

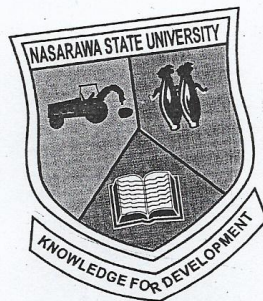


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# NASARAWA JOURNAL OF POLITICAL SCIENCE

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### Editorial

The Editorial Board is pleased to fulfill its promise to bring out another edition of this volume as we did promise. We appreciate the efforts of our editorial team, contributors and especially the Secretary who has worked tirelessly to see that this edition comes up well and in time.

We will hopefully and based on the number of articles we have received bring out the last edition of the volume by end of the year.

**Dr. Eugene T. Aliegba**  
Editor/Managing Director

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**THE DUE-PROCESS POLICY AND PUBLIC  
PROCUREMENT PRACTICE IN RIVERS STATE,  
NIGERIA: PROCEDURES, PROGRESS AND  
RETROGRESS**

**Solomon I. Ifejika  
&  
Fatima O. Aliu**

**ABSTRACT**

*Corruption in the public procurement system has been a major factor militating against the capacity of government at all levels in Nigeria in providing essential developmental goods, works and services to the citizens over the years. Consequently, following the return to democratic rule in 1999, the then new civilian administration of President Olusegun Obasanjo demonstrated keen interest in ameliorating all the economic and financial problems facing the country. The aim has been to enthrone good governance, accountability and transparency and reduce the high level of corruption that permeates every sphere of the country's national life. This led in 2001 to the establishment of the Budget Monitoring and Price Intelligence Unit (BMPIU) otherwise called the "Due-Process Unit" at the national level to ensure that procurement of goods, works and services are carried out in a transparent and competitive manner. Subsequently, in 2007, the Public Procurement Act was enacted by the National Assembly to provide a legal basis for due process in the country's public procurement practice. Following the footsteps of the Federal Government, the Rivers State Government enacted a law in 2008 - the Rivers State Public Procurement Law No.4 of 2008, which serves as the Due-Process policy document for the conduct of public procurement in the State. The essence remains to enthrone the "Due Process Principle", that is, to ensure greater transparency, accountability, competition, economy, efficiency, fitness for purpose and value for money as well as to prevent corruption and other fraudulent procurement practices in the State. This paper, therefore, assesses the Due-Process procurement policy in Rivers State with the aim of analyzing the procedures and examining the achievements of the policy as well as the challenges militating against its effectiveness in the State. The study finds that the Due-Process policy has made some commendable achievements in the Rivers State public procurement sector; nevertheless, the policy is still faced with a number of challenges which militate against its effectiveness. To this end, the paper suggests effective strategies for strengthening the new public procurement policy in Rivers State in order to achieve its objective. The paper depends on the Functionalist Theory. It relies mainly on secondary sources for its data, and data sourced were qualitatively analyzed using the descriptive analytical method of qualitative reporting and objective argument.*

**Key Words:** Due-Process Policy, Public Procurement, Accountability, Transparency, Rivers State.



## INTRODUCTION

As in most countries, especially developing nations, public procurement activities and procedures at all levels of government in Nigeria are prone to all sorts of manipulations and abuses due to opaque procedures in the award and execution of government contracts. The effects of these abuses result to colossal economic and financial wastes; causing insufficient provision of essential goods to the public, poor delivery of public contracts, lack and shortage of socio-economic infrastructures, mass poverty and hardship to mention a few. The huge financial and economic wastes incurred as a result of efforts by successive governments in Nigeria -military and civilian to ensure the procurement of essential public goods, works and services over the years are largely responsible for the nation's prevailing economic dilemma. Consequently, the Nigeria was ushered into a new democratic dispensation amidst devastating social and economic conditions in May 29, 1999, marking the Fourth Republic in the nation's political history. As an upshot, therefore, on assuming power, the then new civilian administration of President Olusegun Obasanjo was driven by optimism and enthusiasm to improve the country's economic performance and reduce abject poverty among Nigerians. The way to achieving these was and has been to enthrone good governance, accountability and transparency in the conduct of government business and reduce the prevailing high level of corruption in the country.

