write and tender their opinion about the inspection to any appropriate organization inclusive of theirs;
- (c) collect, appraise and select a bid from among the bids collected in recognition of the dictates of the Act and yardsticks seldomly put forth by the Bureau;
- (d) gain permission of the approving jurisdiction ahead of any award;
- (e) cross-examine unsuccessful bidders on appeal;
- (f) solve/rectify objections and disagreements should they arise;
- (g) receive and certify the legitimacy and substance of any achievement assurance;
- (h) secure a “No Objection” deed/certification to contract award inside the pre-review limits as set-down in Section 3 of the Act;
- (i) effect every Bargain Accord; and
- (j) disclose and broadcast an award of contract following the specifications of the Act and precepts sometimes released by the Bureau.

All MDAs captured under the subsisting federal procurement law in Nigeria are legally bound to ensure that they discharge their procurement duties without failing to carefully observe and perform all the above injunctions, otherwise the exercise contravenes the PPA.

5.2 Public Procurement Methods in Nigeria

The Nigerian PPA, 2007 basically recognizes two main types of procurement methods that may be adopted by procuring entities in carrying-out their procurement proceedings. These are the Open Competitive Bidding Method and the Special and Restricted Procurement Methods. Detailed discussion of these procurement methods is offered below.

5.2.1 The Open Competitive Bidding Method of Procurement

The open competitive bidding (OCB) approach is the principal method of acquisition in

Nigeria under the current procurement policy. This technique requires MDAs to offer all responsive competitors corresponding simultaneous notice and chance to participate in a bidding process in order to explore the possibility of providing the required items or services (Oyebode & Fayokun, 2010). The method is also known as Sealed Bidding (SB) (Jacob, 2010). In line with the position of the PPA in sub-Section (3) of Section 24, the successful bidder is the one that offers to provide what is needed at the smallest price or rate without sacrificing quality and/or standard. As the PPA stipulates in Section 24(1), all MDAs are enjoined to deploy this basic means in effectuating their purchases under normal circumstance. The OCB mode of purchasing involves certain stages, namely bid invitation, bid security, bid submission, bid rejection and cancellation of procurement proceedings, bid validity, modification and tenders withdrawal; bid opening, bid examination, correction of errors, bid deviation, bid evaluation, bid acceptance, domestic preferences, fees mobilization, contract performance guarantee, interest on delayed payments, and record of procurement proceedings (FRN, 2007). These are the processes in the OCB method which all procuring entities in Nigeria must adhere to.

5.2.2 The Special and Restricted Methods of Procurement

The special and restricted methods of procurement constitute the second type of procurement methods employed by MDAs in Nigeria. This method of procurement is further divided into various methods which procuring entities are to apply under different circumstances. The methods include the following:

(a) The Two-Stage Tendering Method

According to Jacob (2010), another name for this method is “Two-Step Sealed Bidding”. In view of Section 39 under Part VII of the PPA, the conditions or circumstances under which this process may be resorted to include: where MDAs cannot draw up exact blueprint pertaining to what is to be purchased; where the type of item or work

concerned is dependent on speedy advancement in technology; and where the technique had been used but was unsuccessful (FRN, 2007). As the PPA clearly prescribes in sub-Section (3) of Section 39, the open competitive bidding is to be applied to in the conduct of the two-stage tendering proceedings.

(b) The Selected or Restricted Tendering Method

The BPP may grant a procuring entity's request to adopt the selected or restricted method in carrying-out procurement on certain grounds approved by the Act. As the Act declares in Section 40(1), MDAs may rely on this approach on the following grounds: if there are a few vendors that can offer what is needed; if the moment and price required to assess a massive volume of bids is excessive compared with the worth of the item or work to be purchased; or if the system is employed not as a regular pattern.

(c) Request for Quotations Method

Section 41(1) of the Act specifies that this method is only applicable on the ground that the cost of goods or works intended to be purchased falls within the Bureau's established limit or threshold. MDAs do not need to obtain the approval or permission of the Bureau to be able to conduct procurement by means of solicitation for quotations so long as the contract's price is kept within authorized limit. It requires the MDAs to receive estimates/quotations from not less than (3) three unrelated vendors. The procuring entity would have to make it clear to the contractors or suppliers in the request whether or not the quotation should contain charges and taxes. The bidders shall submit just a single quotation and they are not to change anything in it. More so, the procuring entity and the bidder are not to engage in any kind of negotiation regarding the quotation. The bidder that quotes the least price shall be considered as the qualified bidder and shall accordingly be awarded the contract.

(d) The Direct or Single-Source Procurement Method

Provision regarding the justifications for the application or adoption of the direct procurement method by government procurement entities, are clearly stipulated in Section 42 of the PPA to include: if there exists only a single vendor that can offer what is required, and there are no other justifiable options; if items or work in question is needed urgently and it is practically impossible to engage in bidding process or use other procurement mechanisms as a result of the unexpected situation that prompts the urgency; if because of a disastrous incident the procurement is to be done urgently, and using alternative approaches is not possible owing to time constraints, among other reasons.

(e) Emergency Procurement Method

The PPA in Section 43(1) specifies that MDAs may carry-out an emergency procurement under certain circumstances. These include: when the nation is faced with a calamitous circumstance or Act of God; when the quality/status of what is intended to be purchased could severely lessen or depreciate save quick actions are initiated to protect it; and where there is tendency for a government project to suffer acute delays because of the absence of an item with insignificant worth. MDAs may execute direct contracting in emergency situations, and all emergency procurements shall be carried-out in expedition without compromising the principles of accountability, and ensuring that each emergency is given due consideration in relation to its gravity. Once the circumstance resulting in an unexpected solicitation for bids ceases, the relevant entity submits a comprehensive account to the Bureau in order to enable it make verification and issue a Certificate of 'No Objection', if reasons are found to be genuine and appropriate.

5.2.3 Methods of Procurement of Consultant (Services)

Sections 44 and 45 of Part VIII of the PPA provide two methods or approaches by the means of which a procuring entity may procure consultant services. These include: (a) expression of

interest, and (b) request for proposals. Guidelines to be followed by procuring entities in procuring services using these methods, as provided for under the PPA, are as follows:

(a) Expression of Interest

By Section 44 of the Act, this method is applicable mostly when the services that are needed to be procured are precise and ascertainable. It requires a procuring entity to ask service providers to hand-in applications for pre-qualification. Afterwards, the various expressions of interest or applications submitted in response to the call would be examined and evaluated in order to ascertain the competent service provider on the basis of set criteria as shall be contained in the call for expression of interest. The notice of the call for expression of interest by the procuring entity must be published in not less than two country-wide dailies alongside the public procurement journal. In a case in which the cost of what is required is not up to a million naira, showing the likelihood of attracting applications only by national consultants, there is no need to obtain the prior approval of the Bureau given that the value falls within the established thresholds, and the procuring entity may without placing any notice engage in direct invitation of between three and ten vendors to submit bids to that effect.

(b) Request for Proposals

This method is suitable and applicable where the prices of the services intended to be provided by a procuring entity are unascertained. By this method, as stipulated in Section 45, a procuring entity requests for proposals for procurements that pertain to studies, experimental, or developmental purposes, as against procurements involving the manufacturing of large amounts of goods for profit making or to regain the cost of research and development. To procure the services of consultants, MDAs have to make announcement for submission of application in two nation-wide newspapers together with the procurement journal. Notwithstanding, MDAs could directly request submission of proposals from a limited number of consultants if there are not more than three consultants that can provide the

services, should the time-space and price for appraising a huge quantity of proposals seem higher than the worth or cost of the proposed procurements, if the services are related to national defence and security and provided that the MDA would welcome an abundance of specialists to safeguard the clearness of the competition.

5.2.4 Methods of Disposal of Public Property

The disposal of public assets constitutes an integral aspect or component of public procurement functions or activities. As a consequence, Section 55 of Part X of the PPA unambiguously states that all procuring or contracting entities are also disposal authorities. The Act confers authority on every procuring entity for the disposal of public properties or assets. Any procurement entity engaging in disposal of any public assets is to do so by using the OCB as a means of gathering proposals from entities interested in buying government belongings placed on sale. Based on NCPP's prior consent, however, the Bureau determines the policies and practices to be applied in the selling of any government belonging/estate. Typically, the disposal of public assets is the shared responsibility of the procurement unit and the Tenders Board across the procuring entities.

CHAPTER SIX

AN APPRAISAL OF THE BUREAU OF PUBLIC PORCUREMENT, 2007-2015

Nigeria has undertaken reforms in her public procurement system, and promulgated a modern procurement law - PPA. The PPA establishes an institution, the BPP, as the administrative authority for public procurement functions and processes across all MDAs of the federal government, to guarantee due process and adherence to the procurement law. This chapter assesses the performance of the BPP in Nigeria's public procurement process and system between 2007 and 2015. Specifically, the chapter evaluates the Bureau on the basis of two parameters, namely: (a) enhancement of transparency in the public procurement process, and (b) enforcement of compliance with established procurement regulations. The appraisal of the performance of the Bureau with regard to these parameters was objectively carried out based on the useful responses elicited from respondents through interviews as well as valid documented evidences available in extant literature on public procurement in Nigeria.

6.1 The Bureau and Enhancement of Transparency in Public Procurement Process

6.1.1 Background

Transparency is a major element of any robust procurement system as it is a good indicator of the existence of integrity in the system. Transparency serves as an important instrument for sound decision making in public procurement (Abebe, 2012). Experience has shown that

improvement in the standard of living occurs, partly when the citizens' right to know and take part in governmental decision-making process, mainly on how public resources are spent. This helps both to create appropriate framework for peoples' support and engagement with the reform process, as well as confirms that the people are the bonafide owners of the policy (BPP, 2011). "Without transparent and accountability systems enabling governments and citizens to engage in a mutually responsive way, the vast resources channelled through public procurement systems run the danger of increased corruption and misuse of funds" (Jeppesen, 2010, p. 1). There is a consensus that transparency is among the most proactive deterrence measures against procurement corruption, and this is because transparency measures provide opportunity for various actors to observe and examine the decisions, actions or operations of government personnel and contractors in the procurement process (OECD, 2006).

From the foregoing, "transparency in public procurement constitutes an arena for government and citizens to engage and for the rights holders and duty bearers to both deliver on their obligations" (Jeppesen, 2010, p. 6). Off course, "even in a system with low levels of corruption, public and civic oversight can help identify inefficiencies, thereby increasing procurement efficiency and effectiveness for the benefit of improved service delivery and ultimately citizens" (Jeppesen, 2010, p. 1). Transparency in procurement process also remains a key determinant of efficiency in that it strengthens and promotes competition by offering every potential contractor equal chance to participate in the bidding process (Abebe, 2012). Indeed, transparency stimulates confidence in the procurement system and encourages all willing qualified vendors to compete. This directly reproduces immense benefits for the procuring government agencies and their components, interested bidders or vendors, as well as donor organizations, where projects are financed with funds provided by them (BPP, 2016b). Thus, "a good procurement is impartial, consistent, and therefore reliable. It offers all interested contractors, suppliers and consultants a level playing field on which to compete

and thereby, directly expands the purchaser's options and opportunities" (BPP, 2014b, p. 8). This means that a good procurement "is not only fair, but is seen to be fair" (BPP, 2016b, p. 49).

These are both known and seen to be visible in well-established transparent procurement systems. In all countries therefore, transparency is considered a critical issue in public procurement (Dza et al., 2013). "There is little doubt that under right circumstances increased transparency in public procurement can lead to greater accountability, better service delivery and, ultimately, less waste of public resources" (Jeppesen, 2010, p. 5). Little wonder, then, that developed countries have long evolved ways to enthrone and sustain transparency in their procurement systems and processes. Hence, Wittig (1999) observes that "it has become imperative for African governments to incorporate monitoring and control systems into public procurement to consolidate the modest gains especially in areas of transparency, equity and fairness in their current structures" (as cited in Dza et al., 2013, p. 50). In response, most African countries are instituting reform programs to evolve robust procurement system built on an adequate statutory framework aimed at promoting greater openness and competence and measures for strengthening them, as well as an institutional structure to guarantee constancy in general policy-making and execution (Hunja, 2003).

6.1.2 The Role of BPP and its Score Card in Promoting Transparency in the Public Procurement Process

In Nigeria, the ultimate desire to enthrone increased transparency in the government procurement process to maximize the accompanying gains in the interest of the overall development of the nation and well-being of the citizens mainly necessitated the introduction of the procurement reforms. The reforms led to the enactment of the PPA and advent of the BPP, as formal legal and institutional regulatory frameworks for procurement governance in the country. Anecdotally, while "the Public Procurement Act 2007 is one of the most

revolutionary pieces of legislation in Nigeria's history, to the extent that it has streamlined the public procurement process in the country and promoting fair competition, transparency, accountability and good value for money in the award of government contracts" (BPP, 2014b, p. 11), the Bureau on its own has been described as a new dawn in public sector procurement in Nigeria (BPP, 2015), due to its manifest achievements in the field.

Specifically, in view of the goal of promoting transparency in the procurement process, there is consensus that the existence of the PPA and operations of the BPP has entrenched a considerable level of transparency in Nigeria's public procurement process and system (Adefolahan, 2017; Agada, 2017; Akugbuo, 2017; Njoku, 2017). To enhance transparency "good procurement establishes and then maintains rules and procedures that are accessible and unambiguous" (BPP, 2016b, p. 49). In accordance with this fundamental principle, Nigeria has through the reform process in her national procurement system instituted purely transparent and understandable Due Process to be duly observed by all federal MDAs under the procurement law in the implementation of public procurement functions, as evidently laid-down in Section 19(a-j), Part V of the PPA. The Due Process is subject to the regulation of the Bureau and under the direction of the Council. The Due Process strategies under the current procurement policy administration in Nigeria have, no doubt, tremendously enhanced transparency and accountability in the procurement and contracts award system. The Bureau regulates the process and ensures compliance by MDAs (Agada, 2017).

The Bureau considers the task of guaranteeing the transparency of the procurement proceedings as a crucial aspect of its responsibility and it can be said to have achieved that up to eighty-five per cent (85%) level (Njoku, 2017). With the Bureau in operation, bidding exercise and contracts award are now being carried-out through transparent and competitive processes, and bidders are given level playing ground unlike before (Lawal, 2017; Njoku, 2017). As the main regulatory authority for public procurement, the Bureau is committed to

ensuring an open playing field for all Contractors, Consultants and Service Providers in order to enable the government derive maximum satisfaction from all transactions in the procurement field (BPP, 2016b). This is unlike the experience in the years before the procurement reforms, when competition and other elements that enhance the realization of the value of government's money were disregarded. Under the current public procurement regime, "BPP is enthroning transparency, accountability and efficiency in public expenditure, and promoting competition in public procurement" (BPP, 2014b, p. 102). Onyekpere (2018) corroborates this as he affirms that transparency and accountability have slightly increased, though not to the extent anticipated in the enabling law.

Government procurement information is highly essential to all interested members of the public. As such, at the pre-tendering stage, the BPP regards making procurement information available to the public as a serious issue, and as a result, it holds matters related to advertisement by MDAs firmly (Oyefeso, 2017). In line with the provisions of the PPA, the Bureau ensures that MDAs duly advertise any procurement intended to be embarked upon in National Newspapers and the Public Procurement Journal (Agada, 2017; Okorie, 2017). It also published the details of major contracts in the procurement journal (Onyekpere, 2018). As a result, unlike what was experienced in the pre-reform era, the period covered by the study witnessed consistent rise in the amount of tender advertisements for federal government contracts. It was believed that 100% of Federal Government major projects tenders were advertised in at least 2 Nigerian Newspapers and the Public Procurement Journal as prescribed by the PPA, 2007 (Egwim, 2013). This encourages fair competition and popular participation among Nigerian contractors and entrepreneurs (Agada, 2017; Egwim, 2013). It also eliminates favouritism and provides equal opportunity to all interested members of the public (Agada, 2017). The Bureau does not only ensure that MDAs adequately advertise all

available procurement opportunities, it importantly scrutinizes every advertisement and seeks to correct whatever shortcomings that may occur in them (Oyefeso, 2017).

The Bureau also ensures that all government contracts are published in both hard and electronic forms in order to enable professional associations, CSOs) and other NGOs to track performances of governments contracts (BPP, 2011). Furthermore, as the PPA stipulates in Section 19(b), Nigeria has now seen increased participation of the citizens in the procurement process through relevant professional bodies and CSOs working on transparency, accountability and anti-corruption (Adefolahan, 2017; Onyebuchi, 2017). Specifically, a large number of CSOs now participate in the procurement processes in MDAs (Refer to Appendix 2 for a full list of qualified and accredited CSOs involved in the procurement processes in Nigeria). The statutory inclusion of CSOs in the procurement process is considered a huge privilege (Onyebuchi, 2017). This enables them to observe the procurement process, write reports and submit to their organizations and the BPP, as well as other relevant organizations that are in position to take appropriate actions in view of the reports (Onyebuchi, 2017; Oyefeso, 2017). The Bureau also ensures continuous involvement of non-governmental organizations in appropriate areas of its operations (BPP, 2015). Civil society organizations (CSOs), also follow-up on the projects implementation processes. To non-governmental organizations that are involved in procurement monitoring and observation, this is one remarkable achievement that the emergence of the PPA and the Bureau has engendered (Onyebuchi, 2017). According to Onyuebuchi (2017), this practice was not in place prior to 2007.

The development has broadened the space for greater citizens' participation in governance and thereby, improved the integrity of the procurement system. This is at the heart of CSOs participation in the procurement procedures (Onyebuchi, 2017). The PPA, 2007 requires MDAs utilizing public funds to disclose information regarding the manner

government money is being spent. Thus, as a way of ensuring transparency and holding government accountable, CSOs take part in the government procurement activities as the citizens have the right to know how public funds are being spent and to take necessary actions whenever appropriate (Onyebuchi, 2017). The Bureau compels procuring entities to obey the stipulations of the Act with respect to the involvement of anti-corruption NGOs at the tendering stage of the procurement process, by ensuring that they invite independent observers to monitor and observe procurement implementation proceedings as a way of enthroning greater integrity in the system and practice (Oyefeso, 2017).

Controversies and complaints usually arise during or after procurement processes. The presence of the CSO observers and monitors helps to resolve such controversies as they file reports to the BPP regarding their findings and observations during each procurement proceeding (Oyefeso, 2017). Besides this, contractors also have right to petition any MDAs that fail to follow the laid-down process during procurement implementation (Adefolahan, 2017). The enactment of Freedom of Information Act, 2011 also helps to boost CSOs monitoring of government spending through procurement contracts. CSOs and concerned members of the public can now leverage on its provisions to track spending by government and monitor contracts implementation, beginning from advertisement to award and then to final implementation and delivery (Okorie, 2017; Lawal, 2017c). Notwithstanding the impediments posed by MDAs to the CSOs' procurement monitoring and observation with respect to access to information, CSOs have been relentless, making efforts to fulfil their mandate (PPDC, 2011). Ultimately:

...despite continuing challenges with access to information CSOs have broadened their scope of monitoring and observation to include procurement planning, advertisement, bidding documents issued, bid submission and bid opening, but in all cases neither have CSOs been invited to monitor bid examination and evaluation nor are they allowed access to documentation resulting from those and later stages of the procurement process (PPDC, 2011, p. 84).

The adoption of the Open Contracting Data Standards (OCDS) is another notable achievement made by the Bureau in its attempt at achieving greater transparency and accountability in Nigeria's procurement system (Akugbuo, 2017; Onyebuchi, 2017). The Open Contracting Data Standards is an initiative of the Open Government Partnership (OGP) whose advocacy for its acceptance by Nigerian Government was championed by CSOs working in the area of public procurement. The Open Government Partnership started the development of the Open Contracting Data Standards in 2014 as a global non-proprietary standard designed to reflect the complete contracting circle. The initiative was among the open government programs adopted by President Buhari during his speech at the international Anti-Corruption Summit in London that took place on May 16, 2016. President Buhari pledged the adoption of the OCDS by Nigeria and disclosed that the government would work towards full implementation of its principles with focus on major projects as an early priority (Davis, 2016).

The President stated that Nigeria would apply the Open Contracting Data Standards to critical areas including “development of refineries in the oil sector, building of health centres and improvement of health services, building of roads and other infrastructures, building of schools and improving transparency in the management of education funds, and investment in the power sector” (Davis, 2016, p. 5). As Nigeria's public procurement regulatory authority, the Bureau would drive the implementation of the initiative (Akugbuo, 2017; Onyebuchi, 2017). The Open Contracting Data Standards showcases every stage in the procurement proceedings, including the planning stage, tendering stage, the contract awarding stage and the implementation stage (Akugbuo, 2017). It also gives proper description of contracts being undertaken by government, name of the contractor in-charge of the projects, costs of the contract, location of the projects; the status, that is, whether the projects are still on-going or fully completed. The display of detailed information about

government contracts is to make for better transparency and to enable the public to know whom to hold accountable in case of defaults (Akugbou, 2017; Onyebuchi, 2017).

Apart from the procurement and award of contracts, OCDS also encapsulates planning, budgeting and appropriations on the front-end and contract performance and life cycle costs on the back-end. Importantly, the OCDS, through electronic technology, links data from every phase of the contracting procedure from planning and budgeting, through procurement, to project delivery (Davis, 2016). With the Open Contracting Data Standards, interested members of the public can easily access information pertaining to government projects/contracts through the internet without having to visit the relevant procuring entity to request for information (Akugbou, 2017; Onyebuchi, 2017). Thus, “the goals of OCDS are to increase the ability of governments to make informed decisions based on both historic and real-time data, to increase transparency to allow citizens to understand how their money is being spent and to detect and reduce fraud and corruption” (Davis, 2016, p. 7).

The OCDS has huge benefits for implementing countries. However, to actualize its goals, the OCDS principles demand that electronic data collected must be open and non-proprietary, as well as machine-readable, with a user-friendly format, based on global standards, sharable, and re-usable. Each contract is assigned a unique identifier that enables the tracing of financial disbursements and all stages of procurement and project status. Data across every stage is accessible according to standards, and the identifier remains unchanged even if contract is terminated or re-awarded (Davis, 2016). The OCDS makes it possible for implementing countries to achieve the following: link budget and procurement contract data in order to track the public service each contract is expected to deliver; collect data and information for all transactions and connect to performance and payments to the economic operators involved; map quantity and quality of spending; and identify saving opportunities and compliance breakdowns (Davies, 2016, p. 7).

Other gains accruable to countries that adopt and implement the OCDS include that the initiative stands to enable them to: verify performance and life cycle performance and warranties; improve efficiency and prevent infractions; analyze expenditures to enhance contract value, increase supply chain value and find new sources of procurement; avoid expensive investigations and prosecutions as well as inefficiencies across all phases of procurement by standardizing accessible, usable, and timely data; evaluate contractor performance, compare completion rates by contractor; verify performance before payment; prevent theft and misappropriation and provide evidence to assist in recovery efforts; provide incentive for contractors to improve their performance in relation to each other; collect and analyze maintenance, repair and life of purchase data; implement Critical Path Method to analyze contract performance in relation to time and money spent; and increase cash flow through accuracy of invoicing (Davis, 2016, p. 7-8). An examination of these benefits of the OCDS initiative overtly suggests, among other things that, if Nigeria would implement and sustain the OCDS initiative, the incidence of entrenched corruption in the country's procurement system would reduce immensely (Akugbou, 2017; Onyebuchi, 2017).

In exhibiting her responsibility towards increasing transparency and widening space for citizens' supervision of the procurement process, and to strengthen the war against corruption, Nigeria unhesitatingly took necessary steps towards the development of Open Contracting Data Standards as a management tool (Davis, 2016). As President Muhammadu Buhari pledged at the international Anti-Corruption Summit in London, Nigeria has replicated the global Open Contracting Data Standards (OCDS), through the launching of the Nigeria Open Contracting Portal (NOCOPO), her own version of the OCDS. In accordance with the main objectives of the global OCDS, NOCOPO aims at:

Opening up public procurement in Nigeria through increased disclosure of procurement information to all stakeholders with a view to ensuring improved transparency and accountability, improve competition, prevent

corruption, enhance active citizens participation towards achieving better service delivery and improved ease of doing business in the country(BPP, n. d. (c), para. 1).

The portal enables relevant Civil Society Organizations (CSOs) to easily access procurement information to aid effective monitoring of procurement processes. On their own part, the generality of the “citizens can also access public procurement information, track procurement process and give feedback (to the Bureau) on planning, tender, award, contract and implementation stages”(BPP, n. d.(c), para. 4).

The Nigeria Open Contracting Portal - NOCOPO, was conceived by the BPP, and jointly created by BPP and Civil Society Organizations (CSOs) working in the nation’s procurement sphere, as part of the Bureau’s efforts towards fulfilling Section 5(r) of the PPA (BPP, n. d. (c)). The establishment of the NOCOPO also signalled the “fulfilment of the Commitment 2 of the Nigeria National Action Plan of the Open Government Partnership which is full implementation of Open Contracting and adoption of Open Contracting Data Standards in the public sector” (BPP, n. d.(c), para. 2).With the creation of the NOCOPO, all procuring entities (MDAs) in Nigeria are to upload their procurement information on the portal in compliance with the principles of the Open Contracting. More than 750 government MDAs in Nigeria are expected to publish procurement information on the Bureau’s NOCOPO portal (Open Contracting Partnership, 2017). Through the portal, MDAs publish information regarding all phases of the procurement procedure, beginning from the planning stage through advertisement, to tendering and contracts award stages. These include their procurement plans and records which consist of information such as project title, the name of the vendor/contractor, contract cost, procurement method, scope of work, contract duration, project location, and implementation status (Observatory of Public Sector Information, n. d.).

