

Budget Monitoring and Price Intelligence Unit (Due Process): A Mechanism for Combating Corruption in Infrastructure Delivery in Nigeria

CASE STUDY

Gabriel T. Aduda

Partnering to
COMBAT CORRUPTION

Series Editor: M. Sohail

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Infrastructure Delivery in Nigeria

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A case study

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Integrity Organisation

Nigeria

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Acronyms and abbreviations

AEPB	Abuja Environmental Protection Board
BMPIU	Budget Monitoring and Price Intelligence Unit
DG	Director General
CAP	Chapter
EFCC	Economic and Financial Crimes Commission
FCC	Federal Capital City
FCT	Federal Capital Territory
FCTA	Federal Capital Territory Administration
FGD	Focus group discussion
FGN	Federal Government of Nigeria
IDI	Individual in-depth interview
ICPC	Independent Corrupt Practices and Other Related Offences Commission
LFN	Laws of the Federation of Nigeria
MDGs	Millennium Development Goals
NEPA	National Electric Power Authority
NGO	Non-governmental organization
OECD	Organisation for Economic Co-operation and Development
PHCN	Power Holding Company of Nigeria

Executive Summary

Transparent procurement procedures can contribute to a more efficient allocation of resources through increased competition, higher quality procurement and budgetary savings for governments and thus savings for taxpayers. They can also help attract more investment by lowering risk for investors. Objective and transparent procedures can, in addition, help enhance the efficiency of local suppliers as they compete for public contracts, thereby improving trade prospects by making these suppliers more competitive. Finally, transparent procurement procedures can help limit bribery and corruption, which are particularly rampant in the area of procurement (OECD, 2003, p 3).

In 2003 the government of Nigeria (amongst others) set up the Budget Monitoring and Price Intelligence Unit (BMPIU) – otherwise known as the ‘Due Process’ office – to check widespread corruption, gross incompetence and related vices in public procurement and service delivery to citizens. The unit aims to block the loopholes inherent in the reckless and dubious processes that contract awards often involve and to ensure compliance with guidelines and procedures laid down for procurement in capital projects and associated goods and services.

By the time of writing (2006) and three years down the line, this initiative had generated mixed feelings and diverse reactions amongst stakeholders. While many have voiced concern over the length of time involved in the procurement life cycle for a project or describe the bureaucracies involved as simply too cumbersome, others still wonder about the quality and value for money in service delivery. The implementers on the other hand, insist that there have been huge government savings as a result of the Due Process unit, in addition to improved quality in service delivery and better performance of public budgets. This appraisal, the authors believe, will provide insight into the operations of the BMPIU with a view to highlighting its strengths and weaknesses. It will also propose recommendations for more effective, impact-oriented service delivery – especially to the poor in society.

The case study’s working hypothesis will centre on the impact of the institution on ‘hard-naira savings’ in public procurement. Given that the naira is Nigeria’s domestic currency, hard-naira savings can be defined as an easily identifiable and measurable cost reduction in service delivery, without compromising quality and while ensuring sustainability.

The Due Process office aims at achieving a systematic approach to unifying recurrent¹ and capital budget expenditures. It was believed the framework would evolve best operational methods, and that these in turn would establish well-defined sector objectives and strategies. With this in mind, monitoring of capital spending through audits, controls and computerization to enhance the development of project profiles and feasibility studies were conceived.

The establishment of Due Process has also made possible the institution of techniques for improving the costing of capital projects in the Appropriation Bill and best practices of line ministries investment policy discretion with reference to their respective budgets. Line ministries in the past operated incremental budgeting, i.e. taking a previous year’s budgeted amount and adding an additional amount to each budget item/programme (often the same percentage across board). With the introduction of the Medium Term Expenditure Framework in public finance management, budget items of various ministries now have to be harmonized in line with priority targets already set before approval. This puts a check on ministries’ discretion at putting up budget items.

¹ In Nigeria there are two basic budget lines in our accounting system, recurrent and capital. Recurrent refers to all expenditure that relates to regular or periodic acquisition of materials and services, i.e. operational expenditure consumed within the financial year

1. Main findings and patterns of research

This entire survey was conducted in Abuja the Federal Capital Territory of Nigeria, one of the fastest growing cities in Africa. The FCT is the seat of Nigeria's federal government and as such it houses a very high percentage of federal government employees. The FCT is one of the new model capital cities in Nigeria and the world.

1.1 Livelihoods

1.1.1 Employment

More than half of the respondents (59 per cent) work in the public sector and 21 per cent were self-employed, while the others were engaged in other forms of employment including working for non-governmental organizations (NGOs) and various private sector initiatives.

1.1.2 Decision-making

Participation and inclusion in decision-making are important elements in good governance, especially where they entail the involvement of citizens and include disadvantaged groups. Well over half of the respondents interviewed (69 per cent of low-income and 66 per cent of high-income groups) believed that they do not have a voice in decisions about how the city is run, because they do not participate in decisions-making.

1.1.3 Security

One of the most important norms of good governance is the creation of safety and security through various means. This is because every citizen has the right to life, liberty and security of person, while at the same time insecurity has a disproportionate impact in terms of further alienating the poor and the marginalized. Thus freedom from crime, safety from violence at home and on the streets, and an observed and perceived feeling of security are viewed as undoubted products of good governance (Agbola, 2001).

Most of the respondents agreed that they were very safe or safe where they live, except for about 20 per cent who described their home as unsafe or very unsafe – the reason being that they have no police presence anywhere close to their habitation. Even when the police do come around, those people living in satellite towns or who have been victims of robbery are of the opinion that the Nigerian police are inept, inefficient and ineffective, and that many officers are highly corrupt and aid and abet criminal activities.

1.1.4 Health

Thirty-nine per cent of respondents (mainly those on low-incomes) believed there are health risks where they live as a result of pollution, pipe leakage and inadequate refuse disposal, among other reasons.

1.1.5 Property

A majority of the respondents had never experienced threat of removal by landlords, property developers and landowners. However, a few were affected by various processes of city upgrading, which aim at restoring the beauty and dignity of the Abuja master plan², to conform to the status of the model city that it is meant to be.

² The Abuja master plan was designed in the late 1970s and aimed at producing a world-class model city. Over the years, however, corruption and poor implementation led to gross distortions of the master plan. The present administration embarked on the restoration of the lost glory of the original master plan in 2003. Actions taken include demolition of structures – both residential and commercial – that were erected on spaces that usurped other land uses and those erected on wrongly-allocated plots of land, expansion of infrastructure provision to open up more areas for development and dealing with some perpetrators of the vices which gave birth to the distortions.

1.2 Service delivery

1.2.1 Accessibility

Most of the respondents had access to all service deliveries and as such made use of them. The only exception was access to railways, which is virtually non-existent. People were, however, dissatisfied with the rate of water supply, electricity and transportation services.

1.2.2 Efficiency

It was found that about 34 per cent of the respondents interviewed had approached service providers with problems, most especially the Power Holding Company of Nigeria (PHCN) and the water board. Over half of them reported that they did not have their problems solved or effectively addressed.

1.3 Corruption in the society

1.3.1 Level of corruption

Most of the respondents believed the level of corruption to be very high in Nigerian society as a whole, but specifically singled out the public sector as been more corrupt than the private sector or NGOs.

1.3.2 Causes of corruption

The respondents pointed to poverty, hunger and pursuit of selfish interests as being the main causes of corruption.

1.3.3 Corruption in infrastructure delivery

The people interviewed judged the Power Holding Company of Nigeria to be the most corrupt public service institution, closely followed by the water board. Thirty-one per cent of the total respondents interviewed had being asked for a bribe by service providers, and they believed that they would have been denied the service if they had not paid.

1.3.4 Fight against corruption

The respondents opined that more prosecutions and longer sentences would be more effective in fighting corruption. Respondents were quite impressed with the performance of government agencies set up to combat corruption, and specifically mentioned the Independent Corrupt Practices Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) as agencies they believed to be effective in fighting corruption.

1.4 BMPIU

The Budget Monitoring and Price Intelligence Unit (BMPIU) or Due Process office was described by some respondents as an innovative mechanism which the Nigerian administration had introduced to combat corruption in awarding government contracts

1.4.1 Delivery on its mandate

Respondents acknowledged the existence of the Due Process unit, especially the contractors and suppliers who were interviewed. However, they thought the requirements for Due Process certification in the execution of projects were rather cumbersome and unnecessarily long. This, they believed, created room for manipulation and corrupt practices. It was even alleged by some respondents that the BMPIU may not be serious in some cases, as its resident officers are sometimes not present during the bidding process for some contracts, thereby leaving room for

manipulation. Due Process staff members are recruited by the civil service commission and not by the organization itself directly, thereby maintaining the perceived status quo of corrupt dealings that are often associated with civil servants.

1.4.2 Performance

Some stakeholders, especially contractors and suppliers, rated the BMPIU as being above average (60 to 70 per cent) in terms of performance. Many saw the BMPIU as a great idea, but maintained that it had failed to combat corruption effectively in public procurement. However, the wider public were not well informed on the workings of the institution; many had heard of Due Process, but did not have the faintest idea what function the unit serves.

1.4.3 Shortcomings

Stakeholders identified problems with the institution to include: human influence (such as internal manipulation by staff for pecuniary advantage), lack of adequate training for staff, delays in Due Process certification and activities of the unit being advertised inadequately.

1.4.4 Effect on service delivery

The relationship between the BMPIU and public service delivery was perceived as being distant, as services in many of government sectors are still not delivered effectively. However, a majority of the stakeholders interviewed accepted that the pricing system in government procurement is better organized compared to previously and they attribute this to the ongoing reforms of which the BMPIU is a part.

1.4.5 Value for money

The BMPIU has been described by the government as having delivered effectively in terms of value for government money, since many government projects are now executed at the 'right' cost (for example, see 'Sustaining Due Process in the Polity', BusinessDAY, December 5, 2005). That is, it has reduced overcharging on government projects through rigorous checks and controls.

1.4.6 Budget performance

Stakeholders believe that the requirement for a medium-term expenditure framework, which was instituted alongside the Due Process reforms, has helped to clean up the budgeting process, as funds are no longer applied arbitrarily, but are set under specified budget headings over a period of time.

In conclusion, the establishment of the BMPIU to combat corruption in contract procurement is commendable in terms of its objectives. However, the impact of the unit has not been particularly widespread and it is perceived to be not as effective as other anti-corruption measures. This is largely the case because the public it is meant to serve are not sufficiently aware of its activities. The unnecessarily long process of certification has also been described as a major impediment to effective delivery on its mandate to be a mechanism against corruption.

2. Background

2.1 Purpose of the study

This study is a review of accountability initiatives in infrastructure delivery and the nature of the impact of enhanced accountability on pro-poor service delivery. The project sought to provide empirical evidence on the quality of government spending in Nigeria, focusing on the Budget Monitoring and Price Intelligence Unit (BMPIU) as a key government reform agency established to combat corruption in public procurement. The research was designed and undertaken by the Integrity Organisation, a not-for-profit and non-governmental organization. The research was, however, tailored to conform to guidelines issued by the Water Engineering Development Centre (WEDC) as the contracting organization.

Specifically, this study sought to provide the following:

- **An objective appraisal of the BMPIU** – What is the BMPIU and how does it fit into Nigeria's overall government procurement reforms framework?
- **An assessment of the BMPIU's delivery on its mandate** – Is the BMPIU meeting the objectives for which it was created?
- **An assessment of the BMPIU's impact on service delivery** – Has the unit's performance produced a net positive impact on the effectiveness and efficiency of government service delivery?
- **An appraisal of its impact on value for money** – Has there been improvement in value for money provided by government public expenditure?
- **An assessment of the BMPIU's impact on budget performance** – Has the unit resulted in better budget performance by the government, as reflected in better output, impact and outcomes?