Thus, in 2001, the Budget Monitoring and Price Intelligence Unit (BMPIU) otherwise called the "Due-Process Unit" were established in the Presidency. To give a legal backing to the Due-Process policy, the Public Procurement Act, 2007 was later enacted by the Nigerian National Assembly to be the principal guide for all public procurement activities at the national level in the country. The rationale for a formal law on public procurement has been to enthrone the culture of accountability, transparency, competition and value for money, and to curb abuses and corrupt practices associated with the public procurement in the country. Following the footsteps of the Federal Government of Nigeria, the Rivers State Government enacted a law in 2008 - the Rivers State Public Procurement Law No.4 of 2008, which provides the basis for Due-Processes in the conduct of public procurement activities in the state. The underlining motivation remains to enthrone the "Due Process Principle", that is, to ensure greater transparency, accountability, competition,



### CONCEPTUAL ISSUES

A detailed explanation of the meaning of the term "Due-Process" in relation to public procurement at all levels of government in Nigeria is necessary for a comprehensive understanding of the subject matter of this study. Public procurement has remained a major source of drain on Nigeria's economy due to embedded corruption and other associated malpractices resulting from abuse of procurement procedures. The economic leakages in the Nigeria's public procurement system constitute a major obstacle to the nation's development progress. Indeed, it was established that, for every one naira spent on any government contract/project, Nigeria was losing as much as 60 kobo to underhand practices (Onyema, 2011). Nigeria pays not less than three times more of the costs of equivalent contracts/projects in other African countries, and public procurement takes as much as 65% of government total budgets every year, yet the country has not made any concrete development achievements due to systemic corruption (Ahmed, 2011). Despite the enormous annual government budgetary spending in a bid to provide essential goods, works and services in order to improve the social and economic conditions of the country and the standard of living its citizens, abject poverty and hardship is increasing among majority of Nigerians on daily basis. More so, government is not getting appreciable value for monies spent on provision of public goods; infrastructures are in short supply, the few available ones are in dilapidated conditions and the country's economy suffers serious stagnation.

The quest for the most appropriate and effective means of achieving this goals led to the introduction of the Due-Process Compliance (DPC) instrument (Ezekwesili, 2002:2). The Due Process Compliance, as Ezekwesili (2002:2) explains:

*Is an instrument designed to enforce compliance with due process in budgeting, procurement and expenditure by all federal spending units and, by extension, states and local governments. The instrument of the due process helps to ensure that budgets, procurement and spending are not only based on authentic, reasonable and fair costing, but are also appropriately geared to the realization of set priorities and targets that were generated from medium range strategic plans.*



*The administration created the Budget Monitoring and Price Intelligence Unit (BMPIU) to execute the mandate. The location of the unit in the Office of the President was a clear signal that highest political will to guarantee its effectiveness existed (cited in Ocheni and Nwankwo, 2012).*

The Due-Process instrument is defined as “Mechanism for ensuring strict compliance with the openness, competition and cost accuracy rules and procedures that should guide contract award within the Federal Government of Nigeria” (BMPIU publication 2005:1; in Ocheni and Nwankwo, 2012). The Due-Process reforms began with the establishment of the Budget Monitoring and Price Intelligence Unit (BMPIU) in the Presidency in 2001, being the office upon which the initiative is hinged (Ezekwesili, 2002). The BMPIU is also known as the Due-Process Unit or Office in line with task it performs. According to Ocheni and Nwankwo (2012), “The BMPIU was established by President Olusegun Obasanjo in 2001 in fulfillment of his tenacious commitment to ensuring transparency and accountability in the management of our public resources”.