The Nigeria Open Contracting Portal (NOCOPO) conforms to the global Open Contracting Data Standards (OCDS); it has two important features, namely the contract

administration and citizen feedback. And in adherence to the Open Contracting Data Standards, each project/contract has a unique ID by which it can be identified and tracked. The contract administration aspect aims to address the problem of projects abandonment in Nigeria through proper record management and project monitoring. On the other hand, the citizen engagement aspect enables Nigerian citizens to track government projects in their localities and to monitor their implementations as all details about all projects are made accessible to them on the NOCOPO portal. With its feedback mechanism, the platform adequately enables the citizens to directly report project performance, especially with respect to quality of delivery and whether or not project is delivered by contractor. Following a Circular issued by the Federal Government which mandates all government MDAs to use the portal, the portal is currently being populated with relevant data/information (OPSI, n. d.).

Nigeria's BPP emerged the winner of a global Government Innovation Award in 2017 for its pioneered NOCOPO project that uses open data with the support of legal reform to make information regarding the country's procurement sector more accessible, transparent and accountable to the public. The award is "part of the Open Contracting Innovation Challenge, a competition run by the Open Contracting Partnership and the Open Data Institute to recognize groundbreaking data-driven ideas for improving public procurement" (OCP, 2017, para. 1). A total of 88 teams from 40 countries drawn from across all the continents participated in the competition. The Innovation Challenge honours original ideas in the area of managing, analysing, and monitoring government's acquisition of goods and services and the modern methods through which information can be published on what is bought, from whom it is bought, when is bought, and how much it is bought. Having won the Government Innovation Award, the Nigerian team – the Bureau is positioned to further benefit from mentoring and expert support to accelerate the progress and execution of the innovation (OCP, 2017).

In appreciation of how the operations of the Bureau of Public Procurement has, indeed, engendered improved transparency in Nigeria's public procurement process, Jibrin, Ejura and Augustine (2014, p. 157) are thus propelled to comment as follows:

Progress in complying with the provisions of the Public Procurement Act, 2007 has been measured since 2008, but increasing, especially in 2009 and 2010. Awareness of the Act is on the rise; so is compliance. More MDAs, (especially in the FCT) are establishing procurement planning committees and adopting more open and competitive procurement techniques. More ministries, departments, and agencies are acquiring the capacity (technical knowledge and skills) to prepare and use procurement plans, adapt and use standard procurement documents. Adequate budgetary provisions and approvals are almost now a sine qua non for procurement. Many MDA's are producing and submitting procurement plans to the Bureau, rarely does any procurement requiring advertisement occur now without advertisement, selective bidding and sole source contracting have become exceptions rather than the norm, many MDA's are using BPP issued standard documents, some are not, tender boards are more operational, bid submissions are better regulated and bid openings are more transparent etc.

They go further to assert that:

Driving these improvements are efforts of the Bureau of Public Procurement at preparing and reviewing rules, information manuals, standard bidding documents, increased public enlightenment and sensitization on the Act and training of all stakeholders: MDAs, contractors and bidders, consultants, and civil society observers, and also the increasing efforts of the Non-Government sector to monitor compliance (Jibrin, Ejura & Augustine (2014, p. 157).

Close monitors and observers of Nigeria's procurement activities have commended Bureau's efforts at making all important procurement documents that enhance adequate understanding and easy following of the procurement processes available to procurement stakeholders. This is also an integral part of the Bureau's strategy and effort at promoting transparency, impartiality as well as openness in the procurement procedure. The present procurement regime is unlike the pre-reform years when the Officials of MDAs arbitrary quoted the Treasury Circulars in a bid to galvanize their selfish interests during the conduct of procurement proceedings (Onyema, 2011). The Bureau has produced and placed various

public procurement documents at the reach of all stakeholders in the procurement process including MDAs, contractors, suppliers, service providers, professional bodies, civil society organizations (CSOs), and general public. These documents serve as both guiding instruments and information materials to the entire members of the Nigerian procurement community (Njoku, 2017; Onyema, 2017).

Key among these essential procurement documents provided by the Bureau are the standard bidding documents. Indeed, the Bureau has produced and provided the “MDAs, Contractors and Service Providers, Stakeholders and members of the Public with Standard Bidding Documents and Regulations free of charge” (Onyema, 2011, para. 5). “These documents have clearly provided step by step processes that must be followed in contracting and provision of procurement of works, goods and consultancy services in the country” (Onyema, 2011, para. 5). The availability of the documents has made public procurement practice and observation and/or monitoring easy and less cumbersome, and has provided increased opportunity for contractors, suppliers and service providers to legally engage procuring entities whenever any forms of grievances arise from any observed breach of the PPA in the conduct of procurement process. Thus, the documents have also contributed in increasing the knowledge of stakeholders and their awareness of their responsibilities in the procurement process, thereby improving the level of transparency and openness in the procurement process (Onyema, 2011).

Standard Bidding Documents provided by the Bureau include but not limited to the following: “Public Procurement Procedure Manual for Public Procurement in Nigeria; Standard Bidding Documents for the Procurement of Works; Standard Bidding Documents for the Procurement of small Works; Standard Bidding Documents for Goods” (BPP, 2013c, p. 57), among others. Before the PPA was enacted, these bidding documents were not in existence. As such, MDAs conducted procurement proceedings indiscriminately and without

recourse to integrity principles. But with the Act and the bidding documents, cheating is avoided and bidders have equal opportunity to compete for government contracts whereby only the lowest evaluated responsive bidder wins (Njoku, 2017). The Bureau enforces compliance with, and ensures the utilization of these standard bidding documents by all MDAs in the conduct of procurement proceedings. The Bureau has made the standard bidding documents available in the major Nigeria languages - Igbo, Hausa and Yoruba (Njoku, 2017).

Apart from the standard bidding documents, the procurement professional journal regularly published by the Bureau serves as research materials to researchers and students of public procurement (Onyema, 2017). The journal's maiden edition was published in November, 2008, the immediate year after the passage of the Public Procurement Act, 2007 (BPP, 2013c). Since 2008 till date, the Bureau has ceaselessly published its journal - Public Procurement Journal (PPJ) periodically, and it has also helped to make information on issues related to the Nigerian procurement system and practice more public than ever. All the editions of the Public Procurement Journal, from the 2008 maiden edition to 2016 editions are accessible via the Bureau's official website. This is in accordance to Section 5(g) of the PPA which requires the BPP to "publish paper and electronic editions of the procurement journal and maintain an archival system for the procurement journal" (FRN, 2007).

The Bureau provides other essential procurement documents in the forms of leaflets such as "Bid Evaluation in Public Procurement (Basic Guidelines), Pre-qualification Exercise in Public Procurement (Guidelines and Basic Criteria)" (BPP, 2013c, p. 59), among others. It also provides booklets such as "Approved Revised Thresholds for Service-Wide Application and Special Thresholds for Procurement in Oil Sector, Procedure and Documentation Pre-requisite for the Issuance of a Certificate of "No Objection" to MDAs, Code of Conduct for Public Officers involved with Procurement" (BPP, 2013c, p. 59), to mention a few. All these

documents are designed to build and inject international best practices and value for money standards into the Nigerian public procurement system (Egwim, 2013). The availability of these documents to procurement stakeholders, in three major Nigerian languages, increases general understanding of the procurement processes, and in no small measures, impacts positively on the transparency and integrity of the procurement process.

Administration of a functional website and development of national database of federal contractors, consultants and service providers are also among the landmark efforts of the BPP towards aiding transparency and accountability in the country's procurement sphere. Section 5(r) of the PPA requires the BPP to develop and maintain an Internet portal through which it will always make information pertaining to public procurement available to interested citizens. In compliance with this provision, the Bureau established and runs a functional website where all procurement information including the prices of goods, works and services are made readily available to interested members of the public (BPP, 2013b; Onyema, 2011; Onyema, 2017). The link to the BPP's official website/portal is: <http://www.bpp.gov.ng/>. All information on government procurement policies and practice in Nigeria can be accessed through this link. This development has helped to promote transparency and accountability in Nigeria's public procurement system (Onyema, 2017).

As a matter of example, in one of the links in its official website (http://www.bpp.gov.ng/index.php?option=com_joomdoc&view=documents&path=procurement-records-Consolidatedddxlsx&Itemid=607), the Bureau provides consolidated excel format of the public procurement record on awarded government contracts, which are available for downloading (Akanmu, 2012). The consolidated excel file contains data pertaining to contracts conducted through various procurement procedures including "the open procedure, restricted procedure, negotiated procedure without prior publication of the contract notice, negotiated procedure with prior publication of the contract notice, framework agreement, as

well as the data on the contracts awarded by the design contest” (Akanmu, 2012, p. 6). In general, the BPP’s website is regularly updated with information, such as news items, notices, advertisements, and records of the Federal Executive Council (FEC) Approved Contracts, Certificates of “No Objection” issued by the Bureau, among other things. Also, to ensure receipt and response to complaints, petitions and general enquiries by emails, the Bureau also manages an email account, which is (info@bpp.gov.ng) (BPP, 2015). The diagram below shows the monthly traffic on the BPP’s website for the year 2015.

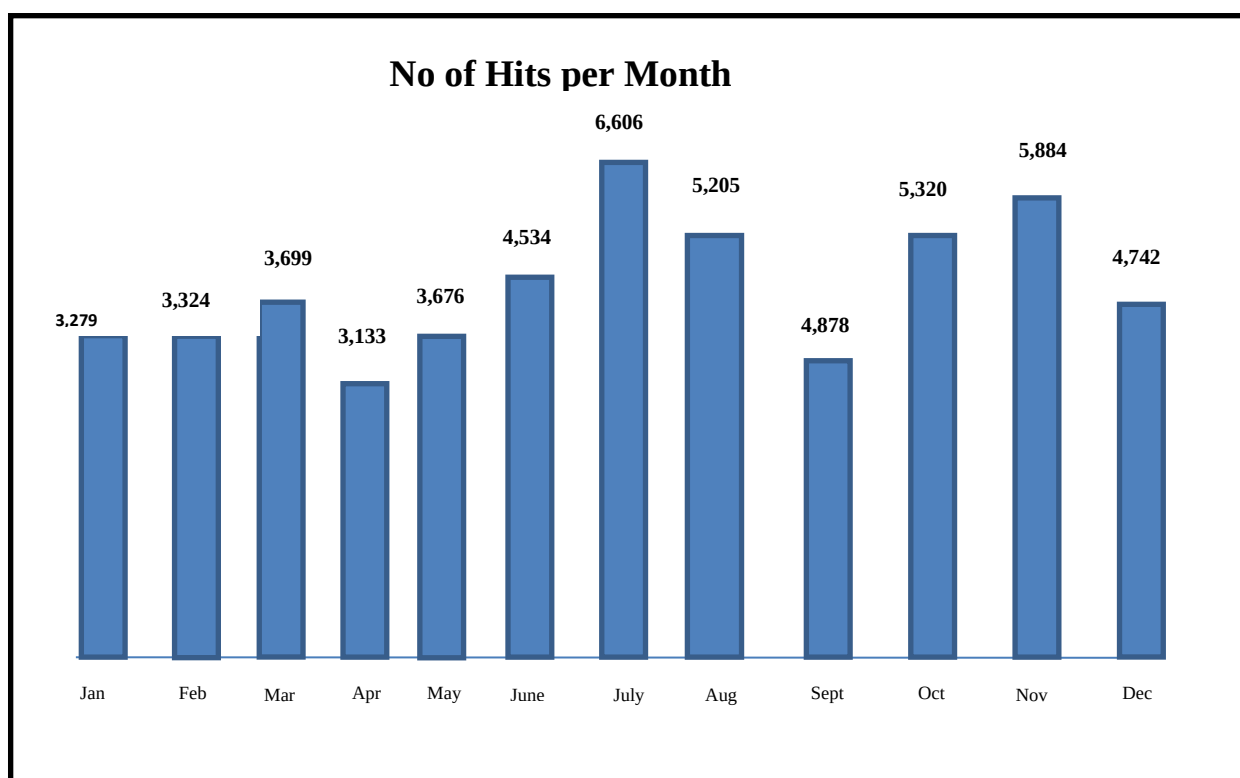


Figure 6.2: Monthly Traffic on the BPP Website (www.bpp.gov.ng)

Source: BPP (2012, p. 42)

Furthermore, based on Section 5(h) of the PPA, the Bureau is to, “maintain a national database of the particulars and classification and categorization of federal contractors and service providers”. In fulfilment of the foregoing provision, the agency has built and maintains an electronic public procurement database (Onyema, 2017, Okorie, 2017). Apparently, in adherent to the law, BPP in 2014, “developed and made public in its website, a

National database of the particulars, classification and categorization of Federal Contractors and Service Providers, with a view to encouraging serious business Organizations to register and position themselves for the much expected competitiveness in government business” (Onyema, 2011, para. 8; Onyema, 2017, Yahaya, 2014). The national web-based registration system can be accessed from anywhere and at any time and it is intended to aid professionalism in all industries and ensure fair competition among various classes of contractor, consultants and service providers to government MDAs (BPP, 2013c).

The database is an online system that registers, categorizes and classifies Contractors, Consultants and Service Providers (CCSPS) doing or intending to do business with the Nigerian Federal Government (BPP, n. d. (d)). It is primarily meant to benefit the Federal Government and its Ministries, Departments and Agencies (MDAs), but it is available and accessible by public and private procuring entities alike, as well as NGOS, CSOs, investors and the general public (Kuye, 2012). “The database gives a comprehensive profile of pre-qualified vendors who have fulfilled the minimum legal and capacity requirements to participate in public procurement as detailed in Section 16(6) of the PPA, 2007” (Kuye, 2012, p. 75). The system offers information on “vendors, their contact details, areas of business and specialization (categories), past jobs executed in both private and public sectors in the preceding 5 years, details of experience, academic and professional qualification of key human resources” (Kuye, 2012, p. 75). It also offers details and status of owned equipment and infrastructure, competencies and capabilities (classifications) determined using a classification model that measures the financial and technical abilities of firms on all categories selected in the database (Kuye, 2012). Hence, as it has been summarily submitted:

The database is an authentic source of addressing the issue of knowing contractors and service providers in Nigeria, what business they do, whom they have done it for and how well they are positioned to do it now. As this information becomes public and

known to everybody, transparency is enhanced and watch-dogs in the system can easily observe the process (Kuye, 2012, p. 77).

The creation of the contractor categorization and classification system is therefore an effort towards promoting efficient and effective public procurement practice as it guarantees that competent and capable contractors alone are invited to tender for government jobs (BPP, 2013b). As earlier noted, the database "...is a one stop shop of data of all vendors doing business or intending to do business with the Federal Government, highlighting the specialization, capability and competence of such vendors" (Kuye, 2012, p. 75). The system makes it possible for only statutorily certified bidders to be participating in the procurement processes (Onyema, 2017). It also prevents multiple registrations by organizations and reduces time wastage associated with the execution of procurement proceedings (Yahaya, 2014). This is obviously one of the ways of sanitizing and ridding Nigeria's procurement market of incompetent contractors, consultants and service providers. Adefolahan (2017) is in agreement with this position as he unequivocally states that the national database system for registration has helped the government to know genuine contractors, suppliers and consultants, and has led to drastic reduction in abandonment of projects. This is because business entities that lack requisite financial capabilities and technical know-how to handle government projects can no longer compete favourably for contracts in the Nigerian procurement system (Otalike, 2017).

The Bureau has the register of all federal contractors wherein these organizations are classified and categorized according to their capabilities and specializations (BPP, 2014). The benefits of the database system cannot, in short, be overemphasized. As widely known, the task of ensuring the attainment of goals of good procurement system, namely competition, transparency, efficiency and value for money rests on the procurement officers. However, one of the major obstacles confronting procurement officers in MDAs is lack of centralized

data of prospective firms. With the development of the National database registration system, procurement officers can now access the list of all registered contractors and service providers according to their categories and classification, and the details of jobs they have executed and obtained complete certification for. The database would also aid procurement officers to check updated list of debarred contractors. With all these put together, procurement officers can deploy the database system for pre-qualification and various forms of restricted, selective and emergency procurement (Kuye, 2012).

Being charged with the task of conducting government procurement functions in MDAs, the database can enable the Accounting Officers and Chief Executive Officers to have an overview or scrutinize every stage of the procurement proceedings, check the integrity of the process and confirm the outcome of the exercise. This will enhance transparency, visibility, efficiency and cost saving thereby leading to reduction in the volume of complaints and petitions from losers. It will also help to eliminate delay in the procurement process and make for faster implementation of the budget (Kuye, 2012). Obviously, the innovation would fast-track procurement process and eliminate fraud (Davis, 2016). Additionally, the database stands to enhance competition in that the categorization of firms on the basis of specialization and expertise and classification on the basis of size, experience, financial and technical capabilities as well as turnover would create a fair ground for bidders of equal and similar competencies to bid for contracts. More so, with their particulars and details on the database system, foreign contractors and service providers having or seeking to have government contracts in Nigeria could be tracked whenever necessary, ghost and phantom firms would be prevented from participating in the procurement process, and all business entities would be compelled to register legally and fulfil all obligations related to payments of taxes, pension and social securities (Kuye, 2012).

The central web-based registration system makes for easy identification, contact, and prequalification of organizations for contracts and services by procuring entities. The Bureau has continued to call on all organizations to visit its website (www.bpp.gov.ng) or the registration system domain (www.federalcontractors.bpp.gov.ng) and get themselves registered in order for them to be better positioned to do business with the Federal Government and its Ministries, Departments and Agencies (BPP, 2013c). The legal and social security provisions of Federal Inland Revenue Service (FIRS), Corporate Affairs Commission (CAC) and National Pension Commission (PENCOM) are the main requirements for accepting companies in the database. These security provisions are considered to be essential elements for serious business entities that desire the patronage of those in need of the services they offer (Kuyi, 2012). As indicated on the BPP's website, while registering on the database, firms are required to provide certain specified details about themselves. In the words of Davis (2016, p. 6), "the whole idea is to ensure that all companies with the same level of competence and also with the same resources are clustered in such a way that they can compete with each other. Move from paper to digital".

Explaining the trend and pattern of business organizations' monthly response to the idea of registration of companies from the inception of the system in 2012 to June 2014, Yahaya (2014, p. 52) comments thus:

The initial response was high. In the first month we got 258 service providers registering on the system. However, by the second month the figure had dropped to 53. Averagely in the year 2012, we got 155 organizations registering monthly. In 2013 the trend increased, with 940 registering on the system, giving an average of 78 service providers per month. In 2014, we started creating awareness, which has resulted in an increase in the number of registrations. As at date, we have 1,153 service providers registered already, which is about 165 on monthly basis. Considering that the year has not ended yet, the pace of response to the call for registration has been encouraging.

With regard to 2013, however, the total number of Contractors and Service Providers that initiated registration on the application later rose to 1,251, albeit with 123 companies having

fully completed their registration as at 31st December 2013 (BPP, 2013b). The Bureau continuously examines and ascertains the correctness of information supplied in the national database by the Contractors, Consultants and Service Providers for the purpose of enhancing the integrity of the database. The physical verification of claims of Personnel and Equipment submitted by Contractors, Consultants and Service Providers that have duly completed their registration on the national database was jointly carried-out by the Bureau and professional associations of high integrity (BPP, 2014). The diagrams below show the analysis of yearly registration and the cumulative total number of registered companies between 2012 and 2014.

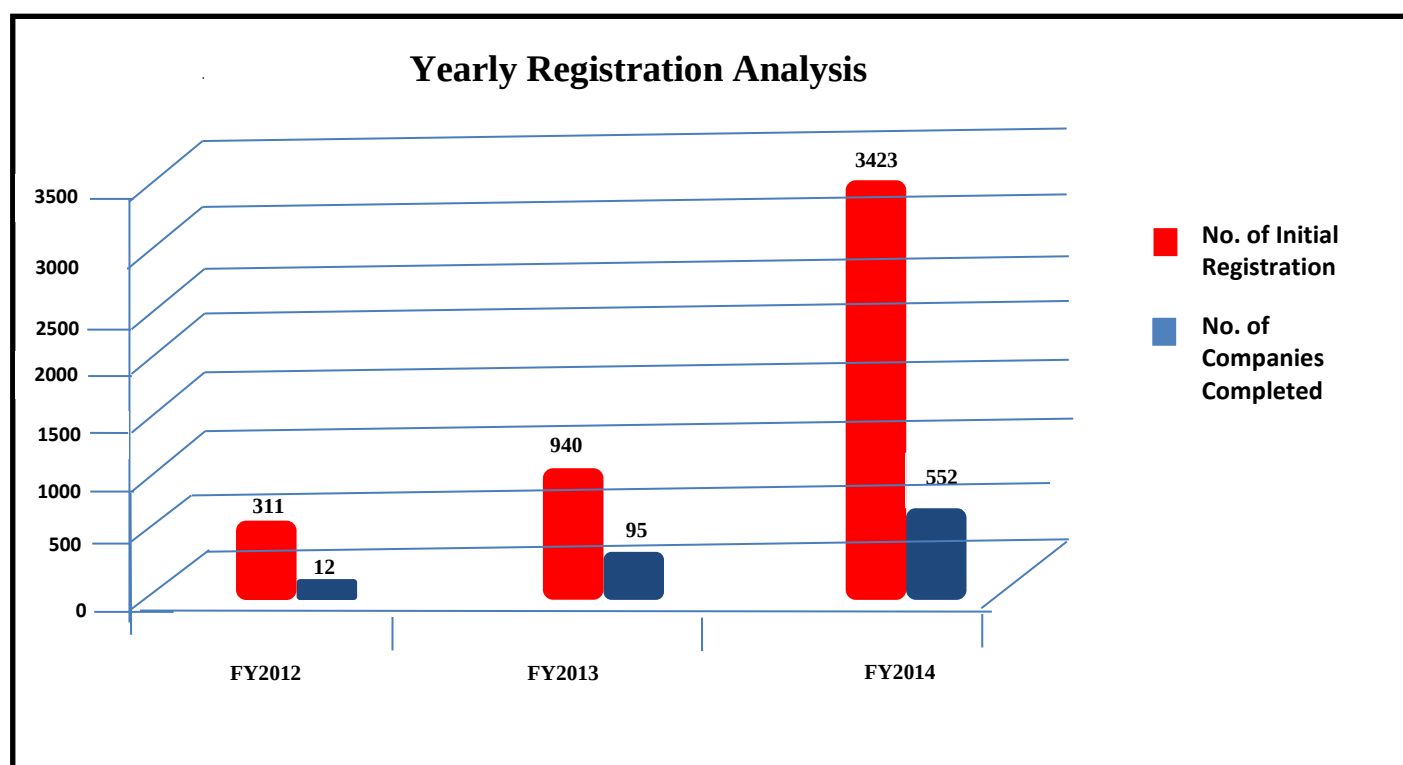


Figure 6.3: Analysis of Yearly Registration of Companies on the National Database of Federal Contractors and Service Providers between 2012 and 2014.

Source: BPP (2014, p. 34).

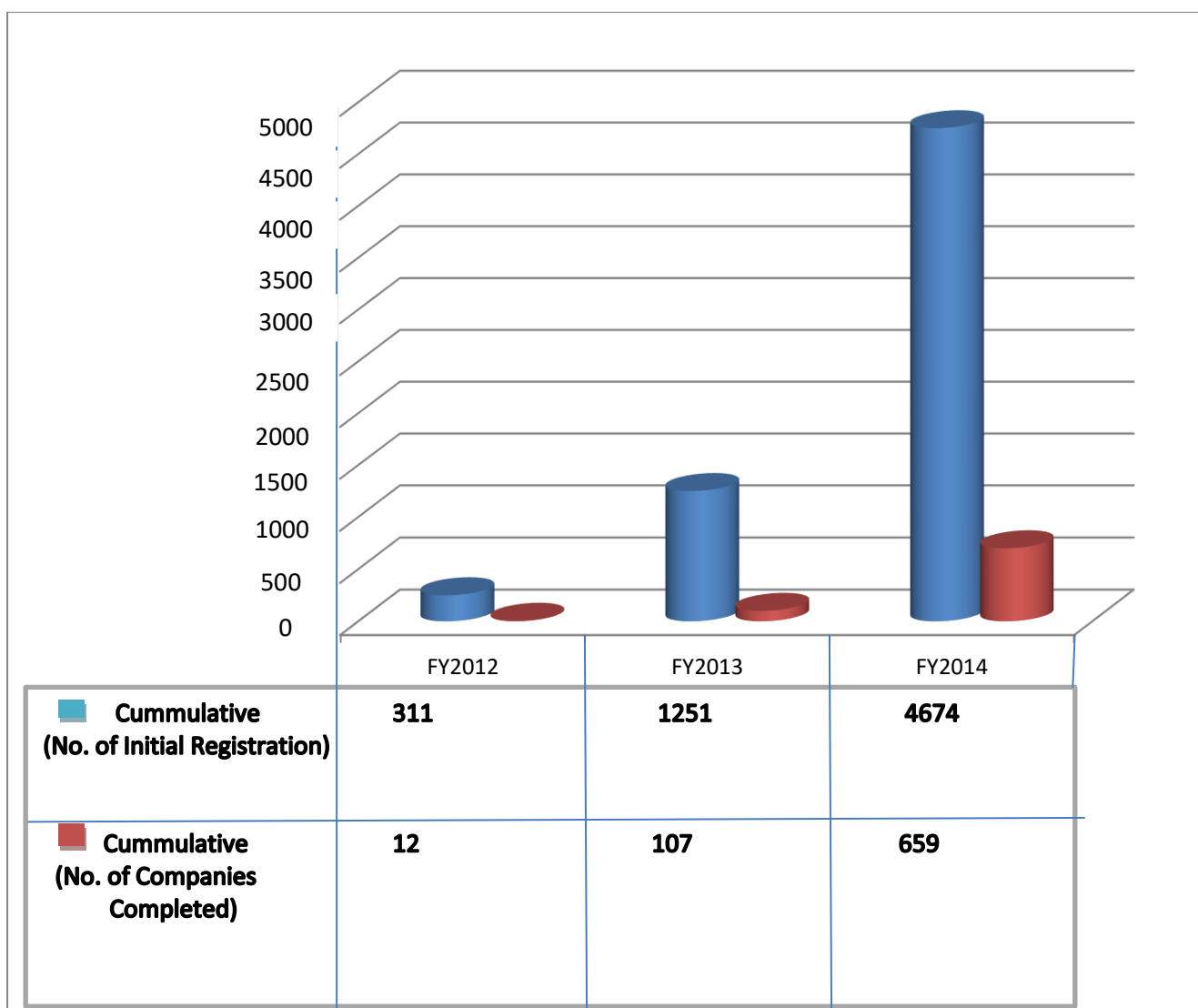


Figure 6.4: Cumulative Total Number of Registered Companies (2012-2014).

