
INTRODUCTION

TO THE

Due Process

POLICY
MANUAL

CHAPTER ONE

INTRODUCTION TO THE DUE PROCESS POLICY MANUAL

Due Process is a mechanism for ensuring strict compliance with openness, competition and cost accuracy rules and procedures that should guide contract award within the Government of Imo State of Nigeria. It has become the popularity adopted short form for Bureau for Public Procurement and Price Intelligence Unit (BPIU). This is the Unit tasked with implementing Imo State Public Procurement Reform programme.

REASONS FOR THE ESTABLISHMENT

Bureau for Public Procurement and Price Intelligence Unit (BPPPI) was established by ACT Imo State of Nig. Law No. 2010 in fulfillment of the government tenacious commitment to ensuring transparency and accountability in the management of our public resources and funds.

It was established because a Diagnostic Study conducted in 2001 into the States of the Federation Public Procurements exposed that the country might have lost several hundreds of billion of Naira over the last two decades. These losses arose as a result of flagrant abuse of procedures for award of public contracts, inflation of contract costs, and lack of transparency, lack of competence-based competition and lack of merit as the fundamental criteria for award of contracts.

The findings of the Study made it very imperative that the State urgently need to reform her procurement principles. This will go a long way in reducing large scale corruption and wastages in the public sector.

THE VISION

The vision of the Bureau for Public Procurement and Price Intelligence Unit (BPIU) is to "help move Imo State to a level where public procurement is governed by the principles of Integrity, Transparency, Competence, and Competitiveness as a guiding principle.

THE MISSION

The Mission of Bureau for Public Procurement and Price Intelligence Unit (BPIU) is to "use the Due Process mechanism to re-establish and sustain an open, transparent and competitive procurement system driven by integrity, which upholds budget ceilings and ensures proper implementation of projects in order to achieve value-for-money without sacrificing quality and standard.



THE OBJECTIVE

- To ensure efficient, effective and integrity based monitoring of all Imo State Government capital projects in line with Bureau for Public Procurement and Price intelligence Unit (BPIU) principles.
- To strictly enforce the Bureau for Public Procurement and Price intelligence Unit (BPIU) principles of transparency, competition, efficiency and value for money in the procurement of public goods and services.
- To harmonize and update all the Imo State Government Policies and Practices on Public Procurement.
- To ensure that project conceptualization and packaging match the defined priorities and targets as set in the approved budget.
- To discourage extra budgetary expenditure by Ministries, Departments and Agencies (MDAs) by ensuring that only projects approved by the Imo State House of Assembly in the budget are certified and funded.
- To prevent contract inflation, reverification, and revaluation by ensuring reasonable, accurate and comparability of all public contracts with national, regional and global costings.

FUNCTIONS OF BUREAU FOR PUBLIC PROCUREMENT AND PRICE INTELLIGENCE UNIT (BPIU)

- Regulating and setting of the standards to enforce harmonized Tender biddings for all State Government contracts.
- Formulation of general policies and guiding principle on Public procurement in the State.
- Develop, maintain a wide variety of relevant database and Information, Communication and Technology (ICT)
- Upholding professional ethics and reporting erring procurement personnel, public officers, departments and private sector companies to relevant authorities for sanctions.
- Monitoring of the prices of tendered items and provide price database advisory services to the public sector.
- Perform procurement audits.



DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

- Document and monitor the Imo State government projects from the point of award until completion.
- Coordinating the training of capacity building of procurement personnel and development of standard in the public sector.
- Sensitize, promote, and educate the public on Public Procurement issues and the principles of Feedback mechanism and SERVICOM.
- Advise the Governor on status of the Imo State Government procurement in relation to approved budget.
- Provide relevant procurement and budget performance information to interested parties and institutions in the State.



CHAPTER THREE

APPROVAL LIMITS AND RESIDENT DUE PROCESS

The Bureau for Public Procurement and Price Intelligence Unit (BPIU) reviews and certifies the Imo State Government Contracts according to established and approved limits. This is to ensure that compliance with principles of right procedures (transparency, competition and merit) and right cost guide all Imo State Government contracts for goods and services from the award stage through to their successful execution and completion.

There are three approval limits for the award of Imo State Government contracts, these are:

- Contracts below ₦ 1 million
- Contracts above ₦ 1 but below ₦ 5 million
- Contracts of ₦ 5 million and above

Contracts below ₦ 1 million

- Permanent Secretary/Chief Executive of Ministries, Departments and Agencies can approve and award this limit of contracts provided that Due Process is strictly observed.

Contracts above ₦ 1 but below ₦ 5 million

A "Resident Due Process Team (RDPT)" established by Ministry/Department/Agency handles the Due Process Compliance Review of all such contracts and has the power to approve the award of the contracts provided that the compliance with *Due Process* is unanimously established by all the members. The contracts within this ceiling are therefore certified in house by the Ministries, Department and Agencies (MDAS) through their own RDPT. However the Bureau for Public Procurement and Price intelligence Unit (BPIU) official representative in the Team must endorse to confirm that Due Process has been established and was duly observed.