The Mission of the BMPIU is “to use the Due Process Mechanism to re-establish and sustain an open, transparent and competitive Federal Procurement System and, by extension those of states and local governments, that are integrity-driven, upholds spending within Budget and ensures speedy implementation of projects in order to achieve value for money outcomes without sacrificing quality and standards” (Due Process Manual, 2005; in Ocheni and Nwankwo, 2012). The core objectives of the Due Process initiative are:

- To harmonize and update all Federal Government policies and practices on public procurement, and by extension or implication, those of the state and local governments.
- To ensure that project conceptualization and packaging match the defined priorities and targets as set in Annual Appropriations.
- To strictly enforce the Due Process principles of transparency, competition and efficiency and value-for-money in the procurement of public goods, works and services.
- To ensure efficient and integrity-based monitoring of the implementation of all Federal Government Projects, and by extension those of the state and local governments, in line with Due



#### Process Principles.

To prevent extra budgetary spending by ministries, departments and agencies by ensuring that only projects with due Appropriation by the National Assembly and, by extension, the State House of Assembly and the Local Government Councils are certified and thus funded for execution.

To prevent contract inflation by ensuring cost reasonableness, accuracy and comparability of all public contracts with national, regional, and global costs (Due Process Manual, 2005; in Ocheni and Nwankwo 2012).

To ensure proper attainment of the objectives of the Due-Process policy in the public procurement sector, the BMPIU is mandated to perform the following important functions:

- Regulates and sets standards to enforce harmonized Bidding and Tender Documents for all Federal Government contracts.
- (2) Formulates general policies and guidelines on public sector procurements.
- (3) Upholds professional ethics and reports erring procurement personnel, public officials, departments and private sector companies and their personnel to relevant authorities for appropriate application of prescribed sanctions.
- (4) Monitors prices of tendered items and provide price data base advisory services to the public sector. Performs procurement audits.
- (5) Documents and monitors Federal Government projects from point of award until completion. (6) Coordinates training to promote capacity building of procurement personnel and development of systems and standards in the public sector.
- (7) Sensitizes, promotes and educates the public on public procurement issues.
- (8) Advises the President on states of Federal Government procurement in relation to the Annual Appropriation.
- (9) Provides relevant procurement and budget performance information to any interested parties and institutions (Due Process Manual, 2005; in Ocheni and Nwankwo, 2012).

#### LEGAL AND INSTITUTIONAL FRAMEWORKS FOR DUE-PROCESS PROCUREMENT POLICY IN RIVERS STATE

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n Rivers State is

dependent on the Rivers State Public Procurement Law No.4 of 2008. The new Law on public procurement came to being in 2008, following a Bill sent to the State House of Assembly by the Governor of Rivers State, Rt. Hon Chibuike Rotimi Amaechi seeking to regulate the way in which all public procurement is done in the state. The Bill was passed into Law in 2008 as the Public Procurement Law No.4 of 2008. The Law aims to ensure that money belonging to the State or Local Government Council within the State is spent fairly, responsibly, and for the maximum benefit of the state or local government council as the case may be (Office of Governor of Rivers State Press Unit, <http://elendureports.com/index>).

As on the national level, the Law provides for the establishment of the state own procurement regulatory agency, the Rivers State Bureau of Public Procurement (The Bureau) also known as the Rivers State Due-Process Unit. Indeed, according to the Law in Section 1 (1), "There is hereby established the Rivers State Bureau on Public Procurement (in this Law referred to as "The Bureau")". Under Sub-section 2 of the same Section, the Law further states that the Bureau:

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) may sue and be sued in its corporate name; and
- (c) may acquire, hold or dispose of any property, movable or immovable for the purpose of carrying out any of its functions under this Law (Government of Rivers State of Nigeria, 2008).

These foregoing Sections and Sub-section of the Rivers State Public procurement Law of 2008 affirm the establishment and existence of the Rivers State Bureau on Public Procurement (the Rivers State Due-process Unit).

