



## CROSS RIVER STATE OF NIGERIA

LAW NO. 3(2021)

*A revised Law to provide for the Administration of the Office of the State Auditor General and auditing of State Institutions; Administration of the Office of the Auditor General for Local Governments, auditing of Local Government Councils; the establishment of the Audit Service Commission; to repeal certain obsolete provisions and to provide for matters connected therewith.*

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Long Title.

( )

Commencement

The Cross State River House of Assembly enacts -

Enactment.

### PART I

#### OBJECTIVES AND AUDITOR-GENERAL OF THE STATE

Objectives of the Law.

1. The objectives of this Law are to -

- (a) give effect to the provisions of the Constitution establishing and assigning Supreme Audit functions to a State Auditor-General and the State laws establishing the Office of the Auditor-General for Local Governments;
- (b) provide for the Auditing of State Institutions and Accounting entities in the public sector including Local Government councils;
- (c) provide for an oversight mechanism established in terms of section 125 of the Constitution of the Federal Republic of Nigeria 1999. (as amended) and section 56 of Cross River State Local Government Law 2007;
- (d) assist and protect the Auditors-General in order to ensure the independence, impartiality, dignity and effectiveness of the Auditors-General;
- (e) advise the State House of Assembly;
- (f) provide a comprehensive and thorough audit of the obligation, expenditure, receipt and use of public funds of the State under the direction and control of the State Auditor-General, to the end that the government of the State will be accountable to the House of Assembly and the citizens and taxpayers, and to the end that the constitutional and statutory requirements governing state fiscal and financial operations will be enforced;
- (g) provide a comprehensive and thorough audit of the obligation, expenditure, receipt and use of public funds of the Local Government Councils under the direction and control of the Auditor-General for Local Governments, to the end that the government of the Local Governments will be accountable to the House of Assembly and the citizens and taxpayers, and to the end that the constitutional and statutory requirements governing state fiscal and financial operations will be enforced;
- (h) set forth the conditions and the methods of conducting an audit of the financial procedures, electronic data and information systems and other records of Cross River State Government Revenues and Expenditures, her funds and the financial transactions of all the Ministries, Departments, Agencies, Commissions, other state establishments and Local Governments.



Establishment of the  
Office of the State  
Auditor-General.

2. (1) There is hereby established an office to be known as the Office of the State Auditor-General in Cross River State of Nigeria (referred to in this Law as the "Office") in pursuant of Section 125(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

(2) The Office shall be headed by the Auditor-General (referred to in this Law as the ("State Auditor-General") who is appointed in accordance with the Constitution.

(3) The State Auditor-General shall—

(a) be the Head of Supreme Audit Institution in the State;

(b) shall have full legal capacity, independence and subject only to the Constitution and State Law, including this Law;

(c) be impartial and must exercise the powers and perform the Functions of the office without fear, favour or prejudice;

(d) be protected from any interference from any person or organ of state in the performance of his duties; and

(e) be accountable to the State House of Assembly.

Appointment of State  
Auditor-General.

3. (1) The State Auditor-General shall be appointed by the Governor on the recommendation of the State Civil Service Commission, subject to confirmation by the State House of Assembly.

(2) A person shall not be appointed to the Office of Auditor-General of the State unless; he is;

(a) a senior management staff of the Office of the State Auditor-General not below the position of Director with not less than 15 years cognate public sector audit experience in the office of the State Auditor-General;

(b) a professional Accountant from a recognized Accountancy body;

(c) experienced in Public Sector Finance;

(d) knowledgeable in the use Of computer audit software; and

(e) a person of proven integrity and good conduct.

Maintenance of  
Qualification.

4. The State Auditor-General appointed under Section 3 must continue to be a qualified individual within the meaning of Section 3(2) throughout the term of his or her appointment.

Additional  
Procedures for  
appointment of State  
Auditor-General

5. In the absence of a suitable candidate as stated in Section (3) of this Law, the following additional procedures shall be executed by the Civil Service Commission -

(a) the vacancy for the position of State Auditor-General shall be advertised in at least 2 National dailies and 1 local newspaper.

(b) all applicants are to be subjected to the same interview and/or written test.



6. The State Auditor-General shall take an oath administered by the Chief Judge or a Judge of Cross River State of Nigeria, as specified in Part B before assumption of Office of Schedule 1 to this Law.

3

Oath of Office.

7. (1) The Office of the State Auditor-General shall be an independent and autonomous institution and shall not be subject to the direction or control of any other authority or person in the performance of its functions under Section 125(6) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and this Law.

Autonomy and  
independence of the  
Office.

(2) The salaries and remuneration of other staff in the Office of the State Auditor-General shall be fixed by the Salaries and Wages Commission provided the Auditor-General may with the approval of the Governor recommend additional allowances for staff of the Office.

(3) The State Auditor-General shall also in conjunction with the Audit Service Commission recruit personnel into the department to fill vacancies that may exist from time to time in the office.

(4) In the exercise of his functions under this Law, the Office of the State Auditor-General shall have Administrative, Operational and Financial autonomy at all times.

(5) The State Auditor-General shall be at liberty to enter into agreement with third parties on any matter that has direct impact on activities of his office.

(6) The Office of the State Auditor-General may sue or be sued in its own name.

(7) The Auditor-General of the State is to be free from interference by the House of Assembly and the Executive in the:

- (a) selection of audit issues;
- (b) planning, programming, conduct, reporting, and follow-up of the audits; and
- (c) organization and management of his office.

(8) The Office of State Auditor General shall be allocated a percentage of the monthly revenue of the Federation Allocation Accounts Committee (FAAC) accruable to the State, as may be appropriated by the House of Assembly.

8. The Office of the State Auditor-General shall consist of Departments which shall include –

Structure of the  
Office.

- (a) Annual Accounts Department;
- (b) Government Accounts I and II Department;
- (c) Boards and Corporation Department;
- (d) Projects Monitoring and Evaluation Department;
- (e) Field Office Department;
- (f) Administration;
- (g) Finance and Supplies Department; and
- (g) Planning, Research and Statistics Department.



Remuneration,  
Allowances and  
expenses of the  
State Auditor-  
General

9. (1) The State Auditor-General shall be paid such Salaries and Allowances as shall be approved by the House of Assembly based on the benchmark of the salary and allowances of the Auditor-General of the Federation as may be determined by the Revenue, Mobilization, Allocation and Fiscal Commission.

(2) The remuneration of the State Auditor-General shall be a first line charge on the Consolidated Revenue Fund of the State as specified by S.124(2) of 1999 Constitution of the Federal Republic of Nigeria (as amended).

(3) The Salaries and allowances payable to the State Auditor-General and his conditions of service shall not be altered to his disadvantage after his appointment in accordance with s 124 (3)(4) of the Constitution.

(4) The State Auditor-General shall be reimbursed for reasonable and necessary travelling and out of pocket expenses personally incurred in exercising the powers and performing the duties of the State Auditor-General.

Removal from  
Office of the State  
Auditor- General.

10. A person holding the office of the State Auditor-General shall cease to hold office where he -

(a) is removed by the Governor acting on an address supported by two third majority of the State House of Assembly praying that he be so removed for inability to discharge the functions of his Office (whether arising from infirmity of mind or body) or for misconduct provided that the State Auditor-General shall have been given at least twenty-one (21) days' notice in writing to defend himself on the floor of the House;

(b) resigns his appointment or voluntarily retires from the service of the State;

(c) is permanently incapacitated and unable to carry on with his functions effectively based on a report by a legally constituted Medical Board or dies while in office.

(d) becomes bankrupt or makes a compromise with his creditors to reschedule his debts; or

(e) is convicted for a crime under the laws of Nigeria or any foreign country or under treaty to which Nigeria is a signatory.

Tenure of Office  
of the State  
Auditor-General.

11. The State Auditor-General shall remain in Office until he has attained the retirement age of sixty (60) years in accordance with Section 127(2) of the Constitution, except where he is removed from office under the provisions of section 10 of this Law.

Vacancy in the  
Office of the State  
Auditor-General

12. (1) In the event of any vacancy in the Office of the State Auditor-General, the most senior auditor shall act in the capacity of State Auditor-General pending the appointment of an Acting or substantive Auditor-General by the Governor.

(2) The Governor shall, on the recommendation of the State Civil Service Commission in accordance with the provisions of Section 125 of the Constitution of the Federal Republic of Nigeria, 1999 as amended, appoint a person to fill the vacant position.

(3) A person appointed in line with subsection (1) of this Section shall possess the qualifications spelt out in Section 3 of this Law.

(4) No person shall act in the Office of the State Auditor-General for a period exceeding six months except by a Resolution of the House of Assembly and this shall be restricted to only one extension.

Temporary  
absence of State  
Auditor-General.

13. In the event of any administrative absence of the State Auditor-General by reason of annual vacation, short courses, medical treatment and other operational engagements, the most senior Director in the office shall cover the duties of the State Auditor-General.



14.(1) The State Auditor-General shall ensure that –

- (a) all reasonable precautions have been taken to safeguard the collection and custody of public monies or other monies subject to this Audit Law, other laws, directions and instructions relating thereto have been duly observed and obeyed;
- (b) all monies appropriated or otherwise disbursed have been expended on and applied for the purpose for which the approvals made by the Executive Council of the State and the State House of Assembly were intended, and that the expenditures conform to the authority which governs them;
- (c) adequate audit regulations exist for Accounting and Financial operations in the State and that they are duly observed;
- (d) monies have been expended with efficiency and effectiveness and due regard to economy;
- (e) satisfactory procedures have been established to measure and report the effectiveness of programmes, where such procedures could appropriately and reasonably be implemented;
- (f) the attention of the appropriate authorities have been drawn to any irregularity observed during the examination of the account as soon as facts of such irregularities have been established and confirmed;
- (g) as a result of the audit conducted by him, all queries and observations are addressed to the Accountant-General, Accounting Officer or any other appropriate persons and call for such accounts, vouchers, statements, documents and explanations as he deems fit; and
- (h) where he deems fit, make surcharge and specify to the appropriate Head of Department or Institution, the amount due from any person upon whom he had made a surcharge and the reason for the surcharge and shall report the circumstances of the case to the Accounting Officer of the affected department or institution.

(2) The State Auditor-General shall, in exercising his functions under the provisions of this Law express his opinion as to whether the financial statements/accounts represent the financial information in accordance with applicable statutory provisions, stated accounting policies of government and relevant standards including the International Public Sector Accounting Standards or any other regulation as are essentially consistent with those of the preceding year.

(3) The State Auditor-General or any person authorized by him to conduct periodic checks on a statutory corporation shall, in addition to the audit report, draw attention to the following -

- (a) the viability, liquidity, stability and solvency of the Parastatals, Corporations, Educational Institutions and also the performance of the shares of the Corporation in the capital market, where applicable;
- (b) any delay in the payment of the government's portion of any dividend into Consolidated Revenue Fund;
- (c) any fraud or loss and, if so, their underlying causes and person(s) responsible for such fraud or losses;



- (d) any internal control weaknesses which were identified;
- (e) the general corporate performance indicating achievements against set targets and objectives; and
- (f) If the financial operations of the body have been conducted with due regard to economy, efficiency and effectiveness, having regard to the resources utilized.

(4) The State Auditor-General shall evaluate the adequacy of the State's enterprise risk management strategies and policies and make recommendations for their improvement.

(5) The State Auditor-General shall audit all financial Statements and annual accounts of the State.

