



Revolutionizing Public Procurement Practice in Nigeria: Assessing the Impact of World Bank's Country Procurement Assessment Report 2000

Hassan A. Saliu and Solomon I. Ifejika

Abstract

Systemic corruption, misappropriation, and massive wastages of limited public financial resources historically characterized Nigeria's public procurement practice and system. Consequently, with the restoration of democratic rule in the country in 1999, the President Obasanjo-led government commissioned the World Bank to evaluate the nation's public procurement system in 2000. The end result of the exercise was the Country's Procurement Assessment Report (CPAR), which indicated that Nigeria had lost several hundreds of billions of Naira over the years owing to fragrant abuse of procurement procedures, and hence needed to reform her procurement system. By way of implementing the recommendations of the CPAR, Nigeria executed reforms in her procurement system between 2001 and 2007. This study argues that the reforms were significant and revolutionary in that they transformed the country's procurement policy environment and brought about dramatic innovations in the system. Relying on data derived through the secondary method, as well as the descriptive method of qualitative data analysis, this study advances its position by examining the impacts of the CPAR stimulated reforms on Nigeria's procurement policy and practice, as well as recommends measures for sustaining and consolidating on the gains of the reforms in order to facilitate the attainment of the nation's development objectives.

Keywords: Corruption, Development, Efficiency and Effectiveness, Procurement Assessment Report, Public Procurement, Public Procurement Policy and Practice.

Introduction

Public procurement is highly critical in the overall development of any nation. It is an important aspect of governmental activity upon which the progress of every country rests. This is unarguably true as public procurement usually constitutes the larger proportion of government's yearly budgets in all countries. In other words, the largest amounts of financial expenditures of governments on annual basis everywhere in the world are incurred in a bid to provide essential development goods, works and services to the public and for proper functioning and/or discharge of daily responsibilities of modern governments. This underscores the imperative of robust





procurement system and practice for every country, irrespective of their levels of development. The level of organization and conduct of a country's public procurement system is a major determinant of the level of achievement of its set development agenda. This implies that the development level of any country is a perfect check for the state of health of the public procurement system and practice operational in that country.

It suffices to state, therefore, that the enviable heights of development attained by the Western nations simply indicates the presence and operation of virile, effective and efficient public procurement systems in those societies. This is because, as Agaba and Shipman (2006: 373), observes:

In most developed countries, public procurement takes place within a framework of international obligations, such as the World Trade Organization's Agreement on Government Procurement or the Procurement Directives made under regional agreements such as the European Union or the North America Free Trade Agreement.

This suggests that there are robust frameworks for public procurement practices in developed countries. Public procurement systems in developing countries have not met these standards (Agaba & Shipman, 2006). Developing countries are still striving to institutionalize procurement core elements, including increase competition, transparency, accountability, professionalism, and value for money in their public procurement systems (Komakech, 2016). Resultantly, in contrast, public procurement in developing countries, especially those in Africa, provides adequate explanation for virtually all the socio-economic ills bedeviling the societies rather than being a veritable instrument for achieving desirable changes and transformations.

Aigheyisi and Adore (2015: 111), corroborate this position, as they posit thus:

Over the past decades, government spending in most countries in the continent (including Nigeria) has been rising, but the continent has remained the poorest in the world. This suggests that public procurement in the continent has been largely unproductive, as it has failed to facilitate economic growth and to enhance human development, due mainly to prevalence of corruption, as procurement has been identified to be the key channel through which public officials embezzle public funds by conniving with contractors and services providers to inflate growth contract costs in government establishments (ministries, departments, agencies and parastatals).

The above assertion aptly captures the prevailing scenarios in the majority of African countries. In Nigeria, precisely, public procurement has historically been a very problematic sphere of governmental activity. The state of affairs in the procurement sector attracts serious concern among Nigerian citizens and the governments alike, as government expenditures over the years have not been accompanied by commensurate development results owing to fragrance abuses and manipulation of the procurement procedures. The inherent inadequacies of the Nigerian





procurement system and practice, largely due to its dependent on the Treasury Circulars of 1958, which provided weak and insufficient guidelines on the conduct of public procurement activities created rooms for this undesired development (Onyema, 2011).

It is an acknowledged fact that nowhere is corruption more visible and rampant in Nigerian public sector than in the procurement sector, where various scales and all sorts of contract scams have been recorded over the years (Attah, 2009). Research has shown that corruption in procurement accounts for over 70% of government's total budget and therefore affects the efficiency of public spending and the opportunities to improve quality of life (Attah, 2009). Thus, rather than serving as an instrument for socio-economic growth and development, public procurement constitutes a major channel of drain on the Nigerian economy. The social and economic consequences of this are the high poverty rates and severe hardship among the citizens, high level of mass unemployment, poor state of social and economic infrastructures, consistent fall in GDP of the country, stagnation of the industrial sector, poor delivery of basic and essential services to the public, among others. Procurement corruption remains the most singular factor for explaining these unpalatable circumstances. About 65% of government annual budget is designated for the procurement sector, yet Nigeria is yet to experience any meaningful changes in terms of development in the various aspects of the county's national life (Ahmed, 2011).

These problems besieged the country vis-à-vis its procurement sector until democracy was restored in 1999. The readiness and concrete efforts by the then government of the day, the Olusegun Obasanjo-led administration to salvage the country from the unprecedented effects of these socio-economic maladies began with the institutionalization of a Country Procurement Assessment field work in the Nigerian procurement system. The exercise was conducted by a team led by the World Bank and International Monetary Fund (IMF), alongside some local financial and economic management experts and professionals. The aim of the CPA field work was to critically examine the nation's public procurement system in a bid to finding out its weaknesses and suggest proper ways of ameliorating them, so as to reposition it for greater efficiency and effectiveness. The major outcome of the World Bank-led exercise was the Country Procurement Assessment Report (CPAR); this report indicated that Nigeria had lost several hundreds of billions of Naira over the years owing to frequent abuses of procurement procedures, and therefore needed to carry-out reforms in the system. By way of implementing the recommendation of the Country Procurement Assessment Report (CPAR), the Nigerian Government executed reforms in the public procurement system between 2001 and 2007.