As the principal agency and custodian of public procurement regulations in the state, the Rivers State Bureau of Public Procurement (RSBoPP) has the responsibilities for the monitoring and oversight of public procurement, harmonizing the existing Government policies and practices, liaising with Federal counterpart bodies by regulating, setting standards and developing the legal framework and professional capacity for public procurement in Rivers State and for related matters. The mandate of the Rivers State Bureau of Public Procurement is to ensure that Due-Process is followed in the award of contracts and that there is Value for Money (VfM) in all procurement by the State and following through to



ascertain that what is agreed is what is procured. The core values of the agency include Value for money, fairness, integrity, transparency, economy and consistency (Office of Governor of Rivers State Press Unit, <http://governor.riversstate.gov.ng/programs/du-process/>).

Section 3 (a-s) of the Rivers State Public Procurement Law spells-out a vast array of function to be undertaken by the RSBoPP with a view to realizing the Due-Process objective in the State public procurement system. According to the Law, the Bureau shall:

- formulate the general policies and guidelines relating to public sector procurement for approval by the Board;
- (b) publicize and explain the provisions of this Law;
- (c) supervise the implementation of established procurement policies;
- (d) monitor the prices of tendered items and keep a database of standard prices;
- (e) publish the details of major contracts in the procurement journal;
- (f) publish paper and electronic editions of the procurement journal and maintain an archival system for the procurement journal;
- (g) maintain a database of the particulars and classification and categorization of State Contractors and service providers;
- (h) collate and maintain in an archival system, all state procurement plans and information;
- (i) undertake procurement research and surveys;
- (j) organize training and development programmes for procurement professionals;
- (k) periodically review the socio-economic effect of the policies on procurement and advise the Board accordingly;
- (l) prepare and update standard bidding and contract documents;
- (m) prevent fraudulent and unfair procurement and where necessary apply administrative sanctions;
- (n) review the procurement and award of contract procedures of every entity to which this Law applies;
- (o) perform procurement audits and submit such report to the State House of Assembly bi-annually;
- (p) introduce, develop, update and maintain related database and technology;
- (q) establish a single internet portal that shall, subject to section 14 (20) of this Law, serve as a primary and definitive source of all

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information on government procurement containing and displaying all public sector procurement information at all times;

- (r) coordinate relevant training programs to build institutional capacity; and
- (s) in so far as standards and database are concerned, adopt by official gazette and make applicable in Rivers State any similar standard or database, as, for the time being, are applicable in public procurement by the Federal Government of Nigeria, with or without modifications (Government of Rivers State of Nigeria, 2008).

This long list of activities undertaken by the RSBoPP aims at institutionalizing greater measure of accountability, transparency, integrity, value for money and to ensure open competitive processes and fairness in the award and execution of government contracts in the state. Importantly, to enable the RSBoPP (Rivers State Due-Process Unit) to carry-out these important responsibilities in order to guarantee the effectiveness and efficiency of the Due-Process procurement policy in the State, the new Law confers sufficient powers on the Bureau. These powers are provided for in the Section 4 (1) (a-m) of the Rivers State Public Procurement Law. As stipulated by the Law under the said Section, the Bureau shall have the powers to:

- enforce the monetary and prior review thresholds set by the Board for the application of the provisions of this Law by the procuring entities;
- (i) cause to be inspected or reviewed a procurement transaction to ensure compliance with the provisions of this Law;
- (ii) determine whether a procuring entity has violated a provision of this Law;
- de-list a supplier, contractor or service provider that contravenes this Law or regulations made under this Law;
- maintain a list of firms and persons that have been de-listed and publish same in the procurement journal;
- provide guidelines for the classification, and registration of contractors and service providers by the procuring entities and maintain a database of State contractors and service providers which may be reviewed