Source: BPP (2014, p. 34).

From the diagrams above, a total number of 311 Contractors and Service Providers began the process of registration on the national database in 2012, but only 12 companies successfully completed their registration. In 2013, the cumulative number of companies that started the registration exercise was 1251, but only 107 concluded the process. For the year 2014, a total of 4674 companies commenced the process of registration, but 659 completed the exercise.

The PPA in Section 5(q) also demands the Bureau to “introduce, develop, update and maintain related database and technologies” (FRN, 2007). In fulfilment of this mandate, the Bureau, in 2013 deployed better version of Public Review System, namely the goPRS Web

and goPRS Enterprise packages for government MDAs, and established a task force to enforce timely review and reports of the software to be communicated back to the development team both in Abuja and Vienna (BPP, 2013b). Among these packages were also the Archival System and Procurement Management System in 2014 (BPP, 2014). Particularly, “the GoPRS (Government Procurement Review Software) is a web-based portal for the oversight and monitoring of contract solicitations and awards resulting in the ability to analyse and manage decision-making to obtain greater value for money and to deter fraud and corruption” (Davis, 2016, p. 8). It provides tools that “enhance timely and accurate exchange of information between procuring entities and centralized oversight authorities at critical stages of the procurement process. It assists BPP in ensuring strict compliance to openness, competition, cost accuracy rules and procedures that should guide contract awards within the Federal Government of Nigeria” (Davis, 2016, p. 8).

Furthermore, “GoPRS enterprise enhances the ability of the BPP to monitor individual procurements and review specific contract awards which fall above prior review thresholds” (Davis, 2016, p. 8). “It applies workflow logic to standardize processes and tasks, automates task assignment for all processes, tracks progress and ensures that staff with proper authority to approve specific actions are, in fact, the ones approving them” (Davis, 2016, p. 8).

Through the GoPRS application also:

Procuring entities submit requests for approval of procurement actions to the Bureau. GoPRS Web ensures that files submitted to the Bureau for approval are complete and comply with legal requirements. Data standards are integrated into all Ministries, Departments and Agencies (MDAs) record keeping, tender submittal requirements and procurement submittals for examination and review by the Bureau of Public Procurement (Davis, 2016, p. 8).

The diagram below displays the total number of uploaded and treated requests submitted to the BPP by MDAs in 2014.

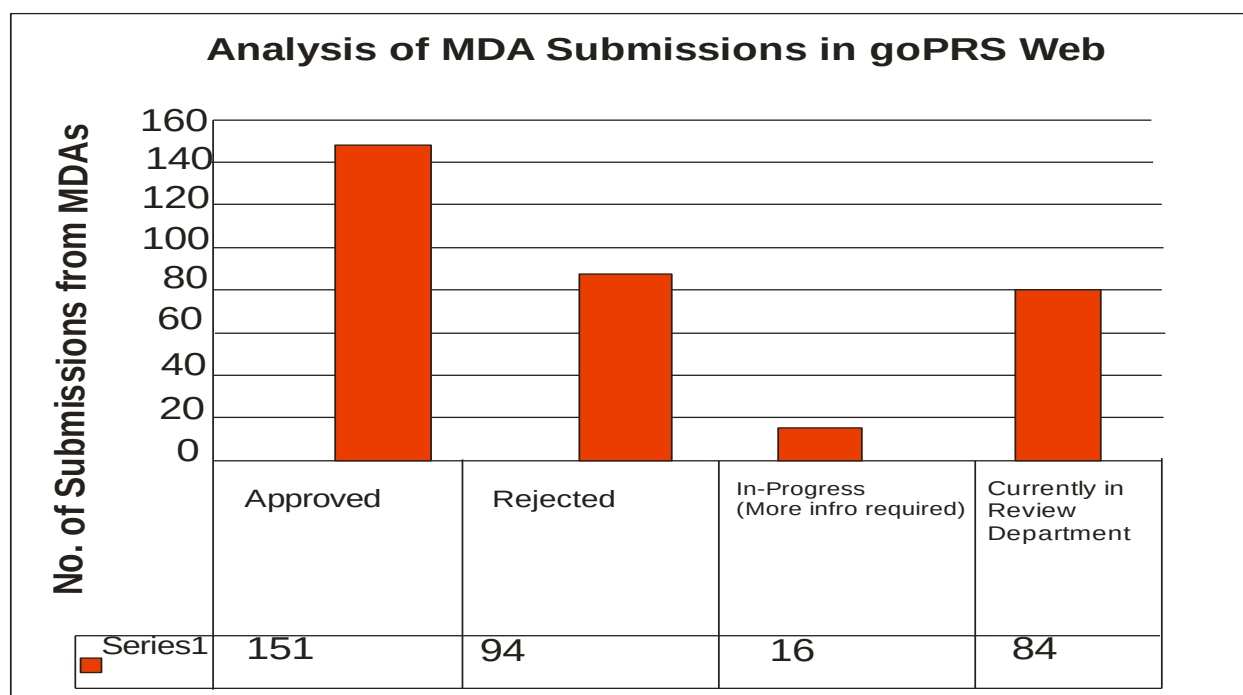


Figure 6.5: The Total Number of Uploaded and Treated Requests.

Source: BPP (2014, p. 32).

The above diagram shows that the BPP received a total of 345 requests from MDAs in 2014. However, out of this, only 151 were approved, while 94 were rejected by the BPP. The BPP demanded concerned MDAs to provide additional information on 16 of the submitted request, while 84 were still undergoing necessary scrutiny in the Review Department.

Procurement officers from eight selected Pilot MDAs were trained in 2014 by the Bureau on the use of goPRS application. The Pilot MDAs were Federal Capital Territory Administration, Federal Ministry of Works, Federal Ministry of Transportation, Federal Ministry of Water Resources, Federal Ministry of Agriculture, Ministry of Police Affairs, Transmission Company of Nigeria, and Niger Delta Power Holding Company of Nigeria. Also, the Bureau conducted Hands-on Training for Procurement officers in some MDAs on how to use the Procurement Management System (PMS) to upload their procurement plan. The Archival System has been uploaded and all Certificates of “No Objection issued by the

Bureau from 2013 are archived into the Electronic Document System of the Lotus notes Application Software (BPP, 2014).

The goPRS offers many benefits. These include that it (Davis, 2016, p. 9):

- (1) Reduces human interaction and personal contacts between procurement officials in MDAs and Bureau's staff.
- (2) Identifies areas vulnerable to leakages, inefficiencies, mismanagement, fraud and corruption.
- (3) Identifies suspicious actions, questionable records, unusual patterns of behaviour, and leakage of time and money on time to prevent and mitigate them.
- (4) Determines whether contract is carried into the next year or was re-awarded.
- (5) Identifies contract inflation and white elephant projects.
- (6) Identifies ghost contractors, payments for the same goods or services twice, and contracts without prior budget allocations.
- (7) Traces and tracks goods through supply chain, reduces sole source and emergency requests and risk of non-supply.
- (8) Compares budgetary allocations and reported procurement actions to avoid abandonment of projects after huge sums of money have been paid and budgets limits are reached before contract completion.
- (9) Tracks spending by the MDAs of appropriated funds released to MDAs but not spent.
- (10) Detects diversion of funds, falsification of accounting and/or financial statements.

Based on all these, it is doubtless that the advent of the BPP has contributed considerably in promoting greater transparency and accountability in Nigeria's procurement system.

Furthermore, prior to the procurement reforms, which produced the PPA 2007 and the Bureau, MDAs awarded contracts at any amounts they wanted (Danladi, 2017). During the era, procuring entities, that is, MDAs, were not bound by any review thresholds with respect

to the worth or monetary value of contracts they awarded (Umar, 2017; Oyefeso, 2017; Lawal, 2017b). Moreover, due to absence of a contract review mechanism then, which the BPP now provides, MDAs awarded contracts at highly inflated prices and the Nigerian Government was losing up to sixty per cent (60%) of monies spent on execution of contracts (Lawal, 2017; Onyema, 2011; Umar, 2017). Resultantly, the costs of implementing public contracts in Nigeria were very high in the era preceding the BPP reforms. As a matter of fact, the Federal Executive Council (FEC) argues that the costs of executing government contracts in the country were 20% to 30% more than similar contracts elsewhere (Nigeria Exchange News, May 27, 2010). Similarly, Ahmed (2011, para. 2) opines that, with the exception of “crises-ridden parts of the world, Nigeria paid more for construction contracts than any other country in the world. Construction of basic infrastructure such as roads and other physical structures and supplies also took up almost 65% of all annual budgets”.

Moreover, “virtually all reliable estimates show that the country paid at least three times what it costs for equivalent projects in most African countries. It also took at least four times as long to complete projects [in Nigeria] than in most African countries” (Ahmed, 2011, para. 2). Since the procurement reforms implementation programme began in early 2000, however, the Due Process principle has brought about a significant reduction in the costs of government contracts. As Adegbola et al (2006) rightly observes, adequate “application of procurement rules appears to reduce prices by around 30 percent because effective public sector procurement contract system hinges on a desired degree of transparency, integrity, competence, competition and value for money” (as cited in Achua, 2011, p. 333). Critically, “considering the magnitude of public procurement and the tight budgets usually experienced in Nigeria, a saving of 30 percent on government purchases can be extremely beneficial” (Achua, 2011, p. 333). This figure is significant for a system that has been known to be characterized by wastages and inefficient utilization of resources.

In his observation, Achua (2011, p. 333) presumes that “the nation can, therefore, make reasonable savings to attend to her social and economic development programmes which include employment generation, wealth creation and poverty alleviation through prudent procurement and contract system”. But it is important to state that, even before the Public Procurement Act, 2007 was still yet to be passed by the National Assembly, the former President Olusegun Obasanjo noted in 2003 that, with the application of the Due Process mechanism through vetting and reduction in costs of contracts, Nigeria made substantial savings totalling \$500 million (Obasanjo, 2003). President Obasanjo further observed that the Due Process mechanism saved Nigeria over ₦102 billion within the first two years of the institutionalization of reforms. The savings were made from various Federal Government over-bloated contracts (Obasanjo, 2004). These savings were made at the early stage of the implementation of the procurement reforms based on the recommendations of the CPAR, precisely with the setting-up of the Budget Monitoring and Price Intelligence Unit (BMPIU), the “Due Process Office” by Nigeria in 2003, whose structures the BPP eventually inherited following the coming into effect of the PPA 2007.

With the Public Procurement Act in active force, coupled with the contracts prior-review process instituted by the Bureau, however, the costs of contracts in Nigeria have undoubtedly reduced drastically (Agada, 2017; Onyema, 2017; Lawal, 2017; Lawal, 2017b). While attesting to this, former “Director-General of the Bureau of Public Procurement, BPP, Engr. Emeka Ezech, declared that the Public Procurement Act of 2007 has served as a clarion call to probity, accountability, adherence to methods in the disbursement of a commonwealth and the production of evidence in the application of the wealth” (Jacob, 2010, p. 145). In view of the existence of the Act and the Bureau, “cost of contracts are no longer unreasonably expensive; they are projected in context and vetted with due rigour” (Jacob, 2010, p. 145). Similarly, Okorie (2017) admits that the activities of the Bureau have led to

significant reduction in cost of contracts and the rate of corruption in the procurement system. Jibrin, Ejura and Augustine (2014, p. 157), strengthen the foregoing opinions by arguing that the “efforts of the Bureau continue to save public funds that would have been lost through payment of higher prices for procurement. In 2009 and 2010, the Bureau reduced contracts cost by more than 30 billion and 50 billion naira respectively in addition to various other savings in foreign currency”.

As the agency saddled with the responsibility of implementing the Public Procurement Act, therefore, the Bureau has been able to save a lot of money for the Federal Government through its interventions in procurement and contracts award process (Lawal, 2017). Without being specific about particular periods, Umar (2017) asserts that, from the inception of the Nigerian procurement law in 2007, the Bureau has been able to save Nigeria a whooping sum of N680 billion from inflated contracts, which before now would have gone into private pockets. Similarly, without stating a particular amount precisely, Njoku (2017) agrees with Umar (2007), asserting that the Bureau, through its last assessment in 2016 saved the Federal Government a reasonable amount of money running into several billions, which had already gone into the hands of the contractors and MDAs. To be precise, available records revealed that the cumulative value of savings made by the Bureau through its contracts prior-review mechanism was N420b from 2007 to 2013 (BPP, 2013b); N95 billion in 2014 (Eze, 2015); and N43 billion in 2015 (BPP, 2015).

The Bureau is therefore in aggressive pursuit and advancement of its principal hallmarks of transparency, efficiency, value for money, integrity, and competition in the procurement process. “This demonstrates the role of the Bureau as the ombudsman of procurement, and as a crucial organization whose role encourages prudence” (BPP, 2012, p. 11). Ekpenkhio (2003, p. 5) had earlier asserted that the implementation of the recommendations of the CPAR, “through efficient and effective management of Nigeria’s

economic resources, all avenues of wastages and leakages in the economy as a result of inefficiency in the award of Government contracts and procurements would be minimized, thereby increasing Government revenue base”. It is recognized that with the existence of the Bureau and the procurement law, “public officials are now also beginning to see public funds as monies to be spent with care, and with high sense of responsibility” (BPP, 2012, p. 11). “The gain of the current public procurement practice can be ascertained in Hon. Dino Melaye’s petition against the former Speaker of the House of Representatives, when he quoted the BPP’s prices for the items he alleged the Speaker and Management of the House inflated” (Onyema, 2011, para. 8).

Regular public enlightenment activities of the Bureau has resulted in increased awareness about the implementation of government procurement policies and programmes, and stimulated improved transparency and accountability in the procurement process. In Section 5(b) of the PPA, BPP is required to publicize and enlighten the public on the provisions of the Act (FRN, 2007). The BPP has unarguably made recognizable progress in this regard. As a matter of fact, the Bureau has been carrying-out various public enlightenment programmes through conferences and workshops both at zonal and state levels (Onyema, 2011). As Onyekpere (2018) puts it, the Bureau has facilitated the raising of public interest and awareness on fit and good procurement practices which is about publicizing and explaining the provisions of the Act. BPP also offers mass procurement education on the electronic media through radio and television programs and jingles (Onyema, 2011). An example is the constant “explanation of the technicalities and expectation of public procurement processes in their weekly television programme, Public Procurement Today...the programme, apart from being a must watch for the Procurement Stakeholders, has proved to be “an electronic lecture hall” for members of the public” (Onyema, 2011, para. 7).

In a bid to ensuring effective public information, sensitization, publicity and education of all stakeholders on the Act and its operations, the Bureau runs a number of Jingles on many electronic media organizations. Some of the numerous Jingles run by the Bureau include the following: Module for the Classification of Contractors, Consultants and Service Providers; MDAs and Procurement Process; Criteria for Evaluation of Proposals; Points to note in Pre-Qualification Exercise; Issues in Bidding Regulations and Bidding Documents; Basic Steps in Procurement of Consultancy Services; Conditions for Domestic Preferences and Approval Limits; Contract Splitting and any Violations; Public Procurement Today (PPT), among others. Additionally, the Bureau regularly produces Newspaper and Magazines Adverts of the various events often organized by it (BPP, 2012). Bureau's advocacy and sensitization of the citizenry on the values and components of the Public Procurement Act has led to its wide-spread acceptability which has in-turn generated unimaginable result in Nigeria (Jacob, 2010).

The Bureau and relevant civil societies have been making demonstrable effort at increasing awareness among the people on the role of the PPA in enhancing the highly desired transparency in the procurement process. "The Bureau has also been in the fore-front of the awareness campaign for public officers to follow due process in procurement in order to help minimize corruption in the civil service and uphold transparency" (BPP, 2012, p. 25). Resultantly, "people have accepted the Act and are clamouring for enactment of same law at the state and local levels. As a result, most states have enacted their own procurement laws to satisfy the aspiration of their people and other states are taking steps to follow suit" (Jacob, 2010, p. 145). The sensitization by the BPP has no doubt yielded positive results in that, presently, only eight (8) states are yet to domesticate the procurement law (Adefolahan, 2017). BPP confirms this claim as it states that the total of 24 states across the federation had enacted laws to establish their own procurement regulatory authorities in their respective

domains, by the end of the year 2015. The Bureau plays the role of a mentor to these States through capacity strengthening (BPP, 2015).

MDAs have been the chief beneficiaries of the Bureau's sensitization activities. Clearly, the Bureau has demonstrated recognizable commitment to the sensitization of MDAs as well as private Contractors, Consultants, Service Providers, civil society organizations, professional associations, the general public and other stakeholders on the provisions of the Public Procurement Act, 2007, through workshops, seminars, presentation and through the mass media (BPP, 2012). For instance, on January 27th, 2011, the Bureau organized a one-day Procurement Planning Sensitization Workshop for MDAs at the Public Service Institute of Nigeria (PSIN). The Workshop was aimed at enlightening MDAs on the importance of Procurement Planning for enhancing successful implementation of budget. The Bureau also used the medium to introduce its web-based Procurement Planning Tool to MDAs which aims at enhancing budget preparation plan (BPP, 2011).

In the year 2014, the Bureau, through the Department of Research, Training and Strategic Planning, carried-out procurement awareness programs for numerous MDAs in addition to professional trainings provided for procurement officers. Some of the MDAs that benefitted from the year's sensitizations programs are (BPP, 2014, p. 38):

- (1) University of Nigeria, Nsukka (UNN).
- (2) National Hajj Commission of Nigeria (NAHCON).
- (3) Nigerian College of Aviation Technology, Zaria.
- (4) Nigerian Deposit Insurance Corporation (NDIC).
- (5) Nigerian National Petroleum Corporation (NNPC).
- (6) Economic and Financial Crimes Commission (EFCC).
- (7) Defence Headquarters.
- (8) Federal Road Safety Corps Head Quarters, Abuja.

(9) University of Abuja.

(10) Nigerian National Petroleum Corporation (NNPC)-NAPIMS.

Senior officers from these MDAs constituted the participants who were sensitized at these sessions on the effective use of the PPA, standard bidding documents, standard request for proposals, and extant circulars, to mention a few (BPP, 2014).

Based on the important part the Bureau has played in enhancing the transparency of the Nigerian procurement process, the agency has received widespread recognition and commendations. As a matter of fact, the Bureau “was voted the most outstanding Regulatory Agency in Nigeria during 2014-2015, following a Multimedia Poll conducted by the Independent Service Delivery Monitoring Group (ISDMG), a Consortium of various Civil Society Organizations in Nigeria” (BPP, 2015, p. 6). In the light of this, “at a colourful ceremony to unveil the Organization’s Service Delivery Report and awards presentation at the International Conference Centre in Abuja, on 30 November, the Bureau was presented with a glittering trophy” (BPP, 2015, p. 6). Before this time, on 22 October 2014, the Bureau had by the same group –ISDMG been “voted the second most outstanding Agency in the Presidency during 2013-2014” (BPP, 2014b, p. 101). In addition:

Several celebrities, including On-Air Radio personalities and Nollywood actors and actresses, celebrated with the Bureau, which was also adjudged as “one of the “Outstanding Public Institutions in Nigeria” and the 3rd runner-up for the “Most Outstanding Public Institution” during the period, for which it received two plaques and a “Certificate of Performance” (BPP, 2015, p. 6).

These commendations ultimately speak volumes about the momentous impacts the BPP has made on the present public sector procurement policy regime in Nigeria.

While the foregoing achievements of the Bureau in guaranteeing the transparency of the procurement process are worthy of appreciation, it is however to be stated that the agency’s success in this respect during the period under study was merely a relative rather

than an absolute success, considering the wide powers given to it by the procurement law to oversee and regulate all public procurement activities in the Nigerian Federal Government. Hence, the Bureau's performance was a mixed grill as it was not optimally satisfactory as the PPA envisages. Thus, this study rates the agency's performance on the issues of transparency promotion as 40% successful and 60% unsuccessful. These ratings are justifiable in view of the level of success recorded by the Bureau as analyzed above, and the evidences of limitations suffered by the agency in ensuring transparency in the implementation of government procurement procedures as examined below in section 6.1.4 of the study. The absence of these hindrances could have most likely enabled the Bureau to achieve an excellent result, but the reverse was the case during the period under study.

6.1.3 Factors Accounting for Bureau's Relative Success in Promoting Transparency in the Procurement Process

The Bureau's relative success in improving the transparency of the procurement process has been facilitated by the agency's resort to certain measures. Key among these measures is the Bureau's application of the Due Process mechanism as detailed in the Section 19(a-j) of the PPA and corrective actions. The Due Process as laid down in this section of the PPA is the approved formal step-by-step procedures that must be followed by MDAs in implementing public procurement activities. The Bureau's strict enforcement of the Due Process mechanism during the period under review, to an appreciable extent enhanced transparency and accountability in the government procurement process in Nigeria (Lawal, 2017; Otalike, 2017). Default by any procuring entity in terms of failure to adhere completely to the regulations guiding the procurement process as set-out by the Bureau could lead to application of corrective actions, including total cancellation of a procuring proceeding (Agada, 2017; Njoku, 2017).

The Bureau provides a level playing field for bidders by insisting on the deployment of the Open Competitive Bidding method as enunciated in Section 24 of the PPA. Through the Open Competitive Bidding method, the Bureau has widened the space for the participation of all categories of bidders in the procurement process and system and resultantly, there has been a consistent increase in the number of new entrants (BPP, 2011). This is amplifying by timely and adequate advertisement by MDAs. The Bureau ensures that MDAs properly advertise all procurements to be embarked upon to ensure that interested bidders and members of the public are informed about opportunities to do business with government. Details about the procurement contracts to be carried-out must thus be published in National Newspapers and the Public Procurement Journal (Agada, 2017; Okorie, 2017). Once there are any inadequacies or lapses in the advertisements placed by procuring entities (MDAs), the Bureau notifies the concerned procuring entities and compels them to make necessary amendments and re-advertise so as to enable interested citizens to tender adequately for the contracts (Oyefeso, 2017).

Part of the transparency and accountability enhancing practices adopted by the Bureau also include the somewhat often changing or transfer of key Officers of Procurement Cadre, such as the Directors from one Ministry to another with the aim of discouraging the development of familiarity between them and contractors, which could result in manipulation of procurement process in favour of any preferred contractor. This practice does not only reduce the tendencies for the formation of cabals, it also encourages the injection or transfer of new ideas that make for efficient and effective implementation of procurements plans and processes across Ministries (Lawal, 2017b). Through its staff, the BPP itself also regularly attended Bid Openings within Abuja as part of its effort at ensuring closer monitoring and enhancement of greater transparency and absolute compliance with the PPA 2007 by MDAs (BPP, 2015). As the PPA demands, the Bureau works to ensure that bids openings at MDAs

are conducted in the presence of representatives of relevant professional bodies and CSOs working in the field of transparency and anti-corruption, who observe the process and report accordingly (Agada, 2017; Umar, 2017). The absence of accredited non-governmental organizations at any MDAs during a procurement proceeding would automatically render the exercise null and void (Agada, 2017). All these, to a large extent, have made bid opening very transparent (Umar, 2017).

As means of curbing wastages and unnecessary spending through inflated contracts, there are now established thresholds for MDAs in terms of the worth or monetary value of contracts they can award (Umar, 2017; Oyefeso, 2017; Lawal, 2017b). With the current practice, MDAs are bound not to award contracts above the monetary threshold set and approved for them by the Bureau. In addition, the Bureau's contract prior review mechanism and issuance of Certificate of No Objection, has proved to be a very potent instrument for reducing the costs of government contracts and checking unnecessary spending. With its contract prior review mechanism, the Bureau ensuring that the prices of government procurements are kept within appropriate standards. Oyefeso (2017) explains that the BPP previews government contracts by MDAs and checks their costs components in order to ensure that they are within reasonable market prices. This includes all contracts by MDAs that are above the approval thresholds and all contracts that go for Federal Executive Council's (FEC) approval; they must go for prior review by Bureau before execution. The Bureau is statutorily empowered to adjust or reduce the prices so long as they are found to be above reasonable market margins, before it issues "Certificate of No Objection" to awarding MDAs (Agada, 2017; Oyefeso, 2017). Onyekpere (2018) affirms that Bureau has slightly increased value for money in the procurement system through its reviews and certificate of no objection procedure.

In the case of works, for instance, all contracts by the MDAs that are worth five hundred million are referred to the BPP for review before the procuring entities are issued “Certificate of No Objection”, which is an indication of authorization to proceed with the execution of such contracts (Agada, 2017; Umar, 2017). It is through this contract review exercise that the BPP saves money for the government. The BPP does not save money for government in cash, but in the sense that certain contracts that government could have awarded at a particular amount, the BPP through its review mechanism makes it to be awarded at a reduced sum other than the amount originally quoted by MDAs. The percentage cut-off from the original amount quoted on the contract automatically translates into the savings. Without the review by BPP, government would have gone ahead to award such contracts at the initial estimated exorbitant prices (Oyefeso, 2017). The Bureau usually provides benchmarks in terms of the market prices, which makes inflations costs of procurements impossible. The BPP develops and establishes these benchmarks through its market research (Lawal, 2017).