2.2 Methodology

Both qualitative and quantitative techniques of data gathering were used.

Two main qualitative methods were adopted for the study, viz:

- Focus group discussions (FGDs) using the mini-group approach. This was conducted by bringing together four or five eligible individuals under the guidance of a moderator to discuss issues of interest.
- Individual depth interviews (IDIs) using semi-structured questionnaires and conducted amongst staff members of the BMPIU units and contractors from federal agencies. The rationale for using this method amongst this segment was in consideration of the tight schedules of the proposed respondents, which prevented them from staying away for too long outside their offices. In addition, sensitive issues may not be freely discussed in a group situation. Furthermore, this technique was employed to elicit objective and forthright responses from this category of respondents.

The quantitative research method on the other hand involved:

- The 'simple random route walk' technique, which was used for the selection of respondents to be interviewed (this involves random selection of respondents, but is location-specific – for example, the contractors interviewed were located in the respective ministries with which they had dealings); and

- The face-to-face interviewing technique, which was conducted using a structured questionnaire.

There were diverse categories of respondents, including Due Process unit staff from selected ministries, departments and agencies, contractors, suppliers and end-users. More specifically, the respondents were drawn from:

- The Ministry of Health – one Due Process unit staff member and two independent contractors;
- The Ministry of Finance – one Due Process unit staff member and two independent contractors;
- The Ministry of Education – one Due Process unit staff member and two independent contractors;
- The Federal Capital Territory Administration – one Due Process unit staff member;
- Two independent suppliers who had to pass through the Due Process unit in the course of their work; and
- 80 service beneficiaries.

The researchers encountered some setbacks with regards to their early desire to deal directly with the BMPIU. The head of the unit, which is itself located in the presidential villa, met with the research team, but declined any form of interview, insisting that he needed clearance from the President before he could grant an interview or discuss his work at the BMPIU. Throughout the duration of this research, that approval never came; neither did the team have any further access to the unit head.

This disinclination to speak with the research team was rooted in the oath of official secrecy that is sworn by all civil servants in Nigeria, whereby they promise not to divulge any information acquired in the course of executing their official duties to any third parties or other individuals without prior approval of the relevant authorities. This in itself is a provision of the civil service rules that many citizens find most undesirable, as many officials use it as an excuse to deny them access to otherwise relevant information. In some cases, civil servants hide behind this same clause in order to engage in corrupt activities. Efforts have been made on several fronts to persuade the government to either abolish this provision or relax it to allow citizens access to government-held information. Some of the steps taken in this respect include persistent calls on the National Assembly to pass a freedom of information bill, which has been before parliament since 2000.

Nor was the research team able to find any individual or contractor that would speak of a specific instance of bribery or corrupt activity they were wholly engaged in or were a part of. Some, however, indicated that they themselves have had cause to offer a bribe to access a particular government service at sometime or another.

3. Description of basic infrastructure

3.1 Power

Energy provision in Nigeria is largely the duty of the federal (central) government. This the government operates through a corporation known as the Power Holding Company of Nigeria (PHCN), which was created out of the National Electric Power Authority (NEPA) in preparation for deregulation in 2005. As of 2006, Nigeria was generating 3,500 megawatts (MW) of electricity, far below the 20,000MW minimum power requirements of the country's 140 million people. In a bid to make up this shortfall, the present administration has put in place mechanisms for the privatization and decentralization of power generation, although transmission will remain largely with federal government. In furtherance of this initiative, a number of licenses have been issued to both states and individuals for the building and operation of independent power plants. At the time of writing, a few had already commenced operation while quite a number are at the planning stage.

Over the years, power supply in Nigeria has been sporadic and unpredictable, with only a few urban centres – mostly state capital cities – having a fairly reasonable to near-constant supply of electricity. In such places, the urban poor are comparatively lucky as a few miles away from these urban centres are other cities and towns whose power situation can only be described as below average to non-existent.

3.2 Street lighting

Only a handful of state capital cities have street lighting and even then lighting tends to be either broken or not utilized, except in official or residential areas and streets that accommodate top government functionaries. The urban poor who live just outside the capital cities or in the suburbs seldom have the benefit of street lighting services. However, given that the state of power supply is hugely insufficient, it is understandable that people living in such areas would rather have light for domestic use rather than in the streets.

3.3 Solid waste management

Solid waste management is handled both by states and local government authorities in Nigeria. In the Federal Capital Territory (FCT), where research for this project was concentrated, Abuja Environmental Protection Board (AEPB) is responsible for the collection, disposal and treatment of solid waste with minimal negative impact on the environment and residents. The Board regulates solid waste management and sanctions defaulters who fail to pay their bills for these services. The AEPB is also responsible for waste collection in satellite towns and some area councils. The responsibilities of the AEPB are drawn from Decree 10 of 1997.

At the time of writing, solid waste management responsibilities in the FCT were shared between the public and private sectors, with the public sector having a predominant role. Until recently (that is, until June 2004), it was the sole responsibility of the government to undertake the management of solid waste in the territory.

Within the Federal Capital City (FCC), Abuja, waste collection has been fully contracted out (under concessions) to private waste management firms, with their involvement limited to solid waste collection only. As of 2006, collected waste was being dumped at a makeshift dumpsite along the Outer Northern Express Way. This dumpsite serves as the final disposal site – the waste is not treated in any form and the dumpsite was not originally designed for the purpose for which it was being used at the time of writing. This in itself poses a considerable health hazard to the surrounding residents.

Solid waste management poses a difficult challenge to the FCT and its environs, where population growth and changes in consumption patterns are generating increased volumes of waste and existing facilities for the management of that waste are inadequate, overstretched or completely unavailable. Furthermore, priority in waste collection and disposal has been given to the FCC to the detriment of satellite towns and area councils.

The present administration was, however, at the time of writing working on a comprehensive waste management policy. The government anticipates the continued involvement of private solid waste management firms in the development and implementation of this policy. It intends to outline a variety of opportunities for increased involvement of the private sector, while redefining new roles for the public sector.

3.4 Public toilets

The provision of public toilets in Nigeria is the direct responsibility of local governments and area councils. However, this provision does not feature prominently in the lives of Nigerians as most citizens have access to one form of toilet or another, regardless of how inadequate that may be. Public toilets are, therefore, generally provided in public parks and recreation centres only by the respective authorities in charge of such facilities.

In Abuja, for example, public toilets are provided by the Federal Capital Territory Administration (FCTA) and contracted out to private individuals or small firms to manage and then make remittances to the FCTA as revenue. These toilets are used by citizens who pay by token, which is expected to provide for the maintenance and cleaning of the facilities.

3.5 Roads and pavements

Roads in Nigeria are provided at three levels: the federal government is responsible for the provision of federal roads, which mostly network the entire country; state governments provide state roads, which network the main cities and towns in a state; and local governments and area councils provide feeder roads, which are mainly just paved roads, often lacking the minimum-required final finishing. Wealthy individuals, especially in eastern parts of the country, have also assisted with provision of roads to whole communities. A negligible percentage of access roads of varying quality are also provided by individuals or organizations to service their private interests, investments or even residential dwellings.

Pavements along roads are a common sight in the more modern cities, such as Abuja, state capitals and some fairly large towns. It should be noted, however, that these pavements often provide little more than just road demarcations and/or boundaries.

3.6 Drainage

Drains are part of virtually all major roads and streets in major cities and towns in Nigeria. Though they may be broken every now and then or blocked (very often) drainage systems are at least provided. However, in the suburbs where the urban poor live, drains along roads are seldom adequate or may not be provided at all. This situation is even worse in slums that have not been properly planned; as such there are no demarcations or paths for drainage systems. In such cases, natural flow takes place, creating situations where rainwater and other waste may pass through residential houses or right in front of the entrances to people's homes.

3.7 Sewerage

There are two basic types of sewer systems in Nigeria: central sewers and septic tanks or soak away pits. Central sewers exist in a handful of cities and in some very high-class residential estates.

The FCC, for example, has a mixture of both types of sewer systems. Most of development around phases 1, 2 and 3 of the master plan (in specific areas of the city) is networked to central sewers; however, the waste ends up in untreated and inadequate disposal sites.

Other parts of Abuja and surrounding satellite towns have the more common house-to-house or property-to-property septic tanks and sewers that are often buried in the compounds or property spaces. In this system, the sewerage collects in the septic tanks with the liquid portion absorbed into the ground while the solids settle at the bottom. Once the tanks are full – as often is the case in many situations, due to the high density of population competing for space in the FCC and surrounding settlements – the sewerage is siphoned out using specialized sewage disposal trucks in the more urban areas or manually evacuated by ‘night soil men’ as they are popularly known, using hand-held implements such as buckets and specially designed scoopers. These too all end up in untreated disposal sites.

3.8 Water supply

Water supply, in common with power generation, is far below that required by the Nigerian people. There are four basic sources of water: public water supply systems pumped from earth dams; bore holes or deep wells; and rivers, streams and springs. The water is transported through various means to reach consumers. Some distribution channels and methods include: water pipes, water tankers, water kegs transported by truck pushers and the traditional system whereby individuals, especially women, draw water using diverse kinds of carriers.

In most cases people on medium to high incomes are dependent on automatic or manually drilled boreholes or deep wells. Meanwhile low-income groups and the urban poor make do with a sporadic public supply where available, buy drinking water from water vendors and/or resort to using rivers and streams to meet other domestic needs. In recent years, even the FCC has faced a seriously inadequate water supply. The government, however, has promised that the residents of Abuja and its environs will soon see improvements as work on a project expanding the water supply is nearing completion (October 2007 according to the chairman of the FCTA). It is expected that this work will provide an adequate quantity of water for the ever-growing population of the FCT, now put at about 1.5 million inhabitants.

3.9 Main sources of livelihood

Livelihoods are complex systems of decision-making whereby households seek to improve their well-being by obtaining and allocating different kinds of resources. Households compile bundle of resources, often referred to as different forms of capital (human, physical, natural, social, political, financial and so on) through such access routes as reproduction, socio-cultural institutions, markets and public policies. Households also allocate these assets in a manner that is intended to increase their level of well-being. Well-being itself may be described as ‘a set of security outcomes’ (for example, food security, income security, political security, health security and so forth). Households that make similar types of decisions, have similar stocks of resources and experience similar levels of well-being are said to share the same ‘livelihood systems’ (Emelue, 2006).

Households do not exist in isolation, but in diverse relationships with other households and social units. They also occupy a physical space, the environment, which varies greatly across diverse landscapes. The relationships of households with the socio-economic, cultural, political and physical environment define the context in which livelihood systems exist. Changes in these contextual factors will directly or indirectly affect livelihood assets, strategies and outcomes. No single factor determines the well-being of households, rather an array of criteria are involved including access to health, basic education, cultural expression, security of lives and property, political freedom and so on.

Ideally, pro-poor policies are designed and targeted at improving the well-being of those on low incomes and the less privileged in society. The extent to which outcomes of such decision-making impacts upon factors that shape the well-being of households determines the success level of a pro-poor policy.

Infrastructure delivery is a key determinant of the well-being of households, as its availability opens up various doors and windows of opportunity that significantly shape livelihoods. A number of livelihood parameters were investigated amongst low- to medium-class of urban dwellers in Abuja, the Federal Capital City of Nigeria.

The researchers began by enquiring what sector of employment the interviewees belonged to. As Table 1 shows, the bulk, about 59 per cent of the respondents interviewed for this study, indicated that they work in the public sector (government ministries, departments and agencies). Business and private enterprise were the other areas from which respondents earned their livelihoods, while some indicated more than one source of income. This shows that a considerable percentage of Abuja's residents and its surrounding satellite towns are civil servants.