(6) The State Auditor-General shall, within ninety days of the receipt of the Accountant-General's Financial Statements and Annual Accounts of the State, submit his report to the Cross River State House of Assembly.

(7) the State Auditor-General in the exercise of his responsibility shall publish the annual statutory report of the State Government electronically and manually.

(8) The State Auditor-General shall carry out verification and validity checks on terminal benefits payable to any staff retiring from the service of the state or who died in the course of service.

(9) The State Auditor-General may at any time during the year's report on any matter considered expedient including non-response to audit queries to the State House of Assembly for their immediate attention.

(10) The audit shall be performed in accordance with the schedules set out in the Annual Programmes of the State Audit Offices and shall be mandatory at least once a year or as may be determined by the appropriate Auditor-General or any other person authorized by him so to do.

(11) The State Audit Officers in their Annual Programmes shall define the scope of the audit work when planning the audits included in the Annual Programme and also take into account the potential risk of the entities identified during preliminary reviews.

**Powers of the  
State Auditor  
General.**

15. (1) The State Auditor-General or any person authorized by him in that behalf shall have unrestricted access to all the books, records, returns and all other documents both electronic and manual, relating to the accounts referred to in this section whether kept electronically or otherwise.

(2) If at any time it appears to the State Auditor-General that any irregularity have occurred in the receipt, custody or expenditure of public monies or in the receipt, custody, issue, sale, transfer or delivery of any securities, stores or other Government property, or in the accounting of same, he shall immediately bring the matter to the notice of the Accounting Officer of the affected Ministry or Agency and to any other officer or body he may deem fit.

(3) The Auditor-General may –

- (a) seek the advice or opinion of the Attorney-General of the State in writing on any question or issue arising from the provisions of this Law in respect of all matters and issues, that may be necessary for the due performance and exercise of the duties and powers vested in him, and the Attorney-General shall give his opinion within fourteen (14) days;
- (b) deploy to any Government Departments, Authorities, Commissions and Agencies, any person employed in his office as Resident Auditor to enable the officer carry out his duties effectively for a given period as may be considered appropriate by the State Auditor-General, and such Government



Agency shall provide an office accommodation and other official facilities for the officer so stationed;

(4) For the purpose of discharging the functions of the office, the State Auditor-General, subject to the provisions of this Law, may do anything necessary and undertake any transaction necessary to ensure the proper performance of these functions; which may include –

- (a) establishing and implementing a comprehensive human resource management system and policies for managing the staff and staff development programmes;
- (b) developing and maintaining such systems, whether by computer or other means, for the collection, storage, analysis and retrieval of relevant information and promulgating procedures for conducting audit work;
- (c) engaging the services of professionals to serve on a contract basis for limited engagements, including those required as part of agreements with international organizations, but all audit opinions shall remain those of the State Auditor-General; and
- (d) constituting or establishing any standing or ad hoc Committee to facilitate the discharge of the functions of the Office.

(5) The State Auditor-General shall have power to conduct periodic checks on all government statutory Corporation, Commissions, Authorities, Agencies, including all persons and bodies established by law of the House of Assembly and section 125(4) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

(6) The State Auditor-General may-

- (a) require a public officer to give explanation or information which the Auditor-General may require in order to enable him discharge his duties; and
- (b) without the payment of fee, cause a search to be made and extracts to be taken or copies made from any book, document or record in any public office.

(7) (a) The State Auditor-General in the performance of his functions under this Law or any other Law may disallow any item of expenditure which is contrary to Law, and surcharge-

- i. the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;
- ii. any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; or
- iii. the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred; and

(b) a person aggrieved by a disallowance or surcharge made by the State Auditor-General may appeal to the High Court of Cross River State.

(8) The State Auditor-General may initiate any action he deems appropriate to retrieve any state property in the custody of an unauthorized person or where there is an abuse of the use of government property.



16.(1) The State Auditor-General may undertake special assignments, where in his opinion such special assignments do not interfere with his primary responsibilities under this Law, whenever the Governor or the House of Assembly by resolution so requires, inquire into and report on a –

- (a) matter relating to the financial affairs of the State or to public property; or
- (b) person or organization that has received financial aid from the State Government or in respect of which financial aid from the State Government is sought.

(2) Where the State Auditor-General makes a report in accordance with sub-section (1) of this Section, he shall report to the Governor or the House of Assembly.

17. (1) The State Auditor-General shall, for the purpose of establishing the economy, efficiency and effectiveness of the operations of any Ministry, Department, Agencies or Institutions in respect of which appropriation, or other accounts are required to be prepared under any law of the State House of Assembly or the Constitution, inquire into, examine, investigate or undertake performance audits and report as he considers necessary.

(2) In the discharge of his duties regarding Compliance Audit and Financial Audit, he may deploy other emerging audit methodologies including Risk-Based Forensic Audit, System Audit and Environmental Audit techniques.

18. (1) When the Auditor-General report on an account established by the Department of State Security or any other confidential special account established by any other Law of the House of Assembly, the Auditor-General-

- (a) shall have due regard for the special nature of the account; and
- (b) on the written advice from the relevant authority, on the basis of public interest, may exclude confidential, secret or classified details of findings from the audit report, provided that the audit report states that these details were excluded.

(2) Subsection (1) of this Section shall not prevent the disclosure of any audit finding by the Auditor-General or any authorized auditor on any unauthorized expenditure, irregular expenditure or fruitless and wasteful expenditure within the meaning of the Public Finance Management Law, or any other irregular conduct or activity, or criminal conduct, relating to the financial affairs of such an account.

19. The State Auditor-General may make additional regulations for carrying into effect the purposes of this Law and such regulations shall be laid before the House of Assembly for a consequential resolution.

## PART II AUDITS OF STATE INSTITUTIONS

20. The accounts of a Corporation or of a Parastatal shall be audited in accordance with the Law establishing such Corporation or Parastatal annually.

21. (1) The State Auditor-General shall provide a list of qualified auditors who are duly registered with the Office to the management of the Departments and Agencies, one of which must be chosen by the management for a defined period not exceeding three (3) years.

(2) The Audit firm so chosen shall carry out its mandate in accordance with professional standards acceptable to the office of the State Auditor-General.

(3) The Audit firm shall submit copies of its report to the State Auditor-General for evaluation and subsequent delivery to the House of Assembly.



(4) The State Auditor-General shall provide guidelines on the level of fees to be paid to the audits firms referred to in subsection (1) of this Section.

(5) The management of each Parastatal, Commission and Agency shall provide in their annual estimates a sum in accordance with subsection (4) of this Section for the payment of audit fees and other consultancy services.

(6) The aggregate amount of fees so determined shall be domiciled in the office of the State Auditor-General for the purpose of payment to the respective audit firms.

(7) The Speaker of the House of Assembly shall table the Auditor's report before the House within a reasonable time.

22. (1) The accounts of the Office of the State Auditor-General shall, in each financial year, be audited and reported upon by an auditor appointed by the Public Account Committee of the House of Assembly.

Independent  
Auditors for the  
Auditor-General's  
Office

(2) Pursuant to subsection (1) of this section, the Commission shall advertise for the position of the Independent Auditor in at least two national dailies.

(3) The Audit firm referred to in subsection (1) of this Section shall not be a person engaged by the Office in the last five years.

(4) Without prejudice to subsection (1) of this Section, a firm is qualified for appointment as Independent Auditors to the Office if-

(a) it holds a valid practicing license whether within or outside the country for at least a period of five years before such appointment;

(b) has proven track record of performance and integrity.

(c) is not involved or has not audited a Commission or any Department or Agency which is subject to audit by the office for at least a period of five years before such appointment.

(d) has not been a consultant to the Office or Commission for at least a period of five years before such appointment.

(5) Notwithstanding anything to the contrary in any law in force, the Office of the State Auditor-General shall, within three months after the end of its financial year, prepare and submit to the auditor appointed under subsection (1) of this Section, financial statements of the Office.

(6) The audit firm so appointed shall have access to all books of accounts, vouchers and other records of the Office of the State Auditor-General and shall be entitled to any information and explanation required in relation to those records.

23. (1) Audit queries from the State Auditor-General shall be addressed to the Chief Executive or Accounting Officer and shall be answered within the time stipulated in the schedule of the Law.

Audit Queries.

(2) Where the Accounting Officer or Chief Executive mentioned in subsection (1) of this section fails to



answer to an audit query, the Auditor-General shall notify the Governor in writing of the said failure.

(3) Where the failure to answer the audit query is by an officer other than the Commissioner, the Auditor-General shall recommend to the appropriate authorities the punishment stipulated in the Schedule.

(4) Where the officer is aggrieved with the punishment meted under subsection (3) of this Section, he may appeal to the Public Accounts Committee for final determination.

(5) In addition to subsection (3) of this Section, the Auditor-General shall have and exercise all penal powers stipulated in the Schedule and any person not satisfied with such decision may appeal to the Public Accounts Committee.

Refusal to  
Answer Audit  
Queries.

24. Without prejudice to any provision of this Law, every person who fails or refuses to reply to an audit query or observation within the period specified in the audit query or a reasonable time thereafter shall have his emoluments and allowances withheld for so long as the person fails to reply and/or shall be liable to disciplinary action under the State Public Service Rules.

Annual Estimates  
of the Office.

25. (1) The State Auditor-General shall prepare and submit to the State House of Assembly at least 90 days before the beginning of each year-

(a) a draft annual plan, that-

(i) describes the State Auditor-General's proposed work programme for the succeeding year;

(ii) includes the interim budgetary performance for the current financial year;

(b) the estimate of revenues and expenditures for inclusion in the state budget;

(c) the operational and administrative expenses of the Office including salaries, allowances, gratuities and pensions payable to staff; and

(d) the State House of Assembly may comment or moderate the estimate submitted to it by the State Auditor-General.

(2) (i) The State Auditor-General, after considering any comments of the State House of Assembly or of the Public Accounts Committee that considered the draft plan, may amend the plan as necessary and re-submit to the State House of Assembly.

(ii) If the State House of Assembly is satisfied with the amendments or the initial estimate, it shall forward the estimate to the Ministry of Economic Planning and Budget for inclusion in the State annual Estimates.

(3) Any sum appropriated to the Office by the House of Assembly of the State in each financial year shall be charged upon the Consolidated Revenue Fund of the State and paid as first line charge.

Medium Term  
Expenditure  
Framework.

26. The State Auditor-General shall ensure that the projected revenue and expenditure of his office for the two financial years following the year to which the budget and business plan relates comply with Medium Term Expenditure Framework.



27. The State Auditor-General shall defray costs from the established Funds under this Law, of all the amount payable being sums representing –

Application of  
Funds.

- (i) Salaries and Running cost of the Office;
- (ii) Cost of acquisition, rent or upkeep of premises; and
- (iii) any other payment incidental to the performance of his functions under this Law.

(2) The State Auditor-General shall manage the funds of the office in conformity with the approved budget and expenses to be paid from the funds, which shall include –

- (i) Salaries and allowances of staff of the Auditor-General;
- (ii) Costs of training and professional development; and
- (iii) Any capital development project or special expenditure.

28. (1) Within a period of six months after the end of each fiscal year, the Accountant-General of the State shall present to the State Auditor-General, accounts showing the fiscal position of the State as at the last day of the preceding year.

Annual Account.