Contracts of ₦ 5 million and above

These categories of contracts are to be processed by the relevant Ministry/Department/Agencies (MDAs)

*In this direction, the procuring entity must follow the published rules of the game contained in the Imo State Government Financial Instructions (FI as revised) on Due Process Guideline for Award of Capital Projects contracts.

Upon conclusion of the contract procedures, the Ministerial Tenders board shall then forward their conclusions and all relevant supporting documentations to Bureau for Public



Procurement and Price Intelligence Unit (BPIU) for Due Process compliance Review and Certification.

It is only after the Due Process Certificate is obtained from Bureau for Public Procurement and Price Intelligence Unit (BPIU) that the Ministry/Department and Agency (spending unit) can forward the project to the State Executive Council for final approval to award the contract.

CONCEPT OF RESIDENT DUE PROCESS TEAM

The concept of Resident Due process Team was conceived as an effective management strategy to limit the number of projects coming to the Bureau for Public Procurement and Price Intelligence Unit (BPIU).

Available records indicate that nearly 70% of all procurements come under this category, with the potential to directly affect the vast majority of Imo State entrepreneurs who participate in the contract system.

This concept is as old as the Bureau for Public Procurement and Price Intelligence Unit (BPIU). It was conceived as a vehicle to decentralize the operations of Bureau for Public Procurement and Price intelligence Unit (BPIU). The Resident Due Process concept also aims at giving the spending agencies- Ministries, Department and Agencies, the opportunity to review and certify in-house, all contracts below five million Naira ceiling provided that Due process is followed. This will help to internalize and breed ownership of the Due Process reform measures at the primary points within the public sector.

MEMBERSHIP OF RESIDENT DUE PROCESS TEAM

The members of all Ministries/Department/Agencies Resident Due Process Team are as follows:

- The Permanent Secretary/Executive Secretary/Director General- chairman
- Director of Finance/Accounts - member
- Director of Planning Research & Statistics - Member
- Director of Admin. & Finance - Member
- A Representative of BPIU (Due Process Dept.) - Member
- All Directors/HODs in the MDAs - Member

The membership of Bureau for Public Procurement and Price Intelligence Unit (BPIU) in the Resident Due Process Teams of Ministries/Departments/Agencies is an institutional one. This means that there is no designated permanent nominee for any Ministries/Departments/Agencies Resident Due Process meetings. Any official of the Bureau for Public Procurement and Price intelligence Unit (BPIU) can be sent to represent the Unit in the meetings.



DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

Spending Units are therefore not expected to insist or request for a particular officer to participate in such meetings.

INVITATION TO RESIDENT DUE PROCESS MEETINGS

All invitations from the Ministries/Department/Agencies to the Bureau for Public Procurement and Price Intelligence Unit (BPIU) for institutional representation at the Resident Due Process Meetings must reach the Unit at least 7 (seven) working days before the date of the meeting.

The invitation should contain such relevant information such as:

- Date of the meeting
- Venue of the Meeting
- Time and agenda

The agenda should give a brief background of the projects to be discussed. All such invitations should be addressed to the:

Special Adviser: Bureau for Public Procurement and Price intelligence Unit (BPIU),(Due Process). Imo State

The Bureau for Public Procurement and Price Intelligence Unit (BPIU) is responsible for the Welfare of its Staff designate to attend such Meetings. Decisions taken at any Resident Due Process Meeting on Public Procurement convened by any spending Unit without proper invitation and participation of the Bureau for Public Procurement and Price intelligence Unit (BPIU) will not be recognized by the Unit.

Similarly, request for consultation, information, enlightenment or assistance from Ministries/Departments/Agencies in the packaging of the projects should be directed to the Head of Bureau for Public Procurement and Price Intelligence Unit (BPIU).

THE THREE WAY TEST

The three way test that guides Resident Due Process procurements is built on the following:

- **The process is open, transparent and competitive;**
- **The right, competent and successful bidder (contractor)**
- **The price is right, and achieves value for money.**

*Note that projects and activities which fall within the approval authority of the Ministerial Tenders Board (N1-5 million ceiling), or in the case of Parastatals, Agencies and Extra-Ministerial Departments (N 1 million) are handled/processed at the Resident Due Process level.



DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

For efficient implementation of procurement estimates within the Resident Due Process ceiling, Bureau for Public Procurement and Price Intelligence Unit (BPIU) recommends to all Spending Units to begin procurement process early. This is very important.

The first step is to draw up a procurement workplan as soon as the State Budget is approved and signed into law. The workplan should contain details of projects lined up for implementation as approved in the budget. A copy of the workplan is to made available to the Bureau for Public Procurement and Price Intelligence Unit (BPIU) for planning and monitoring purposes.



CHAPTER THREE GUIDELINES FOR PUBLIC PROCUREMENT

The core guideline for public procurement in Imo State will be as listed below:

- a. Advertisement
- b. Pre-qualification
- c. Invitation to Tender: the technical and financial process.
- d. Opening of Tenders
- e. The bid valuation process
- f. Determination of winning bid.