- periodically;
- (f) request for information in respect of a breach in a procurement proceeding;
  - (g) recommend to the Board, where there is breach of this Law, for:
    - (i) the suspension of officers concerned with the procurement or disposal proceeding in issue;
    - (ii) the replacement of the head or any of the members of the procuring or disposal unit of any entity or the Chairman or Chairperson of the Tenders Board as the case may be;
    - (iii) the discipline of the Accounting Officer of any procuring entity; and
    - (iv) any other sanction that the Bureau may consider appropriate;
  - (j) call for the production of books of accounts, plans, and documents and examine persons or parties in connection with any procurement proceeding;
  - (k) act upon complaints in accordance with the procedures set out in this Law;
  - (l) nullify the whole or any part of any procurement proceeding or award which is in contravention of this Law; and
  - (m) do such other things as are necessary for the efficient performance of its functions under this Law;

In completion, Section 4 (2) (a-c) of the Law goes on to state that the Bureau shall, subject to the approval of the Board, have power to:

- enter into contract or partnership with any company, firm or person which in its opinion will facilitate the discharge of its functions;
- request for and obtain from any procurement entity information including reports, memoranda and audited accounts, and other information relevant to its functions under this Law; and
- liaise with relevant bodies or institutions national and international for effective performance of its functions under this Law (Government of Rivers State of Nigeria, 2008).

The RSBoPP carries-out its mandated functions in the State procurement system within the scope of these powers for the purpose of ensuring the attainment of the dreams and goals of the Due-Process procurement



policy in the State. Operating outside the ambit of these powers would mean to act ultra-vires. The RSBoPP (the Rivers State Due-Process unit) has been in active operation since the enactment of Public Procurement Law in 2008, which brought it into being till the time this research was conducted.

The Due-Process procurement methods for goods, works and services in Rivers State involves a wide range of activities. Each of these activities is carried-out at distinct stages in the procurement process. These include open competitive bidding, invitation to bid, bid security, submission of bids and several other processes until the final bid acceptance.

#### **CHALLENGES OF THE DUE-PROCESS MECHANISM IN RIVERS STATE**

Although the Due-Process mechanism has made noteworthy successes in the Rivers State public procurement system, the policy is still confronted with lots of challenges and has come under intense criticisms alluding to certain reasons. Thus, whereas many agree that the domestication of the Due-Process mechanism in the State has recorded significant progress, some point to certain weaknesses or shortcomings inherent in the process. In the first instance, fierce criticisms have been leveled against the new procurement and financial management policy based on certain presumed inadequacies arising from the Public Procurement Law of 2008 itself. While following the footstep of the Federal Government by enacting the 2008 Public Procurement law is generally lauded as a landmark push towards transparency and accountability, a major provision of the Rivers State version of the law presents a serious point of controversy. Section 21(4) of the Rivers State Public Procurement Law (RSPPPL) states that:

*Notwithstanding, the provisions of this law, with respect to the award of contract, the governor shall have power to award for the execution of projects and other jobs which total value shall not exceed 30% of the total annual budget approved for the execution of projects and other jobs in the state: provided always that the bureau shall exercise supervisory powers in the execution of such projects" (Government of Rivers*



*State of Nigeria, 2008).*

Proper interrogation and comparison with the Federal Government Procurement Act 2007 apparently reveals the weakness and deficiency of the Rivers State version of the procurement Law. The National Public Procurement Act of 2007 states that the Act applies to all federal procurement or where the federal government is contributing at least 35% of the cost of a given procurement. To make the provision work, the PP Act, in Part IV prescribes open competitive bidding processes including advertorials.

Again, it is also stated in the federal Public Procurement Act 2007, that contracts for procurement should be awarded by a National Council on Procurement with the Minister of Finance as Chair, and the representation of civil society organizations. The provision of the Rivers State Procurement Law negates the very rationale for having a Law on public procurement in the real sense. Not only that the provision, without recourse, contravenes the core principles of due process-transparency, competition, equality, fairness and value for public money, it also implies that the Governor usurps the role of the Bureau of Public Procurement in at least 30% of contracts (Niger Delta Citizens Budget Platform, 2011). More worrisome is that the 30% reservation is placed under the heading "CLOSED BID" instead of "OPEN COMPETITIVE BIDDING" in the Rivers State Public Private Partnership Law (Arimie, 2011). This is a spring board tailored to sleaze the State's coffers (*National Network*, August 6-12, 2014). Apparently, this amounts to grand deception.