(2) Such accounts shall include:-

- (a) Responsibility for Financial Statement;
- (b) Statement of Financial Position;
- (c) Statement of Financial Performance;
- (d) Cash Flow Statement;
- (e) Accounting Policies and Notes to the Financial Statements;
- (f) Statement of Consolidated Revenue Fund;
- (g) Statement of Capital Development Fund;
- (h) Statement of Recurrent Revenue and Expenditure;
- (i) Statement of Donations and Grants;
- (j) Statement of Contractual Liabilities;
- (k) Statement of Investments;
- (l) Statement of External and Internal Loans; and
- (m) other Financial statements that may be required by Auditing Standards, Practices or Statutes.



(3)(a) The Notes to the financial statements shall provide information about the basis of preparation of the financial statements and the specific accounting policies selected and applied for significant transactions and other events for the purpose of users' understanding and comparability -

(b) The Notes shall include the following-

- (i) Statement of Compliance with approved accounting standards;
- (ii) Statement of Accounting policies applied; and
- (iii) Supporting information for items presented on the face of the financial statements.

(4) Within three (3) months after the close of each fiscal year, the Accounting Officer shall prepare and submit to the Accountant-General with copy to the State Auditor-General, appropriation accounts of the moneys expended under the votes for which they are responsible, showing the -

- (a) services for which the moneys were voted;
- (b) sums actually expended on each service during the period of the accounts; and
- (c) state of each vote compared with the appropriation; provided that each account shall contain such variation between the expenditure and the sums voted, such other required information and be in such form as the State Auditor-General may direct; and the statement as well as the appropriated accounts shall be signed by the Accounting Officer.

Submission of  
Annual Accounts.

29. (1) The State Auditor-General shall within ninety (90) days of receipt of the Accountant-General's Financial Statements and Report on Annual accounts of the State, submit his report to the House of Assembly. The House shall cause the report to be considered by a Committee of the House responsible for Public Accounts (referred to in this Law as "the PAC").

(2) The State Auditor-General's Report shall be published and made available to the public after its deliberation by the House of Assembly; this shall be on demand and on payment of a minimal fee.

Review of Audit  
Reports.

30. (1) The Public Account Committee shall -

- (a) consider each report from the State Auditor-General within 90 days;
- (b) ensure that the Office of the State Auditor-General is duly represented; and
- (c) the action of the PAC shall be governed by the standing orders of the House of Assembly.



31. The State Auditor-General may at any time, on request, carry out an investigation on behalf of the Governor or any State Agency and on conclusion of the exercise, submit his findings to the Governor and/or the Agency concerned.

Special Report  
from State  
Auditor-General.

### PART III AUDITOR GENERAL FOR LOCAL GOVERNMENTS

32. (1) There is established an office to be known as the Office of the Auditor-General for Local Governments in Cross River State of Nigeria (referred to in this Law as the "Office").

Establishment of  
the Office of the  
Auditor-General  
for Local  
Government

(2) The Office shall be headed by an Auditor-General (referred to in this Law as the "Auditor-General for Local Governments")

(3) The Auditor-General for Local Governments shall—

- (a) be the Head of Supreme Audit Institution in the Local Government Councils in the State;
- (b) have full legal capacity, independence and be subject only to the Constitution and the Law, including this Law;
- (c) be impartial and exercise the powers and perform the functions of the office without fear, favour or prejudice; and
- (d) is accountable to the State House of Assembly.

33.(1) The Auditor General for Local Governments of the State shall be appointed by the Governor, upon the recommendation of the Civil Service Commission subject to confirmation by the State House of Assembly.

Appointment of  
Auditor General  
for LG.

(2) The Auditor-General for Local Government shall be—

- (a) a senior management staff of the Office of the Auditor-General for Local Governments not below the position of Director with not less than 15 years cognate public sector audit experience in the office of the Auditor- General for Local Governments.
- (b) a professional Accountant from a recognized Accountancy body;
- (c) experienced in public sector finance and local governments in particular;



(d) knowledgeable in the use of computer audit software;

(e) a person of proven and consistent integrity and good conduct.

Additional  
Procedures for  
appointment of  
Auditor-General

34. In the absence of a suitable candidate as stated in Section 33 of this Law, the following additional procedures shall be executed by the Civil Service Commission –

(a) the vacancy for the position of Auditor-General for Local Governments shall be advertised in at least 2 National dailies and 1 local newspaper; and

(b) all applicants are to be subjected to the same interview and/or written test.

Purpose and  
Mandate.

35. The purpose and mandate of the Auditor-General for Local Governments is to conduct audits of the operations of the councils in order to provide them with objective information and relevant advice that will assist them in their accountability to their communities for the stewardship of public assets and the achievement of value for money.

Autonomy, Funding  
and Independence  
of the Office.

36. (1) The Office of the Auditor-General for Local Governments shall be an independent and autonomous institution and shall not be subject to the direction or control of any other authority or person in the performance of its functions under this Law.

(2) The Auditor-General for Local Governments shall, in conjunction with the State Audit Service Commission recruit personnel into the department to fill vacancies that may exist from time to time in the office.

(3) The salaries and remunerations of other staff in the Office of the Auditor-General for Local Governments shall be fixed by the Salaries and Wages Commission provided that the Auditor-General may with the approval of the Governor recommend additional allowances for staff of the Office.

(4) The Auditor-General for Local Governments shall be at liberty to enter into agreements with third parties on any matter that has direct impact on activities of his office.

(5) The staff of the Audit Service Commission shall be paid the same remuneration as applicable in the State Civil Service.

(6) The Office of the Auditor-General for Local Governments may sue or be sued in its own name.

(7) The Auditor-General for Local Government shall be free from interference from the House of Assembly and the Executive Arm of government in the –

(a) Selection of audit issues;

(b) Planning, programming, conduct, reporting, and follow-up of the audits; and

(c) Organization and management of his Office.

(8) The Office of the Auditor-General for Local Government shall be allocated the percentage of monthly Revenue of Joint Accounts Allocation Committee (JAAC) accruable to all Local Government Council in the State, as may be appropriated by the House of Assembly.

Structure of the  
Office.

37. The Office of the Auditor-General for Local Governments shall consist of Departments which shall include-

(a) Payroll Department;



- (b) Administration and Finance Department
- (c) Audit Department;
- (d) Pension Department
- (e) Planning, Research and Statistic ;
- (f) Project Monitoring and Evaluation Department; and
- (g) any other department as may be created by the Auditor-General for Local Government from time to time based on need and international regulations.

38. (1) The Auditor-General for Local Governments shall be paid such Salaries and Allowances as shall be approved by the House of Assembly based on the benchmark of the salary and allowances of the Auditor-General of the Federation as may be determined by the Revenue, Mobilization, Allocation and Fiscal Commission.

Remuneration and Allowances.

(2) The Salaries and allowances payable to the Auditor-General for Local Governments and his conditions of service shall not be altered to his disadvantage after his appointment.

39. (a) A person holding the Office of the Auditor-General for Local Governments shall be removed from office by the Governor of the State acting on an address supported by two-third majority of the House of Assembly praying that he be so removed for inability to discharge the functions of his office (whether arising) from infirmity of mind, body, any other cause, or for misconduct.

Removal from Office.

- (b) resigns his appointment or voluntarily retires from the service of the State;
- (c) is permanently incapacitated and unable to carry on with his functions effectively based on a report by a legally constituted Medical Board or dies while in office;
- (d) becomes bankrupt or make a compromise with his creditors to reschedule his debts; or
- (e) is convicted for a crime under the laws of Nigeria or any foreign country or under treaty to which Nigeria is a signatory.

40. The Auditor-General for Local Government shall remain in office until he has attained the retirement age of sixty (60) years in accordance with Section 127(2) of the Constitution, except where he is removed from office under the provisions of Section 10 of this Law.

Tenure of Office.

41. (1) The Auditor-General for Local Governments may resign by giving written notice to the Governor through the Audit Service Commission.

Vacancy.

(2) Where the Office of the Auditor-General for Local Governments is vacant, the Governor shall on the recommendation of the Civil Service Commission, appoint a person in acting capacity to exercise the powers and perform the duties of the Auditor-General for Local Governments until a substantive appointment is made under Section 33 of this Law.

42. In the event of any administrative absence of the State Auditor-General by reason of annual vacation, short courses, medical treatment and other operational engagements, the most senior Director in the office shall cover the duties of the State Auditor-General.

Temporary absence of the Auditor-General LG.

43.(1) The Auditor-General for Local Governments shall have power to ensure that –

- (a) all reasonable precautions have been taken to safeguard the collection and custody of public monies or other monies subject to his audit and that the laws, directions and instructions relating thereto have been duly observed and obeyed;
- (b) all monies appropriated or otherwise disbursed have been expended on and applied for the purpose for which the approvals made by the Governor and the Executive

Functions of Auditor General for Local Governments.



Council of the State and the State House of Assembly were intended, and that the expenditures conform to the authority which govern them;

- (c) adequate audit regulations exist for Accounting and Financial operations in the State and that they are duly observed;
- (d) monies have been expended with efficiency and effectiveness and due regard to economy;
- (e) procedures have been established to measure and report the effectiveness of programmes, where such procedures could appropriately and reasonably be implemented;
- (f) the attention of the appropriate authorities have been drawn to any irregularity observed during the examination of the account as soon as facts of such irregularities have been established and confirmed;
- (g) as a result of the audit conducted by him, all queries and observations are addressed to the Accountant-General, Accounting Officer or any other appropriate persons and call for such accounts, vouchers, statements, documents and explanations as he deems fit; and
- (h) where he deems it fit, make surcharge and specify to the appropriate Head of Department or Institution, the amount due from any person upon whom he had made a surcharge and the reason for the surcharge and shall report the circumstances of the case to the Accounting Officer of the affected department or institution.

(2) The Auditor-General for Local Governments shall, in exercising his functions under this Law, express his opinion as to whether the financial statements/accounts represent the financial information in accordance with applicable statutory provisions, stated accounting policies of government and relevant standards including the International Public Sector Accounting Standards or any other regulation and are essentially consistent with those of the preceding year.

(3) The Auditor-General for Local Governments or any person authorized by him to conduct periodic checks on a statutory corporation shall, in addition to the audit report, draw attention to the following-

- (a) the viability, liquidity, stability and solvency of the Parastatals, Corporations and Educational Institutions and also the performance of the shares of the Corporation in the capital market, where applicable;
- (b) any delay in the payment of the government's portion of any dividend into the Consolidated Revenue Fund;
- (c) any fraud or loss and, if so, their underlying causes and person(s) responsible for such fraud or losses;
- (d) any internal control weaknesses which were identified;
- (e) the general corporate performance indicating achievements against set targets and



objectives; and

- (f) If the financial operations of the body have been conducted with due regard to economy, efficiency and effectiveness, having regard to the resources utilized.

(4) The Auditor-General for Local Governments shall-

- (a) evaluate the implementation of the State's enterprise risk management strategies and policies and make recommendations for the improvement;
- (b) audit all financial Statements and annual accounts of the State;
- (c) within ninety (90) days of the receipt of the Accountant-General's Financial Statements and Annual Accounts of the State, submit his report to the Cross River State House of Assembly.;
- (d) in the exercise of his responsibility, publish the annual statutory report of the Local Governments electronically and manually;
- (e) verify and validate checks on terminal benefits payable to any staff retiring from the service of the Local Government or died in the course of service; and
- (f) non-response to audit queries to the State House of Assembly for their immediate attention.

(5) For the avoidance of doubt, the Auditor-General for Local Governments shall not be involved in any manner, in the management of any entity which is subject to be audited by him under this Law.

(6) The Auditor-General for Local Governments shall exercise discretion in the course of discharging his responsibilities under this Law.