Table 1. Respondents' sources of livelihood

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Micro-enterprise/self employed	17	9	8
Agriculture	1	1	0
Saving/remittances/pension	3	1	2
NGO	3	1	2
Business	21	10	11
Public sector (government)	47	23	24
Informal employment	3	2	1

Nearly 80 per cent of respondents indicated that the security of their lives and property was quite adequate where they live. However, the remaining 20 per cent described their place of abode as unsafe or very unsafe, attributing this feeling of insecurity to the absence of a police presence anywhere near their dwelling places. The high sense of security expressed here could be as a result of the location within the FCC and its environs, which is Nigeria's 'seat of power'.

Table 2. Safety in place of abode

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Very safe	24	12	12
Safe	39	19	20
Unsafe	11	4	7
Very unsafe	6	4	2

Table 3. Reasons for saying very safe/safe

		Sex	
	Total	Male	Female
No. saying very safe/safe:	63	31	32
There is police patrol team at night in this area	23	13	10
We have private security guard in our area	16	6	10
No case of insecurity of life and properties	16	8	8
The area is close to police station	8	5	3

As Table 3 indicates, respondents (37 per cent) claim that the presence of a police patrol team is the main reason why they say their place of abode is very safe or safe.

Table 4. Reasons for saying very unsafe/unsafe

		Sex	
	Total	Male	Female
No. saying very unsafe/unsafe:	17	8	9
Thieves come here to disturb us	10	5	5
Because there is no security of life and properties	4	1	3
Because there is no police post/ policemen in my area	2	0	2
Others	3	2	1

As Table 4 indicates, 59 per cent of respondents claimed their place of abode to be unsafe or very unsafe because of frequent robberies; in interviews respondents attributed this insecurity to the absence of a police post.

When asked how secure the respondents were health-wise, 65 per cent said they had access to health facilities and programmes, while 39 per cent indicated that they did not feel very safe or protected from diseases and other health hazards (see Table 5). This was mainly attributed to high rates of environmental pollution, leakages in water-carrying pipes, improper and inadequate drainage, absence of organized refuse collection and disposal and absence of legislation concerning sanitation.

Table 5. Presence of health risks in place of abode

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Yes	31	18	13
No	49	21	28

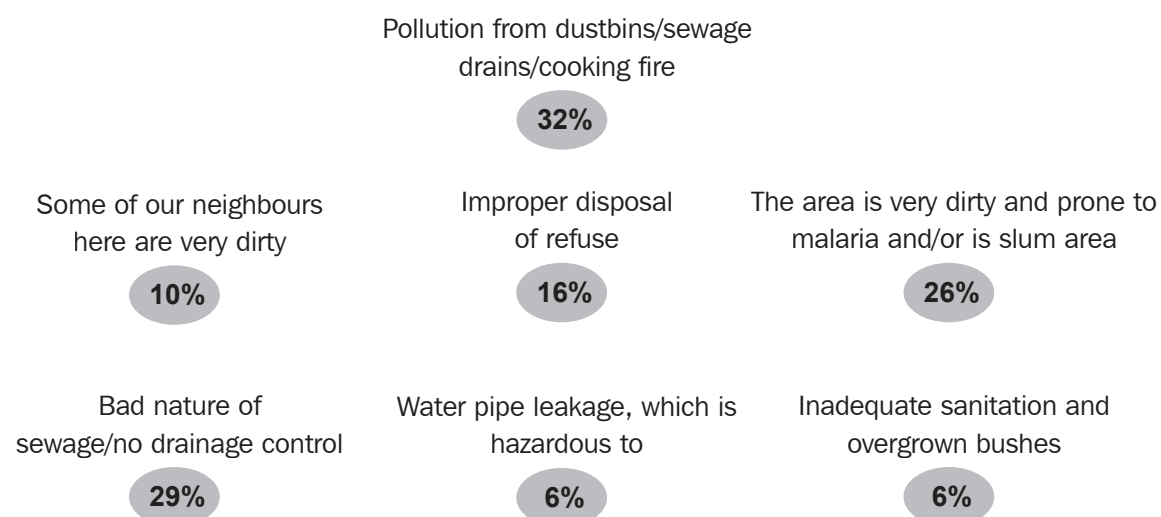


Figure 1. Causes of health risks

As shown in the following tables, in terms of threats of removal from dwelling places, a majority of the respondents indicated that they had never experienced such threats from landlords, property developers or landowners. A few, however, have been affected by the government's efforts at restoring the Abuja master plan and as such have had their houses and/or business premises destroyed without any form of compensation whatsoever.

Table 6. Threat of removal from landlords

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Yes	5	4	1
No	75	35	40

Table 7. Threat of removal from property developers

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Yes	5	4	1
No	75	35	40

Table 8. Description of feelings when threatened

		Sex	
	Total	Male	Female
No. Interviewed:	12	9	3
I was highly annoyed/provoked	4	3	1
I was highly embarrassed/felt unsafe	4	3	1
Others	4	3	1

Apparently, most victims of such threats are lower-class citizens. Feelings of insecurity and embarrassment usually follow a threat of removal. It is a fact that there is no housing security in Abuja, as many have been recently rendered homeless. Nonetheless, the study carried out amongst 80 residents of Abuja township revealed that about 90 per cent have not faced any threat of removal from landlords, property developers or land owners.

Over half of the respondents interviewed (68 per cent) believed they did not have a voice in decisions about how the city is run, because they do not have the opportunity to participate in decision-making (see Table 9). Some, on the other hand, believe that governance is not their business as they are not civil servants.

Table 9. Voice in decisions about how the city is run

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Yes	26	16	10
No	54	23	31

3.10 Ethnic groups

Nigeria is indeed a unique country with over 300 languages, diverse kinds of people from various backgrounds that were brought together by the amalgamation in 1914. Today there are major and minor ethnic groups including the Ibos, who dominate eastern parts of Nigeria and are well known for their participation in business. The Yorubas form a majority in western parts and stand out as academics. The north of the country is predominantly Hausa-Fulani, this group taking a lead in farming, especially grains production.

There are three major religions in Nigeria, the largest in terms of population being Christianity, followed by Islam and others who practice the African traditional religion.

4. An overview of corruption in Nigeria

Pervasive corruption in Nigeria has brought about untold hardship and incalculable damage to the economy. Corruption over the years has evolved from obscurity in the past to attain such massive and widespread proportions that it has become the norm rather than the exception in the daily lives of today's Nigerians.

Corruption impacts directly on economic, political and social development. Recent events in Nigeria have established without doubt, massive waste and distortions inflicted on the people and systems as a result of corruption. Without checks and balances, corruption a hydra-headed monster that grows like a cancer, undermining growth, production and productivity, distorting service delivery and short-changing citizens in favour of a few. This situation is reflected in dysfunctional infrastructure and support services, whereby funds available for projects are diverted to unproductive use or embezzled. Corruption mostly occurs at the point of interface between the public and private sectors, where there is a direct responsibility for the provision of a desired service, or the application of specific regulations or levies.

The Cambridge International Dictionary of English (1996) defines corruption as a dishonest way of using one's position or power to one's own advantage, especially for money. It is a morally bad act, a practice that affects the growth and development of any nation or society. Corruption can also be defined as the abuse of public office for private gain. Public office can be said to have been abused for private gain when an official accepts, solicits or extorts a bribe. It is also abused when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit. Public office can also be abused for personal benefit, even if no bribery occurs, through patronage and nepotism, the theft of state assets or the diversion of state revenues. Public office is abused when services are paid for and not delivered to the citizenry and it is abused when the quality of goods and services provided is of low quality and are not sustainable.

Common to both the public and private sectors are organizational imperfections that breed inefficiency and unsatisfactory delivery of goods and services, thereby causing the disadvantaged to resort to corrupt practices to circumvent the bottlenecks and constraints that prevent their access to the scarce resources available. To a large extent this is the current state of public institutions in Nigeria, most of which have been crippled by diverse imperfections – ranging from the recruitment of poorly skilled employees to sourcing inadequate material for the effective delivery of tasks. Malpractice in public procurement, and routine demands for bribes by public officials in charge of procurement and contracting, increases the cost of doing business and providing goods and services. Such corruption also promotes unproductive investments, a decline in infrastructure and worsens a country's indebtedness. Indeed this has been Nigeria's experience in the recent past, whereby a huge percentage of the nation's annual budget was used for debt servicing thereby depriving the people of viable and much needed capital projects for improved livelihoods.

Formal rules of behaviour governing transactions, contracts or co-operation between parties cannot always be upheld due to weaknesses in key institutions. Informal rules of behaviour cannot be trusted either, due to a seeming collective preference for opportunism. 'They will chance you!' This probably already demonstrates to outsiders that principal/agent relationships will be ruled by asymmetric information and a lack of transparency, so leading to sub-optimal contracts.

It is widely believed that corruption thrives in Nigeria, largely because the most basic things of life are not immediately accessible. At the same time, fear of poverty drives people in that position to attempt not only to liberate themselves, but also to store up wealth for future generations.

Where good moral standards are not a shared value and sanctions against deviance are weak and rewards for compliance poor, it is not possible to maintain a level playing field. Over the years, as leader after leader and administration after administration have demonstrated the need to 'do something' about corruption and yet people have seen little or no direct consequences, Nigeria's collective value system has come under intense pressure. According to Mohammed Ningi, a transporter from Gombe State, 'corruption starts at the leadership because followers follow what the leaders are doing and copy what is happening at the top. If the leaders do not show financial discipline, the followers cannot show it too'.

There are diverse excuses given for becoming involved in corrupt practices in Nigeria and these range from a lack of access to affordable finance (credit), markets and know-how to the absence of a 'democracy dividend'. The democracy dividend is described as consisting of:

- effective and efficient service delivery;
- improvements in the standard of living of citizens;
- equity and sustainability; and
- voice and participation.

Further analysis of the history of corruption in both the private and public sectors in Nigeria reveals that it is fuelled by one or more of the following factors:

- bad governance;
- inefficient management of state institutions;
- failure to respect the rules of law, transparency and accountability;
- absence of democratic institutions;
- repression of the civil society and other centres of opposition;
- capacity deficiency on the part of civil society;
- a weak and corrupt bureaucracy;
- military rule and the centralization of political power;
- little press freedom (the presence of 'gag-laws'); and
- a top-to-bottom approach to developmental issues.

Forms of corrupt activities prevalent in Nigeria include political corruption, bureaucratic corruption, electoral corruption, embezzlement and bribery. Political corruption, which takes place at the highest levels of political authority, is a 'corruption of greed.' It affects the manner in which decisions are made, and manipulates and distorts political institutions and rules of procedure. Bureaucratic corruption, which occurs in public administration or the implementation-end of politics, is 'low-level' and 'street-level' corruption. This is the type of corruption that citizens encounter daily at places like hospitals, schools, local licensing offices, when they meet police officers, at taxing offices and so on. It is petty – a 'corruption of need' – that occurs when a person obtains a service from the public sector through inappropriate means. Electoral corruption, meanwhile, includes purchase of votes, promises of office or special favours, coercion, intimidation and interference with the freedom to elect through legitimate means. Corruption in office involves the sale of legislative votes, administrative or judicial decisions, or the sale of governmental appointments. The other forms of corruption then are embezzlement (theft of public resources by public officials) and bribery (persuading officials to act improperly by a gift of money, for example).