Unlike before, all MDAs are now mandated to embark on market survey (Lawal, 2017b). Whether the procurement is in the area of execution of construction projects, buying of goods or services, by Ministries, Departments and Agencies, there are benchmarks to guide against execution of contract at inflated figures (Lawal, 2017). The Bureau’s conduct of market survey has helped to curtail arbitrary in-house fixing of prices of works, goods and services by MDAs which used to be a major source of corruption in the procurement system (Onyema, 2017). The price of every contract is made known from the market survey (Danladi, 2017). Most importantly, on Bureau’s website, “the standard prices for most of the goods, especially, construction materials, are displayed to frustrate the exploitative tendencies of Contractors and their collaborating MDAs Officers to inflate prices” (Onyema, 2011, para.

8). Any deviation in terms of inflation of the prices displayed on the BPP's website amounts to corruption.

As earlier mentioned, the Bureau, in its capacity as a regulatory authority ensures that all procurements are duly advertised and competitively tendered for (Otalike, 2017). Through this means, the Bureau collates prices from various sources, that is, bidders, suppliers and service providers, which enables it to determine the average price of any work, goods or services, and to controls the cost estimates that are made by MDAs (Lawal, 2017). The bidder that submits the lowest responsive priced bid would be considered as the winner of the contract (Otalike, 2017). The market research is also known as “shopping”, which could be either national shopping or international shopping (Agada, 2017). According to Oyefeso (2017), national shopping applies to contracts/projects that fall below 2.5 million naira (N2.5m).

Through the national shopping, the procuring entity collects quotation from three different people, precisely three unrelated contractors or bidders. After that, the quotations would be evaluated and the lowest evaluated responsive bidder would be recommended and awarded the contract (Oyefeso, 2017). However, where the procurement is worth 2.5 million naira and above, the relevant MDA must carry-out what is called “National Comprehensive Bidding”, and must advertise bid solicitation to that effect in two nationally circulating newspapers and the Federal Tenders Journal. The advertisement must remain open for the minimum period of six weeks before bids are publicly opened with independent observers present, who would all take records and then the bids would be evaluated after which award is recommended (Oyefeso, 2017).

These are the standard proceedings that have been instituted to curb award of contracts at exorbitant costs and the Bureau ensures that all procurement entities abide by these practices (Oyefeso, 2017). These strategies have helped to eliminate most of the fraudulent

activities associated with government procurement; nobody defrauds government through contract inflation anymore as prices are duly assessed (Otalike, 2017). In the present procurement era, nobody can quote any price on any contract because the Bureau would conduct market intelligence to determine the appropriate cost or price to give-out a contract. This was not in practice before the emergence of the Bureau (Otalike, 2017). Failure to abide by the established regulations could result in total cancellation of the proceedings for the award of a contract by the Bureau and the ordering of the relevant procuring entity to commence process afresh (Agada, 2017; Akugbuo, 2017).

6.1.4 Factors that limited Bureau's Effort in Promoting Optimal level of Transparency in the Procurement Process

Some factors impede the Bureau's efforts at enhancing maximum height of transparency in the handling of government procurement activities in Nigeria. The most critical of these is political interference. There is a common consensus among respondents that unwarranted interference by politicians in the affairs of the BPP and the procurement process is one major feature of the current procurement regime in Nigeria, and an important hindrance to the actualization of the goals of the procurement reform (Onyekpere, 2018; Agada, 2017; Arabiyi, 2017; Ayoola, 2017; Danata, 2017; Umar, 2017; Lawal, 2017; Onyema, 2017; Oyefeso, 2017; Onyebuchi, 2017). According to Umar (2017), the drivers of public procurement in Nigeria are susceptible to political influence. In support of Umaru (2017), Onyekpere (2018) posits that politics still overwhelms the fundamental principles of procurement as contracts are still being awarded to politically connected persons. In a study conducted by Familoye, Ogunsemi and Awodele in 2015, unwarranted involvement or meddlesomeness in the procurement process by political office-holders was identified among the most critical obstacles confronting the existing procurement practice in Nigeria. In that study, Familoye, Ogunsemi and Awodele (2015) reveal that public servants are under

persistent pressures to do the bidding of the executives.

As Onyema (2017) explains, politicians still prescribed their favoured contractors, in advance, to Ministers, Permanent Secretaries and Procurement Officers for favours before contracts award. Similarly, Onyepere (2018) holds that there is an un-denied insinuation that legislators also play a crucial role in the selection of contractors to implement their constituency projects. This practice, according to Onyekpere (2018) has no foundation in the Public Procurement Act. In view of these scenarios, Adefolahan (2017) affirms that Nigerian politicians employ procurement as an instrument of political compensation. Williams-Elegbe (2012, p. 847) is in agreement with the foregoing assertions as she explains that “at present, high-ranking politicians are able to influence the outcome of the procurement process by putting undue pressure on civil servants who feel unable to refuse to bend to this pressure”. This implies, in simple terms “that in practice, the procurement process is manipulated at the instance of the interested politician and contracts awarded to the person or firm in which the politician has an interest” (Williams-Elegbe, 2012, p. 847).

As a consequence, “this has led to several uncompleted high profile projects, in which contractors were paid up-front and absconded with federal funds or which were completed at prices high in excess of the original contract price” (Williams-Elegbe, 2012, p. 847). This expression is in alignment with the position of Onyekpere (2018) that, the budget is still suffused with projects for which there is insufficient funding and when they are converted to procurements, the release of funds becomes problematic leading to contract awards that are not funded, requests for upward review of project costs and cost overruns. These interferences and abuses of the procurement procedures mostly take place at the Federal Executive Council level. As Onyekpere (2018) poignantly states, the fact that high level officers of states and the Federal Executive Council are still involved in the procurement approval process leaves the process open to political manipulation. Ministers usually bring

memos to Federal Executive Council's weekly meetings for approval of procurements above the set thresholds. This invariably has created a new role for ministers in the procurement process which the PPA did not anticipate (PPDC, 2011). Apart from not being a contract approving authority, most of the contracts being awarded by FEC are influenced (Agada, 2017; Otalike, 2017).

For example, the process that led to the award of the N8.2 billion contract for the upgrading of NTA broadcast equipment raised much controversy before the case was probed by the Senate with the aim of finding-out if the award was consistent with established due process. In the end, revelations from the probe suggested that the process of award of the contract was marred by discrepancies (Jacob, 2010). Uncovering the inconsistencies in the contract award processes, an independent observer and reporter, Attah (2010) explains thus:

During the Public Hearing conducted by the Senate Committee, Prof. Akunyili had stated categorically that the contract was not awarded by her; rather she only received three names of contractors forwarded to her by the NTA (Director General?) which she also forwarded to the President/Federal Executive Council (FEC) for approval. Further she claimed at that time (2009) that the planning of the contract started about two years ago (that is 2007) before her appointment as Minister, though concluded under her administration, and that she is ignorant of the technicalities involved in the procurement processes and therefore failed to participate in the award of the contract...(cited in Jacob, 2010, p. 148).

Investigations also reveal that the National Assembly members usually interfere in the procurement process on the ground that they contributed in bringing projects in the Appropriation during the budgetary processes (Okorie, 2017). Persistent political meddling in the procurement proceedings therefore remains a major constraint in Nigeria (PPDC, 2011).

Hence, in spite of the achievements of the Bureau in enthroning appreciable degree of transparency in the procurement procedures, political meddlesomeness in the affairs of the agency affects its functioning and determines the outcome of procurement processes as against the principles of fairness, competition and merit. Iwuagwu (2017), for example,

asserts that pressures from political class affect the operations of the Bureau. Apparently, as executive involvement in the procurement process increases, the Bureau becomes softer in enforcing the provisions of the PPA (PPDC, 2011). The undeserving participation of the FEC in procurement activities is seen as a re-enactment of a notable attribute or weakness of the country's procurement practice prior to the promulgation of the procurement Act in 2007, that is, political control of public procurement and undermining of pure administrative and technical nature of the procurement task, use of procurement for political compensation and its resultant promotion of corruption (PPDC, 2011). For this reason, Achua (2011) stresses that the Act appears to have been reduced to nothing less than a policy device for advancing political objectives. Yet, political interference in the procurement process, no doubt, has a far more devastating effect on the state of health of Nigeria's procurement system than all other factors (PPDC, 2011).

Despite the Bureau's insistence on timely and proper advertisement of all available procurement contracts to be carried-out by MDAs, challenges still there abound in this regard. As Onyekpere (2018) observes, even though government procurement opportunities are advertised, what goes on after the advertisement and submission of bids, especially in the process of evaluation and selection of the winning bid does not command public confidence. In addition, MDAs sometimes deviate from the rules guiding procurement advertisement, even though the Bureau regularly conducts due diligence on procurement advertisements placed by MDAs to ensure compliance with the PPA, and has in some cases cancelled advertisements where major deviations were observed (BPP, 2015).

Challenges also subsist in the area of citizens' participation in the procurement process. Regardless of the legal inclusion of the citizens in the procurement process, CSOs representing Nigerians in the government procurement arena through involvement in procurement monitoring and observation still face stiff difficulties in discharging their

responsibilities (PPDC, 2011). The PPDC (2011, p. 84) captures the scenario thus:

There exists a standard CSOs checklist, with clear benchmarks for determining compliance to law and rules for every procurement process, there are now a number of CSOs monitoring procurement, and an ICT reporting tool, but lack of access to information by MDAs is the biggest obstacle to procurement monitoring in Nigeria. Despite repeated requests MDAs are not granting access to procurement information and documentation to CSOs in accordance with the Act and the regulatory authority has failed as of yet to intervene.

Revelations show that some MDAs still manifest hostile attitudes towards CSOs' involvement in their procurement processes, even to the extent of denying them access to information and details of their procurement activities (Onyema, 2011). Some MDAs also employ the strategy of giving late and sudden notices to CSOs regarding their bid opening and prequalification exercises, and the aim is to deny them information and discourage them from participating in the procurement process (Onyema, 2011). Thus, while the level of citizens' involvement in the procurement process has undoubtedly improved under the current procurement regime, some MDAs are yet to completely adhere by the stipulations of Section 1(2)(f) of the PPA.

6.2 The Bureau and Enforcement of Compliance with Public Procurement Regulations

6.2.1 Background

Nigeria's Public Procurement Act, 2007 was promulgated to establish standard procedures for the conduct of procurement and disposal of unserviceable, obsolete or surplus store and equipment by government Ministries, Departments and Agencies (BPP, 2014). The ultimate objective of the Bureau is thus the promotion of strict compliance with the provisions of the PPA in the course of delivering government procurement responsibilities (BPP, 2012). Underlying this is the utmost desire to achieve certain fundamental goals and objectives, namely to:

Maximize economy and efficiency, promote competition and ensure that competitors are treated fairly, promote the integrity and fairness of those

procurement procedures, increase transparency and accountability in those procedures, increase public confidence in those procedures, and facilitate the promotion of local industry and economic development”(BPP, 2014, p. 12).

Based on best practices and standards around the world, “good procurement holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or bending those rules” (BPP, 2016b, p.49). In the contrary, the public procurement practice in Nigeria before 2007 lacked formal regulation due to absence of a designated law governing the conduct of procurement activities both at federal and state level.

Moreover, there was no particular authority saddled with the responsibility of setting policy guidelines on public procurement, and no well-known defined standard processes existed for conducting public procurement in the country (Williams-Elegbe, 2012). Following the enactment of the procurement Act, however, standard and uniform procedures have been instituted for the conduct of public procurement across all MDAs in the federal government, and the Bureau regulates the policies and processes to ensure that all procuring entities abide by the proceedings (Onyekpere, 2018; Lawal, 2017; Lawal, 2017b; Oyefeso, 2017). Reiteratively, the Bureau is therefore mandated “to ensure that procurement procedures and regulations are complied with as established under the Public Procurement Act, 2007” (BPP, 2014, p. 12). The Bureau strives to achieve compliance with procurement regulations through standardization and regulation of the procurement proceedings to guarantee adherence to the law by all MDAs as well as Contractors, Consultants and Service Providers doing business with the Federal Government.

6.2.2 The Role of BPP and its Score Card in Enforcing Compliance with Public Procurement Regulations

The advent and continuing existence of the procurement Act and the Bureau has brought about some noticeable degree of orderliness and adherence to regulations in the Nigerian

procurement practice and system. Attesting to this fact, Onyekpere (2018) states that the BPP has been more successful in making MDAs abide by the formal rules of engagement in government procurement, and that the MDAs seem to follow more of the general rules, for instance, bid opening in presence of observers. Thus, unlike the years before the procurement reforms, government purchasing entities – MDAs are now subject to certain well-known rules and standards while carrying-out their procurement functions. Otalike (2017) supports these views as he expresses that government procurement was done haphazardly before now, but with the establishment of the Bureau, there is now a great deal of orderliness in the procurement process. Similarly, Onyema (2011, para. 5) further asserts that “public procurement processes that will ensure efficient and effective practice” have now been adopted and being utilized across Ministries, Departments and Agencies.

The Bureau has had a breakthrough in developing a procurement planning technology software to assist the MDAs in carrying-out their procurement planning effectively and efficiently (Onyema, 2011). Section 5(i) of the PP Act enjoins the Bureau to “collate and maintain in an archival system, all federal procurement plans and information” (FRN, 2007). To ensure compliance, “the Bureau of Public Procurement (BPP) has developed and commissioned a web-based procurement planning software ... to ensure that procurement plans submitted by MDAs contain the right information and in the approved format” (BPP, 2011b, p. 27). Basically, “the Procurement Planning Software automates the preparation and submission of procurement plans to the Bureau” (BPP, 2011b, p. 27). With the software, MDAs are now better positioned to make informed procurement plans and decisions that facilitate efficient delivering of government projects and acquisition of goods and services.

These practices were not also obtainable before the public procurement reforms. In the pre-BPP era, procuring entities awarded contracts haphazardly, without regulation and without following any well-defined methods of procurement. Also, the values of contracts

awarded by procuring entities were not guided by any established financial thresholds; there was no limit to the monetary value of contracts awarded by MDAs. But under the current procurement administration, the approved methods of procurement for all procuring entities in Nigeria are clearly set-out in Section 24 all through to Section 52 of the Act. Also, the thresholds set by the Bureau serve as a regulation and guide for contract award and all MDAs seek to abide by them (Oyefeso, 2017). It is noteworthy, therefore, that the presence and activities of the BPP have brought about adequate public expenditure management practice, and helped to minimize wastes and imprudent spending of government funds through procurement.

The United Nations Office on Drugs and Crime (2013) avers that, the establishment and operation of the Bureau of Public Procurement has significantly promoted efficient and integrity-based monitoring of the implementation of all Federal Government capital projects in Nigeria. The present public procurement regime can therefore be rightly dubbed an era of “progressive change” in the history of government procurement practice in Nigeria. Oyefeso (2017) is thus right by arguing that the procurement reforms and the present of the Bureau in the system have added tremendous value to Nigeria’s public procurement process. It suffices to mention that there is optimism that these ideal practices would be further strengthened in nearest future as awareness of the Public Procurement Act continues to increase among procurement stakeholders and the general public.

Hinged on the foregoing, the view prevails that adequate knowledge and understanding about a country’s public procurement environment and/or legal and institutional frameworks by procurement practitioners or personnel would generally enhance compliance with rules and regulations, while compliance level would ordinarily be unimpressive in an atmosphere of little or no knowledge of existing procurement regulations. Bearing this notion in mind, the Bureau has shown concern about deepening the capacities of MDAs and their relationships as

a way of advancing the attainment of full adherence to the Act (BPP, 2012). The rationale behind this is to leverage, harness and galvanize the fundamental objectives and principles of the Act to positively transform Nigeria's developmental pursuits and the economy in the interest of the generality of Nigerians (BPP, 2012). Resultantly, the Bureau has not only ensured continuous provision of training and capacity building programmes for the procurement personnel of MDAs, but has also professionalized the government procurement workforce in Nigeria through the creation of the Procurement Officers Cadre in the Federal Civil Service (Adefolahan, 2017; Okorie, 2017; Onyema, 2011; Njoku, 2017).

The Bureau has been training and retraining the staff officers of the Procurement Officer in Nigeria's Federal Civil Service (Adefolahan, 2017; Njoku, 2017), as a way of ensuring constant upgrading of their skills and knowledge. This is in adherence to Section 5(k) of the PPA which require the agency to "organize training and development programmes for procurement professionals", and Section 5(s) mandating it to "co-ordinate relevant training programmes to build institutional capacity" (FRN, 2007; BPP, 2014). In "the pre-Public Procurement Act, 2007 era,...MDAs Officers charged with public expenditure and contract managements lack[ed] the expertise and experience to efficiently conduct public procurement due to lack of training" (Onyema, 2011, para. 8). Among other things, this had negative impact on the level of adherence to regulations. Again, public procurement was not regarded as a professional activity. In a bid to address these inadequacies, the Bureau, with the support from the Office of the Head of Civil Service of the Federation has professionalized public procurement in Nigeria by establishing Procurement Officers Cadre in all Federal Government MDAs (BPP, 2013b; Umar, 2017).

BPP (2013b, p. 12) holds that, "by this development, Procurement Officers [in Nigeria] have joined the league of other professional cadres in the Federal Civil Service, such as Accountants, Information Officers, Legal Officers, among others who have dual routes to

getting to the top of their careers”. This move was facilitated through the Circular - Ref. No. HCSF/PSO/155/1/3 issued by the Office of the Head of Civil Service of the Federation on the 31st March, 2008, being the year following the year of the passage of the Public Procurement Act, 2007. The Circular mandated all MDAs to establish a Procurement Officer Cadre that would be saddled with the responsibility of driving process of implementation of all procurement activities beginning with all new projects and programmes in the 2008 Budget, as an indication of strict compliance with the PP Act, 2007 (FGN, 2008). Following the order of the Circular, therefore, all MDAs immediately established a Procurement Officers Cadre consisting of procurement professionals, as a specialized unit. Consequently, the Bureau converted, trained and certified many of the Procurement Officers of MDAs as public procurement specialists and professionals (Onyema, 2011; Njoku, 2017).

The relevant officers of MDAs “now have sufficient skills and experience as a result of regular public and in-house public procurement workshops, seminars and dialogues by the BPP” (Onyema, 2011, para. 8; Njoku, 2017). Onyekpere (2018) corroborates this as he attests that the Bureau has built the capacity of federal MDAs in best practices in public procurement through sensitisation, training and certification of relevant staff. While these trainings were aimed at sharpening the proficiency of the Procurement Officers, they were also targeted at stimulating the general level of compliance with procurement regulations. To concretize this claim, in 2011, the Bureau constantly held workshops, seminars, conferences and interactive sessions for MDAs and all stakeholders in public procurement including contractors, professional associations, non-governmental organization (NGOs), civil societies, media, organized private sector, states and local governments (BPP, 2011c).

As part of its public education and enlightenment strategy, these efforts were aimed at informing and enlightening the stakeholders and the public on the provision of the Public Procurement Act. The programmes focused mainly on the procedure, application, methods

and guidelines of the PPA. The Bureau also conducted similar interactive sessions with the nation's Federal Legislature in the same year, 2011. This was coupled with series of engagements with international organizations such as the United Nations Development Programme (UNDP), United States Agency for International Development (USAID), Department for International Development (DFID), Embassies and High Commissions. There was also sensitization programme on the importance, benefits, provisions and applications of the procurement Act in the six-geopolitical zones of the country. Participants at the workshop included members of State Legislature, CSOs, NGOs and the general public. The aim of the workshop was to educate the participants on the provisions of the PPA, 2007 and to emphasize their roles in the public procurement process and project monitoring (BPP, 2011c).

With reference to the training of procurement officers in the federal public service, the Bureau during the year organized series of basic courses in Public Procurement that had more than 1500 Procurement Officers from MDAs in attendance. This effort was directed at addressing the problem of low capacity of MDAs in handling procurement activities. Between January and December 2011, the Bureau held interactive sessions, seminars and workshops at intervals, and organized an examination for procurement officers in MDAs in October, 2011. The Bureau's workshops in the year 2011 began with Procurement Planning Software Training and Demonstration at the Public Service Institute, Abuja, held on the 27th of January. The workshop was attended by 700 Procurement Officers from the various MDAs, and was aimed at building the capacity of the participants on the use of the Procurement Planning Software. Following this was a Stakeholders workshop and Capacity Building on Procurement Planning and review of the challenges confronting Procurement Officers in the MDAs. Held between February and March and in June 2011, the workshop had about 1,500 Procurement Officers from key MDAs in attendance, and was aimed at familiarizing the participants with the use of Procurement Planning Software on BPP's portal

as well as to address practical workplace challenges facing Procurement Officers with reference to the implementation of the PPA, 2007 (BPP, 2011c).

Next to this was the stakeholders' workshop with Contractors and Consultants doing business with key MDAs which was held in July 2011. At the workshop, Contractors had the opportunity to share their observations, challenges and concerns regarding the implementation of procurement generally. The Bureau also organized many in-house training and capacity building programmes for its (BPP) Junior and Senior staff, mainly on Information and Communications Technology (ICT). The course encapsulated both the basic and advanced aspects. The local training aimed at enhancing the efficiency and professional skills of the Bureau staff in the areas of management, procurement practices, ICT, clerical and registry duties. The courses were handled by reputable and recognized institutions including Rech Management Centre, Administrative Staff College of Nigeria (ASCON), Centre for Management Development (CMD), Lagos Business School, Macro-Soft Skills, Kaduna, and Febi International Consult, Abuja. Senior staff of the agency underwent training in course relevant to their duties in internationally recognized schools. Some of the institutions that handled the training were Hetta International Development Centre, New York; Rech Management Centre, London; RIPA International, UK; Global Training Consulting, UK; and Crown Agents Training, London (BPP, 2011c).

In 2012, the Bureau continued with efforts to deliver on its statutory mandate of sensitizing and educating Procurement Officers across MDAs in the Federation including private Contractors and Consultants and the entire citizenry on the provisions and application of the procurement Act in all stages of the procurement process through its various trainings, retreats, and workshops. This is based on the understanding that it is one of statutory functions or responsibilities of the Bureau to advocate best practice in public procurement process. Key among BPP's programmes in 2012 was the retreat for Permanent Secretaries of

all the MDAs which was held from 3rd to 5th of February 2012, at Transcorp Metropolitan and Conferencing Hotels, Calabar, Cross Rivers State. At the retreat, emphasis was placed on the need for considerable attention to capacity building of MDAs on the implementation of procurement process. The need for continued meaningful collaboration among civil society organizations (CSOs), MDAs, and the BPP with the aim of ensuring greater compliance with the provisions of the Public Procurement Act as well as to enthrone credibility in the procurement process, was also stressed at the retreat (BPP, 2012).

Other trainings organized by the Bureau during the year 2012 include the following: the training on the Procurement Management System organized for the procurement staff of the Federal Road Maintenance Agency (FERMA), on 11th and 15th February, 2012, at the Agency's conference room; training workshop on procurement for Taraba State Government and its Parastatals; procurement training workshop for staff of the Education Trust Fund (ETF); training of staff of Petroleum Product Pricing Regulatory Agency (PPPRA); the training for the staff of the National Insurance Commission (NIC) on Public Procurement Process, held at the NIC's conference room, on 23rd and 24th of August, 2012; procurement training workshop for the Procurement Officers of the Federal Inland Revenue Service (FIRS) on procurement processes, held at the FIRS conference room, on the 27th of March, 2012; one day training workshop for the Procurement Officers of the National Emergency Management Agency (NEMA) on the 28th March, 2012; an in-house training on public procurement for the staff of the University of Uyo, held at the University's Senate Council Chamber hall, on 3rd-4th April, 2012; Training for the Procurement Planning Committee members of the Lake Chad Research Institute, Maiduguri, held from 16th-17th October, 2012, at BPP's training centre; and a 3-day training on Public Procurement conducted for officials of Adamawa State Government, held from 2nd-6th December, 2012, at the Obodu Mountain Resort, Cross River State (BPP, 2012).

Among the Bureau's numerous sensitization programmes in 2012 were: Fourth Phase (2012) sensitization on PPA for public procurement stakeholders in the North-Central Zone, held on the 9th of July, 2012, at Hydro Hotel, Minna, Niger State; Fourth Phase (2012) sensitization on PPA for the stakeholders in the South-East Zone, held on the 10th of July, 2012, at University Hotel, Independence Layout, Enugu, Enugu State; Fourth Phase (2012) sensitization on PPA for the stakeholders in the South-West zone, held on 12th July, 2012, at A & T President Hotel, Akure, Ondo State; Fourth Phase sensitization on PPA for the stakeholders in the North-West zone, held on the 9th of August, 2012, at the Giginya Coral Hotel, Sokoto State; and the Fourth Phase sensitization on PPA for stakeholders in South-South zone, held on the 9th August, 2012, at Precious Palm Hotel, Benin City, Edo State. There were also the procurement training workshop organized for the Officials of the Procurement Cadre of the Federal Ministry of Science and Technology on procurement processes in the first week of September, 2012, at the Head of Service conference room; and the Fourth Conversion training for Procurement Officers of MDAs, held on 16th October to 2nd November, 2012, at the National Universities Commission, Maitama, Abuja (BPP, 2012).