1. ADVERTISEMENT AS A REQUIREMENT

Equal access to information by all possible participants in the market of public contracts is fundamental to a free and fair competition. This is the major step in ensuring that any public procurement system derives the benefit of effectiveness, efficiency and value-for-money.

This explains why the Advertisement requirement is very important for passing the Due Process Compliance rule for openness and provision of level playing field for fair competition through an Open Tender.

A procuring entity (MDAs) shall be responsible for advertising directly, all invitations for pre-qualification or invitations to tender for good and services.

There are two categories of Advertisement Guidelines:

Advert Guideline for all Contracts below ₦ 5 million Naira

Advertisement of such projects must be in the Notice Board in a conspicuous layout at the Ministry/Department/Agency.

Advert Guideline for all Contracts above ₦ 5 million Naira.

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This requires an advertisement calling for pre-qualification of contractors or invitation to bid, must be placed in at least a State wide and national newspapers and Government Gazette.

Advert Guideline above ₦ 50 million

Advertisement calling for pre-qualification of contracts or invitation to bid must be placed in at least two national newspapers and Government Gazette.



State Tenders Journal

The State Ministry of Information will coordinate the publication of a journal known as "State Tenders Journal". The journal will carry adverts of contracts opportunities of the Imo State Government. The Journal will be published bi-monthly at an affordable price.

Bureau for Public Procurement and Price Intelligence Unit (BPIU) will be an institutional member of the Editorial Board. The journal will provide a fundamental framework in widening up opportunities for local and foreign investors.

It will be mandatory for all public contracts of the Imo State Government to be advertised in the Tenders Journal in addition to National Dailies. The circulation of the Journal must be made very wide.

The Standard Format for Advert on Public Contracts.

All State Government Adverts for Pre-Qualification shall follow this standard format with the following basic information:

- The name and address of the procuring entity (MDA);
- Introduction: a brief description of the object of the procurement, including desired time for delivery or completion;
- Scope of work;
- A summary of the required qualification criteria including tender fees;
- The date of availability of the pre-qualification documents where standardized.

The time allowed for applicants to prepare their pre-qualification applications shall be less than **21** days from the date of placement of the advert.

2. Pre-Qualification Requirement

In simple terms, upon the collation of the submissions of all respondents to an advertisement for pre-qualification, the Ministry/Department/Agency shall analyses all the submissions made by the respondents to the Advert.

The analyses shall be based on an objective set of technical and financial capacity criteria. The aim is to short-list and select competent respondents to the advert. It is also an opportunity to weed out those who do not qualify to be adjudged competent to participate in the commercial bid.



DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

The Criteria would usually include scores totaling 100% for the following:

SN	DESCRIPTION OF CRITERIA	MAXIMUM SCORE %	SCORE OBTAINED
1	Evidence of Incorporation/Business name	0	
2	Evidence of registration with the State Ministry of Works, Housing and Transport.	0	
3	Evidence of Company Audited Account for 3 (three) years	0	
4	Evidence of Tax Clearance Certificate for 3 (three) years		
5	Evidence of Financial Capability/Banking Support	15	
6	Evidence of experiences/technical qualification and experience of key personnel.	25	
7	Evidence of similar projects executed and evidence of knowledge of the industry	20	
8	Evidence of Equipment and technology capacity.	20	
9	Annual turnover	5	
10	Evidence of VAT registration and evidence of past VAT remittances	5	
	TOTAL	100	

NOTE:

All parameters with zero score are considered **RESPONSIVE**. The absence of any one would automatically disqualify an applicant for pre-qualification.

Best practice in contracting, establishes that the pre-qualification benchmark score within and above which respondents can be considered to be competent is a score of 70% and above.

The next stage is to draw up a list of all the respondents above the 70% acceptable pre-qualification score to be known as the "**List of Pre-qualified Bidders**" or "**Competent Bidders**" and all of whom are issued an **invitation to tender or bid**.

"PRE-QUALIFICATION IS MANDATORY FOR ALL CONTRACTS ABOVE N10 MILLION"

3. INVITATION TO TENDER/BID



The Tender documents shall follow the format of the standard tender document appropriate to goods and services to be procured. It should contain sufficient information to enable competition amongst the bidders to take place on the basis of complete, neutral and objective terms. The tender document shall be in two parts: Technical and Commercial (financial) and shall be submitted not more than six weeks after the Bid documents were issued.

4. OPENING OF TENDER

Opening of bid/tender, must take place immediately after the closing of bidding/tendering period. Bidders or their representatives and members of civil society are expected to witness the tender opening.

5. EVALUATION OF TENDER

The tender submission by the pre-qualified bidders having been made in two parts, the technical, commercial/financial shall be evaluated by the Evaluation Team of the Procuring Entity. The Procuring Entity shall appoint a Tender Evaluation Committee (TEC) at the appropriate level. The committee is to examine, evaluate and prepare a report with recommendations for award for submission to the approving authority.

The (TEC) shall consist of five members of which at least, shall be experienced in procurement.