The remedy to all forms of excuses given by Nigerians for continuing to indulge in corrupt practices (described above) is addressed in the key strategies of the National Economic Empowerment and Development Strategy (NEEDS). The key strategies are:

- To change the way the government does its work, including public sector reforms, privatization and liberalization, improved governance, transparency and anti-corruption strategies, improved service delivery, budget and expenditure reforms;
- To empower people through improved health, education, environment, integrated rural development, housing development, employment and youth development, safety nets, ensuring gender and geo-political balance, and pension reforms; and
- To promote private enterprise through improved security and rule of law, infrastructure, finance, sectoral strategies, privatization and liberalization, trade, regional integration and globalization.

The strategy to empower people puts a human face on the costs of corruption. Corruption has impacted on the ability of the country to meet the Millennium Development Goals (MDGs). For instance, according to Transparency International (TI), corruption has intensified poverty, prevented the nation from capitalizing on its internal resources, reduced aid effectiveness and contributed to hunger and malnutrition.

4.1 Corruption and public perceptions

There is hardly a sphere of society that does not have its peculiarities with respect to types and forms of corrupt practices. On the quality and availability of public services, a recent governance and corruption diagnostic survey of Nigeria revealed that more than one in three households believe the services delivered by the water board, public health departments, public education, the power authority, the national telecommunications company and many other essential services to be poor or very poor, with the worst rating reserved for the Nigerian police. Nigerians yearn for the dividends of democracy; rather they continue to reap the costs of corruption. Seventy-Seven per cent of public officials, 65 per cent of households and 42 per cent of enterprises believe a system of patronage exists with public office holders (so threatening the principle of equity). Seventy per cent of public officials, 60 per cent of households and 42 per cent of enterprises believe that bribes paid to public officials to avoid taxes and regulation have a very significant or significant impact on their well-being. In other words, corruption threatens the sustainability of government programmes meant to deliver improvements in the living standards of the people and public officials know it.

According to Table 10, about 46 per cent of respondents interviewed described corruption as bribery – that is, illegal money being offered and/or accepted to deliver services that should have been delivered for free. This suggests that bribery is the most common form of corruption known to the respondents, closely followed by misappropriation and embezzlement of public funds by government officials and politicians. The respondents also suggested that corruption in public services had been on the increase since the return to a civilian democratic political system in 1999. They implied that more people now have opportunity to loot the nation's treasury than they did during the military era (1983-1999). This assertion is further strengthened by the respondents' examples of corrupt practices, as shown in Table 11.

Table 10. Understanding of the word corruption
(Respondents were able to choose more than one category)

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Bribing, which means illegal giving out and taking of money	37	16	21
Stealing money/embezzlement of public funds	13	5	8
Misappropriation of funds	7	4	3
It's an immoral act/ indiscipline being exhibited by some officials	8	5	3
Inability of a person or group to perform their duty justly	7	5	2
It means cheating people	3	2	1
Disobeying the rules as laid down / the constitution	5	3	2
Taking things that do not belong to you	5	3	2

Table 11. Examples of corruption
(Respondents were able to choose more than one category)

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Bribing	34	15	19
Misappropriation of public funds	18	9	9
Embezzlement for private use	13	4	9
Extortion from motorist	8	3	5
Examination malpractice	4	1	3
Cheating	5	3	2
Greediness/selfishness	3	1	2
Prostitution	3	1	2
Stealing of government properties	11	7	4
Paying for what you didn't do	4	2	2

Forty-six per cent of the respondents saw bribery to be the most common example of corruption. This is not unconnected to the fact that bribery is the very common, day-to-day form of corruption that occurs in virtually every sphere. Encounters include various levels of dealings with public agencies, as with employment and job seeking (where those who pay receive privileged information or may be the only ones to get application forms), land registration and applications, licensing, motor vehicle registrations and licensing, tenement rates payment, and rents and taxes on business premises. The media is rife with daily news of one act of corruption or another, especially public officials taking undue advantage of citizens. Anti-corruption agencies, on the other hand, are embarking on diverse initiatives to inform the public of their activities and achievements. Court cases are also now publicized as soon as they are admitted in court, as is permitted by law. However, it should be noted that not all cases of corruption taken to court by anti-corruption agencies turn out in favour of those agencies; some alleged offenders are acquitted, while the same media that saw their arraignment as news often fails to inform the public of their innocence. This trend leaves many with incorrect information and consequently affects people's perceptions and their opinions of corruption.

The following tables show respondents' perceptions of the level of corruption in the various sectors of Nigerian society.

Table 12. Perceived level of corruption in the public sector

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Very high	66	31	35
High	10	7	3
Moderate	4	1	3

A majority (83 per cent) of the respondents believed corruption in the public sector to be very high.

Table 13. Perceived level of corruption in the private sector

		Sex	
	Total	Male	Female
No. Interviewed:	81	39	41
Very high	26	11	15
High	12	6	6
Moderate	28	14	14
Low	13	7	6
Very low	2	1	1

Thirty-five per cent of respondents considered the level of corruption in the private sector to be moderate.

Table 14. Perceived level of corruption in NGOs

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Very high	9	4	5
High	11	2	9
Moderate	13	7	6
Low	22	12	10
Very low	25	14	11

The level of corruption in NGOs was believed to be mainly low or very low.

4.1.1 How serious do respondents perceive the impact of corruption to be by sector?

Respondents considered corruption to be a particularly serious problem in the business and education sectors (43 per cent and 38 per cent respectively).

Table 15. In what sectors is corruption considered to be a serious problem? (Respondents were able to choose more than one category)

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Business	34	14	20
Education	30	17	13
Community organisations	20	9	11
Religious Institutions	12	9	3
Sport	17	7	10

4.1.2 Respondents' perceptions of the main causes of corruption

What are the causes of corruption and why do people choose to be corrupt rather than honest? Quite a number of reasons were given as motivating factor, either on one off basis or as a way of life.

Some believe being corrupt offers the easiest way – or indeed the only way – to get what they want. People on low wages try to justify engaging in corrupt practices, having convinced themselves that they have no other option if they are to meet their needs. They have to demand bribes if they are to make a living.

Another trend responsible for corrupt practices in the Nigerian context is fear of aging. Until recently the pensions system in Nigeria has been in crisis. Many retire from active service in their sixties and are unable to access their pensions and other sums owing to them for years on end. Coupled with

the very low wages paid for public service, civil servants tell themselves they have to prepare for the future given a system of pensions they are almost certain will not provide for them.

When those who extort bribes or pay them to gain an unfair advantage go unpunished, few are prepared to 'swim against the tide'. Refusal to sanction corrupt practices promptly signals acceptance, thereby encouraging others to do likewise.

Two powerful forces have been identified in this study as being responsible for fanning the fires of corruption: poverty, and selfishness and greed. Because of selfishness, corrupt people turn a blind eye to the suffering that their corrupt practices inflict on others, justifying bribery simply because they themselves benefit from it. At times, a bribe may provide a convenient means of avoiding punishment and as corruption snowballs, it becomes more acceptable until it eventually becomes a way of life.

Table 16. What are considered to be the main causes of corruption in society?

(Respondents were able to choose more than one category)

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Poverty/hunger	45	18	27
Greed/selfish interest	40	18	22
Unemployment	12	7	5
Bad leadership/lack of good leadership	6	4	2
Laziness	6	1	5
Influence of money	7	4	3
Tribalism	4	1	3
Economic system of the country	3	1	2
Fear/thinking of old age	3	1	2

Respondents were of the opinion that poverty (56 per cent) and greediness/selfishness (50 per cent) are the main causes of corruption.

4.2 Corruption in public procurement

Public procurement is a complex matter in a two-dimensional way. First, it represents many different situations, anything from the construction work of a new international airport to the acquisition of pencils. Second, the tender procedures usually include several steps, from designing the tender to evaluating the bids. Both the procedures and the opportunities for corruption vary significantly among the categories of procurement. *(Soreide, 2002)*.

International Competitive Bidding (ICB) provides clearly articulated stages that should be involved in public procurement. These stages include:

- (1) The choice of what to request
- (2) The tender design, including the technical tender specifications and criteria of evaluation
- (3) Pre-qualification/qualification/short-listing
- (4) The tender
- (5) Evaluation/contract award
- (6) Negotiations/final agreement
- (7) Execution/delivery
- (8) Evaluation/controls.

The ICB procurement guidelines provide details of the stages above enumerated, with their guiding principles, aimed at ensuring fair competition and value for money. In some instances, however, purposeful manipulations of the rules that govern the various stages, result in neglect or sidestepping the rules and either basing the procurement on negotiations only or ignoring one or more stages in the process, so creating doubt in the transparency of the process.

Pull factors in public procurement include: the *amount of money* involved, the *complexity* of the technology involved, the *urgency* to acquire the goods or *immediacy* of the project, as well as the *discretionary authority* amongst public officials.

4.2.1 Invitations to tender

Officials ensure that only a limited number of the invited enterprises receive the invitation. This becomes more efficient when combined with restrictions in time. The public acquisition and the call for bids may be exposed for a very short time, so that only the company or companies already informed have time to prepare the tender documents. Making the call for tender public during public holidays, when most administrative offices are closed, has the same effect, with very close deadlines for the presentation of the application. In other cases, time restrictions may even provide the preferred company with a monopoly situation, resulting in monopoly prices and inflated contract costs.

4.2.2 Bids/tender document preparation

Cases are known in some procurement agencies, where the staff of the agency assist contractors and interested companies in preparing the bid/tender documents, either at an initial price or a percentage of the procurement contract. Where this occurs often times, such contractors or company/ies of course have an upper hand as the staff of the agency have to work to ensure that the contract is won by their candidate to secure adequate delivery of their 'returns'.

4.2.3 Pre-qualification and short-listing

Officials draw up criteria for basic qualifications for companies to meet in order to qualify for tender. The criteria may be technical expertise, past experience, financial capability or other. Corruption occurs at this stage by ensuring that the criteria are drawn up to suit a particular company or companies while leaving others at a disadvantage. Preparing a short-listing for eligible companies therefore see the 'favoured' firms as a priority.

4.2.4 Choice of technology

Corrupt officials could also draw up tender documents requesting particular qualifications, which confer undue advantages on a 'favoured' company. When it seems obvious that several competitors

had a better offer, the contract award may be justified by the extreme importance of one particular evaluation element.

4.2.5 Confidential information

Privileged information will always confer undue advantage on the beneficiary company. Confidential information may also be bought for bargaining. Negotiations between the government and the chosen contractor on the terms of agreement are common in projects of significant size and complexity. For the company, it will be easier to improve the contractual conditions when it is provided with confidential information about the other bids.

4.2.7 External consultants

In most countries, where expertise is lacking in diverse fields of specialization by the staff of the Due Process technical/audit teams, the services of external contractors are employed to monitor and evaluate the procurement or project execution. These external consultants have to offer satisfactory job clearance/payment certificates to the executing companies before they are paid, normally in pre-determined stages except for a one-off purchase order. This is an area in public procurement that is also greatly prone to corruption as executing companies may connive with the external consultants to produce, supply or make use of sub-standard materials and yet have them approved at a price to the consultant. Worse still, the external consultants may offer job completion clearance/payment certificates to contractors without any such work been done. This is particularly possible where the internal monitoring and evaluation mechanism of the procurement agency is weak, understaffed and/or underfinanced.

BMPIU also monitors and evaluates its projects using zonal officers who work alongside the external consultants. It should be stated here, however, that the zonal officers themselves cannot be vouched for as 100 per cent tamperproof, so the same situation as above stated may apply.

4.2.8 Contract/price modifications

Price revisions, modifications of contract or obstacles to a quick payment of procurement contracts may be motivated by corruption. Changes to initial projects or supplementary works can be justified by new events or conditions found after the contract has been drawn up. When the bureaucratic capacity of projecting and planning is inefficient, such changes are more likely to occur. One explanation may be the incentive on the part of the contractor to manipulate decisions regarding modifications or additions to the original project, as this usually increases the enterprise's profits (also when rates for supplementary works are contractual). Hence, inadequacy among public officials in charge of the project can be misused by the executing enterprise (*Soreide, 2002*).