In 2013, BPP organized a "Procurement Retreat for Chief Executive Officers (CEOs) of Federal Government Parastatals and Agencies at Topo, Badagry, Lagos (at the Administrative Staff Collage of Nigeria, ASCON), on the 18th - 21st of April, 2013" (BPP, 2013c, p. 27). At the same venue, there was another "BPP Procurement Retreat for Chief Executive Officers (CEOs) of Federal Government Parastatals and Agencies ... on 25th - 28th of April 2013" (BPP, 2013c, p. 27). Moreover, in collaboration with the International Law Institute (ILI), Washington, the BPP organized a 5 day training workshop for procurement officers of MDAs on Basic Procurement Principles, Advanced Public Procurement and Contract Negotiation, from 20th - 24th of May, 2013, followed by another workshop that

lasted from 27th - 31th of May, 2013. Furthermore, from 4th - 5th of June, 2013, a two day Interactive Session by the House Committee on Public Procurement was held with Stakeholders on the Public Procurement Reform in Nigeria. A conversion training programme to Procurement Cadre in Parastatals and Agencies of the Federal Government was held on the 14th of June, 2013. This was followed by a one-day stakeholders' Workshop on Debarment Procedures, held on the 15th of July, 2013 (BPP, 2013c).

In 2014, the core training activities of the Research, Training and Strategic Planning Department of the Bureau centred on conversion training programme at the Administrative Staff Collage of Nigeria (ASCON), Badagry, Lagos State, as well as training of procurement officers at the Public Procurement Research Centre at the Federal University of Technology (FUTO), Owerri, Imo State, which is also an initiative or creation of the Bureau (BPP, 2014). The Bureau held the conversion training to Procurement Cadre for Parastatals, Agencies and Commissions of the Federal Government twice in 2014 at ASCON, Badagry, Lagos. Training received by participants at the programme covered important areas such as the fundamental principles of public procurement, overview of Public Procurement Act, 2007, principles of procurement planning, advertisement, bid opening, examination and evaluation, code of conduct, offences and sanctions. Major components of the training were case studies, group works, test and final examination (BPP, 2014).

The training activities held by the Bureau's Training Department in conjunction with the Public Procurement Training Centre, FUTO, in 2014, lasted almost throughout the year - March to December, with support from the Office of the Director General of the Bureau. The training programmes were held at the Public Procurement Training Centre, FUTO. Some of the training activities included a workshop on "Technical and Financial Bid Evaluation for Goods and Services", held from 7-11 of April, 2014. A total number of 41 participants from federal government entities including Nigerian Ports Authority (NPA), University of Benin

Teaching Hospital (UBTH), Nigeria Hydrological Service Agency (NIHSA), Nigeria Customs Service (NCS), University College Hospital (UCH), Ibadan, Nigerian Maritime Administration and Safety Agency (NIMASA), Federal Housing Authority (FHA), Nigerian Deposit Insurance Corporation (NDIC), Federal Civil Service Commission (FCSC), National Institute for Policy and Strategic Studies (NIPSS), Petroleum Technology Development Fund (PTDF), and Hadejia Jama'are River Basin Development Authority (HJRBDA), Kano, attended the programme. At the training, emphases were laid on the principles of bid examination and detailed bid evaluation, and it consisted of various case studies for Technical and Financial Evaluation (BPP, 2014).

Another workshop was held on “Technical and Financial Bid Evaluation for Goods and Services”, from 21-25 April, 20014. It had in attendance, the total number of 19 participants, largely made up of relevant professionals such as Engineers, Quantity Surveyors, among others, who are now Procurement Officers at Lagos University Teaching Hospital (LUTH), University of Benin Teaching Hospital (UBTH), Anambra Imo River Basin Development Authority (AIRBDA), Federal University of Technology, Owerri (FUTO), Taraba State Bureau for Public Procurement (BPP), Nigerian Maritime Administration and Safety Agency (NIMASA), and Nigeria Hydrological Service Agency (NIHSA). Following this was the workshop on “Understanding Effective Public Procurement in Practice”, which was held at the same venue, from 9-13 June, 2014 (BPP, 2014).

The training programme had in attendance a total of 50 participants from federal and state government entities including Nigerian Ports Authority (NPA), Members of Kogi State Tenders Board, Nigeria Social Insurance Trust Fund (NSITF), Nigerian Maritime Administration and Safety Agency (NIMASA), University College Hospital (UCH), Ibadan, Obafemi Awolowo University Teaching Hospital (OAUTH), Nigerian Institute of Mining and Geosciences (NIMG), West African Examination Council (WAEC), among others. The

training focused on the Public Procurement Act, 2007, Procurement Procedure Manual, Regulations, Standard Bidding Documents, Standard Request for Proposals, among others. Case studies and group works also constituted parts of the training (BPP, 2014). Aside these special training programmes, “the Bureau, from records available, has been conducting procurement planning workshops before the bid solicitation by the MDAs. This is done, unarguably, to guarantee that their planning is good enough to drive the procurement processes when they commence exercise” (Onyema, 2011, para. 5).

In 2015, the Bureau through the Department of Research, Training and Strategic Planning, carried-out series of training programmes for the procurement staff of MDAs. Private contractors and consultants whose understanding and knowledge of the provisions of the Act as it pertains to all aspects of the procurement process is important, regarding their prospects of doing business with the Government, also participated in the training. Some of these include training of procurement personnel from procuring entities of Federal and State Governments on request, co-ordination of procurement training programme for procuring entities on request, development of training brochure and co-ordination of the training programme at Public Procurement Research Centre at Federal University of Technology, Owerri (FUTO), conduct of research on the effect of procurement policies on government agencies and the society, and organisation of refresher courses for newly recruited procurement officers of Ministries (BPP, 2015).

The Bureau’s training department receive a total number of 17 requests for training in 2105 from various MDAs, and accordingly, it carried-out the training programmes. Also, the Public Procurement Research Centre at the Federal University of Technology, Owerri (FUTO), in collaboration with the Department of Research, Training and Strategic Planning of the Bureau, undertook a total of 18 batches of professional trainings for scholars and practitioners from various sectors of government in a bid to improve efficiency, fairness and

transparency in public procurement in Nigeria. Record shows that the trainings were conducted almost throughout the year, as it held from March to December, 2015. The trainings focused on various important topics such as “Understanding Effective Public Procurement in Practice”, “Understanding the Public Procurement Solicitation Principles”, “Technical and Financial Bid Evaluation”, Managing Tenders, Specifications and Contracts”, “Public Procurement Bid Evaluation”, and “Managing and Negotiating with Consultants and Contractors” (BPP, 2015).

Based on the comments and responses from the participants, there was assurance that general performance was satisfactory and that the trainings would impact positively on the implementation of public procurement process in the agencies of government that participated in the programme (BPP, 2015). Training for conversion to Procurement Cadre for Parastatals, Agencies and Commissions of the Federal Government was also organised once in 2015 at the Administrative Staff Collage of Nigeria (ASCON), Badagry, Lagos State. The total number of requests for conversion to Procurement Cadre received from Federal Government Parastatals was 355. Out of this, 175 were participants shortlisted and trained on various topical issues (BPP, 2015, p. 37):

The training composed of multiple cases studies, group works, tests and final examination (BPP, 2015). The Bureau in collaboration with other government parastatals that have anti-corruption mandate also organized training for over 100 participants drawn across various MDAs and CSOs on corruption risk assessment in key sectors of water resources, health and education. The project has yielded positive result as other states are now piloting the concept (Adefolahan, 2017). The federal Bureau of Public Procurement has also mentored state level Bureaus of Public Procurement, and provided training and capacity building opportunities to them (Onyekpere, 2018). The Bureau has achieved all this, and continues to undertake this task mainly through its Research, Training and Strategic Planning Department,

in line with its statutory responsibility of training and sensitization of public procurement stakeholders including MDAs, Legislature, private contractors and consultants, professional groups, CSOs and entire Nigerian citizens on the provisions and applications of the country's procurement law (BPP, 2014).

As a way of advancing the acquisition and dissemination of professional knowledge in the field of government procurement, the BPP has established three Public Procurement Research Centres (PPRC) in some Nigerian Tertiary Institutions. This is in compliance and fulfilment of Section 5(j) of the PPA, which requires the Bureau to “undertake public procurement research and surveys” (FRN, 2007). The research centres are: the Public Procurement Research Centre, Federal University of Technology, Owerri (FUTO), Imo State; the Public Procurement Research Centre, Ahmadu Bello University (ABU), Zaria, Kaduna State; and the Public Procurement Research Centre, University of Lagos (UNILAG), Akoka, Lagos State (Njoku, 2017; Adefolahan, 2017). The Public Procurement Research Centre, Federal University of Technology, Owerri was initiated by the Bureau and subsequently commissioned by the United Nations Development Programme (UNDP) Country Representative on the 8th of October, 2012 (BPP, 2015). The Owerri research centre has provided venue for the Bureau's numerous development training programmes and workshops for public procurement professionals and practitioners from government parastatals as well as private organizations.

The purpose of the Public Procurement Research Centre is “to build a world-wide recognized professional community of scholars and practitioners devoted to improved efficiency, fairness and transparency in public procurement and also to provide applied research, training, education and scholarly publication” (BPP, 2015, p. 76) in the field of public procurement. The guiding philosophy of the Public Procurement Research Centre is “to educate, research, and empower the Public Procurement Profession in order to achieve

value for money in all procurements and disposals” (BPP, 2015, p. 76) of public assets. “It is envisioned that PPRC will be the premier academic source for advancing public sector procurement in Africa”, while its mission is “to provide the public procurement community quality research, advanced educational opportunities, and continued professional development by advancing theoretical and practical knowledge in public procurement” (BPP, 2015, p. 76).

The setting-up of the Bureau’s PPRCs is thus borne out of the need to continuously deepen and uphold substantive and sustainable knowledge and understanding of the intricacies of the public procurement process and system in the country (BPP, 2012). The main essence of the centre is to expand academic platform for the development of the much needed procurement knowledge in Nigeria, as expected of the Bureau in line with the Act (BPP, 2012). And practically speaking, through this initiative, that is, the Public Procurement Research Centre, the Bureau has demonstrated unflinching determination to facilitate the growth of knowledge in the field of public procurement as well as the development of the Public Procurement Profession in the country. However, the Bureau’s procurement research centres are still in limited number; the three existing centres at the Federal University of Technology, Owerri (FUTO), Imo State; Ahmadu Bello University (ABU), Zaria, Kaduna State; and University of Lagos (UNILAG) are obviously not enough to drive quick attainment of the set objectives.

Furthermore, the change in procurement legal environment has transformed the process of awarding government contracts in Nigeria. It was easier in the past for MDAs to award contracts to any contractors without due process. More so, some of those contracts were not executed at all, while most of them were executed half-way and abandoned eventually. However, since the Due Process was enthroned in 2007 through the PPA, these trends have been curtailed to a large extent, especially as most procurements are now implemented

through open competitive bidding (Danaladi, 2017). With the Bureau in operation, contracts are no longer being awarded to contractors on the basis of who they know in government MDAs, but rather on merit through a credible process and with due recourse to technical and financial capabilities (Arabiya, 2017; Danladi, 2017). The Bureau's enforcement of compliance with public procurement Due Process has contributed a great deal in restoring some degree of public confidence and trust in the current procurement policy regime in Nigeria.

There is no doubt, therefore, that the Bureau has recorded quite some tangible successes under the current procurement system in Nigeria, despite the numerous obstacles to its smooth and effective functioning. It is worthy of note that the Bureau's commitment to ensuring strict compliance with formal procurement guidelines and/or regulations has had recognizable positive impacts on the effort towards sanitizing Nigeria's procurement system. As Adoka (2014, p. 45) observes, "the Public Procurement Act which gave birth to the BPP came into existence as a result of Federal Government's determination to clean up the contract award and procurement system in order to install a more transparent and honest way of doing government business". Several opinions abound to the effect that the Bureau has not manifested indolence towards the pursuit of this important goal. For instance, according to Oyefeso (2017), with Bureau in operation, good measure of sanity and integrity has been enthroned in the public procurement system in Nigeria. Former President Goodluck Ebele Jonathan also acknowledged the efforts of the Bureau in shaping the country's current public procurement environment. The President stated, in 2013, that the Bureau's stringent implementation of the PPA has resulted in increased citizens' confidence in Nigeria's procurement management (BPP, 2014). Precisely, "BPP's prior review of project is an act of sanitization of the procurement system" (BPP, 2014b, p. 11).

Apart from effectively harmonizing and implementing government policies on procurement, the most critical area where the Bureau has made notable and appreciable efforts in sanitizing the procurement system in Nigeria is in the area of combating public procurement corruption. Before the public procurement reforms, the phenomenon of corruption and related malpractices were endemic and deep-seated in Nigeria's procurement and contract award system. Undoubtedly, the procurement system has been popularly known to be associated with a high incidence of corruption which is often cited as one of the factors responsible for the high cost of doing business in Nigeria as well as a major barrier to the inflow of foreign investment to the country. However, the implementation of the Act has significantly reduced opportunities for corruption in the nation's procurement environment (BPP, 2014b). As Oyefeso (2017) observes, the BPP has greatly helped to curb corruption in the procurement system. The country's business environment has also significantly improved, and with continuous progress in the implementation of the procurement reforms, there are chances for greater improvements (BPP, 2014b).

It becomes very clear why close monitors and observers of Nigeria's public procurement activities have consensually described the Public Procurement Act, 2007 and the Bureau of Public Procurement as the strongest anti-corruption instruments in the nation's procurement system (Akugbuo, 2017; Attah, 2011; Onyema, 2011, Onyebuchi, 2017). Based on the powers granted to it by the Act, the Bureau has, from all indications, made commendable progress in mitigating the cancerous disease of corruption in the procurement system. The collaborative effort of the Bureau and relevant anti-corruption agencies has produced positive results in this regard (Adefolahan, 2017). Onyema (2011, para. 9) agrees with Adefolahan (2017) as he points out that, "of all other gains of the public procurement practice in Nigeria, the established concerted efforts by the Civil Society Organizations, some Contractors/Service Providers, BPP, EFCC and ICPC in tackling the hydra headed public

procurement corruption are worthy of note and commendation”. Corruption and accompanying illegalities which characterized the old procurement practice, and inflicted massive wastage and drain on the economy of Nigeria, has now reduced to the barest minimum (Ekpenkhio, 2003; Onyema, 2011).

In expressing government’s continuous effort at eliminating corruption in the procurement system, Anyim (2014, p. 43) revealed that “in furtherance of Government circular, efforts are now being made to develop an in-country debarment procedure that will meet international good practices, including debarring any company that has been debarred by International Development Agency”. It is thus clear that, unlike the years before the procurement reforms and the establishment of the Bureau, the new public procurement administration in Nigeria is supported with formidable legal arrangements for dealing with corruption in the procurement sphere, and the BPP is there to apply the laws. Armed with these statutory instruments, the fear of the Bureau can be said to have become the beginning of wisdom among stakeholders in the procurement system. Indeed, fear and caution have been injected into the country’s procurement system (Okorie, 2017).

As Onyema (2011, para. 10) maintains, “with the Procurement Law, the BPP, CSOs and the Anti-Corruption Agencies, successes, ... are being achieved in tracking, prosecuting and convicting public procurement Offenders” (Onyema, 2011, para. 10). The Bureau of Public Procurement demonstrates great optimism that the problem of corruption and associated malpractices in Nigeria’s procurement system would soon be completely eradicated. As the Bureau of Public Procurement (2011, p. iii-iv) states:

It is expected that in the near future, corruption in public procurement would have completely given way to open, transparent, and competitive Federal Procurement System that is integrity-driven, and that upholds spending within budget and ensures speedy implementation of projects in order to achieve value-for-money outcomes without sacrificing quality and standards.

In the meantime, however, “the Anti-Corruption Agencies, despite inherent frustrations in the system, have been arraigning, prosecuting and convicting public procurement suspects” (Onyema, 2011, para. 10).

Incidents of malpractices are keenly traced to persons or entities involved and duly punished (Okorie, 2017). A good example was the case involving Chief Olabode George of the Peoples Democratic Party (PDP), “together with his co-conspirators, [who] were sentenced to various jail terms on offences bordering on inflation of contract and contract splitting. This conviction, whether political or not, according to different schools of thought, has brought caution in political interference in the procurement processes in the MDAs” (Onyema, 2011, para. 10). No doubt, the prosecution and conviction of such high profile personalities with strong political affiliations and influence injected high sense of carefulness among members of the political class in relation to government procurement in Nigeria.

The Bureau’s effort at curbing procurement corruption has been dramatic. During his tenure in office, the former Director-General of the Bureau, Engr. Emeka Ezech, mentioned that the Bureau had sent a list of more than 50 companies seeking to secure government contracts with forged documents or had made false claims about their competencies and capacity to the Independent Corrupt Practices Commission (ICPC) for investigation (BPP, 2012b). Furthermore, in 2015, the Bureau also referred a total of 163 cases of corruption to EFCC for investigation, while the total number of 165 cases were referred to ICPC out of which investigations were concluded on 6 (BPP, 2015). Legal prosecution of trapped public procurement offenders serves as deterrence to prospective offenders (Onyema, 2017). With the Bureau, therefore, it is evident that sanity is beginning to prevail in Nigeria’s procurement system and process in a greater measure (Odemwingie, 2013). The notion of “business as usual syndrome” has fizzled away from the country’s procurement environment. There is no

more room for under-table, that is, secrete procurement. With the Act and the Bureau, things are getting better each year (Oyefeso, 2017).

To strengthen the fight against procurement corruption, however, the Bureau has proposed a plan to introduce the E-Procurement technology platform into the Nigerian procurement system (Onyebuchi, 2017; News Agency of Nigeria, January 28, 2016). The noticeable successes of the electronic procurement system in driving efficiency in private organizations, especially in advanced economies has stimulated popular interest for the adoption of the technology in the conduct of business transactions within the public sector, with the aim of achieving similar result. Adebisi, et al. (2010, p. 71) explain that:

Business-to-business electronic procurement success in business organizations (private sector) has been a major driving force for government organizations (public sector) in developed nations to adopt electronic government procurement in order to reduce cost and improve administrative efficiency. E-procurement within the government is recognized to be the main area of government-to-business that needs to be exploited by government of developing nations.

With the huge dividends of the E-Procurement in the privates sector, governments of many nations of the world have been indirectly compelled to moving from analogue to the digital ways of doing things, as a way of enhancing the attainment of established objectives.

Moreover, the demand for better integrity-based and transparent approach to the management of government expenditure has also made the use of electronic procurement system imperative for governments. Nigeria's Government step towards the adoption of the E-Procurement technology is particularly an indication of the present administration's effort at embracing the global best practices of open and transparent governance initiative. President Muhammadu Buhari declared the country's commitment to Open Government and Open Contracting programmes through the development and adoption of electronic and information technologies in the fight against corruption in the country's public sector, at the

international Anti-Corruption Summit that held in London, on May 16, 2016. This is also in line with the United Nations Convention against Corruption (UNCAC) advocacy on fighting procurement corruption through electronic procurement technology (Davis, 2016).

Framework for the implementation of the E-Public Procurement platform has already been developed (NAN, January 28, 2016). Having taken this step, Nigeria can be said to have joined other countries of the world in modernizing their government procurement systems. In relation to this development, the Bureau of Public Procurement organized a Three-Day Workshop from 29th to 31st September, 2016 at the New State House Auditorium on Ibrahim Taiwo Road, near the Presidential Villa, Abuja. Present at the Workshop were important dignitaries, including the Secretary to the Government of the Federation (SGF), Engr. David Bachir Lawal, who was represented by Mr. Mohammed Bukar, Permanent Secretary, General Services Office in the Office of the SGF. Other participants at the Workshop were representatives of stakeholder organizations, such as MDAs, information communication and technology (ITC) establishments, private sector organizations doing business with the Federal Government and its agencies, civil society organizations and professional associations (The Nigerian Archive, January 19, 2017).

The Secretary to the Government of the Federation (SGF) in a keynote address pointed out that the government realizes that technology is essential in view of its determination to sanitize the country's business environment, by limiting human interface that exposes transactions to corruption (The Nigerian Archive, January 19, 2017). The Workshop featured a report on an e-procurement prepared among stakeholders and training in framework agreements which was facilitated by international experts from Canada and Bangor University, South Wales, UK, coupled with resource persons from Nigeria (The Nigerian Archive, January 19, 2017). According to Adebisi et al (2010, p. 71), "gone are the days of routing paper forms from desk to desk; the wave of the future is electronic procurement (e-

Procurement)”. Electronic procurement entails using electronic technology at all stages of the procurement process. It is a middle-point between accessing goals needs, planning, budgeting and appropriation and the execution of public contracts and services to achieve set goals within budgetary appropriation (Davis, 2016).

E-Procurement is part of the broad effort at maximizing the immense benefits of information technology in governance, and it aims at advancing the goal of Open Government, that is, making government more transparent, accountable and responsive to the citizens. On its own, Open Government is a multinational initiative driven by the Open Government Partnership (OGP) which seeks to make government open to the public through the application of transparency frameworks to public procurement. The essence is to avail the public access to procurement data and information as that would promote increased transparency and accountability of both public officials and private contractors. The whole idea is to rid government of systemic corruption and mismanagement of resources. Open Government begins by creating a level playing ground for equal participation by all interested entities and making sure that rules and timeframes are known by all (Davis, 2016).

Adebiyi et al (2010, p. 72) observes that “over the years, the Nigerian government procurement procedure has been done manually by the process of inviting contractors to bid for projects (i.e. Invitation for Prequalification/Tender) to the selection of successful bidders and then finally project completion”. But procurement by electronic method enables bidders to send in their bidding documents from anywhere without necessarily having face-to-face contact with procuring entities – MDAs and their Officials (Onyebuchi, 2017). Plans were made to deploy the E-Procurement system on a pilot scale in six (6) selected Ministries, by the end of September 2015, before it would circulate the entire Nigerian public sector. The selected Pilot Ministries are Federal Ministries of Health, Education, Agriculture, Transport, Water Resources, and Works, Power and Housing (The Nigerian Archive, January 19,

2017). It is expected that the E-procurement would enhance the operations of the Efficiency Unit of the Federal Ministry of Finance (The Nigerian Archive, January 19, 2017). More importantly, it was projected by the BPP that the implementation of the E-Procurement would offer huge opportunities to the Federal Government to realize savings (Mbakaan, 2016).

According to the then Acting Director-General of the Bureau, Ahmed Abdul, the implementation of E-Procurement on the pilot scheme would result in an estimated financial savings of N48,436,717,647.00, which represents savings of nearly 5 per cent on recurrent expenditure and 3 per cent on capital expenditure (Mbakaan, 2016). The initiative therefore, promises immense gains. But it is to be noted that the initial step in the E-Procurement is to ensure that all contractors are availed equal opportunity to participate in the procurement process. Article 9(a) of the United Nations Convention against Corruption (UNCAC) compels parties to distribute to the public information relating to procurement procedure and contracts. This includes information concerning invitation to tender and award of contracts, while giving potential tenderers sufficient time to prepare and submit their tenders. Therefore, the rules, criteria and timeline for each solicitation are to be made public in sufficient time so as to enable bidders to make inquiries and prepare and submit their bids (Davis, 2016).

The introduction of the E-Procurement technology is intended to further strengthen or consolidate the laudable achievements made so far in the Nigerian procurement system through the on-going reform effort by the government. It would further ensure improved transparency, efficiency, competition and value for money in government expenditure (NAN, January 28, 2016). It would also enable the Federal Government to minimize wastage associated with its transactions (Mbakaan, 2016). As the former Acting Director-General of the BPP, Ahmed Abdul explains, E-Procurement would help to minimize human interface in Nigeria's procurement system by enabling Ministries, Departments and Agencies (MDAs) to submit their requests to the Bureau for the issuance of Due Process "No Objection

Certificate” in electronic form, and the Bureau as well would issue them the “No Objection Certificate” in electronic form. This would both enhance the efficiency of the procurement system as well as drastically reduce the tendencies for corruption and related issues arising from human interface, thereby increasing transparency and accountability in public service (Mbakaan, 2016).

What is observable from the above is that, the E-procurement system can make the implementation of government procurement process less cumbersome, timely, transparent, efficient and effective as well as reduce opportunity for corruption and sharp practices. It will increase professionalism and competence, and serve as an effective measure against wastage associated with procurement and contract implementation in Nigeria, thereby promoting value for public money spent by the government. To this end, the implementation of the E-Procurement by the Bureau would stand to be a major milestone in the on-going effort by Nigerian Government at revolutionizing the public procurement practice in the country as it will facilitate quick actualization of the goals of the procurement reforms and objectives of the Act in the long run.

Much as the Bureau, based on the available data as presented above, obviously recorded more achievements in the area of compliance enforcement than on the issue of transparency promotion, the agency’s success in this effect was also relative, not an absolute one, in relation to the numerous legal and administrative mechanisms available to it for ensuring strict adherence with procurement regulations among stakeholders. Therefore, the Bureau’s performance in ensuring compliance with formal procurement regulations also produced a mixed result as it was not up to the desired level, though there was a significant improvement in this area under the present procurement policy regime compared to the experience during the pre-Bureau period. The study rates the performance of the agency on compliance enforcement as 45% success and 55 unsuccessful, in view of the degree of its

accomplishments as seen in the analysis above, and the evident lapses in its efforts to discharge this responsibility effectively, incurred from the issues examined below in section 6.3.4 of the study.

6.3.3 Measures Accounting for Bureau's Relative Success in Enforcing Compliance with Procurement Regulations

The Bureau applies a number of instruments in its efforts at promoting optimal compliance with established procurement regulations among MDAs, contractors, consultants, and service providers. A key instrument adopted by the Bureau in this regard is the audit mechanism. By virtue of Section 5(d) of the PPA, it is the duty of the Bureau to “supervise the implementation of established procurement policies” (FRN, 2007). In Section 5(p), the Act mandates the Bureau to “perform procurement audits (on MDAs) and submit such report to the National Assembly bi-annually” (FRN, 2007). The essence is to ensure that the MDAs conduct their procurement activities in accordance with rules and regulations. Available evidences show that the Bureau has been performing this statutory responsibility with keenness. As Umaru (2017) affirms, for instance, the BPP conducts bi-annual procurement audits on MDAs and sends the reports to the National Assembly for assessment. While buttressing Umaru (2017) assertion, Adefolahan (2017) explains that the Bureau usually carries-out the procurement audits on MDAs in a working collaboration with relevant civil society organizations and professional bodies. This, indicatively, has injected a great deal of caution and regard for formal regulations in the handling of procurement activities by the MDAs.