The Technical Bid

The submission of Technical Bid by only the pre-qualified firms/companies further establishes scope and depth of their understanding of specific assignment under consideration. During the evaluation of the Technical Bid, it is rare but sometimes possible for a pre-qualified firm to be dropped for showing less than desirable technical competency and capability to deliver on contract.

The Financial Bid

The submission of Financial Bid by all firms/company that scaled the technical bid evaluation is the final stage in a public procurement competition.

This is the stage where the pre-qualified bidders found competent in all areas now make submission on the cost at which they are ready to undertake the job.

6. Determination of a Winner

According to global best practices, it is the lowest evaluated tender cost usually referred to as the "**Best Responsive Bidder**" that should be judged the Right Winner.

Consequently, the winner in a competitive bid process is that competent bidder that comes out of the financial competition offering the lowest price for the execution of the contract. (ie a pre-qualified and technically evaluated bidder.



CHAPTER FOUR

REQUEST FOR DUE PROCESS REVIEW AND CERTIFICATION

Having gone through the guideline in the last chapter (items 1-6), the officer(s) responsible for procurement in the Ministry/Department/Agency (i.e. the Directors of Planning, Research and Statistics) who also are the Secretaries **RDPT** would document the details of their procurement process, the conclusions and recommendations, emphasis would laid on the winner and cost of proposed award in form of a detailed but concise report.

The spending unit is now required to subject its handling of the procurement process to a Compliance Review scrutiny by the Bureau for Public Procurement and Price Intelligence Unit (BPIU). This is in order to secure the validating certification upon which the Imo state Executive council may give approval for award of the contract.

Document required for Bureau for Public Procurement and Price intelligence Unit (BPIU) Review and Certification

The following documents must be forwarded by the Procuring entity to the Bureau for Public Procurement and Price Intelligence Unit (BPIU) along with the Letter of Request (LOR) for Due Process compliance Review and Certification for Award of Contracts or payment on on-going contracts.

- Project policy file
- The background documents that include technical and financial preparation of the project by the Spending Units an which includes and limited to:
- Bills of quantities (if any)
- Contract Drawings and Engineering Designs.
- Other related technical documents
- Final summary and statements
- Project reports
- Internal cost estimates
- Variation in scope request and variation order, rising.
- Evidence of advertisement as appropriate



- Pre-qualification exercise, the objective criteria for short listing the pre-qualified bidders;
- Per-qualification evaluation report
- Evidence of invitation to tender sent to all pre-qualified bidders;
- Tender returns
- The tender evaluation report and analysis of the financial bids submitted by all the pre-qualified bidders;
- Tender evaluation reports showing Due Process compliance;
- Interim valuation and certificates (for payment)
- Consultant work progress report (for payment)

The Review and Issuance of Certificates

The review process begins immediately a request for Due Process Compliance Review (DPCR) is received by Bureau for Public Procurement and Price Intelligence Unit (BPIU) from a Procuring Entity. The first step is to assign the task to the designated team within the Bureau for Public Procurement and Price Intelligence Unit (BPIU).

Due Process Compliance review task and Certification is carried out by the Procurement officers who work under the various Teams

The focus is to determine the degree of compliance by the latter with the provision of the Due Process check list as guiding rules of the game.

The Compliance Review Process is a three-pronged transparency exercise. This involves the Bureau for Public Procurement and Price Intelligence Unit (BPIU) Team establishing the submissions of the Procuring entity.

That from the way the Procurement Entity is carried out the contracting responsibility:

**The process was right
The winner was right
The cost of the award was right**

What is a Right Contract Award Process?



DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

It is a process which ensures that the rules governing pre-procurement planning, advertisement, pre-qualification, technical and financial evaluation are open, free, fair, transparent, and competitive.

For the Procurement Reforms in Nigeria, this should be evident in the documentation of the full range of the contracting procedure done by the Spending Units and submitted to the Bureau for Public Procurement and Price Intelligence Unit (BPIU) for the Compliance Review and necessary action.

Who is a Right Winner?

According to international best practices, the right winner is the Least Evaluated Tender Cost. It is also usually referred to as the *Best Responsive Bidder*

In other words, a right winner is a competent bidder. A pre-qualified and technically evaluated bidder that comes out of the financial competition of procurement, offering the lowest evaluated cost.

What is the Right Contract Cost?

The Right Cost of a contract refers to the amount that is competitively determined. It is the least amount offered in a competition amongst pre-qualified bidders.

Right cost is also comparable to an independently ascertained cost estimate following national, regional and global price benchmarks.

However, for contracts of Works and services, Right Cost can easily be determined by applying basic rules of engineering and quantities costing based on prevalent market rates to the scope of work.

CHAPTER FIVE THE REVIEW IN BUREAU FOR PUBLIC PROCUREMENT AND PRICE INTELLIGENCE UNIT (BPIU)

The Compliance Review and Certification process is usually rigorously and professionally performed by Procurement Review Specialists of the Bureau for Public Procurement and Price Intelligence Unit (BPIU) following a work flow system that places premium on Team Consensus.