As noted by Arimie (2011), this discretionary power suggest that the Governor would be spending about N150 billion annually from the State budgetary provision, and this may increase in the future, without subjecting himself to due process and this is also outside security votes. No other Governor or President in the history of Nigeria (past or present, military or civilian) has ever exercised this kind of naked powers. The 30% is bound not to translate and or add to good governance since it is based on arbitrary discretionary powers that are without procurement due process (Arimie, 2011). Critics have on the basis of this fundamental inadequacy strongly questioned the State Government's sincerity for introducing and operating the Due-Process mechanism in the State. Analysts from within and outside the State have decried the particular provision in the State Procurement Law.



According to Niger Delta Citizens Budget Platform (2011), "The law which gives the State Governor powers to unilaterally spend 30% of the State's capital budget without any recourse to due process negates the tenets and principles of democracy". In its submission, "Apportioning such huge percentage of the budget to a State Governor defeats the very purpose and aims of the law which was conceived to check fiscal indiscipline and ensure transparent and accountable leadership at all levels of governance in the Country". Arimie (2011) also corroborates this view, arguing that the reservation of 30% of the State total annual budget for the Governor without passing through the due process of public procurement defeats the essence of the legislation. The question that readily comes to mind at this point is; what then is the motivation for enacting the procurement Law?

Another major weakness of the Rivers State Public Procurement Law 2008 is that it excludes professional bodies, media and civil society organization (CSOs) from participating in the procurement process. The provision was in the original executive bill but was afterwards deleted (Arimie, 2011). The Federal Government Public Procurement Act Section 2, and all other States' public procurement laws including the Delta PPL Section 3(2) and Bayelsa PPL Section 1(2) respectively, provide for the inclusion of the representatives of professional bodies, civil society organization and the media in the procurement process. The essence is to monitor the performance of the Bureau as Council/Board members (internal monitoring) and also to contribute and join in the formulation and approval of all public procurement policies in the State for the purpose of transparency, accountability, economy and good governance (Arimie, 2011). The provision that was completely deleted from the law states that "a procuring entity shall, in implementing its procurement plans: invite two credible persons as observers in every procurement process, one person each representing a recognized. (i) private sector professional whose expertise is relevant to the particular goods or services being procured (ii) a non-governmental organization working in transparency, accountability and anti-corruption areas, and the observers shall not intervene in the procurement process but shall have right to submit their observation report to any relevant agency or body including their own organization or association".

It is only Rivers State, through the Law, that shuts-out professional bodies, the media and CSOs that are supposed to play monitoring and



observatory role in the procurement process (Arinie, 2011). This undoubtedly runs in contradistinction to the important value of transparency which the Due-Process procurement policy itself seeks to enthrone and promote.

Aside legal controversies arising from the provisions of the Rivers State public procurement law, another noteworthy barrier to the firm institutionalization of the Due-Process mechanism in the State is the non-absolute acceptance and devoted compliance to the policy by majority of stakeholders in the Rivers State procurement sector including contractors. This is mainly due to the general claim that the new policy unnecessarily slows-down the pace of carrying-out procurement in the public domain. The remote cause of the delay is the technicalities and complexities involved in the various stages of the procurement activity under the Due-Process regime. It is also caused by the ad-hoc nature in which government business is generally undertaken and the unwillingness on the part of a number of officials in the procurement entity to follow the rules (Nlerum, 2010). This has been one of the major obstacles to gaining the full support of the Rivers State public procurement community for the Due-Process mechanism. Thus, more than six years after its implementation, the new procurement order is still grappling with the challenge of how to get fully absorbed, especially by the segment of the public that is directly involved in public procurement in the State.