The enterprise's ability to understand deficiencies of the initial project and to forecast the nature and dimension of the changes may thus become important to win public procurement contracts in general. Bribes are paid in this context to obtain promises of changes and additions of the work, so that the enterprise can win the bid with an inferior offer. Similar agreements may also be settled once a project has started. On the other hand, the technical experts of the procurement department can be bribed to ignore work that is left out of the contract. Those who define what is to be counted as supplementary work may be corrupt. Or, the public officials may delete parts of the contract once the enterprise has won the tender, again in exchange for a pecuniary advantage.

4.3 Corruption in infrastructure delivery

Corruption in the delivery of goods and services manifests in diverse forms. Most importantly it prevents the Nigerian government from meeting pro-poor policies, thereby hampering the actualization of the Millennium Development Goals. Ways in which corruption in infrastructure procurement and delivery affect citizens include:

- School buildings that ought to be provided are not constructed, a result of misallocation of resources or outright embezzlement;
- Hospitals are poorly staffed, equipment is not purchased and drugs are not available for treatment of patients (fuelling the circulation of fake drugs in the market), all this as a result of the diversion of budgetary allocation to other uses;
- Environmental regulations remain unenforceable because of the presence of corrupt officials – leading to loss of livelihood, illness and poverty; and
- Potential investors see the Nigerian economy as being too risky to invest in. The magnitude of impact on daily business is reflected in dysfunctional infrastructural support services, whereby monies allocated for such projects are diverted to unproductive uses or embezzled. Consequently, investors have to provide such basic infrastructure as power, telecommunications, water and access roads. The cost of providing these facilities raises the overheads of companies, not only putting local investors at a serious disadvantage, but also ‘passing the buck’ by increasing the price of goods and services that end users have to pay.

A majority of the respondents expressed strong dissatisfaction with service provision; however, infrastructure in Abuja was rated above average when compared with that in other states in the Federation. This is understandable as it is being built deliberately to conform to new city standards the world over.

Table 17. What are considered to be the most corrupt infrastructure services?

(Respondents were able to choose more than one category)

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Power	54	26	28
Water Board	19	7	12
Education/Schools	18	8	10
Health /Hospitals	19	9	10
Telecommunications	13	5	8
Road/maintenance	11	5	6
Waste Management	4	3	1
Transportation	4	2	2

Most respondents ranked corruption in power provision to be the highest, though multiple responses were entertained. This was because they believe that most of the staff involved in power provision are corrupt and capitalize on the importance of power to livelihoods to extort and demand bribes to provide this service.

Table 18. Requests for bribes before service provision

		Sex	
	Total	Male	Female
No. Interviewed:	80	39	41
Yes	25	13	12
No	55	26	29

Well over half (69 per cent) of the respondents have not experienced a request for a bribe by service providers.

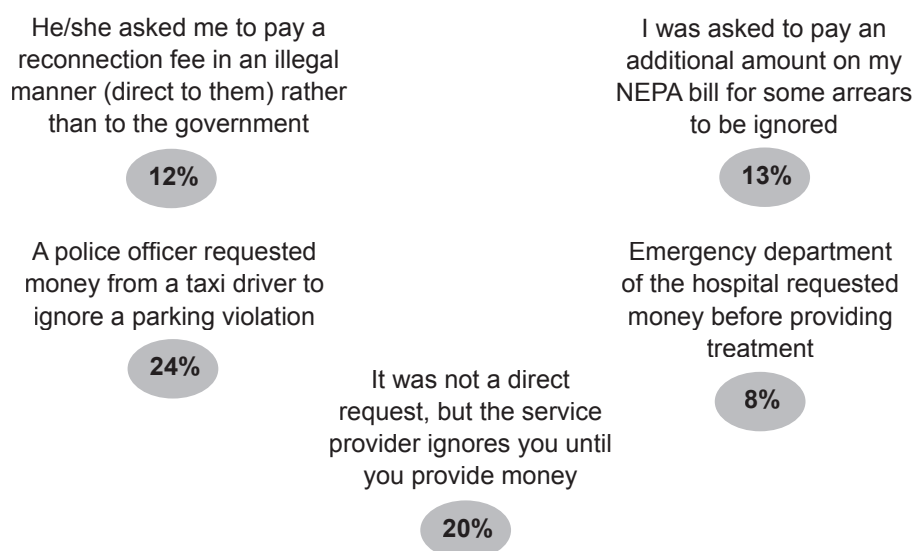


Figure 2. If a bribe was requested, what happened?

5. Government efforts at combating corruption

Efforts to fight corruption in Nigeria could be said to have gone on as long as the existence of the nation as an independent state. The need to fight corruption was in the past a major campaign for military coups and changes of government, and has to date remained a popular 'campaign slogan' for civilian administrations. The present government has since coming to power in 1999 set up diverse mechanisms to check the state of corruption in Nigeria. Some of these initiatives include:

5.1 Independent Corrupt Practices and Other Related Offences Commission (ICPC)

5.1.1 Enabling act/legislation

Established by the Independent Corrupt Practices and Other Related Offences Act 2000.

5.1.2 Functions

The Commission was inaugurated on 29 September 2000. Its duties as delineated in Section 6 (a-f) of the Act 2000 and can be summarized thus:

- Enforcement duties: to receive and investigate reports of corrupt offences as created by the Act and in appropriate cases prosecute the offender(s).
- Prevention duties: to examine, review and enforce the correction of corruption-prone systems and procedures of public bodies, with a view to eliminating or minimizing corruption in public life.
- Education duties: to educate and enlighten the public on and against corruption with a view to enlisting and fostering public support for the fight against it.

5.2 Economic and Financial Crimes Commission (EFCC)

5.2.1 Enabling act/legislation

Established in 2002.

5.2.2 Functions

The Act mandates the EFCC to combat financial and economic crimes. The Commission is empowered to prevent, investigate, prosecute and penalise economic and financial crimes and is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes, including:

- Economic and Financial Crimes Commission Establishment Act (2004)
- The Money Laundering Act 1995
- The Money Laundering (Prohibition) Act 2004
- The Advance Fee Fraud and Other Fraud Related Offences Act 1995
- The Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994
- The Banks and other Financial Institutions Act 1991; and
- Miscellaneous Offences Act 1995

5.3 Code of Conduct Bureau and Tribunal

5.3.1 Enabling act/legislation

Established by the federal government under the Code of Conduct Bureau and Tribunal Act, Chapter 56, Laws of the Federation of Nigeria 1990.

5.3.2 Functions

- To establish and maintain high standards of public morality in the conduct of government business and to ensure that the actions and behaviour of public officers conform to the highest standard of public morality and accountability.
- Where there is found to be a breach of the Code of Conduct or any law relating to it, the bureau will investigate and where appropriate refer such matters to the Code of Conduct Tribunal.

In 1999 the Code of Conduct was strengthened to further perform the following:

- To remove from office, public officers guilty of contravention of the code of honour drawn up by the bureau;
- To investigate complaints alleging corruption on part of public officers;
- To seize or cause to be forfeited to the state any property acquired due to abuse or corruption of office; and
- To mobilize the public to form a vanguard for anti-corruption.

5.4 Budget Monitoring and Price Intelligence Unit

5.4.1 Enabling act/legislation

Established within the presidency in 2002.

5.4.2 Functions

The unit was established:

- 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;
- To introduce more honesty, 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 and compliance with specifications and targets; and
- To ensure that only projects which have been budgeted for are admitted for execution.

6. Budget Monitoring and Price Intelligence Unit (Due Process)

Open abuses of rules and standards in the award and execution of public contracts in Nigeria were evident because of over-invoicing, inflation of contract costs, proliferation of white-elephant projects and the diversion of public funds through all kinds of manipulation of the contract system (BMPIU, The ABC of the Contract, 2006).

Furthermore, the vision of the BMPIU is to restore transparency, competition, competence, integrity and value for money in the award and execution of public contracts in Nigeria. The BMPIU therefore implemented a vigorous procurement reform agenda, which uses the 'Due Process' mechanism to restore openness, competition, budgetary discipline, optimal costs and efficient projects implementation in a planned and co-ordinated framework.

Since its inception, the BMPIU office declares it has helped the nation to save billions of naira in the form of reductions from inflated contract costs. It is believed that this success story has contributed to the recent debt relief granted to Nigeria.

The Due Process Unit was established within the executive arm of government in Nigeria. The Unit is designed to act as the clearing house for all government contracts and procurement of goods and services, and functions under three major strategies: the BMPIU's goal, its objectives and implementation.

6.1 The goal of the BMPIU

The goal of the BMPIU is to ensure full compliance with the guidelines and procedures as laid down for the procurement of capital and minor capital projects as well as for associated goods and services.

6.2 Objectives of the BMPIU

The objectives of the BMPIU are:

- To harmonize existing government policies/practices and update them on public procurement;
- To determine whether or not Due Process has been observed in the procurement of services and contracts;
- To introduce more honesty, 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 and compliance with specifications and targets; and
- To ensure that only projects which have been budgeted for are admitted for execution.

6.3 Implementation strategies

The BMPIU operates under the following guidelines: regulatory functions, certification functions, monitoring functions, and training and advisory functions.

6.3.1 A. Regulatory functions

- To regulate and set standards, including the enforcement of harmonized bidding and tender documents;
- To formulate the general policies and guidelines related to public sector procurement;
- To develop, update and maintain a related system-wide database and technology;
- To undertake procurement research and surveys in order to determine information needs and project costing; and
- To enforce professional ethics and sanction erring officers and professionals.

6.3.2 B. Certification functions

The Unit certifies all federal-wide procurements under the following guidelines:

- Resident Due Process Team Certification for projects below 50 million naira (N); and
- Full Due Process Certification for projects above N50 million at various stages such as 'contract award certificate' and 'payment certificate'.

6.3.4 C. Monitoring functions

- To supervise the implementation of established procurement policies;
- To monitor the prices of tendered items;
- To perform procurement audits;
- To undertake the monitoring of capital projects that have exceeded 50 per cent of contract sum before release of further funds; and
- To document all projects at award and completion stages, and publish same in designated journals.

6.3.5 D. Training and advisory functions

- To co-ordinate relevant training programmes so as to build institutional capacity;
- To embark on regular public enlightenment programmes so as to sensitize various stakeholders involved in procurement; and
- To interact with government and parastatal (public or state organization) officials, National Assembly members, consultants and relevant professional bodies so as to educate them on all aspects of the work of BMPIU.

6.4 Organization of due process certification

The Nigeria Treasury circular of 5 July 2002, 'Guidelines for Implementation of Due Process Certification of Contract', provides a plan for the implementation of the capital budget. Major sections of the Circular include:

6.4.1 Approval of contracts

6.4.1.1 Contracts below N1.0 million

The permanent secretary/chief executive of parastatals or of any ministry or agency can approve provided that Due Process is strictly observed. Advertisement of such projects must be placed on a notice board in a conspicuous location at the ministry, agency or department.

6.4.1.2 Contracts over N1.0 million, but below N50.0 million

A 'resident Due Process team' established by the ministry, parastatal or agency handles the Due Process review of all such contracts and also approves the award of the contracts. The members shall include:

- The permanent secretary/director general – as chairman
- The director of finance/accounts – as a member
- The director of research and statistics – as a member
- The director of administration/finance/supplies – as a member
- A representative of the BMPIU – as a member

The role of the BMPIU representative at meetings of the resident Due Process team is to observe compliance in order to facilitate the Unit's endorsements of the ministry, agency or department's internally generated certificate to which all the members of the team are signatories. These classes of projects require call for pre-qualification of contractors and must be advertised in at least two national newspapers or the Government Gazette/the Government Tenders Journal.