The merit of the Team of Consensus approach is a guaranteed Systematic Quality Assurance (SQA) method that removes sole responsibility and discretion from the review, findings conclusions and final recommendations of the Bureau for Public Procurement and Price Intelligence Unit (BPIU). The Team structured approach means that no single member the Team can guarantee an outcome of the Review Process.

The Procurement Specialist are public servants possessing the diverse range of knowledge and competencies, skills, professionalism and integrity requisite for the discharge of the Bureau for Public Procurement and Price Intelligence Unit (BPIU) mandate.

The areas of expertise ranges from Engineering to Environmental Sciences, Information Technology & Communication, Medical and Biological Sciences, Security and Intelligence, Marine, Estate & and Property Development etc.

Bureau for Public Procurement and Price Intelligence Unit (BPIU) also has access to global Price Database as well as technical linkages with relevant professional bodies both in Imo State in particular and the country in general. Hence, the Bureau for Public Procurement and Price Intelligence Unit (BPIU) can easily ascertain the true price of goods, works and services.

DRAFT DUE PROCESS REVIEW REPORT (DDPRR)

The Compliance Review Process for every Imo State Government contract above N50 million ceiling results into a Draft Due Process Review Report (DDPRR).

If the review report does not support the issuance of a Due Process Certificate, the attention of the Procuring Entity is immediately drawn to the findings and recommendations contained in the Draft Due Process Review Report.

The report is however never unilaterally concluded by the Bureau for Public Procurement and Price Intelligence Unit (BPIU) into a final Due Process Report without offering the Procuring Entity the opportunity for a "Right of Reply Meeting."



DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

Right of Reply Meeting

Where a Due Process Certificate is denied in accordance with the findings and conclusions drawn from a compliance Review of a contract, a Right of Reply Meeting is usually convened.

This is to create a forum for the Bureau for Public Procurement and Price intelligence Unit (BPIU) and the Ministry/Department/Agency involved to discuss, clarify, jointly resolve and conclude on all contentious issues.

The meeting usually involves all officers from the Ministry/Department/Agency and all members of the Reviewing Bureau for Public Procurement and Price intelligence Unit (BPIU) Team sitting at an open forum to discuss the content of the report of the review process.

The right of Reply represents the transparent and democratic institutional accountability, feedback platform for the Bureau for Public Procurement and Price intelligence Unit (BPIU). It ensures accountability and open check on the work of the Bureau for Public Procurement and Price Intelligence Unit (BPIU) by the Procuring Entities.

DUE PROCESS REVIEW REPORT

During Right of Reply Meetings, if additional information is provided support with superior arguments and documentations that can make the Bureau for Public Procurement and Price intelligence Unit (BPIU) change its position on earlier conclusion, then the Bureau for Public Procurement and Price Intelligence Unit (BPIU) would immediately approve.

Bureau for Public Procurement and Price Intelligence Unit (BPIU) will then issue a Due Process Certificate for award for the State Executive Council in its deliberation in favour of the Procuring Entity.

DUE PROCESS REVIEW REPORT

The content of every project's Due Process Report is as follows:

1. Introduction
2. Background
3. Project description
4. Project benefits
5. Review of project planning process
6. Project preparation
7. Implementing planning
8. Review of project procurement process
9. Procurement background
10. Tender advertisement
11. Tender returns



DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

12. Evaluation bids
13. Technical proposal
14. Commercial proposals
15. Findings
16. Due process compliance test
17. Conclusions

The Bureau for Public Procurement and Price Intelligence Unit (BPIU) considers each Due Process Review Report as a public document that can be made available to any interested member of the public or bidders. The report is to be made available on the Bureau for Public Procurement and Price Intelligence Unit (BPIU) website at: www.imostatebpiu.gov.ng Or the e-mail address at: imostatebpiu@yahoo.com

The website will be updated regularly.



CHAPTER SIX

RESULT OF COMPLIANCE REVIEW

There are three possible outcomes at the end of a compliance review exercise by the Bureau for Public Procurement and Price Intelligence Unit (BPIU). These have been categorized into three possible outcomes.

- **POSITIVE OUTCOME**

- **Due Process Certificate Granted**

- If at the end of the compliance review exercise, the findings show that all the defined rules of public contracting were duly complied with all the procuring entity in the procurement exercise, the Due Process Review report findings and conclusions would recommend issuance of a Due Process certificate for award of contract.

NOTE: For a Due Process certificate to be issued by Bureau for Public Procurement and Price Intelligence Unit (BPIU), the compliance review must validate that the contract award process followed by the procuring entity was right. The right winner being recommended is right and the cost is right.

- **NEGATIVE OUTCOME**

- If the contract process does not conform to the standard defined as a right contract award process, the Bureau for Public Procurement and Price Intelligence Unit (BPIU) is usually compelled to withhold Due Process certification. The Bureau for Public Procurement and Price Intelligence Unit (BPIU) will also advise the Spending Unit re-procure. This because "the process is fundamental in public procurement in determining the right cost and right winner".

- **CONDITIONAL OUTCOME**

- This is where the cost posted by an emerging winner in a right contract process is higher than the fair market cost. The issuance of a Due Process certificate for award of contract is made conditional until the satisfaction of the cost accuracy and conformity with parameters established by the review.