Also, financial analysts have questioned the basis for the purchase of the two Automated Road Analyzers (ARAN vehicles) worth a whopping N493 million by the Rivers State Bureau of Public Procurement, describing it as a reckless act and totally out of the purview of the due process goal in Rivers state. Critics argue that spending such huge amount of the State money to acquire a van that is supposedly meant to be used by the Ministry of Works obviously confirms that the Rivers State Bureau of Public Procurement lacks competence and understanding of its functions. Basically, the law establishing the bureau only mandates it to oversee the procurement system, processes and procedures. To this effect, the Bureau is only supposed to ensure that people comply with rules, regulations and procedures; it is not a project management group and hence has no need for the ARAN vehicles (Azubuike, 2014). Also provocative is the fact that the purchase of ARAN vehicles was not listed in the 2014 budget of the



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State. Opponents consider this as a deliberate waste of state limited financial resources (*National Network*, August 6-12, 2014). They posit that the Bureau has abandoned its statutory role and usurped the work of the Ministry of works. In their words, "It is the responsibility of the Ministry of works to construct roads and to ensure the monitoring of the road, to supervise the construction of the road and issue certificates for the compliance of standards. Now the bureau has left her responsibility of ensuring that due processes are complied with" (Azubuike, 2014).

Moreover, critics have alleged that the Executive Governor, Rotimi Chinuike Amaechi, is violating the Due-Process crusade of the State Government. Drawing attention to the Federal Government's Country Procurement Assessment Report, which produced the Federal Government Public Procurement Law Mr. Biebele Arimie posits that:

*All the states are adopting the report as a standard and it clearly states that the President, Governors, Commissioners and Ministers should stay away from the procurement process. They should allow the administrators vested with such responsibilities to do procurement on behalf of the state. That is precisely why you do not find Governors preside over meetings of the Tenders Board. The Governor cannot be the approving authority and the procurement officer at the same breadth (National Network, August 6-12, 2014).*

The implication of the above assertion is that the Rivers State Governor exercises undue influence over the conduct of public procurement activities in the state as against the general practice. The opponents further claim, among others that, "The Bureau is an unnecessary interference as it clearly duplicates the functions of other governmental agencies like permanent Secretaries, the Ministry of Works and the State's Tender Board, to mention just a few" (*National Network*, August 6-12, 2014). This portends the tendency to occasion functional jurisdiction clashes between the Bureau and other MDAs of the State.

Furthermore, failure on the part of the River State Bureau of Public



procurement Bureau to audits and publish detailed information of procurement activities of the State as demanded by the Law, since it came into operation has also been described as another shortcoming of the Due-Process initiative in Rivers State. Section 3(0) setting up the Rivers State Public Procurement Law clearly says the bureau shall perform public procurement audit and submit such report to the State Assembly bi-annually. The Bureau has been operating contrary to this statutory provision as it has failed to perform and submit to the State House of Assembly any audit on procurement activities in the State for over six years of its operations (Azubuike, 2014). This is a flagrant flouting and breach of the Public Procurement Law 2008 which establishes the Bureau itself. It also raises further questions about the sincerity of the determination by the agency to espouse and exemplify the tenets of transparency and accountability as codified in the Due-Process instrument. If actions are not quickly taken to address this unwanted trend, it would certainly lead to complete loss of public confidence and trust in the State Government lauded Due-Process campaign, which could in-turn result to the futility of the entire cleaning exercise.

#### **CONCLUSION**

This study has examined the Due-Process procurement mechanism in Rivers State, Nigeria, with respect to understanding its constituent procedures, achievements and weaknesses of the policy in the state after more than six years of the operation of the new Law on public procurement. As evident in the main body of paper, Due-Process in public procurement in the Rivers State is anchored on the Rivers State Public Procurement Law, enacted by the State House of Assembly in 2008. The Law creates the Rivers State Bureau on public Procurement (RSBoPP) as the main regulatory agency and the custodian of the public procurement practice in the State. The same Law enumerates the procedures or methods for the implementation of the Due-Process mechanism in the State procurement system to include the wide range of activities analyzed in the study.