6.4.1.3 Contracts above N50.0 million

These shall be processed in accordance with government guidelines and approved by the Ministerial Tender Board before being forwarded to the BMPIU to obtain a Due Process certificate. When certification is obtained from the BMPIU, the project is forwarded to the Federal Executive Council for approval before an award can be made.

6.4.1.4 Due Process review procedure

The procedures for Due Process review are as follows:

a. Requirements for due process review:

- The project policy files
- Tender returns
- Tender evaluation report
- Contract award letter and agreement
- Original contract bills of quantities (if any)
- Contract drawings (if any)
- Other contract documents
- Financial summary and statements
- Progress reports
- Variation requests and variation orders arising
- Interim valuation and certificates

b. Preliminary discussion (between the BMPIU and beneficiary ministries)

There may be a need to schedule meetings between the BMPIU and beneficiary ministries or parastatals to clear issues connected with the report for certification. Such meetings may take place at pre-review and during the review exercise. The BMPIU may call for additional information from the ministries to facilitate the issuance of certification.

c. Preparation of draft report

Due Process certification requires an assessment to ensure that:

- The appropriation is available for the funding requirements of the project upon award; and
- The contract awarded by the spending unit/ministry shows that the process complies with open competitive bid standards and that the cost is comparable with national, regional and international standards.

d. Transmission of draft report

The draft report from the BMPIU is transmitted to the beneficiary confirming certification. If certification is not granted, attention of the beneficiaries is drawn to the findings and recommendations in the report.

e. Organization of 'right of reply' meeting

For a project where certification is denied, the BMPIU has made provisions for a 'right of reply' meeting aimed at clarifying issues leading to the denial of certification. Such a meeting may either lead to reconciling differences or confirming the position of the BMPIU.

f. Final report

The outcome of a 'right of reply' meeting will assist in fine-tuning the report and facilitating the issuance of a final report.

g. Granting or denying Due Process certification

The final report may either lead to the project being granted certification or being denied certification. Whatever the outcome, the decision is transmitted to the beneficiaries.

The granting of certification may lead to the project being recommended for approval by the Federal Executive Council. In cases where projects are denied certification, the beneficiaries may be advised to repackage the project for fresh procurement.

Rules of the contracting game:

- Advertisement requirements
- Pre-qualification process and criteria
- Invitation to tender: the technical and financial bid process
- Opening of tender
- The bid evaluation process
- Determination of winning bid

The review and certification process are handled carefully and professionally by a sector specialist from the BMPIU (Due Process Unit) with the Due Process checklist as the basic guide. Ministries, departments and agencies that comply by providing all the listed information (as applicable) contained in the Due Process checklist are issued with a Due Process certificate within the stated seven to ten working days from the date of submission of the request.

It is only after the Due Process certificate is obtained from the BMPIU that the ministry, department or agency (that is, the spending unit of that organization) can forward the project to the Federal Executive Council for final approval to award the contract.

To enhance effectiveness in public procurement spending, the executive arm of government has mandated that all ministries, agencies and parastatals of government, within and outside the country

and at all levels, must set up internal Due Process units. The units so created are empowered to certify public projects (contracts and supplies) to specific limits of financial expenditure.

Over the years, the BMPIU has embarked on diverse measures to instil its policies and provisions for improved public expenditure in service delivery. These measures include, amongst many others, organizing workshops and training sessions for various states of the federation and the FCTA, as well as the management of the National Assembly. The BMPIU has produced a number of publications intended to educate operators of the units, contractors and suppliers, and the general public on its activities. It is, however, very clear from the field exercise that the BMPIU has a long way to go in terms of educating stakeholders and the general public on its activities and modus operandi. The location of the BMPIU's operational office, which is in the presidential villa, has not in any way helped matters, as access is highly restricted and the cumbersome protocols involved in accessing the office puts off many of its service users.

According to recent publications in the media and a manual published by the Due Process Unit, the BMPIU had saved Nigeria over N140 billion through reduced contract costs by October 2004; it was claimed sums ranging from N10 billion to N11 billion were saved from single contract transactions. In its bid to combat corruption and restore public confidence in public financial management, the Due Process Unit is also said to have reinstated over 185 contractors who rightly won public contracts but were sidetracked at the ministries, agencies or departmental levels. It is also reported to have cancelled processes for the award of over 330 federal contracts found to have fallen short of Due Process rules, with a new process for award successfully instituted.

6.5 Scope

The BMPIU has international outreach as it is applicable to all Nigerian foreign missions, as well as covering all public spending no matter where transacted.

7. Stages of infrastructure delivery involved in Due Process

All forms and types of public procurement and capital projects must go through Due Process approval and certification before they are awarded out to contractors and or suppliers. All forms of and classes of infrastructure are therefore subject to Due Process scrutiny, including provision of water supply and sanitation (waste management), power, roads, transportation, street lightning, drainage, housing, school buildings and public health buildings.

7.1 Processes involved in Due Process certification

The procurement processes under the BMPIU can be broadly classified in two: the tendering and bidding process and Due Process certification.

7.1.1 Tendering and bidding process

Publications on projects to be executed are advertised by the tender board in federal or local journals or two national dailies to create awareness for tender purchase. Such purchase tenders are usually accompanied by specifications for bidding. Prior to the advertisement of any contract, a need or requirement by the various federal ministries must be identified.

The bidding process starts with submission of tenders from contractors. A closing date for responses from the public is also indicated for the bidding process, which takes about three weeks from the date of publication. Contractors are called back for bid opening – whereby scores/quotations for each organization are announced openly for everyone to hear and see; however, the bid opening is done in the absence of the BMPIU officials.

Following the bid opening, the scores are assessed by the evaluation committee; here the specifications and quotations by the companies are checked according to the Due Process guidelines. At this stage, candidates are screened and those that fail to meet the specified criteria are dropped. After this, the selected companies' financial/technical bids are assessed; each financial bid covers the financial requirements of the company involved, whilst the technical bid demonstrates in-depth knowledge of the job.

After the financial/technical bids have been assessed, the pre-selection stage follows. A winner emerges, with a reserve bidder as the second runner up in case the winner fails for any reason. At this point, the evaluation team writes its report and forwards a recommendation to the ministerial tender board, where the BMPIU is represented. A report is presented and submitted based on this recommendation to the Due Process Unit for vetting and approval.

7.1.2 Due Process certification

Due Process takes place to ensure that the correct person for the job is chosen, based on competence, technical/professional ability, experience and records of previous performance. It takes a period of two to three months for the process to be completed, after which a certificate of contract will be issued to the contractor. This is the Due Process certification, which allows the contractor to carry on with the project.

The completion of the project attracts another certificate called the certificate of payment, which the contractor presents for payment. Sometimes this clearance for payment is done in stages or phases. It might be expected that money for the execution of the project should be made available before the project advertisement, so that payments can be made on time. However, in practice such payments are often delayed.

The BMPIU claims to monitor every project contracted out. This it does using external consultants and zonal officers represented in the six geopolitical zones of the country.

Notably, sanctions or penalties are assigned by the agency to any contractors that are unable to execute a contract as specified.

Procedures involved in securing a contract can be summarized as:

- Publications/Government Tenders Journal
- Invitation to tender
- Tender opening
- Tender selection
- Due Process
- Due Process certification

Selection of the best bidder is based on the following criteria:

- Satisfactory completion of the bidding documents
- Competence for the job
- Good financial capability
- High technical capability

However, despite the cumbersome nature of this process, respondents agreed that the 'human factor' cannot be ruled out completely, which Due Process has reduced to a minimal level.

8. What Benefit is Due Process to service users/ beneficiaries, particularly the poor?

At the root of Nigeria's public sector reforms is the need to enhance good governance by promoting transparency and accountability (among other factors) for improved service delivery to the people. Corruption in public procurement means that officials or the politicians in charge purchase goods or services from the best briber, instead of choosing the best price-quality combination. The result may be executing projects several times as costly as necessary, or the acquisition of goods not actually needed.

Effective public procurement practices impact strategically in the management of public resources, as they ensure that scarce common resources are deployed in such a manner as to deliver maximum benefits to citizens. Value for money as depicted by hard-naira savings, means that more funds are available for other uses. Funds or resources that would have been wasted or looted as a result of corruption are therefore channelled to meeting the provisions of pro-poor policies and the Millennium Development Goals.

8.1 Opinions of services users on the BMPIU

Participants in the study understood the BMPIU to be a governmental agency set up to bring about fairness between the government and the public/contractors:

'... they [the BMPIU] are there to help in regulating their expenditure and that of the agencies, making sure that at least before you spend money on anything it should be on the budgeting list'

'It is doing things the right way, making sure that the government gets value for the funds it is putting into use'

'... whether it's for a contractor to build a house or supply equipment or to do anything, the important thing is that the government gets value for money, not as in former days when a good worth N100 could be sold for N1,000 ...'

However, it was found that especially amongst contractors and suppliers that had undergone Due Process certifications, the BMPIU had a more credible image and was believed to be more effective in the past. This was especially the case with respect to execution of contracts, where there was concern about what is happening presently:

'initially they [the BMPIU] were more effective than what we have now. The problem now is the time lapse; you know it's a normal civil service procedure'

'I don't think the BMPIU will be able to curb corruption. When it first started it was a laudable thing, but now I doubt if they can ... In fact, they have not curbed corruption, I don't think they have the right leader'

The idea and spirit that gave rise to the Due Process (BMPIU) was acclaimed by all; however, virtually everyone interviewed also lamented its poor implementation. The process was largely perceived by service users (suppliers and contractors) to be a burden, one that just slows down the procurement process because of the unduly long period it takes to complete the Due Process cycle. Some were even of the opinion that the government might need to consider use of specialized financial controls software; this would help entrench transparency in public procurement and would reduce the bureaucracies involved with the Due Process mechanism.

8.2 Effect of BMPIU on corruption in public procurement

Amongst the different forms of corruption affecting foreign trade (judicial corruption, political corruption and so on), bribery (to officials and politicians) during the tendering process is one of the most significant and distorting of all corrupt practices. It requires extra expenditure from public budgets, which is ultimately borne by taxpayers, reduces free competition and the quality of deliverables, and discourages investment. Publishing calls for tenders, notifying contract awards, including the successful bidder's name and final price, and making award criteria more transparent and accountable are some of the basic principles of transparency in government procurement that directly affect corruption practices.

Almost all officials of the unit indicated that Due Process has reduced corruption to a great extent. This they claim is due to proper monitoring of the process on the part of the resident units in the ministries, departments and agencies. Another monitoring device the units claim to use is internet pricing, which helps to ensure accurate and effective pricing of procurements and projects, by comparing with prices the world over.

BMPIU staff members in various ministries all claimed that they are guided in the execution of their mandate by a code of conduct, which debars them from any involvement in corruption and to which they strictly abide. Violation of these rules on the part of the staff and committee members attracts punishment, sanctions or even loss of their job.

The contracting process as explained promotes openness and transparency in public procurement.

Despite these achievements, the BMPIU has been described as being far away from solving the problem of corruption in public procurement. It is said that corruption has merely taken on a different dimension, whereby it is now being perpetrated by insiders in the unit. This they do in several ways including: having some staff members of the unit serve as consultants to would-be contractors; and leakage of privileged information to certain contractors before the call for tenders is made, thereby giving them an advantage over other bidders.