44. (1) The Auditor-General for Local Governments or any person authorized by him in that behalf shall have unrestricted access to all books, records, returns and all other documents both electronic and manual relating to the accounts referred to in this Section whether kept electronically or otherwise.

Powers of the Auditor-General.

(2) If at any time it appears to the Auditor-General for Local Governments that any irregularities have occurred in the receipt, custody or expenditure of public monies or in the receipt, custody, issue, sale, transfer or delivery of any security, stores or other government property or in the accounting of same, he shall immediately bring the matter to the notice of the accounting officer of the affected Local Government Council and to any other officer or body he may deem fit.

(3) The Auditor-General may -

- (a) seek the advice or opinion of the Attorney-General of the State in writing on any question or issue arising from the provisions of this Law in respect of all matters and issues that may be necessary for the due performance and exercise of the duties and powers vested in him and the Attorney-General shall give his opinion within fourteen (14) days;



- (b) deploy to any Local Government, any person employed in his office as Resident Auditor to enable the officer carry out his duty effectively for a given period as may be considered appropriate by the Auditor-General and such Local Government Council shall provide office accommodation and other official facility for the officer so stationed.

(4) For the purpose of discharging the functions of the office, the Auditor-General for Local Government subject to the provisions of this Law, may do anything necessary and undertake any transaction necessary to ensure the proper performance of his functions which include –

- (a) establishing and implementing a comprehensive human resource management system and policies for managing the staff and staff development programme;
- (b) developing and maintaining such system whether by computer or other means for the collection, storage, analysis and retrieval of relevant information and promulgating procedures for conducting audit work;
- (c) engaging the services of professionals to serve on a contract basis for limited engagements, including those required as part of agreements with international organizations, but all audit opinions shall remain those of the Auditor-General for Local Governments; and
- (d) constituting or establishing any standing or ad hoc Committee to facilitate the discharge of the functions of the Office.

(5) The State Auditor-General shall have power to conduct periodic checks on all government statutory Corporation, Commissions, Authorities, Agencies, including all persons and bodies established by law of the House of Assembly and section 125(4) of the Constitution of the Federal Republic of Nigeria (as amended).

(6) The Auditor-General for Local Governments may-

- (c) require a public officer to give explanation or information which the Auditor-General may require in order to enable him discharge his duties;
- (d) without the payment of fee, cause a search to be made and extracts to be taken or copies made from any book, document or record in any public office.

(7) (a) The Auditor-General for Local Governments in the performance of his functions under this Law or any other Law may disallow any item of expenditure which is contrary to Law, and surcharge-

i the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the expenditure;

- ii. any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; or
- iii. the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;

(b) A person aggrieved by a disallowance or surcharge made by the Auditor-General for Local Governments may appeal to the High Court of Cross River State.

Special  
Assignment

43. (1) The Auditor-General for Local Governments may undertake special assignments, where in his opinion such special assignments do not interfere with his primary responsibilities under this Law.



(2) The Governor, Chairman Local Government, the House of Assembly or Local Government Legislature may by request or resolution cause the Auditor-General to inquire into and report on –

- (a) a matter relating to the financial affairs of the Local Government or to public property; or
- (b) a person or organization that has received financial aid from the Local Government or in respect of which financial aid from the Local Government is sought.

(3) Where the Auditor-General for Local Governments makes a report in accordance with sub-section (1) of this Section, he shall forward his findings to the appointing authority.

Performance  
Audit and other  
Specialized  
Audits.

44. (1) The Auditor-General for Local Governments shall, for the purpose of establishing the economy, efficiency and effectiveness of the operations of any local government council in respect of which appropriation, or other accounts are required to be prepared under any law of the State House of Assembly or the Constitution inquire into, examine, investigate or undertake performance audits and report as he considers necessary on -

- (a) the expenditure of public moneys and the use of public resources by the local governments;
- (b) the conduct of, and performance of their functions by –
  - i. Local Government Chairman; or
  - ii. other officers;
- (c) any act of omission of a local government to determine whether waste has resulted or may have resulted or may result;
- (d) any act of showing or appearing to show a lack of probity or financial prudence by a local government or any of its members, office holders and employees;
- (e) financial, human and other resources used in relation to the operations with due regard to economy and efficiency;
- (f) the procedures established by the Local Government are sufficient to monitor the economy, efficiency and effectiveness of those operations; and
- (g) any other activity undertaken by the Local Governments.

(2) The Auditor-General shall make recommendations to the Local Government Councils on his findings on completion of the review exercise in subsection (1) of this Section.

(3) The Auditor-General for Local Governments may identify, develop, publish and/ or otherwise provide information about recommended practices arising from a performance that he considers may be applicable or useful to other Local Governments.

(4) The Auditor-General for Local Governments, if permitted by regulation, may, on request of a local government and in accordance with the regulations, enter into an agreement to conduct a performance audit of the operations of the local government that relate to a matter or subject that is specified in the agreement.



(5) In carrying out the powers and duties under this law, the Auditor-General need not call into question the merits of policy decisions or objectives of a Local Government.

(6) In the discharge of his duties, he may deploy other audit techniques as Risk-based Audit, Forensic Audit, Environmental audit and Computer Audit.

45. (1) The Auditor-General for Local Governments shall –

Refusal to Answer  
Audit Queries.

- (a) notify the Public Accounts Committee and the Local Government Councils of Audit Alarm of significant importance and serious prepayment Audit queries for which the accounting officer of the Local Government is liable;
- (b) inform both the Public Accounts Committee; the Local Government Council and the Governor in writing where a local government Accounting officer does not respond within the stipulated time to query that affect his office;
- (c) where failure to answer audit query by an officer other than the Chairman, the Auditor-General shall impose through the Audit Service Commission the necessary sanctions or punishment on the erring officer who shall have a right of appeal to Public Accounts Committee; or
- (d) shall deal with any other sensitive issue which because of its urgency cannot wait until the committee is convened.

(2) Without prejudice to any provision of this Law, every person who fails or refuses to reply to an audit query or observation within the period specified in the audit query or a reasonable time thereafter shall have his emoluments and allowances withheld for so long as the person fails to reply and/or shall be liable to disciplinary action under the State Public Service Rules.

46. The Auditor-General for Local Governments may make regulations for carrying into effect the purposes of this Law and such regulations shall be laid before the House of Assembly for a consequential resolution.

Power to make  
Regulations.

47. (1) For each Fiscal year, the Auditor-General for Local Governments must prepare financial statements of the office in accordance with International Public Sector Accounting Standards.

Audit of Financial  
Statements of the  
Auditor-General for  
Local Governments

(2) The Public Account Committee (PAC) shall appoint an independent auditor who is authorised to be an auditor of a company.

(3) Pursuant to subsection (2) of this Section, the Public Account Committee (PAC) shall advertise for the position of the Independent Auditor in at least two national dailies.

(4) An Independent Auditor referred to in subsection (2) of this Section shall meet the criteria referred to in section 21(4) of this Law.

48. (1) The Auditor-General for Local Governments shall prepare and submit to the Audit Service Commission, an annual plan, for review, at least 90 days before the beginning of the year.

Annual Estimates  
of the Auditor-  
General's Office

(2) The proposed annual plan, shall-

- (a) describe the Auditor-General for Local Governments' proposed work programme for the fiscal year addressed by the estimate referred to in subsection 1 of this Section;



(b) include the interim report for the current financial year;

(c) include the estimates of revenues and expenditure for inclusion in the State budget;

(d) include the operational and administrative expenses of the Office including salaries, allowances, gratuities and pensions payable to staff.

(e) include a statement of goals and objectives of the Auditor-General for Local Governments and the measures that will be used to determine progress in respect of those goals and objectives.

(f) include the general criteria that the Auditor General for Local Governments will consider to determine the need for and priority of performance audit.

(g) include themes on which some or all performance audits may be based; and

(h) include other matters within the purpose and mandate of the Auditor-General that he considers should be included.

(3) The proposed annual plan may not specify the Local Governments whose operations will be subject of a performance audit.

(4) The House of Assembly may review the annual plan and subject to subsection (2) of this Section may provide comments and recommend changes to the plan as the Office considers appropriate.

(5) The House of Assembly may not recommend changes to the proposed annual plan that would-

a) result in the omission of a matter referred to in subsection 2 (c) to (h) of this Section; or

b) contravene subsection (3) of this Section.

(6) (a) The Auditor-General for Local Governments, after considering any comments of the House of Assembly or of the Public Account Committee that considered the draft plan, may amend the plan as necessary and re-submit to the appropriate authority.

(b) if the State House of Assembly is satisfied with the amendments or the initial estimate, it shall forward the estimate to the Ministry of Economic Planning and Budget for inclusion in the state annual Estimates

(c) any sum appropriated to the Office of the Auditor General for Local Governments by the House of Assembly in each financial year shall be charged upon the Consolidated Revenue Fund of the State and paid as first line charge.



(d) After finalizing the annual plan, the Auditor General for Local Government shall as soon as practicable, provide the annual plan to the Audit Service Commission.

49. The Auditor-General for Local Government shall ensure that the projected revenue and expenditure of his office for the two financial years following the year to which the budget and business plan relates comply with Medium Term Expenditure Framework.

Medium Term  
Expenditure  
Framework.

50. The Provisions of Section 28 of this Law shall apply.

Application for  
Funds.

51. (1) Within a period of three months after the end of each fiscal year, the Chairman of each Local Government shall sign and present to the Auditor-General for Local Governments financial statements showing the fiscal position of the Local Government as at the last day of the preceding year.

Preparation of  
Annual Accounts.

(2) Such accounts shall include:-

- (a) a Statement of Assets and Liabilities at the end of the year;
- (c) a Surplus and Deficit statement for the year;
- (d) Revenue and Expenditure account summary for the year;
- (e) a Comparative Revenue Statement;
- (f) a Comparative Expenditure Statement; and
- (g) such other Statements as the Auditor General for Local Governments may require.

(3) (a) The Notes to the Financial Statements shall provide information about the basis of preparation of the financial statements and the specific accounting policies selected and applied for significant transactions and other events for the purpose of users' understanding and comparability.

(b) The Notes shall include the following -

- (a) Statement of compliance with approved accounting standards;
- (b) Statement of Accounting Policies applied;
- (c) Supporting information for items presented on the face of the Financial Statements.

52. (1) The Auditor-General for Local Governments must prepare in respect of the previous fiscal year, an Annual Report on -

Submission of  
Annual Accounts.

- (a) the activities of the office;
- (b) progress in relation to the goals, objectives and measures established in the annual plan of the office and;
- (c) other matters within the purpose and mandate of the Auditor-General that he considers should be included.



(2) The annual report must include the audited financial statements referred to in Section 44

(3) The Auditor-General for Local Governments shall within ninety (90) days forward to the House of Assembly copies of the accounts signed and presented by each Chairman of a Local Government in pursuance of the provisions of Section 51(1) together with certificate and report of his examination and audit of all accounts relating to public moneys, stamps, securities, stores and other local government property.

(4) On receipt of the documents referred to in subsections (1) to (3) of this Section, the Auditor-General shall ensure that they are laid before the House of Assembly for consideration.

Review of Audit  
Reports

53. (1) The Public Accounts Committee shall –

(a) consider each report from the Auditor-General for Local Government within 90 days.

(b) ensure that the Office of the Auditor-General for Local Government is duly represented.

(c) the action of the PAC shall be governed by the Standing Rules of the House of Assembly.