The Bureau also leverages on the provision in Section 38(1) of the PPA, 2007 to promote adherence to procurement regulations in MDAs. The said section of the Act enjoins all procuring entities to maintain a comprehensive record of their procurement proceedings. Going by Section 38(5) of the Act, “the records and documents maintained by procuring

entities on procurement shall be made available for inspection by the Bureau, an investigator appointed by the Bureau and the Auditor-General upon request...” (FRN, 2007). Based on these provisions of the PPA, 2007, the Bureau requests the MDAs to hand-in records of their procurement proceedings or activities to it during the close of each year. Expectedly, this record contains how MDAs execute their yearly procurement activities in line with the budgetary allocations to them (Lawal, 2017b). Typically, the record shows details of the procurement proceedings of MDAs, starting from the advertisement stage to bids collection, through bids opening to bids evaluation and the selection of the successful bidder (Lawal, 2017). The Bureau goes through the record, examines it and ascertains whether or not the processes are carried-out in compliance with the Act. If there is any deviation from the established procedures, the Bureau, with powers vested on it can cancel such procurement process in order to ensure that government monies are spent judiciously (Lawal, 2017).

This is in accordance with Section 6(1)(d)(ii) of the PPA which empowers the Bureau to review the procurement procedures of procuring entities with the view to determining whether there is any violation of the provisions of the Act. The Bureau, therefore, assesses the records of procurement proceedings of the procuring entities to ensure that there are no discrepancies, especially with the price aspect of contracts undertaken. Where discrepancies are discovered, the Bureau applies appropriate sanctions (Lawal, 2017b), including the nullification of the entire or any specific part of the procurement proceeding or award of contract that contravenes the Act, as stipulated in Section 6(1)(l) of the PPA, 2007. Lawal (2017b) holds that, with these checks and balances provided by the Bureau, MDAs are now more careful and disciplined than ever. The practices were completely absent in Nigerian procurement system in the pre-BPP era. Procurement entities during the period awarded contracts in indiscriminate manners as there were no thresholds and defined methods of procurement. The case is different under the current procurement regime where there are set

and widely recognized financial thresholds of approval for Permanent Secretaries or Accounting Officers, Tenders Board, as well as for the Federal Executive Council (FEC) (Oyefeso, 2017). The thresholds serve as a positive constraint on the procuring entities, and veritable compliance enforcement tool for the Bureau.

Another compliance tool at the disposal of the Bureau is that, MDAs now build their yearly procurement expenditure plan on provable needs evaluation, unlike the reckless spending practice that trended before the advent of PPA and the Bureau (Onyema, 2011). As Lawal (2017) stated, there is no more room for unjustifiable expenses or spending since the inception of the Bureau. Similarly, Agada (2017) holds that no MDA procures unneeded and unwarranted contracts anymore. Under the current procurement practice, the MDAs are now obliged to make ready their procurement plans and to defend same before the Bureau prior to the commencement of the yearly procurement, to ascertain their preparedness and ways of accomplishing them within the year (Onyema, 2011). Otalike (2017) confirms the above facts as he explains that Bureau ensures that all procurements by MDAs are based on comprehensive needs assessment in order to identify the necessity for any procurement carried-out by them. Once the need for the procurements, whether works, goods and services are established, the MDAs are to capture or integrate them in their budget estimates so that their execution is appropriately provided for, that is, that they are budgeted for. The monetary thresholds established by the Bureau also serve as an important tool for promoting compliance with regulations as all MDAs have no options than to adhere to them in contract award (Oyefeso, 2017).

Another vital measure instituted by the Bureau for promoting optimal adherence to procurement regulations across MDAs is the agency's complaint mechanism that encourages contractors, bidders, CSOs, and other stakeholders to report any observed manipulations or deviations from set procedures by MDAs. The Act in Section 54 provides contractors

opportunity to demand administrative compensation or reparation regarding possible violation of the PPA by any procuring entity during procurement process (FRN, 2007). It suffices to state that the designers and framers of the current Nigerian procurement law realized that the absence of a legal structure for addressing possible complaints in the procurement system would undermined the transparency of the procurement practices, while the existence of such arrangement would level the playing ground for all and increase confidence in the system (Oyefeso, 2017). Expectedly, in Section 54(2), the PPA lays-down clear-cut procedures by which complainants can seek redress for any perceived acts of violation of the contract awarding due process (FRN, 2007). In other words, adequate measures have been provided by the law for redressing bidders' complaints evolving from the procurement process (Oyefeso, 2017).

The Bureau has, in carrying-out its functions, further highlighted and simplified these procedures in order to make for easy understanding and reference by all bidders and MDAs (BPP, n. d. (e)). More so, to ensure the fulfilment of this aspect of the provisions of the PPA, the Bureau established the Compliance and Monitoring Department through which it deals with conflicts and complaints arising from perceived malpractices in the procurement process, and thereby drastically reducing the rate of litigations and waste of time and resources in the Nigerian public procurement practice (Oneyima, 2017). Through its compliant mechanism, the Bureau encourages contractors or bidders to seek redress whenever they feel aggrieved or dissatisfied owing to any abuse of rules by the MDAs in the course of execution of the procurement process (Egwim, 2013). This is one of the numerous ways the present era of procurement administration in Nigeria differs significantly from the pre-BPP years, where contractors, suppliers and service providers had no well-established and effective mechanism for reporting malpractices and mischiefs by MDAs' officials during procurement processes.

The current procurement regime is thus an era of increased transparency and integrity; there are intense cravings for better openness in the conduct of procurement activities and the procurement practice is now subject to popularly known recourse mechanisms (Onyema, 2011). The result of this is the consistent petitions being filed by bidders against MDAs at the Bureau of Public Procurement, the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC). This also includes litigations at the High Courts of Justice in demand of equity and shunning all avenues for illegal practices, and statistics show that, in many instances, verdicts have been passed against the MDAs (Onyema, 2011). The Bureau expeditiously deals with complaints from bidders when they feel they have been one way or the other taken advantage of (Umar, 2017). The agency has been regulating procurement policies and processes adequately and takes the issue of “Red-Flags”, that is complaints, very seriously. Red-Flags are being reported to BPP, and it takes prompt legal actions on them (Akugbuo, 2017).

Contractors who feel dissatisfied with the process of award of any contract, whether due to minor or major deviation from the due process now enjoy the right to report such cases to BPP which promptly summons the MDAs involved for investigation, and that may lead to cancellation of the contract (Akugbuo, 2017). Egwim (2013) expresses the same views as Akugbuo (2017) as he buttresses that the Bureau receives numerous of such complaints and treats them according to the prescription of the procurement law, which often leads to either suspension of procurement proceedings until the issues are duly resolved or recommending of award to the rightful winner of a contract. Complaints could also lead to a complete cancellation of an entire procurement process if investigation reveals that due process has been violated (Egwim, 2013). Oyefeso (2017) explains that there have been several occasions where procurement entities wrongly issue letters of contracts award to certain contractors, and complaints were lodged with the BPP by aggrieved bidders.

At its receipt of the complaints, the Bureau examined them and consequently reversed the decision of the procurement entities and awarded the contract to the rightful winners, that is, the complainants. For this reason, many bidders commend the current procurement practice, and the efforts of the BPP in restoring justice to them, regardless of their backgrounds (Oyefeso, 2017). Similarly, without mentioning names of parties involved, Onyebuchi (2017) vividly recounts that there was a case whereby a particular contract had at an instance been granted to two varying bidders. However, the contractor that felt he was the rightful winner of the contract filed a petition to the BPP concerning the incident, and after its investigations, the Bureau re-awarded the contract to the rightful winner, that is, the petitioner (Onyebuchi, 2017). If the Bureau had not intervened, the contract would not have been re-awarded to the rightful winner (Onyebuchi, 2017).

Each year, large numbers of petitions including those arising from cases similar to these are forwarded to the Bureau, and in order to uphold fairness, which is one of the principal hallmarks of the prevailing public procurement practice in Nigeria, the Bureau gives needed attention to every complaint it receives. For example, in 2012 and 2013, the total numbers of petitions received by the Bureau were 167 and 196 respectively. In 2014, it received a total number of 194 petitions stemming from across all the stages of the procurement process. The increase in the number of petition cases is an indication of the growing awareness of the content of the Public Procurement Act among contractors, suppliers and service providers. It also shows increasing confidence in the ability of the Bureau to resolve complaints while upholding the principles of fairness (BPP, 2014). The table below contains a breakdown of the petition cases treated and closed by the Bureau in 2013 and 2014 respectively. Within the period of January to December, 2015, the Bureau received a total of 369 complaints from petitioners (BPP, 2015). Many of these cases have been treated, while some were reported to be on-going.

Table 6.1: Numbers of Closed Petition Cases in 2013 and 2014 and their Status.

Closed Cases (in whose favour)	Number	
	2013	2014
In favour of Petitioner	53	31
In favour of Procuring Entity	74	41
In favour of Third Party	7	16
Wrong Administrative Procedure	19	37
Re-procure	0	13
TOTAL	153	125

Source: BPP (2014, p. 20).

As presented in the table above, out of the 196 petitions received in 2013, only 153 were treated and closed, while 125 cases were treated and closed out of the 194 petitions received in 2014. Out of the 153 treated in 2013, 53 ended in favour of the petitioners, while 74 were closed in favour of the concerned procuring entities. Verdicts on 7 of the cases favoured third-parties, and 19 were dismissed on the ground of wrong administrative procedures. On the other hand, of the 125 cases treated in 2014, 31 ended in favour of the petitioners, while 41 were dismissed in favour of procuring entities. Judgments delivered on 16 of the cases favoured third-parties, and 37 were adjudged to have followed wrong administrative processes. Regarding the remaining 13 cases, the Bureau directed relevant procuring entities to re-procure. The table below shows the summary of the petitions received by the BPP in 2015 and their status.

Table 6.2: Summary of Petitions Received By Bureau of Public Procurement in 2015.

		Jan-June, 2015		July-Dec, 2015		Jan-Dec, 2015	
S/N	Description	Total	%	Total	%	Total	%
1	Total Number of petitions	217	100	152	100	369	100
2	Total Number of petitions closed	173	79.72	122	80.26	295	79.95
3	Total Number of petitions on-going	44	20.28	30	19.74	74	25.08

Source: BPP (2015, p. 22).

As contained in the table above, the Bureau received a total of 217 petitions between January and June 2015. Out of these 217 petitions, 173, constituting 79.28% of the total number of petitions received, were treated and closed, while 44 cases which represent 20.28% were still on-going. From July to December 2015, a total of 152 cases were filed at the Bureau, out of which 122 (80.26%) were closed, while 30 (19.74%) of the cases were still being treated. Thus, out of a total number of 369 petitions received by the Bureau from January to December 2015, 295 (79.95%) were treated and closed in accordance with the provisions in Section 54 of the Public Procurement Act, while 74 (25.08%) cases were still on-going. Based on this analysis, it becomes clear that the Bureau was able to successfully treat and close a larger proportion or percentage of the petitions filed to it in 2015. Indicatively, the high percentage of closed petition cases shows an improvement in service delivery by the Bureau in pursuit of a more competitive, fair, open and un-obscured as well as effective procurement procedures with potentials to guarantee optimal value for government funds (BPP, 2015). The table and Pie Chart below show the stages of the procurement process where petitions were treated in 2015.

Table 6.3: Procurement Stages where Petitions were treated in 2015.

S/N	Description	January-December, 2015	
		No.	%
1	Contract Award	186	50.41%
2	Prequalification	82	22.22
3	Financial Evaluation	55	14.91
4	Advertisement	20	5.42
5	Post Award/Implementation	17	4.61
6	Bid Opening	6	1.63
7	Bid Submission	1	0.27
8	Post Qualification	1	0.27
9	Bid Exclusion	1	0.27
		369	100

Source: BPP (2015, p. 24).

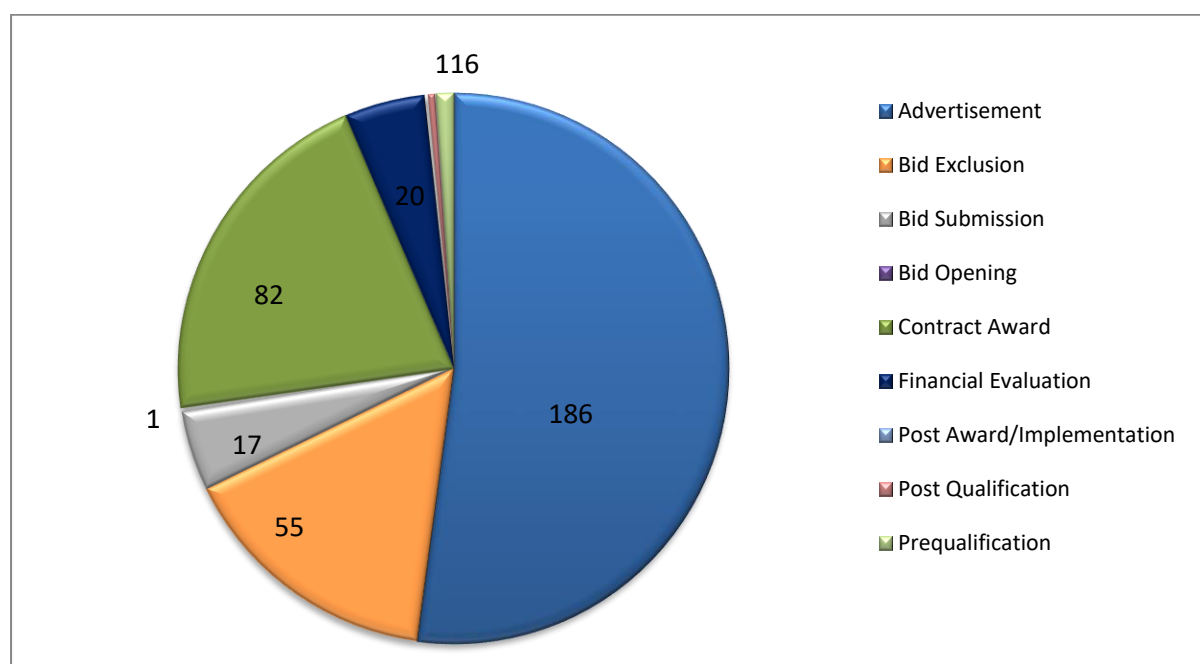


Figure 6.6: Pie Chart showing the Procurement Stages where Petitions were treated in 2015.

Source: BPP (2015, p. 25).

As indicative from the table and Pie Chart above, the procurement stage where the bulk of the petitions emanated from in 2015, was the contract award stage with a total of 186, representing 50.41% of the entire petitions filed to the Bureau. Following this was pre-qualification stage with 82 petitions, constituting 22.22%. Next to this was the financial evaluation stage with 55 (14.91%), followed by the advertisement stage with 20 (5.42%). Others were the post award or implementation stage, 17 (4.61%); bid opening, 6 (1.63%); bid submission, 1 (0.27%); post-qualification, 1 (0.27%); and bid exclusion, 1 (0.27%).

All petitions filed to the Bureau are being treated at the “Right of Reply” meetings, in accordance with Section 54 of the Public Procurement Act, 2007. The Bureau convenes the Right of Reply meetings to attend to petitions it receives from bidders and invites all petitioners and MDAs connected with affected procurements. During the period of January to December, 2015, the Bureau held a total of 56 Right of Reply (RoR) meetings before which officers of the relevant Departments of the Bureau carried-out thorough reviews to verify all procurement processes in the affected projects. Following deliberations at the Right of Reply meetings, any petitions that require further investigation are forwarded to the Independent Corrupt Practices and other Offences Related Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) (BPP, 2015).

The Bureau’s “Right of Reply” mechanism thus provides a level playing ground which enables more bidders to emerge successful in federal government tenders without knowing anybody in government (Egwim, 2103). What is evident from the foregoing is that, the implementation of the Public procurement Act, 2007 has provided channels for complaints with Nigeria’s procurement system, and this highlights a new level of freedom that deepens the democratic culture (BPP, 2012). It is in view of all these developments that Agada (2017) contends that, were it not for the establishment and continued existence of the Bureau, the Nigerian procurement system would have been characterized by a lot of unfortunate

circumstances. Agada (2017) further expresses that the procurement processes would have been marred by serious irregularities.

Furthermore, the PPA, 2007 contains adequate appropriate provisions aimed at checkmating procurement corruption and it equips the Bureau with a substantive measure of empowers to tackle the menace in the procurement process. For instance, Section 5(n) enjoins the Bureau to prevent fraudulent and unfair procurement, and to apply appropriate administrative sanctions where necessary. Where any cases of corrupt practices or violations of the procurement Due Process are suspected or clearly detected, the Act is unequivocal on how to adequately treat or address them. As earlier mentioned, Section 58(4)(a-h) of the PPA specifies acts that constitute offences under the Act. Sections 53 and 54 of Part IX of the PPA subtitled “Public Procurement Surveillance and Review”, details the procedures for investigating suspected acts of misconduct or corruption in the procurement process (FRN, 2007). In sub-Sections (1), (5) and (6) of Section 58, the Act spell-out the sanctions to be meted out to erring stakeholders, government officials (Officials of MDAs, Staff of the Bureau) or contractors. Most significantly, Section 6(1)(e), of the PPA empowers the Bureau to “debar any supplier, contractor or service provider that contravenes any provision of the Act and regulations made pursuant to this Act” (FRN, 2007).

The existence in the PPA, 2007 of the provision for debarring or blacklisting corrupt business entities from participating in the procurement process is, in a particular sense, quite significant as no specific or general legislation in Nigeria contained such stringent rule before it was promulgated. With the PPA, therefore, the entire legal context for public procurement in Nigeria has changed. A clear and understandable procedure is now laid-down for debarring or blacklisting business entities found to have deployed corrupt practices in pursuit of their business interests in Nigeria. This is a significant development in the new procurement dispensation (Blackfriars, 2008). All this has roots in the statement earlier made by the

Secretary to the Government of the Federation, Senator Anyim Pius Anyim, in his key note address at the Occasion of Contractors', Consultants' and Service Providers' Forum organized by the BPP on Monday 28th April, 2014. Senator Anyim at the event had warned thus: "May I therefore state here that Government will not hesitate to invoke all the sanction provisions of the Public Procurement Act 2007 against any public officer, contractor or consultant who contravenes any provisions of the Law" (Anyim, 2014, p. 43).

As part of the strategies for achieving a corruption-free procurement system in Nigeria, "the Bureau has introduced a Whistle Blowing Policy which will enable all stakeholders, contractors, civil society and the general public to report any observed and verifiable incidents of fraud, corruption, collusion and coercion in any government financed contracts" (BPP, 2011b, p. 13). To aid easy and quick disclosure or reporting of suspected corruption incidents:

Direct Telephone Hotline has been established to which people can make confidential calls to lodge reports and a secure e-Mail account is also established to receive reports or information leads that can help the BPP conduct necessary investigations. These are available on the BPP Website www.bpp.gov.ng. The identity of Whistle Blowers will be kept strictly confidential (BPP, 2011b, p. 13).

Especially:

The CSOs have been blowing their whistles as a result of their public procurement observation of procurement processes in the MDAs, the BPP has exhibited courage in reporting cases of corruption in the areas of collusion, unlawful influence, bid rigging, use of fake documents in bidding, bid splitting, etc to EFCC and ICPC for prosecution (Onyema, 2011, para.10).

What is deducible from the above is that there is a concerted effort at addressing the issue of corruption in the current public procurement system in Nigeria.

6.3.4 Factors that limited Bureau's Effort in Achieving Absolute Compliance with Procurement Regulations

Notwithstanding the efforts and relative success of the Bureau in engendering appreciable level of compliance with established regulations among stakeholders in the procurement system, some factors pose obstacles to the agency's efforts at attaining absolute success in this area. Notable among these is the issue of partial implementation of the PPA. It is particularly unfortunate that the Federal Government itself which commissioned the public procurement reforms has failed on its own part to obey or conform to the dictates of the PPA, a product of the same reforms. The disposition of the Federal Government towards the implementation of the PPA raises critical questions about the genuineness of its motivation for initiating reforms in the procurement system. The government has failed to fully implement the provisions of the Act, as against the valuable suggestions put forward by the CPAR. This is particularly with regard to the non-constitution and inauguration of the National Council on Public Procurement (NCP) ("the Council") as provided for by the Act. Partial implementation of the PPA is one of the fundamental constraints of the current procurement practice and system in Nigeria (Agada, 2017; Danladi, 2017; Lawal, 2017; Lawal, 2017b; Onyebuchi, 2017; Oyefeso, 2017).

The Council is one of Nigeria's key procurement regulatory authorities whose establishments are provided for by the Act (Udeh, 2015). The two most major procurement regulatory bodies established by the Act are the NCP and the BPP (FRN, 2007). While the Bureau is saddled with core procurement regulatory functions, the Act establishes the NCP as an approval and/or a regulatory authority over the Bureau (Udeh, 2015). Impliedly, the framers of Nigeria's public procurement law realized the need for a mechanism or structure for ensuring checks and balances within the procurement system, hence, the establishment of these two authorities for the administration of the processes leading to the execution of

government's procurement functions in the country. The PPA in Section 1(1) clearly states that "there is established the National Council on Public Procurement (in this Act referred to as "the Council")" (FRN, 2007).

The Council's membership consists of some top public officials and representatives of selected relevant professional bodies and civil society organizations (CSOs), as evident in Section 1(2)(a-f) of the PPA. (Refer to Appendix 1 for details). However, as Eze Onyekpere summarizes:

The Council as stated in the PPA shall consist of the Minister of Finance as the chairperson, Attorney-General and Minister of Justice of the Federation, Secretary to the Government of the Federation, the Head of Service, Economic Adviser to the President and the Director-General of the Bureau who shall serve as the Secretary of Council. It also includes six part-time members representing the Nigerian Institute of Purchasing and Supply Management, Nigeria Bar Association, Nigeria Association of Chambers of Commerce, Industry, Mines and Agriculture, Nigeria Society of Engineers, Civil Society and the Media. All the members of the Council shall be the appointees of the President (Onyekpere, 2013, para. 4).

Section 1(4) vests the power for selecting the Council's Chairman, who must always be the Minister of Finance, on the President (FRN, 2007). Regarding its functions, Section 2(a-b) of the PPA states that the Council shall "consider, approve and amend the monetary and prior review thresholds for the application of the provisions of this Act by procuring entities", and "consider and approve policies on public procurement" (FRN, 2007), among others things. (See Appendix 1 for a full list of the functions of the Council). In view of this, it is quite clear that the Council has a set of important functions under the current procurement regime. It is meant to regulate Bureau's activities in order to forestall any undue excesses by the agency, while the Bureau itself regulates the procurement process in MDAs in accordance with the Law. In this sense, the PPA creates the Council to exercise oversight functions on the Bureau. Despite the express provision for the Council and the pivotal part it is meant to play, the Federal Government has not constituted and inaugurated the NCPP, since 2007 when the

PPA took effect till date (more than ten (10) years now). As a result, the Bureau has continued to operate as a “super-agency” without the Council, which is to exercise oversight responsibility on its activities (Attah, 2011; Onyema, 2011; Onyekpere, 2013). The non-constitution and inauguration of the NCPP by the political executive is a display of political meddlesomeness and control over the country’s public procurement system. The Federal Government has not shown the political will to set-up the Council, and this implies that the government has vested interest in the procurement system and processes. Non-constitution of the NCPP is a fundamental breach or violation of a critical aspect of the provisions of the PPA, and it has created many loopholes in the activities and management of the Bureau (Akosile, 2010; Onyekpere, 2010).

For example, Section 5(c) originally vests the power to set monetary and prior review thresholds on the Council, as the PPA stipulates that the Bureau shall, “subject to thresholds as may be set by the Council, certify Federal procurement prior to the award of contract” (FRN, 2007). Notwithstanding, the Act in Section 25(1) authorizes the Bureau to set some monetary and prior review thresholds, but subject to the approval or amendment of the Council. Contrariwise, due to the absence of the Council, the Federal Executive Council (FEC) has been approving thresholds in the stead of the NCPP, which is in negation to the law (Udeh, 2015). Monetary and prior review thresholds are the value limits in Naira set by the Bureau/NCPP outside of which an approving authority is not supposed to award a procurement contract. It is in other terms the value limit of contracts that requires prior granting of “Certificate of no Objection” by the Bureau before they are awarded. Higher value contract requires a higher level of authority to award it (Udeh, 2015).

By law, the Council is the highest authority in the hierarchical structure of procurement institutions in Nigeria, and is the highest approving authority. But with the non-constitution of the Council, it is the FEC that currently approves public contracts in Nigeria, a duty

statutorily assigned to NCPP. The PPA does not recognize the Federal Executive Council as an approving authority, thus the continuous approval of public contracts by the FEC, is a violation of the Public Procurement Act (Otalike, 2017; Jacob, 2010). Apart from this, it also takes longer time for the Federal Executive Council to consider Bureau's recommendations on policy issues than it will take the Council, as envisaged under the Act (PPDC, 2011). This clearly shows how undue interference in the procurement process by the political executives hinders the smooth and effective functioning of the current procurement system and practice.

The worst case scenario is that the Nigerian National Assembly, which is supposed to curtail the excesses of the executive, in terms of unwarranted interferences in the procurement process, is also guilty of not complying with the provisions of the PPA in that it does not subject its procurement activities to regulation by the Bureau as required by law. Section 15(1)(a) of the Act stipulates that, "the provisions of this Act shall apply to all procurement of goods and services carried out by the Federal Government of Nigeria and all procurement entities" (FRN, 2007). By implication therefore, all procurement activities by the Federal Government and all its institutions, including the National Assembly and the Judiciary are to be carried-out in accordance with the procurement law. The only exception is where the procurements so desired are in the area of national defense and security. Section 15(2) of the Act states that, "the provisions of this Act shall not apply to the procurement of special goods, works, and involving national defense or national security unless the President's express approval has been first sought and obtained" (FRN, 2007).