This study advances the view that the public procurement reform was significant and revolutionary in that it completely changed the Nigerian procurement policy landscape and brought about concrete and dramatic innovations in the system. To drive home its position, therefore, this paper evaluates the impacts of the public procurement reforms occasioned by the implementation of the recommendations of the CPAR by the Nigerian Federal Government on the public procurement policy and practice in the country. To achieve this, the study is structured into five different but complementary sections as follow: i. Introduction, ii. Findings of World





Bank's CPAR, iii. Implementation and effect of the report, iv. Challenges of the implementation, and v. Conclusion and recommendations. The study depends on the secondary sources for its data, and on the qualitative-descriptive method for analyzing the data.

The World Bank's Country Procurement Assessment Field Work and its Findings

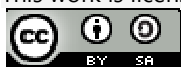
Country Procurement Assessment field work was an evaluation exercise initiated in Nigeria's national public procurement sector by the Chief Olusegun Obasanjo administration, and conducted by the World Bank. The exercise became necessary owing to the prevalence of corruption and malpractices in the management of government procurement activities which became worse prior to the advent of democracy in 1999, due to general disregard for rules and regulations, and ethics governing public service in the country which resulted mainly from selfishness and ignorance (Ekpenkhio, 2003; Oguonu, 2005). Hence, with the return to civil rule in 1999, the Federal Government expressed the desire for the urgent need for greater transparency, accountability, probity, and better and satisfactory results in the management of government's procurement business and utilization of financial resources.

The President Obasanjo's "Preface to the Financial Regulations in January, 2000 aptly slated as follows: all the elements that enhance efficiency reliability and continuity of the system have been tampered with resulting in major and severe setbacks for the conduct of Government business..." (Ekpenkhio, 2003: 1). Moreover, Obasanjo recognized the fact that Nigeria needed to enthrone greater transparency in government processes to enable the country evolve a vibrant economy and a fair society with equal opportunities for all (Ekpenkhio, 2003). As an upshot, the Nigerian Government commissioned the Country Procurement Assessment (CPA) exercise in the year 2000, which was carried out by the World Bank together with some specialists from Nigeria and professional bodies including the then Institute of Purchasing and Supply, Nigeria (IPSMN), Manufacturers Association of Nigeria (MAN), Nigeria Association of Chamber of Commerce, Industry, Mines and Agriculture (NACCIMA), among others (Ekpenkhio, 2003; Attah, 2011).

The World Bank team was meant to carry out a diagnostic study on Nigeria's Financial Systems as well as the country's overall procurement system. In specific sense, the team was saddled with the responsibility to help Nigeria in institutionalizing a process that would bring about greater efficiency, accountability, integrity and transparency in public procurement and financial management systems. This effort mainly targeted at curtailing or minimizing the pervasive systemic corruption in Nigeria's procurement and contract system as well as to enhance the efficiency of the nation's public expenditures management (Ekpenkhio, 2003; Attah, 2011). All these were aimed at accelerating the pace of development of Nigeria and to re-fixe the dislocations caused to the social, economic and political lives of the country by corruption and related sharp practices that permeated largely the public procurement system and procedures.

Nigeria has had a turbulent economic history since independence. The long period of military rule, starting from within the first six years of its independence worsened the socio-economic and political crises of Nigeria - as a result of unbridled corruption and large scale economic mismanagement. Between the 1960s and the early 1970s, Nigeria and most of the Asian

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countries, including Malaysia, Singapore, South Korea, Indonesia and Taiwan were parallels in terms of development and growth rates with per capita incomes, GDPs amidst an underdeveloped political structure (Ekpo, 2004). Nevertheless, all Nigeria's Asian counterparts quickly struggled out of underdevelopment and conditions of extreme poverty and are now popularly known as the Newly Industrialized Countries (NIC) or the Asian Tigers based on the development progress and achievements the countries have recorded. In the view of many, these countries have succeeded in breaking through, and this is chiefly attributable to the approach they adopt in managing their economies (Ekpo, 2004).

As a nation desirous of overcoming its development challenges, Nigeria has however undergone series of economic and social reforms aimed at transforming the society, but all to no avail. The introduction of the National Development Plan (1970-1974) whereby national projects were executed through contract awards contributed immensely to the many economic problems of the country. This was due to excessive costs of executing government contracts, corrupt and fraudulent management and badly conceived and executed contracts (Obinna, 1997). As a result of this, from the early 1980s, Nigeria has had to grapple with a myriad of economic issues and challenges including retardation in developmental progress, growing inflation, high rate of joblessness, insufficient food, high poverty rate as well as large foreign debt. This has invariably set the country on the same path with other countries seeking to achieve key economic objectives, such as increase employment opportunities, stable prices, better standard of living for the citizenry, economic advancement and good balance of payments (Oguonu, 2005).

The achievement of these objectives has notwithstanding, remained imaginary rather than realistic. Corruption is the main cause of this. As President Olusegun Obasanjo noted:

Nigeria, until 1999, had practically institutionalized corruption as the foundation of governance. Hence institutions of society easily decayed to unprecedented proportions as opportunities were privatized by the powerful. This process was accompanied, as to be expected, by the intimidation of the judiciary, the subversion of due process, the manipulation of existing laws and regulations, the suffocation of civil society, and the containment of democratic values and institutions. Power became nothing but a means of accumulation and subversion as productive initiatives were abandoned for purely administrative and transactional activities. The legitimacy and stability of the state became compromised as citizens began to devise extra-legal and informal ways of survival (Obasanjo, 2004; cited in Kareem, Asa & Lawal, 2014: 138).