**PART IV**  
**COMMON PROVISIONS FOR OFFICES OF THE STATE AUDITOR-  
GENERAL AND THE AUDITOR-GENERAL FOR LOCAL GOVERNMENTS**

Financial Year.

54. The financial year of the offices of the Auditors-General for both the State and Local Government is 1<sup>st</sup> January – 31<sup>st</sup> December annually.

Audit Quality

55. (1) The Auditors-General, after considering the oversight mechanisms, shall determine –

(a) the standards to be applied in performing audits;

(b) the nature and scope of such audits; and

(c) procedures for the handling of complaints when performing such audits.

(2) In setting standards the Auditors-General shall take into account all relevant factors, including –

(a) best auditing practices, both locally and Internationally; and

(a) the capacity of the Auditors-General and the auditing profession to comply with those standards.

(3) The Auditors-General may –

(a) make different determinations on the matters mentioned in subsection (1) of this Section for different categories of audits based on recognized best practices; or



- (b) Issue specific directives on those matters in any specific case.

56. (1) The Auditors-General shall apply and comply with contemporary auditing standards as may be applicable to the public sector and may establish audit programmes and code of ethics specific to the audit performed by their Offices.

Audit Standards

(2) The auditing standards shall include –

- (a) Public Sector Auditing Standards issued by Conference of Federal and State Auditors-General;
- (b) Accounting Standards issued by the Financial Reporting Council of Nigeria (FRCN), ICAN and ANAN;
- (c) the Auditing Standards and Code of Ethics published by the International Organization of Supreme Audit Institutions (INTOSAI), African Organization Supreme Audit Institutions, (AFROSAI), and the International Auditing and Assurance Standards Board (IA&ASB);
- (d) the Accounting Standards and Code of Ethics published by the International Federation of Accountants (IFAC);
- (e) International Public Sector Accounting Standards (IPSAS) and the International Financial Reporting Standards (IFRS); and
- (f) other recognized or required standards issued or accepted as current best practices by funding or donor organizations.

57. (1) The Auditors-General and their staff shall have unrestricted access to such people, documents, computers and other information systems, and assets as the Auditors-General consider necessary for the proper performance of their functions

Unrestricted  
Access to  
Information

(2) The Auditors-General may also obtain such information, as they consider necessary in performance of their functions from a person who is not a member, employee or public office holder; to do this, the Auditors-General shall advise the person in writing of the nature of the information and why it is needed.

(3) When performing an audit, the Auditors-General or their representatives shall have at all reasonable times unrestricted access to –

- (a) any document, book, written or electronic record or information of the auditee or which reflects or may elucidate the business, financial results, financial position or performance of the auditee;
- (b) any of the assets of, or under the control of the auditee; or
- (c) any member of staff or representative of the auditee.



(4) The Auditors-General or their representatives may for the purpose of an audit –

- (a) direct a person to produce, or to deliver at a specified place and time and in a specified format:-
  - (i) any such document, book, written or electronic record or information, including any confidential, secret or classified document, book, record or information of whatever nature; or
  - (ii) any such asset;
- (b) inspect and question any person about, any such document, book, or written or electronic record or information, or any such asset;
- (c) copy or make extracts from any such document, book, written or electronic record or information, at the expense of the auditee or remove such document, book, record or electronic information to make copies or extracts;
- (d) direct a person to disclose, either orally or in writing, any information that may be relevant for the audit, including any confidential, secret or classified information and question any person about such information; or
- (e) direct –
  - (i) a person to disclose information, give answers to questions in terms of this subsection in writing or under oath or affirmation; or
  - (ii) that any such information or answers be recorded.

(5) (a) a person who is required in terms of any legislation to maintain secrecy or confidentiality, or not to disclose information relating to a matter, may be required by the Auditor-General to comply with any of the requirements in this section, even though the person would be otherwise in breach of that person's obligation of secrecy or confidentiality or non-disclosure.

(b) compliance with a requirement of this section is not a breach of any applicable legislation imposing the relevant obligation of secrecy or confidentiality or non-disclosure.

Searches of  
Property,  
Premises, Vehicles  
and Persons.

58. (1) When performing an audit, the Auditors-General or an authorized auditor designated by the Auditor-General may, under the authority of a warrant issued by a Judge or Magistrate-

- (a) enter any property, premises or vehicle on reasonable suspicion that a document, book written or electronic record, information or an asset, referred to in this Law, which the Auditors-General or such authorized auditor needs to inspect for the audit is hidden or kept on such property, premises or in that vehicle;
- (b) search the property, premises or vehicle, or any person on the premises or in the vehicle, for such document, book written or electronic record, information or asset; and
- (c) seize such book, written or electronic record, information or asset for the purpose of completing the audit.



(2) The person conducting the search must provide proof of identity to the person in charge of the property, premises or vehicle; a copy of the warrant must be handed to the person in charge of the property, premises or vehicle or affixed to the property, premises or vehicle at a prominent place.

(3) The Auditors-General or such authorized auditor may request assistance from the Nigeria Police Force or any other law enforcement agency or investigating authority to enforce the provisions of this section.

(4) The entering and search of property, premises or vehicle, and the search of a person, in terms of this section must be conducted with strict regard to decency, order and any affected person's constitutional rights.

(5) When exercising the power referred to in this Law, the Auditors-General or an authorized auditor may be accompanied by such assistants and other persons as are reasonably required for the exercise of those powers.

59. (1) Where during the course of an audit, the Auditors-General become aware of an improper retention or misappropriation of Public Funds, public money or any other activity that may constitute an offence under the Criminal Law of the State or any existing law, the Auditor-General shall immediately report the improper retention or misappropriation of public money or other activity to the prosecuting authority or any other authority charged with that function by the State.

Improper  
Retention of  
Public Funds.

(2) In addition to reporting under sub-section (1) of this section, the Auditors-General shall attach to their annual reports to the House of Assembly, a list containing a general description of the incidents referred to in sub-section (1) of this Section and the dates on which those incidents were reported.

(3) The provisions of sub-section (1) of this section shall apply to a staff of the office or any auditor appointed in pursuant to the provisions of this Law.

60. (1) When, in the course of conducting a financial, compliance or performance audit or any emerging audit, staff from the offices of the Auditors-General, or auditors appointed under this Law, discover what they believe to be criminal, fraudulent or corrupt acts, they shall immediately notify the Auditor-General.

Reporting Fraud.

(2) If the Auditor-General is satisfied that sufficient evidence exists to warrant special investigation, he shall carry out detailed investigation and make a special report on his findings to the House of Assembly.

61. (1) An auditee must –

Audit Privileges.

(a) render all reasonable assistance to the Auditors-General or their representatives performing the audit to enable them complete the audit within any applicable timeframes; and

(b) accede free of charge to all reasonable requests of the Auditors-General or their representatives to facilitate the expeditious completion of the audit, including–

(i) the provision of suitable office accommodation and parking on the auditee's premises;

(ii) Logistic support required for the proper carrying out of the audit; and

(iii) access to office equipment.



## (2) An authorized auditor –

- i. must be given notice of every meeting of the auditee's audit committee, if the auditee has such a committee; and
- ii. may attend and participate in any meeting of such an audit committee.

## Audit Report.

62. (1) The Auditors-General shall prepare a report on the audit process carried out.

(2) An audit report must reflect such opinions and statements as may be required by any legislation applicable to the auditee which is the subject of the audit, but must reflect at least an opinion or conclusion on –

- (a) whether the annual financial statements of the auditee fairly represent in all material respects, the financial position at a specific date and results of its operations and such cash flow for the period which ended in that date in accordance with the applicable financial framework and legislation;
- (b) the auditee's compliance with any applicable legislation relating to financial matters, financial management and other related matters; and
- (c) the reported information relating to the performance of the auditee against predetermined objectives.

(3) In addition, the Auditors-General may report on whether the auditee's resources were procured economically and utilized efficiently and effectively.

Protection of  
Auditors-General's  
Report from Court  
Proceedings

63. (1.) All reports of the Auditors-General submitted to the House of Assembly shall be treated as House of Assembly reports and shall enjoy all privileges accorded to House of Assembly reports.

(2) For the avoidance of doubt, no civil or criminal proceedings shall be instituted against the Auditors-General or any of their staff on official audit assignment on the basis of report submitted to the State Assembly.

Regulation on Audit  
Contracts

64. (1) All private audit firms and consultants taking up Audit Contracts and Consultancy jobs relating to audit work must be registered with the office of the State Auditor-General and Auditor-General for Local Government respectively.

(2) Such contracts on audit work shall include but not limited to –

- (a) Revenue audit and consultancy work including tax audit;
- (b) Government bank accounts audit;
- (c) Audit of Government offices including special investigations;
- (d) Staff audit including payment at sight;
- (e) Pension audit including verification;



(f) Contracts in respect of estate/building valuation or valuation of some specialized government assets; and

(g) Assessment and evaluation of effective government information systems.

(3) Copies of the report of such contracts shall be submitted to the organizations involved and to the Auditor-General.

65. (1) An Auditee may discharge an auditor appointed by it before the expiry of that Auditor's term of appointment, but only with the consent of the Auditor-General. Discharge of Auditors.

(2) If such an Auditee intends discharging an auditor in terms of subsection (1) of this Section, it must-

(a) give the auditor notice, in writing, setting out the reasons for the discharge; and

(b) give the Auditor an opportunity to make representations, in writing, to the Auditor-General within 14 days of receipt of the notice.

66. Any person to whom authority has been delegated shall not be personally liable for any act done or failed to be done in good faith in the exercise of the functions of the Office. Delegated Authority.

67. (1) In order to prevent irregular payments, the Governor shall establish Audit Alarm Committees both for the State and Local Governments. Establishment of Audit Alarm Committees.

(2) The State Audit alarm Committee shall be made up of the Auditor-General who shall be the Chairman, the State Accountant-General and a representative of the Governor not below the rank of a Director.

(3) The Local Government Audit Alarm Committee shall be made up of the Auditor-General for Local Government who shall be the Chairman, a representative of the Governor and the Treasurer of one of the Local Government Councils to be appointed on rotational basis.

(4) Pre-payment audit queries raised by the internal audit of either the Ministries, Extra-Ministerial Departments or the Local Governments but overruled by the Chief Executive of the said Institutions shall be referred to the Audit Alarm Committee.

(5) Each Audit Alarm Committee shall investigate any alarm raised by either the internal audit or any other person and whether signed or unsigned.

(6) The respective Auditor-General shall notify the Chief Executive or Accounting Officer of any alarm raised in his Ministry, Extra-Ministerial Department or Local Government Council.

(7) Where a pre-payment audit alarm has been raised, it shall be an offence for any officer to process any queried payment under the audit alarm system without an audit certificate issued by the appropriate Auditor-General.

(8) Each Auditor-General shall notify the House of Assembly of audit alarm of significant importance and serious pre-payment audit queries for which the Accounting Officer is responsible.

68. (1) The Accounting officers in all Ministries, Departments, and Agencies of the State and Local Governments shall establish Audit Committees. Establishment of Audit Committee

(2) The Audit Committee shall-



- (a) implement all recommendations contained in the Auditor-General's report which are approved by the House of Assembly and any other resolution or directive of the House;
- (b) prepare annually a report showing the status of implementation; and
- (c) the report prepared pursuant to subsection 2(a) and (b) of this Section shall contain a statement showing the remedial action taken or being taken to avoid or minimize the occurrence of the undesirable features in the accounts and operations of the Ministry, Department or Agency and the time frame within which the remedial action will be completed if any.

Contracts.