8.3 Impact on service delivery

Good public procurement systems are central to the effectiveness of development expenditure from both national and donor sources. Procurement is a core function of public financial management and service delivery. The potential efficiency gains from better procurement can make a significant additional contribution to financing achievement of the Millennium Development Goals (MDGs) (OECD, 2005).

The impact of governance on the citizenry is a function of the delivery of goods and services supplied by public agencies for the benefit of the people.

Effective and efficient service delivery is the vehicle through which government policies and programmes impact on the people and the level of impact defines the outcome of government decisions. Impact of government policies shows how the lives of individuals or groups of individuals have been altered, positively or otherwise.

Service delivery was rated above average (60 per cent); nevertheless, due to difficulty experienced as a result of delays in Due Process certification, many believe there is still room for improvement

It was, however, recorded that BMPIU staff members are not taken through any training programme for efficient delivery of services; they only rely on the rules and ethics supplied in the BMPIU handbook.

At the root of public sector reforms is the need to enhance good governance by promoting, alongside other values, transparency and accountability for improved service delivery to the people. Corruption in public procurement makes the officials or the politicians in charge purchase goods or services from the best briber, instead of choosing the best price-quality combination. The result may be executing projects several times as costly as necessary, or the acquisition of goods not actually needed.

Effective public procurement practices impact strategically in the management of public resources, as they ensure that scarce common resources are deployed in such a manner as to deliver maximum benefits to the citizenry. Value for money as depicted in hard-naira-savings, means that more funds are available for other uses. Funds or resources that would have been wasted or looted as a result of corruption are therefore channelled to meeting the provisions of pro-poor policies and the Millennium Development Goals.

8.4 Value for Money

All public procurement of goods and services, including works, must be based on value for money, having due regard to propriety and regularity. Value for money is not about achieving the lowest initial price: it is defined as the optimum combination of whole life costs and quality. Goods and services should be acquired by competition unless there are convincing reasons to the contrary. The form of competition should be appropriate to the value and complexity of the procurement and barriers to the participation of suppliers should be removed.

Transparent tendering should lead to effective competition by comparing offers from different bidders. When tenders are to be opened to all possible bidders, the difference in terms of value and quality regularly brings prices down, as in any other auction system. Governments and public entities have a political duty to purchase goods, services and works through the most economically advantageous offer. More transparency in procurement open to a wide range suppliers, contributes to increased competition and governments obtain lower prices, thereby reducing budget expenditure.

While it is easy to subscribe to the idea of efficiency or 'value for money' as the ultimate objective of a public procurement system, at the same time significant difficulties are encountered when applying this concept of efficiency. First, the task of objectively determining whether a public procurement system is efficient is not an easy one. Economic efficiency is often expressed in terms of budget savings, but the basis for calculation of those savings is often unclear. At project level, efficiency is usually measured in terms of whether the objectives have been met 'on budget and on time'. However, if the underlying assumptions are wrong – if the objectives do not reflect the optimally speedy and cost-effective implementation of the project – then we still face a validation problem. Second, a single definition for 'efficiency' in public procurement is not available. Efficiency has rarely the same meaning for a legislator, a policymaker or a purchaser/contractor. The concepts of efficiency and performance may also be differently interpreted and practiced at the various levels within a procurement system, as decision-makers operate with different sets of priorities and policy objectives. Third, the wide span of non-coinciding policy goals and objectives in public procurement may deliberately constrain possibilities for maximising the economic outcome of public procurement operations (Trybus, 2006).

8.4.1 Whole-of-life costing

Value for money is the core principle underpinning government procurement. In a procurement process, this principle requires a comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle (whole-of-life costing).

Value for money is enhanced in government procurement by:

- *encouraging competition* by ensuring non-discrimination in procurement and using competitive procurement processes;
- promoting the use of resources in an *efficient, effective and ethical* manner; and
- making decisions in an *accountable* and *transparent* manner.

In order to be in the best position to determine value for money when conducting a procurement process, request documentation needs to specify logical, clearly articulated, comprehensive and relevant conditions for participation and evaluation criteria. This will enable the proper identification, assessment and comparison of the costs and benefits of all submissions on a fair and common basis over the whole procurement cycle.

Cost is not the only determining factor in assessing value for money. Rather, when assessing alternative procurement processes or solutions, a whole-of-life assessment would include consideration of factors such as:

- the maturity of the market for the property or service sought;
- the performance history of each prospective supplier;
- the relative risk of each proposal;
- the flexibility to adapt to possible change over the lifecycle of the property or service;
- financial considerations, including all relevant direct and indirect benefits and costs over the whole procurement cycle;
- the anticipated price that could be obtained, or cost that may be incurred, at the point of disposal; and
- the evaluation of contract options (for example, contract extension options).

Better value for money from procurement can be achieved in many ways, for example:

- Getting an increased level or quality of service at the same cost.
- Avoiding unnecessary purchases.
- Ensuring that user needs are met but not exceeded.
- Specifying the purchasing requirement in output terms so that suppliers can recommend cost-effective and innovative solutions to meet that need.
- Sharpening the approach to negotiations to ensure that departments get a good deal from suppliers.
- Departments acting as intelligent customers by discussing with suppliers all the elements of the contract price, including level of service, timescale of the assignment, skill mix of the supplier's team and how costs are to be enumerated.
- Optimizing the cost of delivering a service or goods over the full life of the contract, rather than minimizing the initial price.
- Introducing incentives into the contract to ensure continuous cost and quality improvements throughout its duration.
- Aggregating transactions to obtain volume discounts.
- Collaborating with other departments to obtain the best prices and secure better discounts from bulk buying.
- Developing a more effective working relationship with key suppliers to allow both departments

and suppliers to get maximum value from the assignment by identifying opportunities to reduce costs and adopt innovative approaches.

- Reducing the cost of buying goods or services by streamlining procurement and finance processes.

Improvements in value for money can be classified into:

- (i) Reducing the cost of purchasing and the time it takes – for example, reducing the administrative effort in processing an order, seeking and evaluating tenders and taking delivery of the goods ordered. This is the procurement overhead and can typically add between 10 to 50 per cent to the cost of buying goods and services;
- (ii) Getting better value from money by negotiating improved deals with suppliers (reduced cost and/or better quality), or aggregating demand to get greater leverage on suppliers; and
- (iii) Improving project, contract and asset management.

8.4.2 Periodicity

Getting value for money in the long as well as the short term in the case of goods and services that have a working life over many years, involves ensuring those goods and services are cost effective over their whole working life. This means taking a long-term view and not focusing on the lowest purchase price at the expense of long-term value for money. Long-term procurement commitments also need to be able to deal with change; for example, a department may wish to take advantage of changes in technology and/or price differentials over time.

8.4.3 Competition and innovation

Value for money depends on combining competition with innovation. Buying goods and services through competition remains the best way of ensuring that the best combination of whole-life costs and quality is achieved. However, it is not always appropriate or cost-effective for low-value items, or sufficient on its own for complex goods and services or where no well developed market exists. Increasingly, value for money depends on combining competition with innovative ways of procurement, while at the same time managing the risks effectively.

The wide diversity in the value and type of goods and services that departments purchase means that no one single procurement method is appropriate to promote value for money (National Audit Office and Office of Government Commerce, 2005).

To ensure value for money in the BMPIU, staff of the Due Process units have emphasized their monitoring and evaluation mechanism so as to check that money spent is well worth it and will produce maximum benefit to the end users. This is indeed not enough; the whole procurement cycle must be followed through effectively and critically if value of spending is to be achieved. Technical competence, market surveys and audits, as well as pricing and internet pricing may help with one-off purchases or procurement. However, where the service to be provided is one that will have a prolonged life span, value for money can only be said to have been achieved where the sustainability of such projects is effectively negotiated and covered for. In some cases, this will include covering the running costs of the particular technology acquired, assessing the costs of and availability of spare parts and so on. It is therefore not enough to monitor and ensure that procurements are executed as agreed and approved, but also to ensure that future purchases or acquisitions for the project are duly considered and effectively negotiated for.

8.5 Evaluation of the Due Process mechanism

In assessing the BMPIU, stakeholders' perceptions were sought as to their understanding and rating of the institution and its activities. The stakeholders comprised the implementers of the Due Process, i.e. the staff of the Due Process unit of the surveyed ministries, contractors and suppliers that have had dealings with the BMPIU and or its representative units in the ministry, agency or department and the citizenry.

Research reveals a gaping hole of distrust of Due Process among those it is meant to protect. The process is believed to in fact create more room for corruption. Virtually all respondents clamour for agencies or bodies that can be trusted and will be transparent and accountable, especially to the general public. Due Process as it is currently is considered to be lacking in these qualities, especially in the area of protecting the public interest.

Though applauded for its desirable goal and objectives, virtually all users insist that the procurement process is still fraught with corruption. Indeed, many are of the opinion that Due Process enables government workers to procure contracts for themselves, then use 'fronts' to execute such projects at lower rates.

The refrain across board was – who monitors the Due Process unit to ensure it is being fair?

Allegations were rife of contractors who are successful on bids being given directives as to outlets where they should go to purchase supplies to execute projects, by Due Process staff. It was alleged by some contractors that Due Process staff undertake consultancies for contractors, whom they then manipulate the bidding process to favour.

Staff of the Due Process Units described the BMPIU as an innovation, which the present administration introduced to combat corruption in public procurement.

In their own words, some described the intervention thus:

'In the past, before the coming of this administration, we have heard that government lost billions and billions of naira through contracts award and inflated contracts. So when this administration took over, it felt that it shouldn't be business as usual, so the idea of BMPIU came up.'

'It's a check you know; at a time in this country we felt that corruption in public procurement was the status quo, business as usual.'

When asked if there have been any notable achievements, respondents replied:

'Yes, because right now people who don't follow the procedure and the rest of them are not getting any contract, that is to tell you there's an achievement.'

'You cannot manoeuvre, you can't use "yes, I have my man at the helm of affairs," you can't use "man know man" any longer.'

'It's a method that this present government has just introduced in order to enhance the quality of the job.'

'To check the abuse of procurement procedures that was in existence prior to the coming of this administration.'

'It helps to bring about regulated/formalized approach to procurement and award of contracts generally.'

Service providers – that is, contractors and suppliers – on the other hand, understood the BMPIU to be a government agency, set up to bring about fairness between the government and public contractors, in their own words, some said;

'They are there to help in regulating expenditure and that of the agencies, making sure that at least before you spend money on anything it should be on the budgeting list.'

'It is doing things the right way, making sure that government gets value for its funds.'

'Whether it's for contractor to build a house or supply any equipment or to do anything, the important thing is that the government gets value for its money, not in those days that a good worth N100 is sold for N1,000, so government gets value for its money.'

Some respondents also posited that the BMPIU had a more credible reputation in the past in terms of its ensuring that contracts were fairly awarded and effectively executed compared to its current reputation.

'But one thing that is fair is that initially they were more effective than what we have now. The problem now is the time lapse; you know it's a normal civil service procedure.'

'I don't think BMPIU would be able to curb Corruption, when it first started it was a laudable thing, but now I doubt if they can ... In fact, they have not curbed corruption.'

The idea and spirit that gave birth to Due Process (BMPIU) was lauded by all; however, virtually all lamented lapses in its implementation.

The process was largely perceived by service users (suppliers and contractors) as an albatross, which just slows down the procurement process as a result of the unduly long period of time it takes to complete a Due Process cycle. Some even opined that government might need to consider use of specialized financial controls software as this would help entrench transparency in public procurement and would be devoid of the bureaucracies involved with the Due Process mechanism.

8.6 Specific cases of corruption

Even though some agreed that the process has helped to sanitize the system when compared to the past, overall, the activities of the BMPIU in combating corruption were judged ineffective as a majority cited instances of corruption from personal experiences.