Based on this, it is unarguable that the provision in Section 15(1) (a) of the PPA demands the National Assembly to adhere to due process in effecting any procurement as it is a constituent of the Federal Government. Contrary to this express provision, however, the legislators and administration of the National Assembly do not comply with the Act while undertaking procurement functions. The administration of the National Assembly does not

allow the Bureau to regulate its procurement activities. On its own, the Bureau appears to be unable to use its powers allotted to it by the PPA to compel compliance from the legislature. The National Assembly also flouts the Public Procurement Act in many other respects with some bordering on criminality (PPDC, 2011). This signifies the primacy of political influence, power and control in the discharge of procurement functions. Given its pivotal and exalted position in the country's political and administrative framework, the leadership of the National Assembly considers itself to be wielding more powers than the Bureau, and thus disregards the procurement law.

A major consequence of this is identified as follows:

Therefore, being in such fundamental breach of the Act itself, any attempt by the National Assembly to enforce compliance by political actors of another powerful arm of government will not only be hypocritical, but may expose it to blackmail. It could also possibly lead to prosecution, conviction, and imprisonment of liable officers of the Assembly for procurement offences. Section 58 of the Act provides between 5 and 10 years imprisonment for persons who contravene "any provision of this Act" (PPDC, 2011, p. 74).

Corroboratively, "knowledgeable watchers of the Nigerian procurement environment suggest that inaction by the National Assembly to consistently demand full implementation of the Act by the executive is a result of its own compromised position" (PPDC, 2011, p. 74). The legislature, therefore, can rightly be termed the biggest albatross to its own effectiveness, in terms of exercising adequate oversight on the procurement process and consistently demanding the executive to fully comply and implement the provisions of the PPA.

Another important factor impeding the Bureau's effort in achieving absolute compliance with regulations among stakeholders in the procurement system during the period under review is the undeserving role of political appointees. As Onyema (2017) observes, through their statutory procurement oversight functions, political appointees' still abuse

procurement process by soliciting for contracts. In his argument, Onyema (2011, para. 12) buttresses that:

Despite the clear distinction made by the Act, in terms of responsibilities between Ministers as political heads and the Permanent Secretaries as Accounting Officers, evidence has shown that the Ministers dictate the procurement processes and override the powers and functions of the Accounting Officers. In many instances, contracts are alleged to have been shared by the politicians, with the assistance and supervision of the Ministers manning the Ministries even before they are advertised. Also, perhaps, in order to obey their Masters, the Accounting Officers, are also alleged to often-times direct Procurement Officers to work towards ensuring [that] ‘preferred Contractors/Service Providers are pre-qualified and emerged as winners of contracts.

What can be deduced from the above statements is that, in spite of the existence of the PPA, 2007 and the Bureau, the political class, that is, non-permanent civil servants are still exerting undue influence over the procurement and contract award process in Nigeria. Till date, “most politicians believe that their being in politics or contesting elections cannot be justified if award of contracts is taken away from their domain” (Onyekpere, 2010, p. 18).

The persistent of executive interference in the procurement affairs has also continued to raise fundamental questions about the integrity of the Bureau and over who really controls it. This bothers, in particular, on who has the powers and responsibility for appointing the Directors of the Bureau. Originally, the PPA vests the powers for the control of the Bureau in the NCPP. According to Section 2(c) of Part 1 of the Act, it is within the powers and responsibility of the Council to “approve the appointment of the Directors of the Bureau” (FRN, 2007). Also, Section 7(1) of the Act stipulates that: “There shall be for the Bureau, a Director-General who shall be appointment by the President, on the recommendation of the Council after competitive selections” (FRN, 2007). In practice, however, the appointment of the Director-General of the agency, beginning from its inception in 2007 till date, is being single-handedly done by the Executive without the consent and due approval of the Council, as it has not been constituted in the first place, in accordance with the procurement law.

Onyekpere (2010, p. 18) posits that, “it could be asserted in law that actions that were supposed to be taken by Council and because of the absence of the Council, usurped by another body are illegal and ultra vires the body that took the action”.

Accordingly, “this appointment in the light of the above cited provisions of the Act was ultra vires the powers of the President and therefore void in the eyes of the law” (Onyekpere, 2010, p. 19).

The illegality committed against this explicit provision of the PPA extends also to the appointment of principal officers of the Bureau and other officers and staff of the Bureau in the absence of a Council. This is because Section 8(1) of the Act mandates the Council to appoint the principal officers for the Bureau after competitive selection process. The transparency and competitiveness that should have accompanied and characterised the process of appointment were lacking as the law as deliberately violated. The violations further extend to section 9 of the Act which requires the Council to appoint such officers and other employees as may from time to time be deemed necessary to enhance the performance of the Bureau’s duties and functions ... Going by these factual positions, the element of competition, due process and transparency, popular participation which are critical to the procurement reforms process have been compromised from the beginning. When the chief priests of due process, competition, transparency and accountability are recruited through a process that violates these basic tenets, nay an “undue process”, then procurement reforms are imperilled (Onyekpere, 2010, p. 19).

The whole scenario prompts Onyekpere (2010, p. 18-19) to allude that the failure to inaugurate the Council “provides a chain reaction for open and consistent violation of the letters and spirit of the PPA”.

The absence of the Council due to refusal by the political executive to set it up after many years of the commencement of the procurement reforms implementation programme poses serious challenges to the entire reform efforts. Conspicuously, “the failure of the president to constitute the Council has far reaching negative implications on the implementation of the PPA and public procurement reforms” (Onyekpere, 2010, p. 18). As Oyefeso (2017) comments, the non-constitution of the Council for more than ten years now,

remains the most observable weakness and drawback of the new public procurement policy and practice in Nigeria. The undesirable state of affairs has affected the functioning of the Bureau in a negative sense (Punch, June 16, 2013). Also, the non-existence of the Council makes monitoring and reporting on projects implementation problematic (Onyebuchi, 2017). By non-constitution of the Council, the government alone is regulating public procurement as against the intension of the PPA (Onyekpere, 2010). Perhaps, the most glaring negative implication of the prevailing situation is that it indicates that political influence or factors still play a very decisive role in Nigeria's procurement process and system despite the active existence and operations of the Act and the BPP. All this has consequences for the overall performance of the country's procurement system and attainment of the goals of the procurement reforms.

Given its statutorily allotted powers and functions, the Council is intended to add great value to the procurement environment; so long as it is not in place, the country is losing the value it is intended to add (Oyefeso, 2017). As a result, open reactions from different critical quarters or segments of the Nigerian society including the civil society, have continued to trail the non-compliant attitude of the presidency to set-up the Council. For example:

CSJ [Centre for Social Justice] had by its letter of September 8 2009 drawn the attention of the former President Umaru Yar' Adua and the former Attorney General and Minister of Justice Mike Aondoakaa to this situation but the letters received no response beyond the acknowledgement of receipt. Also, by another letter dated April 16 2010 addressed to the then Acting President Goodluck Jonathan and Mohammed Bello Adoke, the Attorney General of the Federation, CSJ reminded them of the implication(s) of the non-constitution of the Council. Excerpts of the CSJ's letter to the Acting President reads (Onyekpere, 2010, p. 18):

We are disturbed that since June 4 2007 when the PPA became law, the President has failed, refused and neglected to constitute the National Council on Public Procurement ("Council") as envisaged under section 1 of the PPA. The functions, duties and powers of the Council are clearly stated in sections 2, 5, 6, 7, 8, 9, 10, 12, 13, etc of the PPA. Essentially the council approves procurement policy on the recommendation of the

Bureau of Public Procurement (“Bureau”) including the monetary and prior review thresholds for the application of the PPA. The Council also has the power to appoint principal officers of the Bureau and recommend a candidate to the Presidency for appointment as the Director General of the Bureau after competitive selection. The Council is further empowered to appoint staff for the Bureau, make staff regulations, approve the fund of the Bureau, receive financial and other reports from the Bureau, etc (Onyekpere, 2010, p. 18).

The Centre for Social Justice (CSJ) further pointed out in the letter that:

The implication of the non-constitution of the Council two years ten months after the coming into force of the PPA is obvious. The policies, prior review and monetary thresholds set by the Bureau for the implementation of the PPA did not receive the blessing of the approving authorities envisaged by the PPA. Suffice to state that if the above policies are challenged in a court of law, they run the risk of being nullified. Further, the refusal to constitute the Council plucks feathers off the rule of law posture of the present administration and portrays it as one that deliberately violates laws which it enacted (Onyekpere, 2010, p. 18).

It is disheartening to mention that, despite the understanding that those letters by the CSJ were borne out the deep-seated desire to foster absolute obedience to the PPA and the attainment of the major aims and objectives of the procurement reforms, none of them was replied. Hence, Onyekpere (2010, p. 18) argues that “the refusal of the President to constitute the Council is not a matter of negligence but a deliberate state policy to ensure that the law is not respected. High level political office holders believe that the moment the Council is established, its policies will definitely remove procurements from political control”.

Furthermore, despite the Bureau’s efforts and considerable successes in curbing procurement corruption, the awful trend still manifests in many aspects of Nigeria’s procurement system. No doubt, the menace has reduced, but not yet absolutely eliminated in the nation’s procurement system. Williams-Elegbe (2012, p. 846) confirms this fact as she maintains that notwithstanding the institutionalization of procurement law and regulatory authorities, “public procurement in Nigeria is still riddled with corruption, fraud and irregularities”. The problem persists as MDAs, contractors and some selfish and greedy

officials of the BPP collude to abuse the procurement process (Ayoola, 2017; Onyema, 2017). Undeniably, agencies still devise means to manipulating the procurement process in order to carry-out their normal “business as usual” (Onyema, 2011).

Based on available evidences, Nigeria’s public procurement process and system is still beset by various unwholesome practices including “inadequate procurement planning, manipulation or misuse of prequalification and bid evaluation procedures, wrongful award of contract, price manipulation, misuse of variation clauses” (PPDC, 2011, p. 44), among others. There rate of demands for gratification is still relatively high (Onyekepere, 2010). Undoubtedly, bureaucratic corruption remains rampant, and purchasing for capital projects is always prone to over-invoicing, leaving space for inappropriate rewards or payments to brokers, contractors, and persons holding offices in government (BAP, 2013). In some instances, Procurement Officers in MDAs circumvent the procurement process and collude with contractors to perpetrate the illegal act of bidding under two different companies for one contract, thereby eliminating opportunities for competition (Iwuagwau, 2017).

Contractors also submit fake documents and bribe officials as well as politicians to get them pre-qualified (Onyekepere, 2010). Unsurprisingly, business executives surveyed by the World Economic Forum Global Competitiveness Report 2012-2013 reveal that government officials in Nigeria frequently favour well-connected companies and individuals when deciding upon policies and contracts (BAP, 2013). As against PPA’s stipulations:

In the MDAs, appropriated contracts are still being split in a bid to keep their value within the approved threshold of the Accounting Officers. This ultimately, when not found, shield such contracts from the proper scrutiny/review of the BPP before the issuance of Certificate of NO Objection and therefore results to public procurement corruption” (Onyema, 2011, para. 14).

Generally, “public procurement is all encompassing such that it affects every naira and kobo spent by the government. All governmental activities entail the procurement of a category of

goods or services of some sort” (Achua, 2011, p. 322). Corruption usually affects the costs of these goods and services as well as the cost of executing government contracts. Ultimately, collusion between public officials and contractors often results in inflation of actual contracts sums as contractors would normally have to pay certain secretary and/or illegally agreed percentage of the added monetary value to the unscrupulous officials as kick-back. It becomes understandable therefore, the reason corrupt officials, especially senior staff of procuring government authorities would award contracts to contractors at over-valued rates.

It is for the aforementioned reason that Ahmed (2011, para. 5) vehemently asserts that “corruption is the single biggest contributor to the high cost of government projects” in Nigeria. He buttresses his argument thus:

Contractors build in huge margins into contract sums because they are expected to pay those who award them the contracts. They also build additional margins for delays and variations. Undeserving contractors build in the huge amounts they spend to secure contracts unfairly, and then build additional amounts to secure services of professionals who would otherwise do the job better, at lower costs. They build in additional costs to get supervising consultants and civil servants to overlook shoddy work, deliberate delays and questionable reviews and claims. They build in costs to cover uncertainties and risks of abandonment of the project by government. They build in margins to cover costs of importing materials, much of which is illegal; to settle fraudulent taxation or evade genuine taxes; to cover costs for securing power, water and even access to communities at costs which are far above what they should pay. And they build in additional costs to pay new masters and leaders, in the events that they change in the life of the contract (Ahmed, 2011, para. 5).

Corruption in procurement also has a chain effect on every stage in the process of implementing government construction projects in Nigeria, leading to the delivery of sub-standard or poor-quality jobs to the public. The diagram below portrays the chain dimension of procurement corruption as it relates to projects implementation process in Nigeria.

CHAIN OF CORRUPTION

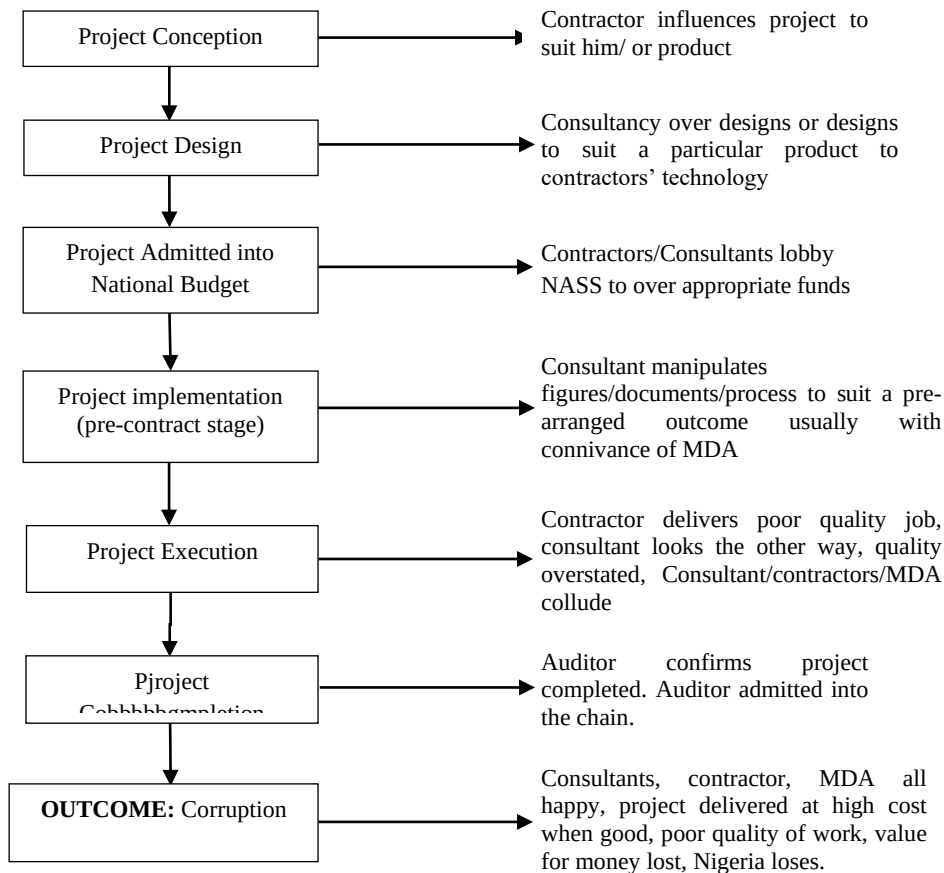


Figure 6.1: Chain of Corruption in Nigeria's Procurement and Contract Award/Implementation Process.

Source: BPP (n. d. (f), p. 7).

Viewed in the light of the above depicted situation, corruption, hence, “is both the cause and the consequence of the very high cost of contracts. Reducing the cost of construction projects will be possible only if corruption is decisively addressed in Nigeria” (Ahmed, 2011, para. 8). It becomes tenable, therefore, the argument of Adebayo and Arawomo (2008, p. 6-7) that “corrupt practices in procurement in Nigeria are so systemic that the country’s story may remain the same if the Due Process is not positioned appropriately in terms of structure and ability to deliver”. Meanwhile, Achua (2011) believes that a major reason why the public procurement and contract system reforms in Nigeria appears to have recorded minimal success is the proneness of the procedure to widespread fraud and

corruption that does not involve only the procurement personnel but permeates almost all spheres of the nation's governmental administration. The situation, to Nigeria, has made "public procurement become a source of frequent embarrassment. Apart from having a negative effect on the nation's image, the situation also erodes the confidence of the citizens in the government" (Anyim, 2014, p. 43). But, it is to be mentioned that the Bureau and the Act that establishes it are still relatively new; as the implementation of the recommendations of the procurement reforms and the Public Procurement Act progresses, greater successes are bound to be recorded in this critical area in future.

6.3 Major Findings of the Study

In view of the data analysis and discussion, the key findings of the study are as follow:

- (1) The multiple deficiencies identified in the old public procurement system in Nigeria, leading to inefficiencies in the provision of essential goods, services, and infrastructures to the public and the attendant gargantuan loss of revenues by the Federal Government, necessitated need for a new procurement policy and practice for the country. The new procurement policy regime is hinged on the Public Procurement Act, 2007 and regulated by the Bureau of Public Procurement, two important dividends or by-products of the procurement reform conducted by the Nigerian Federal Government in the early 2000s to reposition and strengthen the country's procurement system and practice for efficient and effective performance.
- (2) The Bureau recorded considerable successes in promoting the transparency of the procurement process during the period under study. To provide little credence, as evident from the available data analyzed, the Bureau ensured that 100% of contracts carried by the Federal Government during the period under study were duly advertised unlike the practice in the pre-Bureau era where most tenders were not even publicized at all. Also, the Bureau ensured that bidding exercise and award of contracts followed

transparent and competitive processes with all bidders enjoying equal opportunities to emerge a winner unlike the case before the procurement reform. Moreover, the Bureau through one of its key transparency promotion measures, the contract prior-review mechanism saved Nigeria more monies amounting to a cumulative of N558 billion during the period under study, as against the N102 billion saved by its predecessor, the Budget Monitoring and Price Intelligence Unit. Much as the Bureau was commended for these achievements, the agency however was still confronted with some challenges which hindered its optimal performance in this regard. These challenges have arisen from undue political interference in the agency's affairs, manipulation of the bid evaluation and selection processes, deviation by MDAs from Bureau's established procurement advertisement guidelines, and denial by some MDAs of access to CSOs accredited by the Bureau to observe, monitor and report on their procurement proceedings as stipulated by PPA.

- (3) The Bureau achieved an appreciable level of compliance with established procurement regulations among stakeholders in procurement system within the period covered by the study. As available record showed, there was insistence on the Due Process by the Bureau; the Bureau performed its mandatory bi-annual procurement audit on MDAs; the agency received and treated large amounts of petitions during the period under study; the Bureau sent a list of above 50 firms alleged of procurement frauds to the ICPC for investigation; the prosecution, conviction and punishment of some high-profile persons like Chief Bode George and others on the account of violation of the procurement law brought about high degree of caution in the procurement environment; and there is evident reduction in the rate of corruption in the system, among other achievements made by the Bureau. In the whole, compared with experience in the pre-PPA and Bureau era, there was substantial improvement in terms of adherence to

official rules and regulations up to 75% in the present procurement system due to the existence and operations of the Bureau, as available data analyzed has shown. Nevertheless, as with the issue of transparency, the agency also faced some obstacles in its efforts at instilling the attitude of compliance with formal rules in the procurement stakeholders. These obstacles emanate from partial implementation of the PPA by Nigerian government, non-compliant attitude and in-activism of the Nigerian National Assembly, abuse of procurement process by political appointees, executive interference in the procurement process, and persistence of corruption and related malpractices in the procurement process.

6.4 Major Challenges of the Bureau and the Nigerian Public Procurement System

Based on the findings of the study, the most critical challenges faced by the Bureau and Nigerian procurement practice and system during the period under review are as followed:

6.4.1 Political Interference in the Affairs of the Bureau and the Procurement Process

Undue control and interference in the activities of the BPP and the procurement process by the political office-holders is one of the notable obstacles to the smooth and effective functioning of the agency and the public procurement system, and this hampers progress towards the actualization of the objectives of the public procurement reforms (Onyekpere, 2018; Agada, 2017; Arabiyi, 2017; Ayoola, 2017; Danata, 2017; Umar, 2017; Lawal, 2017; Onyema, 2017; Oyefeso, 2017; Onyebuchi, 2017; Suruhl, 2017). As a matter of evidence, Onyekpere (2018) contends that the procedure for the appointment of the leadership of the Bureau is still a subject of political decision making, and this does not guarantee that square pegs are put in square holes. The appointment of the Director General and other principal officers of the Bureau without the recommendation of the Council based on a competitive procedure as required by the law, is one of the ways the political executive maintains its control over the workings of the agency vis-à-vis the procurement process and system.

6.4.2 Partial Implementation of the Public Procurement Act

The Nigerian Federal Government – the executive arm has failed to fully implement the procurement law – the PPA and the recommendations of the Country Procurement Assessment Report (Agada, 2017; Danladi, 2017; Lawal, 2017; Lawal, 2017b; Onyekpere, 2013; Onyebuchi, 2017; Oyefeso, 2017). This is particularly with regards to the non-constitution and inauguration of the National Council on Public Procurement as provided for by the Act. The state of affairs attracts wide attention, and continues to provoke persistent outcry among critical stakeholders in the procurement process, as well as the generality of citizens that closely follow-up on events and developments in the country's procurement system. According to Onyekpere (2018), the fact that the Bureau is enacting policy in the absence of the Council is problematic; this puts the cart before the horse.

The Council is one of Nigeria's key procurement regulatory authorities whose establishments are provided for by the Act (Udeh, 2015). The PPA establishes the Council and the Bureau to function simultaneously as regulatory authorities within the country's procurement system (FRN, 2007). While the Bureau is saddled with core procurement regulatory functions, the Act establishes the Council to serve as an approval or oversight authority over the Bureau (Udeh, 2015). However, since 2007 when the Act came into effect following its enactment by the Nigerian National Assembly till date (more than ten (10) years now), the Nigerian Federal Government is still yet to constitute and inaugurate the Council. As a result, the Bureau has continued to operate as a "super-agency" without the Council, which is to exercise oversight on its activities (Attah, 2011; Onyema, 2011; Onyekpere, 2013). The non-constitution and inauguration of the NCPP by the federal executive arm of government is fundamental breach of an important provision of the Public Procurement Act, and it has created many loopholes in the activities and management of the Bureau (Akosile, 2010; Onyekpere, 2010).

6.4.3 Non-Compliance Attitude of some MDAs Officials and the Legislature

The attitude of some officials of MDAs and the Legislature constitutes a major hindrance to the Bureau's efforts at enthroneing maximum compliance with the PPA. Many government ministries and agencies have not been following prescribed practices since 2007 when the Act was enacted (Agaba & Shipman, 2006). Unscrupulous "MDAs Officials... have refused to accept the change in the new public procurement reform and paradigm. To them, the new public procurement practice, which is frustrating the "business as usual" syndrome, is a hindrance to easy money making from the public sector of the Nigerian economy and should be resisted accordingly" (Onyema, 2011, para. 11). For this reason, they disregard the law as "they still employ all sorts of tactics to frustrate the practice during bid solicitation and evaluations and contract execution stages" (Onyema, 2011, para. 11). Traces of controversial transactions by government agencies with contractors that do not follow due processes have continued to characterize the Nigerian procurement system (Anyim, 2014).

Another worrisome development is that, given their autonomy, many public institutions remain under the wrong impression that that they are not bound by the provisions of the Act, and continue to act in illegality, carrying-out procurement without abiding by the due process as provided by the Act (BPP, 2013b). It is most disheartening that the Legislature/National Assembly is the chief culprit in this regard. The leadership of the National Assembly is guilty of non-compliance with the Public Procurement Act for not subjecting its procurement proceedings to the Bureau's supervision and scrutiny in accordance with Section 15(1)(a) of the Act (PPDC, 2011). Being guilty of such fundamental violation of the law it made, the Legislature/National Assembly is itself a major hindrance to the Bureau's effort at achieving maximum level of compliance with the PPA.

6.4.4 Poor Service Conditions and Insufficient Manpower Strength for the Bureau

The condition of service of the staffs of the Bureau has been identified as a major source of the ineffectiveness and weakness of the institution, due to lack of motivation on the part of its officials. One of the main areas mentioned in this regard is the staff take-home wages and salaries. The present wage structure of the Bureau's staffs is not befitting and encouraging (Umar, 2017). This can make it difficult for them to resist possible temptations of any offers by MDAs and contractors to engage in corrupt practices. Moreover, the Bureau is seriously under-staffed (Umar, 2017; Onyema, 2017). It has little manpower strength in relation to the volume of work it performs (Umar, 2017). Besides, there is a dearth of professionals among the leadership and technical staff of the Bureau, and the understanding of its officials of the tendering procedures with regard to complex projects is somewhat limited (Iwuagwu, 2017).

6.4.5 Poor Funding and Limited Office Space for the Bureau Staff

Lack of sufficient funding for the Bureau and limited office space for the staff of the agency have also been identified as constituting serious problems to its smooth and effective functioning. The view is commonly held that insufficient funding weakens the effectiveness of the Bureau a great deal (Onyekpere, 2018; Agada, 2017; Lawal, 2017b; Onyema, 2017; Okorie, 2017). Due to lack of sufficient funding, the BPP's ability to effectively perform its responsibilities is greatly hampered (Otalike, 2017). Onyekpere (2018) explains that the Bureau is not optimally funded to operationalize many of its major objectives like procurement audit. Adefolahan (2017) buttresses this fact as he asserts that insufficient budgetary allocation to the Bureau negatively affects its conduct of procurement audit in MDAs, as stipulated by the PPA. The procurement audit is to be conducted across all procuring entities so as ensure compliance with the provisions of the Act, learn lessons, correct loopholes and provide evidence for punishment of offenders and possible amendment

of laws and policies (Onyekpere, 2018). Unfortunately, lack of sufficient funding incapacitates the Bureau to effectively and adequately carry-out this important function.