Essentially, the bulk of corrupt practices in Nigeria are linked to public procurement, which accounts for about 70% of government daily activities (Attah, 2011). To be specific, it was revealed to the government that "An average of \$10 billion was lost annually due to fraudulent practices in the award and execution of public contracts, through cost inflation, and lack of procurement plans..." (Punch, 2013). Moreover, "It was established that the country was losing as much as 60 kobo on every N1 in the award of contracts" (Punch, 2013). There were rampant abandoned public projects, delivery of substandard jobs and services, devastation of few available socio-economic infrastructure, excessive costs of government contracts, and loss of





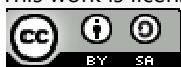
integrity and image on the part of Nigerian government. Furthermore, poor procurement regulations and the loopholes in Nigeria's procurement system, which have retarded the nation's development, were largely contributory to the constant listing of the country among the most corrupt nations of the world by international anti-corruption institutions such as the Transparency International (TI) and other organizations (Attah, 2011).

There was thus an urgent need to overhaul the procurement system through reform to enthrone Due Process in the country's public procurement environment (Obasajo, 2004).. Besides, studies have revealed that the performance of yearly budget will remain less-impressive and unsatisfactory if the public procurement practice is not significantly improved (Attah, 2011). It was in view of all this that, with the restoration of democracy in 1999, the Federal Government of Nigeria under President Olusegun Obasanjo initiated the Country's Procurement Assessment Survey with the assistance of the World Bank in the year 2000, to examine the nation's public procurement system and practice.

There were two main reports that emanated from the World Bank-led Country Procurement Assessment (CPA) exercise in Nigeria. These were the Country Report on the Financial Systems and the Country Procurement Assessment Report. The assessment of the country's procurement system encapsulated all relevant elements including the then legal context, organizational responsibilities, processes and practices, government accounting systems and its reliability, as well as the level of effectiveness of the budgeting systems in channeling resources toward achieving planned objectives. This was a comparison in each of the concerned areas as there was the need to determine how the practices in Nigeria differed from recognized global best practice. The review was carried-out through a participatory approach, involving all major actors in procurement sphere including Federal, State and Local Governments alongside private sector representatives. The Task Force was assisted by some foreign and domestic consultants financed by the World Bank, to carry out the review exercise. The entire process snowballed into two different Workshops which were held before the CPAR eventually emerged (Ekpenkhio, 2003).

The CPAR pointed-out certain notable deficiencies in the Nigerian public procurement system, which included:

- (1) Lack of a modern public procurement law and a permanent regulatory body.
- (2) Gaps and deficiencies in the Finance (Control and Management) Act, 1958 and the Financial Regulations, and improper application of existing procurement regulations which gave rooms to bribery and corruption.
- (3) Abuse of the thresholds of the approving limits of the Tender Boards and contracts splitting.
- (4) Proliferation of tender boards which caused delays and non-transparency of the procurement process.





- (5) Complexities of the customs systems and processes resulting in serious delay and corruption in clearing goods; and
- (6) Implementation of procurement by non-professional and unqualified staff (Ekpenkhio, 2003).

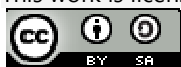
Additionally, it was also revealed that the existing guidelines on the conduct of public procurement in the country suffered implementation problem. This problem was believed to have come about due to the lack of conduct of economic cost and benefit of projects. Competition and transparency were compromised as rules and procedures were often manipulated in favour of a predetermined contractor. The problems of costs over-estimation and delay in completion and abandonment of projects also constituted some of the major weaknesses of the Nigerian procurement system (Ezekwesili, 2005). In order to correct or overcome these weaknesses and strengthen the Nigeria's public procurement system, the Country Procurement Assessment recommended six critical measures (Ekpenkhio, 2003), including that:

- (1) Nigeria should promulgate a public procurement legislation fashioned in line with the United Nations Commission for International Trade Law (UNCITRAL) model.
- (2) The establishment of a central public procurement oversight and regulatory authority
- (3) Changing of critical aspects of the Financial Regulations to render them clearer.
- (4) Reduction in the number of Tender Boards and energizing them with adequate powers to regulate the award of contracts.
- (5) Rebuilding of procurement and financial management capacity in the public sector; and
- (6) Complete review of customs systems, policies and practices to improve its efficiency.

The Obasanjo-led government accepted all the recommendations of the Country Procurement Assessment Report save that of Registration of Contractors and the participation of the Political Office holders including Ministers and/or Commissioners in contract award exercise (Ekpenkhio, 2003). The government accepted the recommendations of the CPAR based on its determination to shun the "Business as Usual Syndrome" and lay a foundation for transparency and efficiency in the procurement system and procedures in the country (Ezekwesili, 2005).

Implementation and Effect of the Country Procurement Assessment Report (CPAR)

Being that the government accepted the CPAR, it initialized certain practical steps to carry-out the measures recommended by the document vis-à-vis enthrone transparency in the conduct and management of government business. This began with the issuance of Circular No. F. 15775 of 27th June, 2000 on New Policy Guidelines for Procurement and Award of Contracts in Government Ministries/Parastatals. "The Circular spelt out in great details the procedures and levels of approvals for the award of contracts to meet international best practice" (Ekpenkhio,





2003: 3). This was followed by the establishment in 2001, of the Budget Monitoring and Price Intelligence Unit (BMPIU) in the Presidency. The BMPIU was to address the inherent weaknesses observed in Nigerian public procurement system (Onyema, 2011). By establishing the BMPIU, the aim of the government was to ensure the formulation and implementation of appropriate policies on public procurement activities and the award of contracts. The Budget Monitoring and Price Intelligence Unit (BMPIU) was saddled with the responsibility of ensuring financial transparency and enforcing absolute compliance and adherence to Federal Government guidelines on Due Process Certification in budgeting and procurement of goods, works and services at appropriate costs (Ezekwesili, 2005).