69. To ensure the effectiveness of the audit function, every Ministry, Extra-Ministerial Department or Local Government Council which enters into a contract shall include a clause enabling the Auditor-General to have access to sites for purposes of auditing or monitoring contract performance.

Financial Responsibilities of other Members of staff.

70. Each member of the staff of the Auditors-General exercising financial management responsibilities must take all reasonable steps within his or her area of responsibility to ensure that the –

- (a) system of financial management and internal control established for the administration is carried out diligently;
- (b) financial and other resources of the offices of the Auditors-General are utilized effectively, efficiently, economically and transparently;
- (c) irregular or fruitless and wasteful expenditure, and losses resulting from criminal conduct, are prevented;
- (d) revenues due to the offices of the Auditors-General are collected;
- (e) provisions of this Law to the extent applicable to that member of staff including any delegations by the Auditor-General or the most senior director, are complied with; and
- (f) assets of the offices of the Auditors-General are effectively managed, safeguarded and maintained, and that liabilities are properly managed.

Offences.

71. (1) It is an offence for any person who without justification or excuse to-

- (a) obstruct, intimidate, harass, hinder the Auditor-General or any person authorized by him in the exercise of his duties and powers under this Law;
- (b) refuse or fail to comply with any lawful request of the Auditor-General or his representative;
- (c) fail to produce for inspection to the Auditor-General or his representative or otherwise refuse the Auditor-General or his representative access to any book, record, returns, payment voucher, revenue receipt or other documents relating or relevant to any account to be audited by the Auditor-General or his representative when so requested;



- (d) fail to keep proper books of account or proper records leading to any loss of public funds;
- (e) make a statement or give information to the Auditor-General or his representative which is false or misleading; and
- (f) suppress any information required by the Auditor-General in the performance of his functions under this Law or any other enactment.

(2) Any person who contravenes the provisions of subsection (1) of this Section shall on conviction be liable -

- (a) in the case of an individual, to a fine of not less than ₦250,000.00 or to a term of imprisonment not exceeding 2 years or both; and
- (b) in the case of body corporate or firm, to a fine of not less than ₦500,000.00
- (c) where a body corporate or firm is convicted of an offence under this section, every director of the company or firm shall be liable to a fine of not less than ₦250,000.00 or to a term of imprisonment not exceeding 2 years or both unless he proves that the offence upon which the conviction was based was committed without his knowledge, consent or connivance.

72 (1) Any member of staff of the Office of the Auditors-General who -

Sanctions on Staff  
of Auditor-General

- (a) demands or takes any bribe, gratification, compensation or reward during the performance of his duty;
- (b) fails to report to the Auditor-General any abuse or irregularity coming to his notice in the course of his duties in relation to any account audited; or
- (c) makes any report to the Auditor-General which he knows to be false or which he has no reason to believe to be true;

commits an offence under this Law and shall be liable on conviction to a fine of not less than ₦500,000.00 or imprisonment for two (2) years or both.

(2) Accounting officers shall be held responsible for full recovery of losses discovered from erring Officers.

(3) Where an Accounting Officer fails to make necessary recovery and it is proved that he fails to make reasonable effort to recover the said loss, he shall be guilty of an offence and shall be liable to a penalty of ₦1,000,000.00 plus the amount of loss involved.

73. Auditors of the office of the Auditors-General shall attend, at least, one mandatory training on audit improvements in a year.

Mandatory  
Training.

74. The Auditors-General and each person employed in his office or appointed or engaged to assist the Auditor-General for a limited period of time or in respect of a particular matter shall keep confidential all matters that come to his knowledge in the course of his employment or duties under this Law and shall not communicate those matters to another person, except as may be required in connection with the discharge of his responsibilities.

Confidentiality.

75. Subject to the provisions of this Law, officers serving in Audit offices shall at the commencement of this Law be deemed to have been appointed in accordance with this Law.

Transitional  
Provision.



76. The Auditors-General, an employee of the Offices or a person acting on the directives of the Auditors-General is immune for acts done or omitted to be done in good faith in-

(a) the performance of any function or in the exercise of any power vested or conferred upon him under this Law.

(b) giving evidence or an explanation or producing any document before a Committee of the State Assembly in connection with his report.

Staff Oath of Secrecy.

77. The staff of the Offices of the Auditors-General shall take Oath of Secrecy administered by the Auditors-General in the performance of their duties as in Schedule 1 Part C of this Law.

#### PART V AUDIT SERVICE COMMISSION

Establishment of Commission.

78. (1) There is hereby established a Commission to be known as the State Audit Service Commission (referred to in this Law as "the Commission").

(2) The Commission shall be a body corporate with perpetual succession and shall have the power to sue and be sued in its own name.

Composition of the Commission.

79. (1) The Commission shall comprise of a Chairman, six other Commissioners and a Secretary to the Commission to be appointed by the Governor.

(2) The Chairman shall be a retired State Auditor General provided that, where there is no retired State Auditor-General, a retired Auditor-General for Local Government shall be appointed.

(3) A retired Auditor-General for Local Government shall serve as deputy provided that, where there is no retired Auditor-General for Local Government, a retired Director of Audit shall be appointed.

(4) The other members of the Commission as constituted in subsection (1) of this Section shall be as follows-

(a) a nominee of the State Auditor-General who retired at management level in the state audit;

(b) two professional Accountants from any recognized professional bodies with not less than 10 years standing as members of those bodies with experience in Public Financial Management and Audit; and

(c) a Legal Practitioner of not less than 10 years post call experience.

(5) The Secretary to the Commission shall be a Permanent Secretary who shall not be entitled to vote at meetings or count towards the quorum.

(6) All nominated members shall be confirmed by the State House of Assembly.

(7) In the absence of the Chairman of the Commission, the Deputy Chairman shall act as the Chairman.

(8) A serving member of any Board, Parastatals, Commission or any other Agencies of government cannot be appointed as member of the Commission.

(9) An acting Auditor-General shall not assume the position of the Chairman of the Commission.



80. (1) No person shall be qualified for appointment as a member of the Commission if-

- (a) he is of questionable integrity;
- (b) within the preceding ten (10) years he has been removed as a member of any of the bodies established by Section 197 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) or as the holder of any other office on the ground of misconduct; or
- (c) he has been convicted of a criminal offence by a Court of competent jurisdiction or tribunal in Nigeria or abroad.

(2) Any person employed in the Public Service of the Federation or of a State shall not be disqualified for appointment as a Chairman or member of the Commission provided that where such person has been duly appointed, he shall on his appointment be deemed to have resigned or retired from his former office as from the date of his appointment

81. (1) The Commission shall appoint persons to hold office or function in such other offices as may constitute the Departments of the Commission and Units of the Office.

Powers of the  
Commission.

(2) The power of the Commission to appoint under subsection (1) of this Section shall include power to -

- (a) promote, transfer and confirm appointments of persons employed by the Commission;
- (b) dismiss and exercise disciplinary control over such persons holding or acting in such offices;
- (c) implement guidelines; and
- (d) perform such other duties as are necessary or expedient for the discharge of its functions under this Law.

(3) If the Commission considers it expedient that any vacancy in the staff of the Office should be filled by a person holding office in any Service of the State, it shall notify the appropriate Service Commission to that effect and the Commission may, by arrangement with the Service Commission concerned cause such vacancy to be filled by way of transfer.

(4) Where any member of staff of any Service Commission is seconded under subsection (3) of this Section, he shall be notified of the terms and conditions of the transfer; and transfer shall be without prejudice to any pension rights which, despite the transfer would accrue.

(5) A person seconded pursuant to subsection (4) of this Section may elect, subject to the approval of the Commission, to be transferred to the service of the Office in which case any previous service in the service concerned shall count as service for the purposes of pensions subsequently payable by the Office.

(6) Any member of staff of the Office may elect to transfer or be seconded to any other public service of the State and such right of transfer shall not operate to the disadvantage of the officer concerned.



(7) In exercising its power to make appointments or discipline of persons under this Law, the Commission shall not be subjected to the direction or control of any authority or persons.

82. The Commission may co-opt person(s) who are not members of the Commission for any meeting of the Commission or its Committee and such co-opted person(s) may take part in the deliberations of the Commission or any of its Committees but shall not be entitled to vote or be counted as part of the quorum of the meeting.

Power to co-opt.

83. The Commission shall-

Functions of the Commission.

- (a) handle all matters of recruitment, promotion and discipline of members of staff of the Offices and the Commission and other staff matters including pensions and retirement issues;
- (b) implement ethics and code of conduct for auditors employed in the Offices;
- (c) advise the Governor on the need to provide welfare packages for Office Staff;
- (d) advise the State Government on policy issues relating to audit matters;
- (e) implement Government Policy on audit matters;
- (f) conduct Training Needs Assessment for the Audit Offices From time to time;
- (g) follow up on budget approval, disbursement and allocation if allocation of funds to audit Offices regularly; and
- (h) develop and review periodically the Service Rules applicable to the Audit Offices.

84.(1) Subject to a request by the Auditor-General, stating the category of staff required for the efficient performance of the functions of the Office, the Commission shall recruit such staff for the Office.

Appointment of staff of the Auditors-General.

(2) All appointments of staff to positions on Grade Levels 1-6 or its equivalent shall be carried out by the Management of the Offices of the Auditors-General.

(3) All appointments of staff to positions on Grade Levels 7-10 or its equivalent shall be carried out by the Audit Service Commission.

(4) Appointments of staff to positions on Grade Levels 12 and above or its equivalent shall be widely advertised; written examination and interviews shall be conducted to ensure the engagement of competent and qualified candidates by the Commission.



Promotion of staff  
of the Auditors-  
General Offices.

85. (1) The appropriate Auditor-General shall recommend to the Commission for promotion, staff of his office who are due and qualified for such promotion.

(2) No staff so recommended by the appropriate Auditor-General, and has met all the conditions for promotion that may be prescribed from time to time by the commission, shall be denied promotion or has his/her promotion delayed unnecessarily.

(3) All promotions shall be subject to existing vacancies.

Conditions of  
service and other  
staff matters.

86. The Commission shall-

(a) determine the terms and conditions of service of officers and employees of the office and the commission, other than the Auditor-General;

(b) handle all other staff matters of the Auditors-General's Offices and of the Commission, including matters relating to pensions, retirement benefits, and matters relating to condition of service; and

(c) the salaries and allowances of the staff of the Offices and the Commission shall be a direct charge upon the Consolidated Revenue Fund of the State Government.

Tenure of Office.

87. (1) The tenure of the Chairman of the Commission shall be 4 (four) years and shall be renewable once years.

(2) A member of the Commission shall hold office for a period of four (4) years from the date of his appointment and may be re-appointed for another term only, subject to further confirmation by the State House of Assembly.

Cessation.

88. The Chairman and any of the members shall cease to hold office in the event of any of the following-

- (a) where he is removed by the Governor for inability to discharge the functions of his Office (whether arising from infirmity of mind or body) or for misconduct;
- (b) if he resigns his membership of the Commission in writing by a letter addressed to the Governor;
- (c) in case of permanent incapacity or death;
- (d) if he convicted of an offence which involves moral turpitude;
- (e) involved in any act that may be considered inimical to the interest of the Commission or the State; or
- (f) if he becomes bankrupt or made a compromise with his creditors.



## Filling of Vacancies.

89. At the commencement of this Law, upon the expiration of the tenure of members of the Commission at any time or upon a vacancy occurring in the membership of the Commission, the Governor shall within 30 days fill the vacancy upon confirmation by the State House of Assembly

## Remuneration of Members.

90. The Chairman and members of the Commission shall be paid such allowances as may be applicable to other Commissions in the State.