For example, proposals submitted for jobs are replicated by interested groups, all in the name of Due Process:

'Something happened sometime ago at the Federal Secretariat. My partner and I had the idea of doing something for the whole of the Federal Secretariat, on getting to the DPRA, that is the person who would push the word forward, he said, it's a good idea, let's study the proposal. Do you know what they did? When they were having the tenders board meeting, they just brought in about three contractors from the 'top' and at the end of the day we were cut out of the business and our idea was implemented.'

Yet another said government officials (Due Process staff) encourage contractors to use dubious means to win bids:

'Something personally which I did myself, I wrote a proposal to a ministry to do something. Actually, they accepted the proposal, but they said this is just one proposal, why should I bring one proposal. I said, aha! this is just my company where do I get the others? They said go and do something about it, if not they cannot do anything about it. So, I had to go back and then get other names of companies, write proposals in their names, then inflate the figures on the other proposals... I just made up the names and handed them over to them and they just approved the work and I did it.'

These and other such assertions reveal a lot of gaping holes and cast a lot of doubts as the BMPIU's positioning as a mechanism for fighting corruption in public procurement.

In the respondents' views, comparatively, the most effective of the agencies set up to fight corruption have been the EFCC and ICPC.

Table 19. Effectiveness of agencies fighting corruption

Responses	Don't know	Very ineffective	Ineffective	Effective	Very effective
ICPC	1	5	16	50	8
EFCC	1	1	9	22	47
BMPIU (Due Process)	14	6	11	35	14
ANPNAC (Africa Parliament Against Corruption)	32	9	13	21	5

Indeed, some of the aggrieved contractors/suppliers claimed they have had reason to take cases of corruption in Due Process units to either ICPC or EFCC for resolution.

8.7 Problems associated with Due Process implementation

The most common shortcomings of the BMPIU as experienced by contractors and suppliers are:

- Delays in Due Process certification
- Delays in payments
- Ineffective enforcement of the 'rules of the contracting game'

Abuse of the procurement system arises largely as a result of weak or inconsistent enforcement of the prevailing rules. This is clearly reflected by the dissonance between the prevailing (formal) rules and what actually takes place in practice during the procurement process. Public entities will go to great lengths to create a semblance of formal compliance with procedural and other requirements, while seriously compromising the intent and spirit of such rules. In severely compromised systems, even this veneer of formal compliance is not observed, mainly because public officials and their private sector accomplices have no fear of retribution. A common example of this is the requirement for advertising that is found in most countries. Findings, however, indicate that in practice this is normally abused by advertising bids for extremely short periods and doing so in a medium that reaches as few potential bidders as possible, the intent being to limit competition to a favoured few.

The cumbersome bureaucracies involved in the process of certification and payment of contractors and suppliers undermines the Due Process unit as a mechanism for checking corruption in public procurement. A majority of service users indicated that Due Process delays payment, even after projects are completed, for no just cause. This at the same time creates opportunities for corrupt staff to take advantage of service providers by demanding bribes on the pretext of helping to speed up payments.

The respondents were also of the view that the requirements for Due Process certification in the execution of projects were rather cumbersome and unnecessarily long. This they believed created room for manipulations and corrupt practices. It was even alleged by some respondents in some cases, that Due Process resident officers are sometimes not present for the bidding process, thereby leaving room for manipulation. Due Process staff members are recruited by the civil service commission and not the BMPIU directly, thereby maintaining the otherwise non-desirable status quo of corrupt dealings that is so often identified with civil servants.

Stakeholders, especially contractors and suppliers, rated the BMPIU above average (60 per cent to 70 per cent). Many see the BMPIU as a great idea, but maintained that it has failed to combat corruption effectively in public procurement; this assertion has been attributed to the absence of clearly defined enforcement rules on the processes involved, especially on the part of the implementers of the Due Process.

The wider public, however, is not well informed on the workings of the institution: many have heard of Due Process, but do not have the faintest idea as to what it is all about.

Due to absence of data and co-operation from the BMPIU, the survey is unable to estimate effectively hard-naira-savings (that is, is there an easily identifiable and measurable cost reduction in service delivery, without compromising quality and ensuring sustainability) that has accrued to the FGN as a result of the Due Process mechanism. The ministries, agencies and departments could not help with data as they insisted that such data on details of contract and supplies awards, names of contractors, amounts involved, negotiations made and subsequent savings are only available from the BMPIU main office and not from the ministry, department or agency unit offices.

9. Recommendations and conclusions

The BMPIU is a key reforms agency in the efforts of the government of Nigeria to promote good governance through better public financial management, especially in terms of public procurement for improved provision of goods and services. As laudable an initiative and most welcome as it is, public perception has – as can be seen in this survey – rated the overall performance of the institution below average.

The survey shows monitoring and evaluation of contract execution and price auditing to be the sources of savings. It is very important for the BMPIU to go beyond these and assess whole-life-costing of procurement contracts for both current and later savings. Nor can good governance be achieved without effective financial resources management. Public procurement reform and the Medium Term Expenditure Framework are grand initiatives in the present administration, both of which have helped improve public spending.

However, unduly long bureaucracies, excessive time wasting and unpredictability, seemingly lax- or non-enforcement of internal rules and regulations, inadequate information and disclosures, highly ineffective data archival systems and record-keeping practices, and inadequate manpower have been identified as issues of concern currently impeding the effective performance of the BMPIU as a pillar of governance created to curb wastage and corruption in public procurement.

From the preceding observations, the following recommendations are proffered to government and the BMPIU:

Shorten bureaucracies and the stages involved in the approval process. In public procurement, the contradiction between simple rules and discretionary authority implies a certain challenge. With the need for transparency and accountability comes a desire to regulate all procurement situations, making the procedure automatic in most cases as agencies seek to conform to best practices. However, when rules become more complex, more reasons to deviate from those rules often arise as well. A desire to cut corners ‘throws a spanner into’ the effectiveness and efficiency of the mechanism as a whole. There is a need, therefore, for the BMPIU to reassess the bureaucratic chain involved in the certification process and to do away with stages that are not really needful or can be merged with others so as to shorten the length of time involved.

Introduce a fixed time frame from start to completion of certification – predictability. Presently, a very common complaint about Due Process certification is the length of time it takes to complete a cycle. The BMPIU needs to consider the timelines required to effectively complete a process, with minimum delays for various levels of certification. The length of time may vary with respect to project types. When people can predict the expected time frame, this will restore trust in the agency.

Accountability, transparency and enforcement of internal rules. Accountability and transparency encourage the efficient, effective and ethical use of common resources. The BMPIU and its officials have the responsibility of ensuring that any procurement process is open and transparent and that decisions are justified. They need to have procedures in place to ensure that procurement processes are conducted soundly and that procurement-related actions are documented, defensible and substantiated in accordance with legislation and government policy. Accountability and transparency are primary considerations throughout the procurement process, from the initial identification of need through to the final execution of any project. A well-planned, conducted and documented procurement, which accords with government policy, is more likely to withstand public and external scrutiny. If procurement is subject to scrutiny, adherence to full documentation of the process can be relied upon

to provide substantiation of decisions. *Accountability* means that officials are responsible for the actions and decisions that they take in relation to procurement and for the resulting outcomes. Officials are answerable for such activity through established lines of accountability. *Transparency* provides assurance that procurement processes undertaken by agencies are appropriate and that policy and legislative obligations are being met. Transparency involves agencies taking steps to support appropriate scrutiny of their procurement activity. Lines of accountability must not only exist in-house, but should be communicated to the public; this will help enhance trust and confidence in the agency. Accountability and transparency can be further enhanced by widening the scope of stakeholder involvement in BMPIU activities to include service beneficiary communities.

Improve information dissemination. The BMPIU must undertake massive publicity of its activities and role in the fight against corruption through the sanitization of public procurement. Most respondents do not have a clue as to the statutory functions of the agency; in fact most do not even know the meaning of the BMPIU. The public should be able to appreciate the protection of their interests in service delivery by the agency. Where the people do not have a voice, it is easier for the corrupt to carry out their activities and short-change the people. Improved information flows and a deliberate attempt by the BMPIU to carry the citizenry – and especially NGOs, Civil Society Organisations and CBOs – along in procurement contracts execution in affected areas, will help check the incidences of a number of corrupt activities as well as improve service delivery to the people.

Improve disclosures. Declare bid winners as soon as tenders are publicly opened. Any subsequent delays create room for manipulation and doubt in the minds of the people. Notifying the outcome of bids promptly and, within the bounds of commercial confidentiality, debriefing winners and losers on request on the outcome of the bidding process, will facilitate better performance of contractors and suppliers on future occasions. In addition, more open disclosures would make information available not only to contractors and suppliers, but also to service beneficiaries and the CSOs, who could very well be in a position to demand accountability, quality and greater value for money.

Effective records keeping. This is a key requirement, not only in transparency of transactions in public procurement, but also in fiscal accountability as a whole. The BMPIU and its units in the ministry, agency or department concerned need to adopt measures that will improve records and data keeping at all levels of their operations. As has been observed, this is currently lacking in the institution. Accounting record keeping software may be useful.

The Fiscal Responsibility Bill. The National Assembly should endeavour to pass the Fiscal Responsibility Bill into law, so that the relevance and urgency of budget monitoring and evaluation will strengthen not only the political will of political office-holders at all levels of governance, but also public procurement processes.

Important principles governing public procurement systems play a significant role in determining the soundness of the system, namely transparency, non-discrimination, fair treatment and integrity. The system is also affected by the need to consider other factors, such as environmental and social policy objectives. Subsequently, any attempt to measure the performance of a public procurement system entails a combination of difficulties of varying complexity. Public sector decision-makers at different levels and in various capacities should nevertheless benefit from having an assessment system that is designed to measure efficiency and performance in public procurement.

Efficiency in government procurement is of importance in ensuring that the best value for money is obtained by public entities. Procurement practices also figure prominently in the way that many potential investors and civil society view a country. Ensuring transparency of the procurement process is an important determinant of efficiency insofar as it enhances the contestability of public procurement markets (by giving all qualified potential suppliers a chance to bid). If procurement procedures are opaque and discretionary, the incentives for firms to enter into a market are typically

reduced. The same problem arises if it is possible for firms to obtain 'preferred status' through bribery of officials and potential entrants do not know how to 'play by the rules of the game'.

Many developing countries have adopted procurement legislation and regulations that require public entities to source goods and services through an open and competitive process. To what extent actual practice is consistent with these formal rules and principles is often difficult to determine, in part because the incentives to contest violations of the formal rules of the game are often minimal or non-existent.

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The sustainability of the livelihoods of the poor in low- and middle-income countries is compromised by corruption in the delivery of infrastructure services. Such services include water supply, sanitation, drainage, the provision of access roads and paving, transport, solid waste management, street lighting and community buildings. For this reason, The Water, Engineering Development Centre, (WEDC) at Loughborough University in the UK is conducting research into anti-corruption initiatives in this area of infrastructure services delivery.

This series of reports has been produced as part of a project entitled *Accountability Arrangements to Combat Corruption*, which was initially funded by the Department for International Development (DFID) of the British Government. The purpose of the work is to improve governance through the use of accountability arrangements to combat corruption in the delivery of infrastructure services. These findings, reviews, country case studies, case surveys and practical tools provide evidence of how anti-corruption initiatives in infrastructure delivery can contribute to the improvement of the lives of the urban poor.

The main objective of the research is the analysis of corruption in infrastructure delivery. This includes a review of accountability initiatives in infrastructure delivery and the nature of the impact of greater accountability.

For more information, please visit WEDC's web page:
http://wedc.lboro.ac.uk/projects/new_projects3.php?id=191

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