The mandate or mission of the Budget Monitoring and Price Intelligence Unit (BMPIU), according to Ezekwesili (2005) is:

To use Due Process Mechanism to establish transparent, competitive and fair procurement system, which is integrity driven, encourages spending within budget and ensures speedy delivery of projects, while achieving value for realization of the budget monitoring and price intelligence unit (BMPIU) objectives (Achilike&Akuwudike, 2016: 86) .

The objectives of the Budget Monitoring and Price Intelligence Unit (BMPIU) which is also responsible for the development and operation of procurement of goods, works and services for the Federal Government and its agencies include:

To harmonize existing government policies/practices and update same on public procurement.

To determine whether or not Due Process has been observed in the procurement of services and contracts through the initiation and execution of such projects.

To introduce more probity, accountability and transparency into the procurement process.

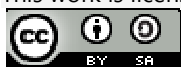
To establish and update pricing standards and benchmarks for all supplies to government.

To monitor the implementation of projects during execution with a view to providing information on performance, output, compliance with specifications and targets (cost, quality and time).

6. To ensure that only projects which have been budgeted for are admitted for execution; and

7. To ensure that Budget spending is based on authentic reasonable and fair costing

(Ezekwesili, 2005).





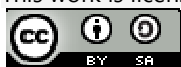
In order to make the foregoing objectives of the Budget Monitoring and Price Intelligence Unit (BPMIU) realizable, as Ezekwesili (2005) observes:

The government put in place the regulatory functions for regulating standards including the enforcement of harmonized bidding and tenders documents, certification functions for certifying federal wide procurements in categories of resident due process team certification (projects with threshold of between N1.0 million and N50 million) and full due process certification (projects above N50 million at various stages). Monitoring functions to supervise the implementation of established procurement policies and training and advisory functions to co-ordinate relevant and training programmes (Achilike and Akuwudike, 2016: 86).

These initial efforts at implementing the recommendations of the CPAR and evolving robust and vibrant procurement practice founded upon the core principles of transparency, value for money, effectiveness and efficiency smoothed the ground for full-scale reforms that practically revolutionized Nigeria's public procurement system and practice and aligned it with international best practices. The reform basically aimed at institutionalizing the operations of the BPMIU, and the changes it introduced are significant in the Nigerian public procurement landscape, as they transformed the conduct and management of procurement activities in the country. The major concrete gains or impacts of implementing the CPAR are analyzed in the next section below.

As earlier stated, the implementation of the Country Procurement Assessment Report has brought about a major revolution in the Nigerian procurement system. The two major landmark gains of the reforms occasioned by the implementation of the Country Procurement Assessment Report (CPAR) are the Public Procurement Act, 2007 and the Bureau of Public Procurement (BPP). The need to give legal backing to the operations of the Bureau of Price Monitoring and Intelligence Unit (BPMIU) necessitated the sending of the Public Procurement Bill to the Nigerian National Assembly in 2003/2004, which was later passed into Law on May 31, 2007. On June 4, 2007, the Public Procurement Bill was fully signed into law by the Late President Umaru Yar'adua (Onyema, 2011). And "Since then, the Law has been in practice, with the Bureau of Public Procurement, BPP, as its main driver" (Onyema, 2011). There is also the establishment of an Institute with a Governing Council, to educate, train and certify persons wishing to practice procurement in Nigeria and abroad and to regulate the practice of the profession (Attah, 2011). Importantly, "The Public Procurement Act came with a lot of promises. The beauty of it all was that it was designed to cure the mischief identified in the existing law and practice; it was a sunshine law that sought to make the citizens' lives better" (Onyekpere, 2013). According to Attah (2009: 1):

The objectives of the PPA as captured in Section 4 are for the harmonization of existing government policies and practices on public procurement, and ensuring probity, accountability and transparency in procurement process; the attainment of competitiveness, professionalism in public sector procurement system by ensuring the application of fair competitive, transparent, value for money, standard practices for procurement and disposal



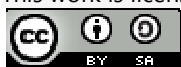


of public assets and services, and all which is believed that when it is judiciously practiced, it will reduce corruption in Nigeria.

The enactment of the Public Procurement Act of 2007 was thus accompanied by the establishment of the Bureau of Public Procurement (BPP) in accordance with the provision of the Act, to fill the observed gaps of not having a modern law and a regulatory institution or agency on public procurement in the country. The new Act and the Bureau of Public Procurement currently provide the legal and institutional frameworks for the conduct of government procurement operations in Nigeria. The Act provides a clear-cut procedure for conducting public procurement in the country. These two major achievements of implementing the recommendations of the CPAR remain quite revolutionary in the history of the practice of public procurement in Nigeria. The step has elevated Nigeria to the category of nations in the international community with best public procurement practices in line with global standards. All other benefits of implementing the recommendations of the CPAR through reforms are products of the existence and functions of the Public Procurement Act 2007 and its enforcing institution, the Bureau of Public Procurement (BPP).

The functions of the BPP, being the regulatory agency for all procurement operations at the national level include to: (a) Formulate the general policies and guidelines relating to public sector procurement; (b) Publicize and explain the provisions of the Procurement Act; (c) Subject to thresholds as may be set by the Council, certify Federal procurement prior to the award of contract; (d) Supervise the implementation of established procurement policies; (e) Monitor the prices of tendered items and keep a national database of standard prices; (f) Publish the details of major contracts in the procurement journal; (g) Publish electronic and paper editions of the procurement journal and maintain an archival system for the procurement journal; (h) Maintain a national database of the particulars and classifications and categorization of federal contractors and service providers; (i) Collate and maintain in an archival system, all federal procurement plans and information; (j) Undertake procurement research and surveys; (k) Organize training and development programs for procurement professionals; (l) Periodically review the socio-economic effect of the policies on procurement and advise the council accordingly; (m) Prepare and update standard bidding and contract documents; (n) Prevent fraudulent and unfair procurement and where necessary apply administrative sanctions; (o) Review the procurement and award of contract procedures of every procuring entity to which these Regulations apply; (p) Perform procurement audits and submit such reports to the National Assembly bi-annually; (q) Introduce, develop, update and maintain related database and technology; (r) Establish a single internet portal that shall serve as a primary and definitive source of all information on government procurement containing and displaying all public sector procurement at all times; and (s) Co-ordinate relevant training programs to build institutional capacity (Federal Republic of Nigeria, 2007).