In such an instance, the winner would be advised through the procuring entity to reduce their cost to conform with compliance review estimated cost. This is because the Bureau for Public Procurement and Price Intelligence Unit (BPIU) has the expertise and the information technology tools that easily ascertain the true or right cost of all goods and services. The ideal here is to ensure that the cost that is eventually chosen or accepted to both sides in the projects is one that can be comparable to similar procurements any where round the globe.



NOTE: However, if such a winner declines, the offer will be made to the second least bidder. If the established right cost is rejected by all, the Bureau for Public Procurement and Price intelligence Unit (BPIU) may advise the MDA to cancel the entire exercise and re-advertise.

Meeting During the Review Process

In the course of a Due Process review, the Bureau for Public Procurement and Price Intelligence Unit (BPIU) and the Spending Units as often as necessary to resolve contentious issues that will help in making the best decision and securing the best outcome for the Imo State Government expenditure management.

It is important that Ministry/Department/Agency responds as quickly as the Bureau for Public Procurement and Price Intelligence Unit (BPIU) may require in order to achieve speedy conclusion of the review process.

It should be noted that the ministry/Department/Agency that approach the Due Process, with all basic information relevant to the procurement process, under review by the Bureau for Public Procurement and Price Intelligence Unit (BPIU), have track record of high compliance ratio and speedy implementation of their capital budget. This is because efficient supply of all relevant Information enables the Bureau for Public Procurement and Price intelligence Unit (BPIU) to: *complete the compliance review process within an average of seven and a maximum of ten working days.*

Even for those cases where the relevant information may be supplied to the Bureau for Public Procurement and Price Intelligence Unit (BPIU), there will be no delay on the side of the BPIU.

Bureau for Public Procurement and Price Intelligence Unit (BPIU) will provide the appropriate boxes on the Due Process checklist and returns to the Spending Unit to guide them in packaging the missing necessary for the compliance review.



CHAPTER SEVEN

DUE PROCESS CERTIFICATION

Due process certification means issuance of a Due Process certificate to the procuring entity for complying with the rules. This is done after a review of the process that produced the winner and cost of the contract. A certificate is issued after the process, the winner and the cost have been found to be open and transparent by the Bureau for Public Procurement and Price Intelligence Unit (BPIU) during the review.

NOTE: Ministry/Department/Agency cannot be allowed access to the public treasury to pay for any capital project without a Due Process certificate. The Office of the Accountant General and the Ministry of Finance will not honour any request for release of funds for any capital project except if such request is backed with a Due Process certificate.

The certificates are important instruments or sanction as the case may be for procuring entities in their compliance or non-compliance with the clearly known rules of the contracting process of the Imo state Government.

Types of Due Process Certificate:

- a. Due Process certificate for contract award
- b. Due Process certificate for payment

a. Due Process Certificate for Contract Award

The Due Process Certificate for Award of contracts is issued when the review of the submission made by a Spending Unit to Due Process Office, is verified that the contract in question passed the "three test" of due Process review:

The Process is right
The winner is right
The cost is right

b. Due Process Certificate for Payment

The Due Process certificates for contracts above N 5 million Naira ceiling, the Bureau for Public Procurement and Price Intelligence Unit (BPIU) will conduct a Due Process Review which will be passed to the State Executive Council for approval. Upon the final approval by the executive Council, the BPIU issues a Due Process certificate for the advance sum. This is usually backed by submission of a clean Bank guarantee issued by a reputable Bank. This measure is to avoid the numerous cases in the past when contractors collected advance payment from Government and later abandoned the project, and sometimes abscond with such funds.



DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

Based on positive evaluation reports by the Spending Units and their contractors, Due Process certificate for payment could be issued at various stages of the project up to the amount of money budgeted for the project in the Approved Budget. This strictly based on the documentary evidence of work done. However, as soon as aggregate payment reaches up to 50% of contract sum, the Bureau for Public Procurement and Price Intelligence Unit (BPIU) will in addition to documentary evidence request a project site visitation. This is to be jointly done with Spending Unit officials and their contractors.

The aim is to avoid the recurrence of events of the past when for example, 100% of contract sum could be paid for a mere 20% actual project performance on site.



CHAPTER EIGHT

MONITORING AND EVALUATION OF PROJECTS

In order to ensure that the principles of transparency, competition efficiency and value for money in the procurement of goods and services are preserved, a feedback mechanism has to put in place to confirm that the volume and quality of work done or service rendered as well the utilization of funds are in accordance with set standards.

2. MONITORING.

This is an act of checking and watching the development of a project over a period of time in order to see how it develops so that changes can be made when it is not meeting the desired targets. It is essentially a mechanism for certifying compliance or otherwise of previous planning targets with actual performance on site and instituting appropriate measures to arrest deviance from the target.

3. PROJECT MONITORING TEAM

In order to achieve the desired objectives of the Bureau, a project management team will be set up to monitor the performance of projects and consequently provide the necessary feedback to the Bureau. The team is expected to be made up of professionals in various fields relevant to specific projects.