Moreover, it is the responsibility of the Bureau to train MDAs' Procurement Officers on regular basis so as to keep improving their knowledge and skills on the procurement implementation functions. The Bureau is also mandated to update the Procurement Officers of MDAs regularly on the latest developments in the procurement environment and global best practices. It has been difficult for the BPP to accomplish all these due to insufficient funding (Oyefeso, 2017). In addition to the issue of funding, shortage of office space for the Bureau's staff stands as another major challenge. In spite of its limited number of staff, the Bureau does not also have enough office space for its staffs (Umar, 2017; Lawal, 2017b). Owing to this problem, the Bureau's staff do not have enough office space to enable them carry-out their daily official duties (Umar, 2017; Lawal, 2017b). This situation, no doubt, has some latent adverse effects on Bureau's effective functioning within the procurement system.

6.4.6 Inadequate Skills and Poor Service Conditions of Procurement Officers in MDAs

Despite the creation of the Professional Procurement Officers Cadre in the Federal Civil Service and the training programmes provided by the Bureau, the professionalism of the procurement personnel is still in doubt. Apparently, the government procurement reform effort, among other things, aims at enthrone professionalism in the procurement system, but the level of professionalism in the management of public procurement functions in Nigeria still remains low or non-existent (Basheka & Mugabira, 2008). Some factors or issues are responsible for this. First, is that, the training programmes being conducted by the Bureau alone are not enough and Procurement Officers in Ministries are not exposed to oversee training for the purpose of up-grading their skills and expertise on the job (Otalike, 2017).

This explains why, on the average, Procurement Officers in the MDAs still lack adequate requisite expert skills or knowledge on the job. As a result, MDAs still manage

highly important procurement functions unprofessionally (Bodurin, 2016). Another indisputable fact is that, the Bureau concentrates most of its training programmes around the Federal Capital Territory, Abuja. Moreover, given the number of training programmes organized by the Bureau, the training budgets available to it are far less than what is required to cover the existing federal government agencies in the country (PPDC, 2011). Therefore, the training and capacity building programmes of the Bureau for the Procurement Officers of federal MDAs in Nigeria have limited impacts.

Poor service condition of Procurement Officers in MDAs also contributes to worsening the entire scenario. As Otalike (2017) maintains, abuses of procurement procedures by MDAs can also partly be traced to the poor working conditions of Procurement Officers Cadre in Ministries. According to him, the salaries of Procurement Officers in Ministries are not commensurate with work they perform, both in terms of nature and volume. More so, they are not offered any incentives in order to motivate them to performance optimally and adhere to the code of conduct for procurement personnel. This makes it difficult for the Officials to resist lures by contractors and service providers to manipulate the procurement processes (Otalike, 2017). Of course, given their dissatisfaction with their earnings, they naturally lack the appropriate measure of motivation necessary to maintain the required level of ethical and/or professional conducts and integrity while they discharge their duties.

6.4.7 Persistence of Corruption and Malpractices

While the existence of the PPA and the Bureau has brought about meaningful reduction in the rate of procurement corruption and malpractices in Nigeria, the menace has not been wholly eradicated as its effects are still being felt in the country's procurement system and economy. Indeed, corruption and related malpractices have continued to thrive in the Nigerian public procurement and contract award process (Attah, 2011; Nigeria Exchange News, May 27, 2010). Evidences abound to the effect that contracts are still being awarded and paid secretly

in a bid to satisfy vested interests at the administrative level (Achua, 2011). Overall, “this corruption usually reduces the value for money and public procurement economy in our yearly Appropriations to about 40%, according experts in public expenditure management” (Onyema, 2011, para. 9). It is, thus, due to corruption that the huge government budgets for the provision of goods and services in Nigeria have not yielded expected results over the years (Achua, 2011). Corruption in the procurement sphere also provides a self-serving explanation for Nigeria’s inability to fully realize the anticipated immense benefits of the reforms carried-out in her public procurement system.

6.5 Implications of the Challenges for the Bureau and Nigerian Procurement Practice

The challenges identified above have certain consequences for the Bureau of Public Procurement and the Nigerian public procurement system and practice in general. The major implications of the challenges are as follow:

The persistent interference in the affairs of the Bureau of Public Procurement and the public procurement process by the political office-holders in a clear violation of the provisions of the Public Procurement Act indicates that, at present, the level of transparency in Nigeria’s procurement process and system is still below the desired level. And this has adversely affected the sanitization role envisaged for the procurement Act when it was being formulated. This problem, if allowed to linger, can lead to a reversal of the gains made so far under the current procurement policy and practice. More so, since ‘he who pays the piper dictates the tone’, the appointment of the principal officers of the Bureau including the Director General, solely by the political executive without recourse to the laid-down procedures in the PPA, has automatically stripped the agency of the required level of freedom and autonomy necessary for its effective operations as anticipated by the procurement law. And this undermines the rationale for the establishment and continuous existence of the institution as the major regulatory authority for public procurement in the country.

Refusal or failure by the Nigerian Federal Government – the executive arm, to fully implement the Public Procurement Act, particularly as it relates to the establishment of the National Council on Public Procurement raises critical moral questions about government's sincerity and genuine commitment to the procurement reform it instituted and executed. In addition to being a fundamental violation or breach of the PPA by the executive arm of the Federal Government, this has directly exposed the procurement law to more incessant abuses by stakeholders in the procurement system (Akosile, 2010; Onyekpere, 2010). The operation of the BPP without the NCPP or 'the Council' which the Act establishes to oversee its activities in the procurement sphere (Attah, 2011; Onyema, 2011; Onyekpere, 2013), has invariably left the agency (Bureau) to function without necessary checks, creating room for lapses and resultant criticisms against the institutions (Akosile, 2010; Onyekpere, 2010). Moreover, this scenario has resulted in a great height of loss of confidence and trust by the public both in the government and the entire procurement reform process, and this holds unprecedented negative consequences for the overall health and longevity of the existing public procurement practice in the country.

The unwillingness of the leadership of the Nigerian National Assembly to comply with the provisions of the PPA has in no small measure whittled-down the Bureau's tempo and vigour in compelling obedience to the provisions of the procurement law among stakeholders in the procurement system, particularly the principal officials of Ministries, Departments and Agencies of government. Should this situation persists without necessary steps taken to checkmate it, one of the Bureau's cardinal statutory function of "supervising the implementation of established procurement policies" in accordance with Section 5(d) of the PPA, as well as the agency's core objective of "harmonizing government procurement policies and ensuring integrity, accountableness and openness in the procurement process" as stated in Section 4(a) of the Act, would have no options than to be jeopardized in the long-

run. In other words, the offensive trend can hamper smooth and fruitful implementation of the procurement reform agenda and the procurement law itself under which the Bureau operates as it is capable of rendering it ineffective, and as a mere book of good intentions rather than a law that it is meant to be.

The poor service conditions for the staff of the Bureau of Public Procurement and procurement officers of MDAs has overbearing consequences for the effective discharge of official responsibilities by the officials of the Bureau and the ongoing fight against public procurement corruption and sharp practices in the Nigerian procurement system. Beside serving as source of dissatisfaction and de-motivation, the unbefitting wages and salaries as well as little or absence of other work-related benefits for the BPP and MDAs' staff is at the root of the increased and persistent instances of abuses or manipulations of the procurement process (Otalike, 2017), as they regularly employ illegal means including collusion with vendors in a bid to satisfying or meeting certain personal and family financial needs. As Okoduwa (2011) rightly observes, public officials involved in implementing government procurement functions frequently collude with contractors, services providers and consultants to manipulate every stage of the procurement and contract award process. The root cause of this undesired trend is the inability of the poorly remunerated officials to resist pressure of enticements by vendors that lure them to manipulate the procurement process in their favour in exchange for bribes or kickbacks (Okoduwa, 2011).

Insufficient funding for the Bureau of Public Procurement has quite overwhelming unfavourable implications for the agency's smooth functioning and effectiveness. Lack of sufficient funds reduces the Bureau's ability to carry-out its undertakings, all of which are aimed at delivering on its statutorily mandated functions (Onyekpere, 2018; Agada, 2017; Lawal, 2017b; Onyema, 2017). The inability of the Bureau to effectively discharge some of its important responsibilities such as the conduct of procurement audit exercise on

government procuring entities – MDAs and frequent training and retraining of procurement personnel is largely attributable to the problem of shortage of funds for the institution's operations (Onyekpere, 2018; Adefolahan, 2017; Oyefeso, 2017). The circumstance accounts significantly for why the Bureau has not performed excellently in the Nigerian public procurement system generally.

The shortage of professionals among the Bureaus' leadership and technical personnel causes major deficiencies in the functioning of the agency, ranging from hasty approval of MDAs' poorly conceived projects to difficulties and undue delays in discharging its basic responsibilities, particularly as it pertains to the technical aspects. On the other hand, the limited skills on the part of procurement officers of the MDAs, which is also an indication of the low level of professionalism in the Nigerian public procurement system (Bodurin, 2016; Basheka & Mugabira, 2008), has resulted in critical procurement tasks being performed in unprofessional manners (Bodurin, 2016). This lack of professionalism among MDAs' procurement officers results in inadequate understanding of the tendering process (Iwuagwu, 2017), which in-turn often leads to poor projects conception and implementation, waste of public financial resources, unnecessary delays, among other ills that still characterize Nigeria's procurement process till date. Therefore, if nothing is done to address the problem of limited professional skills among the Bureau and MDAs' procurement staff, government procurement activities would continue to be nothing but a source of enormous economic losses for the country, and this would impact negatively on its development drives.

The persistence of corruption and sharp practices in Nigerian public procurement process in spite of the existence of the Bureau shows that the institution has not performed its anti-corruption duties profoundly and satisfactorily in the procurement system. In other terms, the level of success of the Bureau's anti-corruption activities is yet below expectation, and thus the agency has more work to do in stemming the tide of corruption within system.

Unless the Bureau does something urgent in this regard, the agency would continue to dissipate valuable energies and time grappling with this problem protractedly, while the government consequently loses the expected corresponding value for monies expended on the provision of basic goods, services, and infrastructures to the masses of the citizenry.

CHAPTER SEVEN

SUMMARY, RECOMMENDATIONS AND CONCLUSION

7.1 Summary

The Nigerian Federal Government instituted reforms in the nation's procurement system to address the inadequacies or deficiencies of the old procurement system which rendered it inefficient and ineffective. These deficiencies or inadequacies stemmed from a number of issues including: lack of a modern legislation on government procurement; absence of a central procurement regulatory authority or institution; lack of a known clear-cut stipulated uniform process for implementing public procurement across government MDAs; reliance on the Ministry of Finance's Financial Regulations; confusion owing to the multiplication of circulars and guidelines on public procurement by several public authorities; high level of corruption and malpractices; misappropriation, mismanagement and waste of government financial resources; lack of transparency and competition; poor enforcement of rules due to lack of a regulatory authority; vested interests, interference and insider abuses; lack of complaints and redress mechanism; unprofessionalism and the use of staff that lack basic professional trainings and skills to carry-out government procurement functions; poor salaries and lack of work-related benefits for procurement staff; lack of citizens' representation and participation in the public procurement process; poor project definition, packaging and prioritization; poor state of social and economic infrastructures; and adverse effects on the country's economy and the citizenry.

The intervention of the Bureau brought about a considerable degree of transparency in Nigeria's procurement process during the period under review, unlike the experience in the pre-PPA and Bureau era. The Bureau was able to achieve this through the adoption of various strategies or measures which were largely not in existence during the old procurement order. These include: insistent on the Open Competitive Bidding method in accordance with Section

24(1-3) of the Act; adequate advertisement or publishing of the details of available contracts in National Newspapers and the Public Procurement Journal; regularization of the public procurement Due Process mechanism as stipulated in Section 19 of the PPA; attendance by BPP's staff of Bid Opening exercise at MDAs; enforcement of the provision regarding the mandatory inclusion of relevant citizen-based organizations (CSOs) and professional bodies in the procurement process as set-out in Section 19(b) of the PPA; issuance of the Certificate of No Objection; and deployment of the contracts prior-review mechanism through which the Bureau, according to available data, saved Nigeria a total of N558 billion within the period covered by the study.

Other measures adopted by the Bureau in this regard include the following: mandating MDAs to prepare and submit to it (BPP) detailed record of their procurement proceedings at the end of each year, to ensure they carry-out their procurement activities within the limits of budgetary allocations to them; occasional interchanging of Directors in-charge of procurement from one ministry to another; adoption of the Open Contracting Data Standards (OCDS) initiative of the global Open Government Partnership (OGP); provision of regular education, enlightenment, sensitization and publicity programmes to the general public and procurement stakeholders on its activities and the Public Procurement Act; administration of a functional website and maintenance of a national database of federal Contractors, Consultants and Service Providers in Nigeria; conduct of market survey or national shopping; production and provision of all important procurement documents to Contractors, Consultants, Service Providers and the general public in three Nigerian major languages - Igbo, Hausa, and Yoruba free of charge; regular enlightenment and sensitization of MDAs officials and the citizenry on the contents of the PPPA and the agency's (BPP) activities in accordance with Section 5(b) of the PPA; and periodic and consistent publishing of its (BPP) journal – Public Procurement Journal (PPJ) since 2008.

The effort of the Bureau in enthrone greater transparency in the procurement process was hampered by persistent inappropriate interference by the political executive in the operations of the agency and the procurement process. Political office-holders still prescribed their favoured contractors in advance to Ministers, Permanent Secretaries and Procurement Officers before contracts were awarded. And the Bureau appeared incapacitated as the political executive got involved in the procurement process, obviously lacking the required level of freedom or independence to perform its statutorily mandated functions. Based on the foregoing, it becomes clear that political meddlesomeness, to a considerable extent, still determined the outcome of procurement and contract award process in Nigeria, despite the change in legal and institutional environment for government procurement in the country.

With regard to the issue of compliance, the Bureau instilled appreciable level of compliance with established regulations in Nigeria's procurement system within the period covered by the study. The Bureau's enforcement of strict adherence with procurement regulations contributed considerably in the sanitization of the country's procurement system, especially in the area of ridding it of corruption and malpractices. As the main public procurement regulatory authority in the country, the Bureau based on its statutory powers and functions was able to record these successes through resort to certain strategies or measures which include: imposition of sanctions; performance of bi-annual procurement audits on MDAs and forwarding the reports to the National Assembly for assessment in accordance with Section 5(p) of the PPA; enforcement of the unified process for implementing public procurement across all procuring entities – MDAs as set-out in Section 19(a-j) of the PPA; and performance of 'procurement review' involving the scrutinization of the procurement activities of the MDAs to ensure compliance with rules.

Other mechanisms that aided the Bureau's achievements in this area are as followed: setting and enforcement by the Bureau of the procurement monetary thresholds for MDAs;

existence of the Compliance and Monitoring Department within the institution (Bureau); provision of a Whistleblowing Channel/Mechanism – a Direct Telephone Hotline to the public and CSOs for reporting Red-Flags; institutionalization and operation of an effective complaints and redress mechanism; mandating MDAs to prepare and present their yearly procurement plans to it (the BPP) in order to determine their readiness and strategies for accomplishing the plans; ensuring that MDAs based their annual procurement budgets on verifiable needs assessment; and provision of regular training and retraining programmes to increase general awareness and knowledge about the current procurement legal and institutional environment among public officials in accordance with Section 5(b) of the PPA.

Regardless of this however, the attitudes of some MDAs, the Legislature, and the Federal Government still posed fundamental challenge to the Bureau's effort at achieving maximum compliance with established procurement rules and regulation in the country. By virtue of the provision in Section 19(b), the space has been broadened for greater and wider citizens' participation in the procurement process under the current procurement regime through relevant professional bodies and civil society organizations (CSOs), unlike the situation in the pre-PPA era. Notwithstanding, some MDAs deliberately and tactically denied CSOs and professional bodies' access to observe or monitor their procurement proceedings. MDAs often perpetrated this illegal act by giving late information to CSOs and professional bodies regarding their procurement activities in such manners that made it practically impossible for them to be in attendance. This unwholesome attitude of MDAs limits the space and level of citizens' involvement in the procurement process as against the dictate of the PPA, and constitutes a major hindrance to the Bureau's efforts towards attaining full adherence to procurement regulations. More so, corrupt Contractors and Consultants are sabotaging the Bureau's efforts at entrenching high degree of credibility and sanity in the

procurement system as they continue to collude with unscrupulous MDAs' officials to perpetrate corruption and malpractices at the different phases of the procurement process.

The posture of the National Assembly posed a challenge to the Bureau in the area of enforcing compliance with rules. The Bureau appeared weak to compel the administration of the National Assembly to comply with the procurement Act in the conduct of its procurement activities. By virtue of its Section 15(1)(a), "the provisions of this Act shall apply to all procurement of goods and services carried-out by the Federal Government of Nigeria and all its procuring entities" (FRN, 2007). The only exception is where the procurements to be embarked upon are related to national defense and security, as stated in Section 15(2) of the Act. The unwillingness by the National Assembly's leadership to subject its procurement proceedings to the Bureau's regulations is a big challenge in maintaining absolute compliance with procurement rules and regulations. Being in open disregard and violation of the law it made, the Legislature has invariably exposed the PPA to more abuses by MDAs and Contractors.

In apparent deviation from the law, the executive arm of government deliberately refused to fully implement the provisions of the PPA during the period under review. This is mainly in respect of the constitution and inauguration of the Council, which is by law the apex procurement regulatory authority, meant to play supervisory role over the activities of the Bureau in the procurement system. The unwillingness by Federal Government to set-up the Council is a fundamental breach of the law, and it further exposed the Bureau to undue control and manipulation by the political office-holders. For instance, given the absence of the Council, the FEC has been approving contracts that fall within the threshold statutorily assigned to the Council to approve, whereas the PPA does not recognize the FEC as an approving authority. This represents a gross violation of the PPA, and the Bureau was unable to take any actions to remedy the situation. The disposition of the Federal Government

towards the PPA thus contributed in no small measures, in whittling-down the tempo of the Bureau in enforcing strict adherence to the procurement laws within the period under review.

7.2 Recommendations

To improve the operational performance of the Bureau in particular and enhance the efficiency and effectiveness of the Nigerian procurement practice in general, there is the ultimate need to adequately address the issues observed and identified by this study as constituting the major challenges or obstacles to the optimal functioning of the Bureau and the current procurement policy regime in the country. In the light of this, this study recommends the following measures as effective strategies for ameliorating the problems and achieving positive transformation of the entire public procurement system:

The executive-political office-holders should refrain from interfering with the affairs of the Bureau and the procurement process to allow for meaningful conduct of government procurement by those authorized by the law to undertake the responsibility. The selection and appointment of personnel for the leadership of the Bureau should be based strictly on merit in terms of competency and experience in relation to the procurement profession. Particularly, Ministers should cease from using their exalted positions to interfere in the procurement process in the Ministries as it is outside the scope of functions they are meant to take part in; procurement is the responsibility of permanent Civil Servants. Also, the Bureau should be detached from the presidency and be made to operate as an autonomous and independent institution so as to guarantee its absolute freedom from political controls and meddlesomeness.

The Nigerian Federal Government – the executive arm, should take necessary steps towards ensuring full implementation of the provisions of the PPA. Towards this, this study recommends the constitution and inauguration of the Council as provided for in the PPA, as this is highly necessary to enable proper formulation and implementation of procurement

policies and guidelines as well as to enhance effective oversight over the entire procurement process. Setting-up the Council would also serve as an indication of genuine political will and sincere commitment on the part of the government to ultimately revolutionize the country's public procurement system and practice as recommended by the CPAR.

The Bureau should deploy the powers conferred on it by Section 6 of the PPA to compel maximum compliance with the procurement law by all Federal Government MDAs and institutions that are under the purview of the PPA including the Legislature/National Assembly. The agency should intensify efforts in discharging its monitoring and supervisory responsibility over procurement proceedings in all government procuring entities that fall within the scope of the Act through regular deployment of its field officers during procurement implementation in order to guarantee absolute obedience to the procurement "Due Process" provisions in the law. On its own, the Legislature should consider it a moral obligation to show example, in terms of exhibiting maximum regard for, and absolute compliance with the law it made without being compelled to do so.

The Federal Government should take necessary steps to improve the working conditions of the Bureau's staff. Specifically, their wages and salary structures should be reviewed up-ward to commensurate with the work-load and rigour involved in the delivery of their daily responsibilities as procurement officers. Certain special entitlements in the form of incentive packages should also be designed for the staff of the agency as that would further enhance their motivation to perform their job with enthusiasm. To increase the numerical strength of the Bureau's manpower, the Federal Government should authorize the agency to, as a matter of urgency, employ more qualified staff. Beefing up the Bureau's staff strength would, in significant ways, enhance its operational efficiency and effectiveness.

The Federal Government should increase budgetary allocations to the Bureau to strengthen its financial capability to undertake its crucial responsibilities including organizing

regular training and retraining programmes for its staff and Procurement Officers in MDAs in a bid to continue to increase their knowledge and skills on the job. On the other hand, the Federal Government needs to build a bigger physical structure with sufficient staff office spaces for the Bureau. This would in a great measure help to reduce the inconveniences suffered by the staff of the agency while performing their day-to-day official duties, due to limited office spaces.

Beside the training and capacity building programmes provided by the Bureau, the Federal Government should also occasionally sponsor Procurement Officers of MDAs abroad for further trainings to equip them with adequate knowledge and sharpen their professional skills. Like the staff of the Bureau, the Federal Government should also improve the conditions of service of the Procurement Officers in MDAs through considerable increment in their wages and salaries as well as provision of necessary incentives that would boost their commitment and productivity on the job. Their numerical strength also needs to be increased across MDAs to match their daily work-loads.

The Bureau, in collaboration with the major ant-corruption agencies – the EFCC and the ICPC, should promptly and properly prosecute any Procurement Officers of MDAs, Bureau's staff, contractors and/or business entities alleged to have perpetrated or taken part in any acts that constitute public procurement corruption under the Act. If found guilty by any courts with appropriate jurisdiction, appropriate sanctions should be fully meted out to such Procurement Officers, Bureau's staff, and business entities, strictly in accordance with the PPA, regardless of whom they may be or who they know in government. This would serve as deterrence to other perpetrators of corruption in the country's procurement process. It would also send a strong signal to the entire citizenry that the Bureau is genuinely committed to exterminating the evil of corruption and its devastating effects from the Nigerian procurement process, thereby stimulating integrity and public confidence in the system.

7.3 Conclusion

Prior to 2007, public procurement system and process in Nigeria had been characterized by quite a plethora of challenges which impeded the country's economy and development progress. Between 2000 and 2007 however, a pragmatic effort was made to address the observed inadequacies of the public procurement system and practice through reforms instituted and undertaken by the Federal Government. The reforms brought about significant changes in the country's public procurement practice as it led to the enactment of the Public Procurement Act, 2007 and establishment of the Bureau of Public Procurement as the legal and institutional frameworks for public procurement regulations at the federal level. With the PPA, 2007 and the BPP, the legal and institutional environment for public procurement has changed, and Nigeria has joined the league of nations of the world with a modern public procurement system and practice, which has brought about tremendous improvements in the nation's overall public procurement system.

With the intervention of the Bureau, specifically, Nigeria has witnessed significant improvements on the issues of transparency and compliance with established regulations in her public procurement process and system, unlike the experience in the pre-PPA and BPP era, that is, during the era of the unreformed procurement system in the country. The Bureau recorded these recognizable and commendable achievements through resort to its various operational instruments or mechanisms including the use of the Open Competitive Bidding method, prior -review of contracts, issuance of the Certificate of No Objection, procurement surveillance activities, imposition of sanctions, among numerous others strategies most of which were not in existence under the old public procurement order. The existence of the Bureau has instilled a high level of discipline and consciousness among all actors, including MDAs, Contractors and Services Providers operating within the Nigerian public procurement system. Also, as one of the core principles of democracy, the existence of PPA and operations

of the Bureau has brought about better representation and participation of citizens in the public procurement process through strict enforcement of the statutory provision on compulsory inclusion and recognition of relevant civil society organizations and professional bodies as critical stakeholders in the conduct of government procurement activities.

Despite these considerable accomplishments of the Bureau however, the findings of the study show that a number of issues represent major challenges or obstacles to the smooth, efficient and effective functioning of the agency in particular and the country's public procurement practice and system in general. These issues include but not limited to the following: undue interference in the affairs of the Bureau and the procurement process by the political office-holders; partial implementation of the PPA, mainly with regard to the non-constitution and non-inauguration of the Council; non-compliance attitude of some MDAs officials and the Legislature; unsatisfactory conditions of service and shortage of required manpower strength for the Bureau; poor funding and limited office space for staff of the Bureau; inadequate professional skills and poor service conditions of Procurement Officers in MDAs; and persistence of corruption and malpractices.

These problems have certain consequences for the viability of the Bureau of Public Procurement and the Nigerian procurement system and practice as a whole. Notwithstanding, the challenges are surmountable. To overcome them and improve the operational performance of the Bureau and the efficiency and effectiveness of Nigeria's public procurement practice and system, the Federal Government needs to fully embrace and adequately apply the recommendations put forward by this study. It is envisaged that future researchers and/or studies related to the public procurement practice in Nigeria would build on the valuable contributions this study has made towards the growth of the body of knowledge in this important field of endeavour.

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