## Secretary to the Commission.

91. (1) There shall be appointed by the Commission, a Secretary who shall be –

i. A Senior Officer not below the rank of a Director in the State Civil Service

(2) The Secretary shall hold Office on such terms and conditions as may be applicable in the State Civil Service.

(3) Subject to the general direction of the Commission, the Secretary shall be responsible for the day to day administration of the Commission and for the keeping of books and proper records of proceedings of the Commission.

(4) The Secretary shall perform all other duties affecting the Commission as may be assigned to him by the Chairman.

(5) The Secretary shall be appointed by the Governor.

## Engagement of Consultants

92. (1) The Commission may engage the services of such consultants and experts, as it may consider desirable for the efficient discharge of its duties.

(2) The Consultants and experts shall be engaged on such terms and conditions as the Commission may determine.

(3) Nothing in this section or any other provision shall be construed as empowering the Commission to interfere in the operation of the Auditor General's office or engage any consultant or any other body or person(s) to act in that regard.

## Independent Auditor for the Commission

93. The State Assembly shall appoint an Independent Auditor to audit the accounts of the Commission for each financial year.



## Meetings of Commission.

94. (1) The meetings of the Commission shall be convened by the Chairman or by a simple majority of members.

(2) At any meeting of the Commission, the Chairman shall preside and in his absence any member of the Commission as the other members may elect from among themselves shall preside.

(3) The quorum for any meeting of the Commission shall be three members.

(4) Any matter which comes before the Commission for decision shall be decided by the vote of a simple majority of the members present, and in the event of equality of votes, the Chairman presiding shall have a casting vote.

(5) The validity of any meeting shall not be affected by reason of the existence of any vacancy in the Commission or any defect in the appointment of any member.

## Proceedings.

95. The Commission shall have power to regulate its proceedings and may make standing orders for that purpose.

## Protection of Members.

96. No member of the Commission or Committee shall be liable to be sued in any Court for any act done in the course of exercising his legal duty or function imposed on him by the Commission.

## 97. Privileges.

97. (1) Any report, statement, communication, record of the Commission, any meeting or proceeding which the Commission may make in the due exercise of its functions or which any member of the Commission may make in the course of performing his official duties shall be privileged.

(2) Subject to subsection (1) above, a report, statement, communication, record of any meeting or proceeding of the Commission may be released on the order of court or by a resolution of the House.

## Staff of the Commission.

98. The Commission shall appoint such persons as may be necessary to enable it carry out its functions under the provisions of this Law.

## Condition of Service of the Employees of the Commission.

99. The terms and conditions of service (including salaries, allowances, benefits and pensions) of the employees of the commission shall be as applicable in other Commissions.



Staff  
Regulations.

100. The Commission may make regulations relating to the conditions of service of the employees of the Commission and without prejudice to the generality of the foregoing such regulations may provide for-

- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Commission; and
- (b) appeals by such employees against dismissal or such other disciplinary measures and until such regulations are made, any instruments relating to the conditions of service of officers in the Civil Service of the State shall be applicable, with such modifications as may be necessary, to the employees of the Commission.

Pensions.

101. (1) Notwithstanding the provisions of the Pensions Reform Law 2004, service in the Commission shall be service in the Public Service for the purpose of that Law and accordingly, officers of the Commission shall in respect of their services in the Commission be entitled to such pensions, gratuities and other retirement benefits as are prescribed under the State Pensions Reform Law.

(2) The period of service of any person in the Commission shall be joined to and deemed to be continuous with the period served by that person previously or subsequently in any other pensionable service.

(3) For the purpose of the application of the provisions of the Pensions Reform Law, any power exercisable under the provisions of that Law by a Commissioner or other authority of the State (not being the power to make regulations) are vested in and shall be exercisable by the Commission and not by any other person or authority.

(4) Nothing in the foregoing provisions of this Section shall prevent the appointment of a person to any office in the Commission on terms which preclude the grant of a pension or gratuity in respect of service in the office.

Funds of the Commission.

102. (1) There shall be established a Fund for the Commission and provision for the Fund shall be made in the annual budget of the State.

(2) There shall be paid and credited to the fund established under subsection (1) of this Section-

- (a) any sum appropriated to the Commission by the House in each financial year;
- (b) all monies realized for the purposes of the Commission by way of donations or grants-in-aid;
- (c) take off grant;
- (d) proceeds from all other assets that may from time to time accrue to the Commission;



(3) The Commission shall defray all expenditures incurred by it from the fund referred to in subsection (1) of this Section and shall include;

- (a) the cost of administration;
- (b) the payment of salaries, fees or other remunerations or allowances and pensions and gratuities payable to members and employees of the Commission; and
- (c) in furtherance to any of its functions under this law.

103. (1) The Auditors-General may adopt rules governing the operation of the office as may be necessary or advisable in the execution of his duties, except on subjects where this law requires or authorizes the adoption of regulations. Rules of the Auditor General must be consistent with this law. Rules

(2) Rules may be adopted, amended, or repealed by the appropriate Auditor- General in accordance with Cross River State or Federal laws. The Auditor- General shall file a copy of any proposed rule with the Commission, at least thirty (30) days before its final adoption. After filing an adopted rule with the Secretary, the Auditor General shall immediately send a copy of the rule to the Commission.

(3) In addition to rules required by other provisions of this law, the Auditor General shall adopt rules establishing-

- (a) guidelines for the supervision and conduct of post audits, including allocation of supervisory responsibilities, procedures for examining and copying books, records, and documents, persons, procedures for questioning, procedures for taking depositions, and maintenance of records and working papers relating to post audits;
- (b) qualifications and procedures for special assistant auditors and their appointment and contracts;
- (c) guidelines for the use by employees and by authorized special assistant auditors of his authority to take depositions and administer oaths;
- (d) procedures for employees and auditors to secure his approval of a subpoena which may be desired by a person responsible for an audit; and
- (e) establishing guidelines for the retention of financial documents

104. The Audit Law Cap.A20 Vol.1 of the Laws of Cross River State 2004 is hereby repealed.

Repeal.

105. In this Law, unless the context otherwise requires –

Interpretation.

"Accountant-General" means the Accountant-General of Cross River State.

"Accounting Officer" means any Permanent Secretary or the Head of an Extra-Ministerial Department.

"ANAN" means Association of National Accountants of Nigeria.

"Attorney-General" means the Attorney-General and Commissioner for Justice, Cross River State.

"Audit Offices" means office of the State Auditor-General and Auditor-General for Local Governments.

"Auditor-General" means the Auditor-General of Cross River State



"Auditor-General for Local Governments" means the Auditor-General appointed for local governments in Cross River State;

"Constitution" means the Constitution of the Federal Republic of Nigeria 1999 as amended;

"Common Provisions" means provisions of the law that are applicable to both the office of the State Auditor-General and the Auditor-General for Local Governments;

"Compliance audit" means an attestation engagement that either examines, reviews, or entails performing agreed-upon procedures on a subject matter or an assertion about a subject matter and reporting on the results;

"Executive Council" means the Cross River State Executive Council;

"External Auditors" means Independent Auditors appointed to audit financial statements in the Agencies;

"Environmental Audit" is a general term that can reflect various types of evaluations intended to identify environment compliance and management system implementation gaps, along with related corrective actions. The three main types of this audit are: Environmental Compliance Audit; Environmental Management audit and Waste Audit;

"Financial audit." "Financial audit" means a post audit primarily concerned with providing reasonable assurance about whether financial statements are presented fairly in all material respects in conformity with International Public Sector Accounting Standards, or with a comprehensive basis of accounting other than IPSAS.

"Financial year" means the financial year of the State Government;

"Forensic Audit" means the application of audit investigative, accounting and IT skills to provide evidence that can be used in court proceedings.

"Governor" means the Governor of Cross River State.

"House" means the Cross River State House of Assembly.

"ICAN" means Institute of Chartered Accountants of Nigeria;

"Investigation" means an inquiry into specified acts or allegations of impropriety, malfeasance, misfeasance or nonfeasance in the obligation, expenditure, receipt or use of public funds of the State, or into specified financial transactions or practices which may involve such impropriety, malfeasance, misfeasance or nonfeasance.;

"Local government agencies" means schools, units of local government and their offices, boards of commissions and the local courts, which obligate, receive or use public funds of the State.



"Misconduct" means a specific act of wrong doing or improper conduct. Section 3301 of Public Service Rules, 2004.

"Office" means Office of the State Auditor-General.

"Officer" means the holder of an office in the Public Service of the State.

"PAC" means Public Accounts Committee of the House.

"Public money" means and includes the public revenue of the State and any other money held in trust for any period of time by any officer alone or jointly with other persons.

"Revenue" means the States' share from the Federation Account, internally generated money and any other grant and loans or receipts.

"Statutory body" means any authority established by Law.

"State" means the Cross River State of Nigeria.

All references in this law to the male gender shall be deemed to apply to the female gender.

"Performance audit." "Performance audit" means an objective and systematic examination of evidence in order to provide an independent assessment of the performance and management of a program against objective criteria.

"System Audit" means the audit of computer hardware and software for authentication of internal controls and operational integrity.

"Risk-Based Audit" means an internal methodology which is primarily focused on the inherent risk involved in the activities or system and provide assurance that risk is being managed by the management within the defined risk appetite level

"Office of Auditor General" means, as the context may require, the Auditor General and all employees and agents of the Auditor-General, the equipment and facilities maintained by the Auditor General, and the records, files and work product of the Auditor-General and those responsible to him.

"Local government agencies" means schools, units of local government and their offices, boards of commissions and the local courts, which obligate, receive or use public funds of the State.

"Office of Auditor General" means, as the context may require, the Auditor General and all employees and agents of the Auditor-General, the equipment and facilities maintained by the Auditor General, and the records, files and work product of the Auditor-General and those responsible to him.

"Oversight Mechanism" means the Legislative authority to supervise or investigate operations of Ministries, Departments, Agencies and Local government councils for the purpose of making laws.

"Private agencies" means persons, corporations, agencies, associations, institutions or other entities which are not governmental bodies but which obligate, receive or use public funds of the State by grant, appropriation or otherwise.



"State agencies" means all Offices, Boards, Commissions and Agencies created by the Constitution or domestic laws and edicts whether in the executive, legislative or judicial branch, Departments, Boards, Commissions, Agencies, Institutions, Authorities, Universities, Bodies Politic and Corporate of the State; and administrative units or corporate outgrowths of the State government which are created by or pursuant to statute, other than units of local government and their offices, school districts and boards of election; all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor;

"Special audit. "Special audit" means system audit, forensic audit, environmental audit, risk-based audit or other attestation engagement of limited scope.

"The audit" also includes an assessment as to whether the funds are spent economically, efficiently and effectively. Economy means minimizing of expenses for implementation of a function or an activity. Efficiency means the lowest possible level of expenses with respect to the effects achieved. Effectiveness means the highest possible level of accomplishment of the programmed tasks;

"Government expenditures", as specified in this Law, include all operational and capital expenditures funded by the budgets including Grants and Credits; and

"The State and Local Government audit Offices" in their Annual Programmes shall define the scope of the audit work. When planning the audits included in the Annual Program, the State and Local Government Audit Offices shall take into account the potential risk of the entities identified during preliminary reviews.

105. This Law may be cited as the Cross River State Audit Law, 2021 and shall come into force on the .....day of .....2021.

Short Title and  
Commencement.