3.1 RESPONSIBILITIES OF THE PROJECT MONITORING TEAM

- I. To confirm the level of progress for each project and ensure that original forecasts and plans are adhered to during implementation.
- II. To confirm actual payments received by a contractor / supplier and also confirm whether the contractor / supplier has outstanding payments with the client MDA.
- III. To confirm adherence to contract specifications.
- IV. To note problems hindering progress and advise Government accordingly; show degree of divergence between plans and actual achievement and bring project on course.
- V. To conduct market survey of major building/ Engineering and supply items periodically to form a database for building up of unit rates and fluctuation computation.
- VI. To ensure compliance with relevant regulating byelaws, codes, safety etc.
- VII. To provide documented evidences on erring consultants to relevant professional and regulatory bodies.

3.2 STRATEGIES FOR PROJECT MONITORING

- I. Develop standards forms and documentations to capture relevant features of the project.
- II. Prepare a cash flow table for the project being monitored.



- III. Prepare cash flow graphics and show forecast of expenditure, work done and payment made.
- IV. Make periodic site visits to monitor projects.
- V. Assess project performance in relation to time frame, cost quality etc

3.3. DOCUMENTS REQUIRED FOR PROJECT MONITORING

- I. Due process review report for award.
- II. Contract Bills of Quantities.
- III. Progress report and evaluation of work at the time of the site visit.
- IV. Other documents issued in accordance with the terms of the Contract e.g. Architect/ Engineers instruction.

Project Monitoring teams are expected to acquaint themselves with the projects they are going to visit before setting out for monitoring exercise. The most important elements are the scope of works, and contract details e.g.

- Contract sum
- Total amount certified for payment.
- Other outstanding problems peculiar to each project.

3.4 PARTIES TO MONITORING PROJECTS

- The Client Ministries (Spending Units)
- Project Consultants appointed by the client.
- The Contractors/ Vendors/ Suppliers
- The Bureau.

3.5 SITE VISITS

The monitoring team pays a visit to each capital project at least once but preferably at 50% and at completion. In case of supplies, the team confirms physically the actual quantities supplied, store receipt vouchers and Audit certification. The Engine/Chassis numbers are also confirmed. Other teams can also refer some suspected cases to the Monitoring Team for confirmation of level of progress whenever there is suspicion that a spending unit is not presenting reliable information.

3.6 SITE CHECK LIST

The following are the areas of concentration on each site visited.

- I. Assesses the quality of work generally.
- II. Records progress made on site and confirms whether it conforms with the progress report and valuation work up.
- III. Checks planned and actual progress and seeks the explanation if actual progress is lagging behind the planned progress.
- IV. Level of mobilization on site e.g. materials plants and workmen.
- V. Find out expected date of completion and assess whether it is suitable or not.
- VI. Notes the suggestions made by the contractor and supervising officers regarding the project.
- VII. Obtains status report per attached format (Appendix 1)



3.7 SITE VISIT REPORT

The monitoring team prepares a report after each site visit. The report centers mainly on the following areas:

- I. Project details.
- II. Progress made.
- III. Findings
- IV. Recommendations and Suggestions.

3.8 LOGISTICS SUPPORT

Effective project monitoring can not be achieved unless there is logistics support. The following are the basic requirements:

- I. Adequate provision in the annual budget for this exercise.
- II. Project Vehicles to be made available for ease of movement.
- III. Office equipment and stationery to be provided.
- IV. Regular staff training.
- V. Prompt payment of staff traveling expenses.

4. PROJECT EVALUATION

Project evaluation is the process of assessing the efficiency and effectiveness in meeting the targeted objectives of a project.

It completes the project cycle of budget forecast, policy formulation, work planning, implementation (contract execution), control, monitoring and evaluation. Project evaluation ensures that a project meets the initial objectives that inform its packaging and that the findings are utilized to guide future projects.

4.1 OBJECTIVES OF PROJECT EVALUATION

- I. Assess the efficiency of project implementation.
- II. Assess the effectiveness and efficiency of all participants (Consultants, Contractors, Spending units) in the performance of their functions.
- III. Ascertain specific successes or failures in the implementation of the project to guide future project development and implementation.

4.2 STRATEGIES FOR PROJECT EVALUATION

- I. Familiarize self with the project documentation and appraise same.
- II. Design standard forms to capture required information for evaluation.