The dividends of the existence and operations of the Act and the Bureau in the procurement system have remained undoubtedly remarkable and laudable. The Public Procurement Act, 2007 and the Bureau of Public Procurement have remained the strongest anti-corruption instruments or

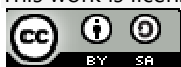




mechanisms in the field of public procurement in Nigeria (Attah, 2011; Onyema, 2011). The public procurement procedures and the award of contracts have become more transparent in a manner that contractors now have equal chances of winning government contracts meritoriously, as a level playing ground has been somewhat provided for fairness and competition. For these reasons, probity, accountability, equity, efficiency and effectiveness, among other values of a good practice have improved tremendously in the Nigerian financial management system and public procurement sector. Corruption and related malpractices in the procurement process as well as the popular “business as usual syndrome” have all been brought under serious check. Sanity and credibility have been instilled in the public procurement sector (Ekpenkhio, 2003; Onyema, 2011).

The BPP ensures efficiency and integrity in the monitoring of the implementation processes for all federal projects (United Nations Office on Drug and Crime, 2013). Enormous amounts of monies have been saved to the tune of \$500 million in some cases through the application of the Due Process mechanism via vetting and reduction in costs of contracts (Obasanjo, 2003). Between 2009 and 2014, the Bureau of Public Procurement (BPP), saved the country N659 billion from contracts awards (Ezeh, 2015). During the 2010 Appropriation year alone, the Bureau of Public Procurement (BPP) saved Nigeria the huge sum of N216.6 billion from its review of contract processes before the issuance of Certificate of No Objection (Oneyema, 2011). President Olusegun Obasanjo also revealed that within two years of the operations of the Due Process policy mechanism, Nigeria was able to save more than N102 billion from several Federal Government’s inflated contracts (Obasanjo, 2003). To this extent, the implementation of the recommendations of the CPAR has resulted in more efficient and effective management of Nigeria’s economic resources, and blocked all avenues for wastages and leakages in the economy, which resulted largely from inefficiency in the award of Government contracts and procurements, thereby increasing Government revenue base (Ekpenkhio, 2003).

As the body with the responsibility for regulating public procurement practice in the country, the Bureau 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 practice (Onyema, 2011). In a similar vein, Onyekpere (2013) argues that, “...the Bureau of Public Procurement has made tremendous contributions in the area of setting new standards and reforming existing ones, public sensitization and capacity building, establishment of a procurement cadre in the civil service...”. With the oversight and regulatory operations of the Bureau, it is now a standard practice for the Ministries, Department and Agencies (MDAs) to base their annual procurement budgets on verifiable needs assessment. The essence of this is to ensure that the proposed procurement expenditure impact immensely and positively on the delivery of public goods to the citizens. Also, prior to the commencement of their annual procurement activities, the MDAs are to prepare and send their public procurement plan to the Bureau in order to ascertain and substantiate their readiness and strategies for the year’s procurement operations.





Further, as evident in records, the Bureau usually conducts procurement planning workshops before the bid solicitation by the MDAs, to ensure that their planning is adequate and good enough to drive the procurement processes. The Bureau of Public Procurement has provided the MDAs with procurement planning technology software, to efficiently assist them in carrying-out and perfecting such crucial assignment. Also, lack of appropriate training and expertise constrained the MDAs Officers charged with contract and public expenditure management to conduct public procurement prior to the advent of the Public Procurement Act, 2007 and the establishment of the Bureau. These Officers now possess enough knowledge and skills in procurement management due to regular public and in-house public procurement workshop, seminars and dialogues often held by the Bureau of Public Procurement. Also, following the establishment of the public procurement cadre in the Nigerian civil service, many of these Officers have been converted, trained and certified as public procurement specialists and professionals (Onyema, 2011).

The immense benefits of the public procurement reforms have also been extended to all participants and stakeholders in the procurement sector. To enhance transparency of the procurement process and improve their knowledge on their responsibilities and expected conduct during procurement, the Bureau has provided the MDAs, Contractors and Service Providers, Stakeholders and members of the Public with Standard Bidding Documents and Regulations free of charge. These documents clearly provide the step-by-step processes that must be followed in contracting and provision of procurement of works, goods and services in the country. This effort has made public procurement practice quite interesting, as it has provided opportunity to Contractors and Service Providers to vehemently engage procuring entities in any case of suspected malpractices in the procurement process. This is unarguably unlike before the advent of the Public Procurement Act and the Bureau of Public Procurement when the MDAs Officials unscrupulously quoted the Treasury Circulars arbitrarily to suit their selfish interest and purposes. The present regime is the era of increased transparency as the procurement practice is now subject to popularly known recourse mechanisms. The cravings for better openness in the conduct of procurement activities now account for consistent petitions against MDAs to the BPP, EFCC and ICPC and even litigations at the High Courts of Justice as a means of demanding equity and shunning all avenues for illegal practices (Onyema, 2011).