Importantly, revelations by this study demonstrate that the Due-Process policy has recorded some commendable ground-breaking achievements in Rivers State's public procurement practice and system in general. Among these are; the promotion of the values of transparency, accountability, value for money, competition, equity, among others



essential elements in the award and execution of public contracts in the State; saving and curtailing of wastages in procurement, instilling discipline and standardizing punitive measures in the State's procurement system, adapting to changing realities in procurement monitoring by the introduction of modern technologies, improved capacity and knowledge of the officials of Rivers State procuring MDAs, among other successes.

However, despite these laudable achievements, the Due-Process mechanism in Rivers State still faces a lot of challenge such as those discussed in the paper, among others, which militate against the attainment of the objective of the new policy in the State's procurement sector. Nevertheless, we are optimistic that proper adoption and effective administration of the recommendations of this study would help address the problems and strengthen the initiative to achieve its primary objective and yield the expected development results in the State.

#### RECOMMENDATIONS

In view of the observed shortcomings, and in a bid to strengthen the Due-Process procurement policy in Rivers State to achieve the expected results, the paper recommends the following measures:

There is need for urgent review and amendment of the Rivers State Public Procurement Law 2008 as enacted by the State House of Assembly. This is necessary in order to expunge the controversial clause in the Section 21(4) of the RSPPL that reserves 30% per cent of procurement power in the State's annual budget for the Governor. Doing this would help to demonstrate the State Government genuine effort in instituting equity, fairness, competition, transparency, among other ideal attributes in the Rivers State public procurement system. It would also align the RSPPL and the State's version of the Due-process mechanism with those of the Federal Government and other State Governments in the country that have domesticated the policy.

The Due-Process crusade that seeks to enthrone popular and greater measure of accountability, transparency and value for public money in the procurement activities cannot undoubtedly be said to be trusted and realizable when the RSPP Law does not allow for the participation of the people through representatives of CSOs, relevant professional bodies and the media in the procurement process. Hence, the amended version of the RSPPL should also incorporate this important provision. This is apparently needful not only to carry the masses along in the management of their collective wealth, it is also a core ingredient of



democracy and the highly desired good governance practice. Moreover, it is also another means of stimulating and increasing public faith and support for the State Government determination to promote all-round transformation of the State through the Due-Process procurement policy.

The Rivers State Governor should cease to interfere in the affair of the Rivers State Bureau of Public Procurement as well as the entire procurement system. The Governor should focus on the primary responsibility of his Office, that is, overseeing the day-day running of the government of the State and desist from every form of control over the Bureau in order to allow the agency uninterrupted autonomy to properly carry-out its statutory responsibilities as an independent body as stipulated by the Law. Ensuring this would also help to prevent further debates and controversies about the image, integrity and credibility of the Bureau in the procurement sphere of the State.

Efforts should be intensified to further raise the general acumen and know-how of the personnel of the States Government procuring MDAs on the job through consistent and purposive procurement empowerment seminars, workshops and fora. This will help to bring about the desired level of efficiency and effectiveness in the Rivers State public procurement practice as well as promote the use of public procurement to cause meaningful socio-economic change in the State. This would also help to reduce rampant waste of the State financial resources which often arises out of lack of procurement technical know-how or unguided financial decisions on the part of the procuring MDAs of the State. The RSBOPP should show greater consistency in performing procurement auditing and publishing detailed information concerning the procurement of activities of the State as at and when due in accordance to the Law. This is of utmost importance as in it lies the core element of the ongoing Due-Process crusade in Nigeria, which aims at bringing about significant openness in the conduct of government business at all levels of government. Keeping the masses abreast with the basic information pertaining to government procurement is also likely to help in increasing the compliance level and building public support base for the institutionalization of the Due-Process initiative in Rivers State.



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