CHAPTER EIGHT
BUREAU FOR PUBLIC PROCUREMENT AND PRICE INTELLIGENCE UNIT (BPIU)
CHECK LIST OF DOCUMENTS REQUIRED FOR DUE PROCESS REVIEW/CERTIFICATE

Project Name:

Project Cost:

Implementing Ministry/Department/Agency:

A	Certification of Project Readiness for implementation	
1	Evidence of alignment of project with Imo SEEDS targets and sectoral priorities	
2	Technical and financial appraisal of the project (cash flow analysis)	
3	Project cost and consultants/engineers estimates	
4	Project design specification	
5	Financing, procurement and implementation plans (workplan and action plan)	
6	Environmental Impact Assessment (EIA) report	
7	Operation and maintenance manual	
8	Evidence of appropriate packaging	

B	Certification of Procurement	
1	Evidence of advertisement- Invitation for pre-qualification	
2	Pre-qualification documents	
3	Letter of invitation to bid	
4	Bid documents (prepared with the State Government guidelines)	
5	Project design and drawings	
6	Bid returns sheet (duly signed by bidders)	
7	Bid evaluation report	
8	Evidence of approval of selection by management	
9	Bid bond	
10	Engineer's consultant or in-house project estimate	
11	Appropriation/funding	

C	Certification of Implementation	
1	Policy file	
2	State Executive Council approval	
3	Appropriation/funding	
4	Contract agreement and other contract documents	
5	Performance security and bonds	
6	Evidence of utilization of earlier released funds	
7	Evidence of site visit	
8	Progress report-technical (showing work completion and compliance with contract)	
9	Progress report-financial (showing payments certified, made and outstanding)	

Bureau for Public Procurement and Price intelligence Unit (BPIU) comment:

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DUE PROCESS: FOR PRUDENCE AND CONSTRAINED MAXIMIZATION

- B9** Bid bond: evidence whether bid bonds were submitted with bids-provide documentation.
- B10** Engineers' consultant or in-house estimates: This will provide evidence of engineers', consultants' or in-house project estimates. There should an indication whether these were done before bidding and whether they are comparable to global prices on similar projects in other countries.
- B11** Appropriation/funding: This will indicate whether the project was provided for in the existing strategy/sectoral policy document of the State. Efforts made to bring the project to the priority list of funding from inception to completion will be indicated.

C Certificate of implementation

- C1** Policy file: This provides the policy file of the project.
- C2** State Executive Council approval: This will provide all evidence of the State Executive Council deliberations on the projects including the EXCO memos and project approval.
- C3** Appropriation/funds: This will provide information on whether the project was provided for in the main approved budget or the supplementary budget. More information on the release of funds for the project to the implementing MDA will be provided.
- C4** Contract agreement: Provision of the copies of the contract agreement and all other addendums to the contract such as Bill of Quantities.
- C5** Performance security and bonds: Provision of performance securities and bonds is very necessary.
- B6.** Evidence of utilization of earlier released funds: Provide documentation and evidence of funds released for the project. Evidence of payment from these funds are required.



CHAPTER TEN THE BENEFITS OF PUBLIC PROCUREMENT REFORMS

- ❖ Good governance of public money and assets resulting in the reduction of corruption
- ❖ Adequate system planning and project preparation work leading to accuracy of costing, cost/benefit analysis and prioritizations in deciding the spending pattern and plans.
- ❖ Prudent fiscal management through effective expenditure management, institutions, process and control mechanisms.
- ❖ Better liquidity management of public funds.
- ❖ Technical efficiency in managing and utilization of resources through better information flows relevant to decision responsibilities of managers.
- ❖ Enhanced transparency and accountability of governance and accountability of Government, providing better information as a guide to the future.
- ❖ Cancellation of the process for the award of many State contracts found to have fallen short of Due Process.
- ❖ Widening the opportunities for all to participate in public procurements.
- ❖ Reinstatement of many Nigerians and companies who rightly won public contracts by merit.
- ❖ The rebuilding of the confidence of average Nigerians and companies in the conduct of public and financial activities.
- ❖ At the Federal level, as at December 2005, Budget Monitoring and Price Intelligence Implementation Unit (Due Process Office) at the Presidency has saved Nigeria over N160 Billion Naira through reduced contract cost. There are several other examples where sums ranging from N10 Billion to N11 Billion Naira have been saved through Due Process from a single contract transaction.



GOLDEN WORDS ON THE SAND OF TIME

- ❖ For any society to progress and develop there must be rules, sanction and guiding principles in the conduct of the affairs of the Government and the governed: Imo State cannot be isolation.
- ❖ Efficiency through healthy competition is a criteria for greater achievement for National Development.
- ❖ Information, Communication and Technology (ICT) has made the world a global village and globally equalized.
- ❖ Rebuilding the public sector and making it attractive is the rule and not an exception.
- ❖ Public Private Partnership is one of the guiding principles of the reformation under the Imo SEEDS
- ❖ Constrained maximization of the available resources is the platform for greater achievement and faith in the public sector.



**APPENDIX 1
PROJECT EVALUATION AND MONITORING SHEET**

CLIENT:	Date of Visit:
CONTRACTOR:	Location:
PROJECT TITLE:	

A. Project Details:	
1. Date of Award	
2. Date of Commencement	
3. Completion Period	
4. Initial Contract Sum	
5. Revised Contract Sum	
6. Expected Completion Date	

B. Work Progress	
1. Work done to date	
2. Time Elapsed (Months)	

C. Financial Progress	
1. Total Expenditure Certified To-Date	
2. Advance Payment Granted	
3. Advance Payment Recovered	
4. Balance to be Recovered	
5. Actual Payment Rec. To- Date	
6. Outstanding Payments (Certificate)	

D. GENERAL REMARKS

Project Monitoring Officer

Contractor

Client