## SCHEDULE

### PART A

#### Guidelines on Audit Queries, Offences and Penalties

*All irregularities resulting in losses to Government due to either fraudulent activities of the functionaries or due to their negligence or incompetence.*

S/N	Offence	Time Limit for Reply to Query	Penalties for Unsatisfactory Response
1	Inflation of Contracts FR. 3102	5 days	If committed by Accounting Officer, make report to Governor. If other officer, appropriate surcharged, remove from schedule, dismissed and prosecuted.
2	Unauthorized variation of contract sum. FR. 3103	21 days	If committed by the Accounting Officer, make a report to Governor. If offence is committed by any other officer, appropriate surcharge, remove from schedule, dismissed and prosecuted.
3	Inflation of price of surcharge	21 days	Recovery of Loss, redeployment and Impose appropriate procurements sanctions.
4	Payments for jobs not executed. FR 3104		
	(a) Mobilization Fees	30 days	Recovery from beneficiary and the officer who recommended the payment Contractor to refund within 30days and be referred to security agencies.
	(a) Payment through false certificate of completion	7 days	The Contractor and the Officer who issued the certificate to refund or be prosecuted. Refer to police or EFCC
5	Poor quality work (buildings, tarred roads, etc) FR.3105	7 days	Contractor to rectify defect within 42days or be black-listed and prosecuted; Blacklist and prosecute Contractor; Downgrade official who certified the job.
6	Irregular or wrong payment FR.3106	21 days	Recovery of the amount and removal of Officer from the schedule and referred to Security agencies.
7	Shortages or losses of stores by store keeper or any other person. FR.3107	14 days	Surcharge the affected officer and transfer to another schedule.
8	Embezzlement, Shortages, losses or outright theft of cash by cashier. FR.3108	7 days	Recovery of amount involved and transfer to another schedule. Refer to police for investigation.
9	Teeming and Lading	7 days	Recovery of amount involved and transfer to another schedule.
10	Asset paid for but not collected. FR.3109	21 days	Recovery of the amount involved and transfer of officer to another schedule.



<i>S/N</i>	<i>Offence</i>	<i>Time Limit for Reply to Query</i>	<i>Penalties for Unsatisfactory Response</i>
11	Inclusion of non-existent employees in the wage sheet. (Payment to Ghost workers) FR.3110	7 days	Indict the officer(s) and report matter to police for prosecution.
12	Overpayment of salaries and allowances to staff FR.3111	21 days	Recovery of amount overpaid face disciplinary action.
13	Failure to collect Government Revenue FR.3112 (i)	21 days	Surcharge of officer and transfer him/her to another schedule.
14	Failure to account for Government Revenue FR.3112 (ii)	7 days	Recover amount involved and report to police for prosecution.
15	Using of illegal receipts and LPO to convert Government benefits to self.	7 days	Indict the officer and report matter to police for prosecution.
16	Undercharge for Government Revenue	7 days	Surcharge of officer and transfer him/her to another schedule
17	Destruction of accounting documents with a view to obtaining benefit attached thereto.	7 days	Face disciplinary action and recovery of any loss
18	Nonpayment for use of Government property FR.3113	30 days	Recover the amount and sanction accordingly



19	Premature scrapping of Government fixed assets and selling same at ridiculously low price FR.3114	30 days	Officer shall face disciplinary action
20	Misuse/Unauthorized use of Government property	7 days	Officer shall face disciplinary action
21	Swapping of Superior assets with inferior type	7 days	Recovery of asset and officer to face disciplinary action
22	Stolen or Missing Assets	7 days	Surcharge officer with value of asset and face disciplinary action.
23	Poor cash management FR.3115		The affected officer shall be formally warned, surcharged or downgraded.
24	Officer incurring unauthorized Commission charges. FR .735	7 days	Officer to be surcharged for amount involved and be removed from schedule.
25	Falsification of Age and other personal records	14 days	Officer to face disciplinary action including dismissal.

***Irregularities not directly or immediately resulting in losses to the Government, but which infringe upon budgetary control and proper financial management***

	Offence	Time Limit for Reply to Query	Penalty for Unsatisfactory Response
1	Splitting of contracts to side-track tender's procedure. FR. 3116	21 days	Recover loss (if any) and surcharge officer involved.
2	Irregular award of contracts i.e. contract awards not in compliance with the normal tenders procedures. FR.3117	21 days	Reduction in rank of officer and transfer to another schedule. For the Board, members are liable to disciplinary actions under the Public Procurement Law.



*Irregularities arising through poor and inefficient management of accounts which may result in losses.*

	Offence	Time Limit for Reply to Query	Penalty for Unsatisfactory Response
1	Non-Recovery of advances FR.3118	7 days	Recovery of any loss from defaulting officer, surcharge and a charge for misconduct.
2	Non-posting of Ledger accounts FR.3119	7 days	Recovery of any loss from defaulting officer, surcharge, warning and a charge for misconduct.
3	Cash in transit /unacknowledged remittances (over 7 days) FR.3120	7 days	Recovery of any loss from defaulting officer,
4	Failure to prepare Bank Reconciliation Statement. FR. 3121	7 days	Recovery of any loss from defaulting officer, surcharge, warning and a charge for misconduct.
5	Non rendition of statement in support of A. I. E. granted FR.3122	7 days	Recovery of any loss from defaulting officer, surcharge, warning or suspension and a charge for misconduct.
6	Non - Retirement of advances and Imprest. FR.3124	14 days	Surcharge and recovery of total amount involved.
7	Multiple Expenditure Claims	7 days	Recovery of excess claim from defaulting officer and a charge for misconduct.
8	Non-rendition of monthly or other periodic returns apart from annual accounts. FR. 3123	14 days	Recovery of any loss arising from failure to render returns promptly from defaulting officer; and Suspension of monthly allocation to erring MDAs until action is remedied.
9	Unacknowledged Payments by beneficiaries.	7 days	Recovery of total sum from paying officer and a charge for misconduct.
10	Payments to Third Parties by cash.	14 days	Recovery of total sum from paying officer and a charge for misconduct.

**OFFENCES CAPTURED BY STATE FINANCIAL LAWS**

	Offence	Time Limit for Reply to Query	Penalty for Unsatisfactory Response
1.	Exceeding Aggregate Expenditure Limit	14 days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws



2	Non Compliance with (MTEF) Medium Term Expenditure Framework	14days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
3	Failure to Publish Audited Accounts	14days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
4	Failure to submit Annual Accounts to Audit.	14days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
5	Maintaining Accounts with Banks without the approval of the Commissioner for Finance. [S3 PFM Law]	14days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
6	Failure to Constitute Ministerial Audit Committee. [S14 PFM Law]	14days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
7	Non-Compliance with guidelines for use of Public Contingencies. [S 17 PFM Law]	14days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
8	Unauthorized Virement	14days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.



9	Misapplication of appropriated funds	14days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
10	Non Compliance with the maximum sum payable as mobilization fees [S31 PPL]	21days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
11	Non Compliance with approved procurement methods [S 36 PPL]	21days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
12	Non Compliance with other procurement guidelines [S 53 PPL]	21days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
13	Failure to prepare Annual Returns	21days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
14	Failure to maintain proper books of Accounts	21days	Suspension of monthly allocation; Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
15	Violation of any other provision of Fiscal Responsibility Law FL	21days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
16	Violation of any other provision of Public Procurement Law FR. 3125 (a-h)	21days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with FR.3126.
17	Violation of any other provision of Public Financial Management Law PFML	21days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
18	Violations of any other provision of the Financial Regulations.	21days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
19	Violation of any other provision of Public Service Rules	21days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.
20	Violation of any other provision of the Model Financial Memoranda for Local Governments.	21 days	Recovery of any losses and erring officer(s) to face disciplinary measures in accordance with the extant laws.



**PART B****OATH OF OFFICE OF STATE AUDITOR-GENERAL**

I.....having been appointed the State Auditor-General, do solemnly swear in the name of the Almighty God/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the Auditor-General for the state, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the state audit law; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will abide by the code of conduct contained in the fifth schedule to the Constitution of the Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people, according to law, without fear or favor, affection or ill-will; that I will not directly or indirectly communicate or reveal to any unauthorized person, any matter which shall be brought under my consideration or shall become known to me as the Auditor-General for the state, except as may be required for the due discharge of my duties as the Auditor General for the state; that I will devote myself to the service of CROSS RIVER State and Nigeria.

So help me God.

**PART C**

**OATH OF OFFICE OF MEMBER OF STAFF OF THE OFFICE OF THE AUDITOR-  
GENERAL**

I, ..... do solemnly swear in the name of the Almighty God affirm that I will be faithful and bear true allegiance to CROSS RIVER State and the Federal Republic of Nigeria; and that I will discharge my duties and perform my functions honestly to the best of my ability and faithfully I accordance with the Constitution of the Federal Republic of Nigeria and the state Audit law; that as officer/employee in the Office of the Auditor-General, I will not directly reveal to any unauthorized person, any matter, document, communication or information that comes to my knowledge in the discharge of my duties.

So help me God.



## PART D

### OATH OF A WITNESS/OFFICER ON INVITATION BY THE STATE AUDITOR- GENERAL

I, .....do solemnly swear before the Auditor-General and this honourable Assembly; that the evidence I shall give on this examination, shall be the truth, the whole truth, and nothing but the truth.

So help me God.

## PART E

### OATH OF OFFICE OF AUDITOR-GENERAL FOR LOCAL GOVERNMENTS

I.....having been appointed the Auditor-General for Local Governments, do solemnly swear in the name of the Almighty God/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the Auditor-General for Local Governments, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the State Audit law; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will abide by the code of conduct contained in the fifth schedule to the Constitution of the Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people, according to law, without fear or favor, affection or ill-will; that I will not directly or indirectly communicate or reveal to any unauthorized person, any matter which shall be brought under my consideration or shall become known to me as the Auditor-General for Local Governments, except as may be required for the due discharge of my duties as the Auditor General for Local Government; that I will devote myself to the service of Cross River State and Nigeria.

So help me God.



## PART F

OATH OF OFFICE OF MEMBER OF STAFF OF THE OFFICE OF THE AUDITOR-  
GENERAL FOR LOCAL GOVERNMENTS

I, ..... do solemnly swear in the name of the Almighty God affirm that I will be faithful and bear true allegiance to Cross River State and the Federal Republic of Nigeria; and that I will discharge my duties and perform my functions honestly to the best of my ability and faithfully I accordance with the Constitution of the Federal Republic of Nigeria and the State Audit Law; that as officer/employee in the Office of the Auditor-General Local Government, I will not directly reveal to any unauthorized person, any matter, document, communication or information that comes to my knowledge in the discharge of my duties.

So help me God.

## PART G

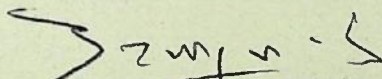
## OATH OF A WITNESS/OFFICER ON INVITATION BY THE AUDITOR-GENERAL


I, .....do solemnly swear before the Auditor-General and this honourable Assembly; that the evidence I shall give on this examination, shall be the truth, the whole truth, and nothing but the truth.

So help me God.

SIGNED (NAME)

This printed impression has been carefully compared by me with the Law which has been passed by the Cross River State House of Assembly and found by me to be a true and correctly printed copy of the said Law.

  
ELDER (BARR.) BASSEY EKPENYONG  
CLERK OF THE HOUSE

  
SENATOR (PROF.) BEN AYADE  
GOVERNOR  
CROSS RIVER STATE

MADE AT Calabar this 29<sup>th</sup> day of June 2021.