Under the new procurement policy and practice there is now an increased awareness, and indeed improved citizens' participation in the procurement process through the framework of a plethora of Civil Society Organizations dedicated to the procurement field. This is in line with the provisions of the Act and in a bid to provide effective procurement oversight and monitoring by the citizens with the aim of strengthening the culture of transparency in the conduct of public procurement. Specifically, among other CSOs in the field, "The Public and Private Development Centre (PPDC) with support from the United Nations Democracy Fund (UNDEF) has been implementing the Nigerian Procurement Monitoring Project, as well as the PACT Nigeria USAID supported Procurement Watch Program" (Public and Private Development Centre, n.d. :3). To lend credence;





...in 2008, PPDC along with other actors and with the support of PACT Nigeria Advance Program supported by USAID, trained the first set of citizen procurement monitors in Nigeria, founded the national Procurement Watch Platform (NPWP) and secured the directive of the Bureau for Public Procurement to all MDAs in Nigeria to begin inviting representatives of citizen organizations and professional bodies to monitor public procurement in Nigeria (PPDC, n.d.:3).

The aim of these two projects are to promote the involvement of the Nigerian citizens in monitoring the procurement function of the government as stipulated in the Public Procurement Act 2007 (PDC, n. d.).

The objectives of the projects include to: (a) develops a CSO agenda for procurement monitoring and activate the implementation of procurement observation/monitoring provisions of the PPA; (b) build capacity of non-state actors on procurement observation and monitoring; (c) establish and sustain collaboration between procurement monitors in Nigeria; (d) strengthen the legislature on procurement oversight and monitoring; (e) improve access, analyses and sharing of procurement information; (f) strengthen advocacy for improved transparency and accountability in the procurement process; and (g) improve partnership between procurement monitors, the industry regulator and parliamentary committee responsible for over sighting procurement issues (PPDC,n.d: 3-4). The institutionalization of the new public procurement policy and practice is still on. With the realization of these objectives in the future, a robust citizen participation in the implementation and monitoring of the procurement policy in Nigeria by means of representation by CSOs would have been achieved through the partnership.

With the new Public Procurement Law, the BPP, CSOs and the Anti-Corruption Agencies, meaningful successes have been made in detecting, prosecuting and convicting public procurement offenders. The CSOs have been playing critical roles in this regard through their public procurement observation and monitoring oversight of the MDAs. The SCOs have reported cases of corruption related to collusion, unlawful influence, bid rigging, use of fake documents in bidding, bid splitting, etc., to the nation's two major anti-graft agencies - EFCC and ICPC for prosecution. As part of their efforts and support at sanitizing the procurement system, the EFCC and ICPC have been arraigning, prosecuting and convicting persons suspected of public procurement corruption and malpractices. A perfect example is the case involving Chief Olabode George of the People's Democratic Party (PDP) and his cohorts, who were sentenced to various jail terms for offences related to inflation of contract cost and contract splitting (Onyema, 2011).

Besides, under the new regime, a clear procedure has been laid-down under the Section 53 of the Public Procurement Act for debarring or blacklisting contractors caught in the act of deploying corrupt means in seeking their business interests in Nigeria (Blackfriars, 2003). The Public Procurement Act stipulates various degrees of punishment to be administered to erring contractors - individuals and business entities respectively. With regards to corporate bodies, Section 58 (6) of the Act states that: "any legal person that contravenes any provision of this Act commits an offence and is liable on conviction to a cumulative penalty of debarment from all





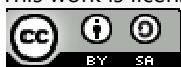
public procurements for a period not less than 5 calendar years; and a fine equivalent to 25% of the value of the procurement in issue” (Blackfriars, 2008: 1). In the case of individual persons, the Public Procurement Act vividly has it in Section 58(1) that: “any natural person not being a public officer who contravenes any provision of this Act commits an offence and is liable on conviction to a term of imprisonment not less than 5 calendar years but not exceeding 10 calendar years without an option of fine” (Blackfriars, 2008: 1).

These provisions have significantly reduced the trend of corruption in the procurement sector for fear of the spelt-out consequences and have strengthened the frameworks for fighting the menace in the procurement process. Thus, business discipline has now been instilled in entities seeking to do business with the Nigerian Government. Kudos to the CPAR. In short, it is difficult to capture all the laudable achievements made in the Nigerian procurement sector by the reforms instituted in an attempt to implement the Country Procurement Assessment Report in the last few years in this single paper because of limited space. The important point to note is that public procurement in Nigeria has completely been transformed from what it used to be before the advent of the Public Procurement Act, 2007 and the establishment of the Bureau of Public Procurement (BPP). In the nearest future, the gains would unavoidably manifest more and more in the overall development progress of the country.

Challenges to the Implementation of the CPAR in Nigeria’s Public Procurement System

The implementation of the recommendations of the Country Procurement Assessment Report (CPAR) has made major impacts on public procurement policy and practice in Nigeria. Notwithstanding, there are certain unpalatable developments that are posing serious challenges to the full actualization of the dreams of implementing the CPAR and consolidation of its gains in the Nigerian Public procurement system. Under this section, effort is made to examine some of these impediments.

One notable barrier to the full maximization of the benefits of implementing the recommendations of the Country Procurement Assessment Report (CPAR) in Nigeria procurement sector is the observed reluctance by the government to fully execute the provisions of the Public Procurement Act, 2007, which is the sole legal framework upon which the new public procurement policy and regime is hinged. There has been so much out-cry about the urgent and important need to strengthen the new public procurement policy and practice by ensuring that the provisions of the Act are fully implemented, yet nothing has been done in this regard. Since the Act was enacted, attempt has not been made to inaugurate and establish the National Council on Procurement (NCP) as stipulated by the Act. The Public Procurement Act (PPA) 2007 provides for the establishment of this body in Section 1(1) to provide surveillance and control over the operations of the Bureau of Public Procurement (BPP) in order to avoid any undue excesses by the agency in the discharge of its functions. While the Bureau of Public Procurement is mandated to oversee the procurement procedures to ensure strict compliance with the Act by all procurement stakeholders, the National Council on Procurement (NCP), in turn, is to superintend or checkmate the activities of the Bureau itself. In other words, the Bureau is according to the Law, supposed to be responsible and accountable to the NCP being the apex





procurement body in Nigeria. The unfortunate thing, however, is that the Bureau has been operating since 2007 as a ‘super-agency’ in the absence of the National Council on Procurement which is to oversee its works (Attah, 2011; Onyema, 2011; Onyekpere, 2013). This is not just illegal and a breach of the Law upon which the current procurement regime is anchored; it also portends enormous danger and unprecedented consequences for the firm entrenchment of the new procurement policy and consolidation of its laudable achievements so far in the nation’s procurement system.

A fundamental reason for commissioning and conducting the Country Procurement Assessment field work by the then President Obasanjo was and is still to eradicate the menace of large scale corrupt practices in the procurement sector and achieve significant cost reduction in the execution of public contracts. Specifically, the Public Procurement Act, 2007, and the Bureau of Public Procurement (BPP) came to being as both legal and institutional instruments for ensuring transparency, achieving cost effectiveness and checkmating illegal practices in the procurement sphere. While the rate of corruption in Nigeria’s procurement system has reduced to a considerable level, it is pertinent to note that the menace still subsists. Indeed, corruption and inflated contracts costs still drain the Nigerian economy as the inclement phenomena result in “gargantuan costs without corresponding value, inefficient service delivery and huge indebtedness” (Okoduwa, 2011: 5). Despite the reforms, construction contracts in Nigeria have remained relatively high. Undoubtedly, construction and procurement contracts in Nigeria are still about 20-30 per cent higher than equivalent contracts in other parts of the world, including Africa (Nigeria Exchange News, May 27, 2010). Corruption in public procurement is the main factor responsible for the high costs of contracts in Nigeria as projects are often over-estimated for personal or selfish purposes. Moreover, contracts award processes are manipulated in favour of predetermined contractors (Ahmed, 2011; Business Anti-Corruption Portal, 2013).

Political interference is another major hindrance. It has, for instance, been established that the functions of the Bureau of Public Procurement have virtually been hijacked by the Federal Executive Council, whereas the establishment of the agency (Bureau) was aimed at curbing the excessive involvement of officials, including ministers in the public procurement process. The reason for this state of affairs finds explanation in the frequent abuse and neglect of the Public Procurement Act (Punch, June 16, 2013). It is widely alleged that Ministers do aid the allocation or sharing of most available contracts among politicians even prior to their advertisement. For example, the Presidential Projects Assessment Committee chaired by, Bunu Sherriff, a former minister of the Federal Capital Territory, avers that the Bureau of Public Procurement announced that the Federal Government awarded 358 contracts worth N1.6 trillion between January 2010 and March 2011. But in November 2012 alone, the Federal Executive Council (FEC) announced that different contracts worth N1.3 trillion had been approved. The unfortunate thing, however, is that most of these contracts were later abandoned or shoddily executed (Punch, June 16, 2013). As the Bunu Sherriff Presidential Projects Assessment Committee established, as much as 11,886 projects requiring a total of N7.7 trillion to complete had been abandoned nationwide (Punch, June 16, 2013). It is not only that the Federal Executive Council appears to have usurped the functions of the Bureau of Public Procurement, undermining of the provisions of the Act

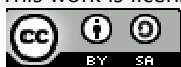




necessary for effective operations of the Bureau has resulted in the declining role for the procurement agency. One then begins to wonder how the dividends of the recent reforms brought about by implementing the CPAR would be institutionalized when the agency established to regulate all procurement operations at the federal level is being hindered from carrying-out its statutory responsibilities by the executive branch which has midwived it. The Accounting Officers have also been often times alleged of directing Procurement Officers to ensure that favoured contractors get pre-qualified and win government contracts (Onyema, 2011). This means that all the efforts at bringing to an end the undue influence and interference by political office holders and ministers in the processes of awarding and executing government's contracts are yet to yield any appreciable results. The underlying factor for this is the apparent lack of political will on the part of the government to sincerely wage war against the wide-spread illegalities in the procurement system.

Another noteworthy challenge in this regard is the weakness and lack of capacity for effective procurement monitoring, observation and reporting by Civil Society Organizations (CSOs). They have been very critical in clamouring for, and popularizing the idea of accountability and transparency in resources governance generally in Nigeria. They have been more concerned about the general well-being of the people than the government, hence their persistent agitation for increased transparency in governance. The Public Procurement Act also provides for citizens participation through the CSOs in the public procurement process with the aim of ensuring compliance with the Due Processes principle in the procedures for award and execution of government's contracts (PPDC, n. d.). However, a major barrier to effective and adequate procurement monitoring and oversight by CSOs in the field is the lack of adequate knowledge of what public procurement itself entails. The monitoring capacity of the CSOs in the procurement sector is still generally low because they are less informed about the nitty-gritty of the issues relating to procurement operations, especially the legal aspects. To this extent, it becomes difficult for them to detect errors or abuses by unscrupulous elements in the procurement system and constructively engage them in legal battles (Attah, 2011). This is a big clog in the wheel of progress towards maximizing the successes of implementing the CPAR as lack of adequate procurement knowledge limits the CSOs capacities for effective monitoring and reporting and it also makes them susceptible to manipulation by other more active actors in the field. Corroborating these views, the PPDC (n.d.: 3) rightly asserts that;

Without capacity and the needed tools, non-state actors as well as relevant legislative committees were merely making the motions fulfilling the legal obligations, without really achieving the intended outcomes of improved transparency and accountability which the PPA envisaged. They needed modern tools to improve effectiveness. There was need for a system to collate, analyze and disseminate monitoring reports. There were no published guides to support the work of monitors and other oversight agencies who seek guidance and capacity to engage the procurement process in line with the new legal framework.





Resulting from this gap is the lingering fight against high incidences of corruption related malpractices in the nation's public procurement sphere. Adequate institutionalization of the on-going procurement reforms in Nigeria has also met with obstacles due to the low retention rate (high rate of legislative turnover) in the unfolding democratic dispensation. Indeed, Nigeria's Fourth Republic has seen quite a unique increase in the rate of turnover of legislators after each election since 1999. The legislature is both the eyes and the mouth-piece of the people. Its role in demanding accountability and transparency is paramount and indispensable to the success of democracy and good governance in any society. As the body representing the generality of the citizens, the monitoring and oversight function or power of the legislature over public expenditure is a fundamental practice backed by law in every true democracy to ensure accountability (PPDC, n.d.). However, it is regrettable that:

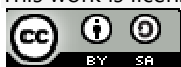
Weak electoral and political party processes ensured that less than 30% of the members of the legislature who deliberated on the draft bill returned to the National Assembly, leaving the country with huge institutional capacity gaps for implementation and oversight of the PPA. This is also the case with other African countries that have recently embarked on procurement reforms like Sierra Leone, Ghana, Liberia (PPDC, n.d.: 2-3).

The low retention rate (high turnover) of legislators in the National Assembly since the start of the Fourth Republic therefore also constitutes an impediment as it has reduced the capacity as well as the institutional memory of the legislature to effectively perform its procurement oversight functions.

Low level of compliance with the Public Procurement Act and the new procurement regime by some stakeholders, including MDAs Officials, consultants, contractors, service providers and politicians also presents enormous and daunting challenge to the current reform in the procurement sector. It has been noted that companies guilty of major violations of procurement regulations are not always blacklisted as stipulated in the PPA (Business Anti-Corruption Portal, 2013). Some of these stakeholders constitute a serious obstacle to the attainment of the lofty goals of the procurement reform as they have refused to accept the change and paradigm shift in the procurement sector because the new practice has been a hindrance to all their illegalities. Hence, they deploy every means to thwart and pervert the process of bid solicitation and evaluation as well all stages in the execution of the contracts (Onyema, 2011).

Conclusion and Recommendations

The implementation of the recommendations of the Country Procurement Assessment Report (CPAR) has made some noticeable impacts on public procurement policy and practice in Nigeria, especially in creating the awareness among the stakeholders. The two most notable benefits or products of the reforms carried-out by the Nigerian Government in concretizing the recommendations of the CPAR in the nation's public procurement sector are the Public Procurement Act, 2007 and the Bureau of Public Procurement (BPP). The enactment of the Act and establishment of the Bureau in 2007 are both significant and historic in that it marked the



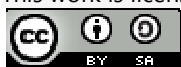


first time Nigeria formally promulgated a modern law on public procurement backed with an agency to enforce the law and regulate the processes. Thus, in line with the recommendations of the CPAR and global best practices, Nigeria in 2007 met the World Bank requirement that its beneficiary nation-states should evolve legal and institutional frameworks for the conduct of public procurement in their domains.

All other commendable gains of implementing the recommendations of the CPAR in the Nigerian public procurement field are hinged on these two landmark achievements – the enactment of the Act and the establishment of the Bureau. However, despite these laudable achievements, the implementation of the recommendations of the Country Procurement Assessment Report (CPAR) has been met with many daunting challenges, including but not limited to those discussed in the body of the study, which hamper the full maximization of the lofty benefits of the reforms executed in order to realize the recommendations of the report. Devising effective means for addressing these challenges is therefore essentially urgent as a way of ensuring the consolidation and sustenance of the dividends of the implementation of the recommendations of the Country Procurement Assessment Report (CPAR) in Nigeria's public procurement field. In the light of this, this piece suggests certain curative measures to be taken, which include the following:

1. The Federal Government must realize that the impartial implementation of the Public Procurement Act by non-inauguration and establishment of the National Council on Procurement (NCP) is itself another illegality. Hence, every effort must be made to establish the body (NCP) according to the stipulations of the Act as its existence and operations would add tremendous value to the entire procurement system.
2. The executive should shun all manners of interferences with the affairs of the Bureau of Public Procurement and allow it the required independence to carry-out its statutory responsibilities. To achieve this, the presidency should support the consolidation of the benefits of the procurement reforms by manifesting strong political will toward ensuring strict adherence to the procurement law. Any reported case of breach should be treated without compromise irrespective of the position, influence and political affiliation of the individual(s) involved. On the other hand, the Bureau must wake-up to its responsibility and be assertive in enforcing the PPA so as to increase the compliance level with new procurement law by all stakeholders in the field of procurement.
3. There is the need to professionalize public procurement in government Ministries, Department and Agencies (MDAs) at all levels of government. Moreover, states and local governments across the country need to embrace and replicate the reforms in their areas so as to engender the desired changes, that is, a corruption-free as well as efficient and effective procurement practice and system in the country as a whole.

4 Civil Society Organizations (CSOs) working in the area of public procurement should give adequate attention to training and orientation of their members who represent them and the





entire citizenry on the developments taking place in the procurement sector so as to improve their knowledge of the subject matter and enhance their capacity for effective monitoring and reporting on the infractions of the procurement process. This would facilitate achievement of the desired level of transparency and accountability in the procurement system and processes.

5. The country's electoral system and structure of party-politics should also be made to undergo thorough reforms in order to reduce the attrition (low retention) rate being experienced by the National Assembly since the dawn of the current Fourth Republic. This would help to improve the capacity and ensure the retention of the institutional memory of the law-making institution as well as reposition it to effectively play its essential role in the country's public procurement sector.

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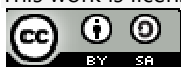
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Authors' Profile

Hassan A. Saliu (PhD) is a Professor in the Department of Political Science, University of Ilorin, Ilorin, Nigeria. He specializes in International Relations and Foreign Policy.

Solomon I. Ifejika is a Lecturer in the Department of Political Science, University of Ilorin, Ilorin, Nigeria. He specializes in Public Policy and Administration. His research interest areas cover Anti-Corruption, Public Procurement, Public Sector Reforms in Nigeria, Governance, Human Rights, Civil Society. He has published in reputable local and international journals. He specializes in Public Policy and Administration.