

<p>with donor or funding agencies.</p> <p>ii. International agreements based on government’ obligations and agreements with other countries or international organizations</p>	<p>Application of International Donor agreements</p>
<p>5. INTERPRETATION (Section 2 of the NSPPL 2010)</p> <p>In this Regulations -</p> <p>-“<i>Accounting Officer</i>” means the Permanent Secretary of a Ministry/ Director General, Executive Secretary, Director-General, General Manager or Head of a Parastatal or Agency, Administrative Head of a State Academic Institution, and in the case of a Local Government, Director of Personnel Management of each Local Government or in his absence an officer with co-ordinate responsibility by whatever name called; These accounting officers are charged with line supervision of the conduct of all procurement processes. (S 22)</p> <p>“<i>Appropriate Authority</i>” includes the Independent Corrupt practices Commission, and the Economic and Financial Crimes Commission.</p> <p>“<i>Approving Authority</i>” means the person or body charged with authority to approve a proceeding or award of a procurement contract.(S.19)</p> <p>“<i>Assets</i>” includes tangible and intangible things which have been or may be sold or procured at a consideration;</p> <p>“<i>Bid Security</i>” means a form of security or bond assuring that the bidder shall not withdraw a bid within the period specified for acceptance, and that the bidder shall provide a performance guarantee if needed and execute a written contract within the time specified in the bid.</p> <p>“<i>Bidder</i>” means any person who has submitted a request for prequalification, expression of interest, a bid or a proposal or the like, sometimes under the NSPPL 2010 also referred to as Contractor or Supplier.</p> <p>“<i>Budget Clearance 1 & 2</i>” is a certificate issued by the Permanent Secretary Niger State Planning Commission that the item for which procurement has been launched is budgeted for in the first instance and prior to contract execution confirming that there are funds to meet maturing obligations.</p> <p>“<i>Debar</i>” means the placing of a firm, company or natural person on a list of persons ineligible to participate in any procurement proceedings under these Regulations.</p>	<p>Interpretation</p>

“Due Process Office/ Desk in S 17of the NSPPL” means the Procurement Department in a procuring entity as provided for in this Regulation.

“*Certificate of No Objection*” means the document evidencing and authenticating that the law and these regulations have been followed in the conduct of a procurement proceeding and allowing for the procuring entity to proceed to enter into contract or effect payments to contractors or suppliers from the Treasury with respect to contracts above a certain monetary threshold prescribed by the Board.

“*Coercive Practice*” means harming or threatening to harm, directly or indirectly, persons, their properties, relations or interests with intent to influence the manner of their participation in and/or their conduct of a procurement process and/ or the execution of a contract.

“*Consulting Services*” include the rendering by a qualified expert of his time, skill and effort towards a pre-determined assignment, and includes any one or a combination of the following: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management (vi) legal, diagnostic, policy process and related services; and (vi) other technical services or special studies.

“*Conflict of interest*” means but is not limited to the following situations:

- (a) where a person has a direct or indirect interest in or relationship with a Bidder that is or may be reasonably perceived to be unethical due to that person’s influence or ability to affect the procurement process;
- (b) where a person receives or benefits by taking direct (or indirect through friends, relations, partners, associates or hired hands) personal advantage of an opportunity that properly belongs to the Procuring Entity he represents or the Government;
- (c) where a person for his personal benefit discloses to unauthorized persons confidential information belonging to the Procuring Entity, the Government, or a Bidder;
- (d) where a supplier or contractor (or a person or firm with which it is affiliated) combines the functions of manufacturer or contractor/supplier with those of consultant in a way that is intended to give undue advantage;
- (e) where the benefit in question has been received by a friend, family relation, business partner, a firm, company in which the public officer or his friends, partner or family relations own undisclosed

interests and or control.

Provided that a conflict of interest may not be inferred:

- i. where a supplier/manufacturer or contractor's bid is in combination with a firm offering services as a consultant and in its bid is included relevant information about such relationship along with a statement to the effect that it shall limit its role to that of supplier or contractor, and that neither the firm nor its associates and affiliates shall participate in the project in any other capacity;
- ii. where two or more firms (suppliers, contractors and consultants) with full disclosure to the Procuring Entity combine to bid for and/or execute a Turnkey or Design and Build contract.
- iii. Nothing in this regulation shall prejudice the rule that where a consultant has participated in preparing a particular procurement activity, it shall be precluded from participating in the bid for or as sub-contractor for implementation of the same activity it prepared as a consultant.

“Contract” means an agreement in writing to procure goods, perform works and or render services to a procuring entity pursuant to these regulations.

“Contractor or supplier” means any party to a procurement contract with the procuring entity and includes any corporation, partnership, individual, sole proprietor, joint stock company, limited liability company, joint venture, firm or any other legal entity through which business is conducted;

“Collusive practice” means a scheme or an arrangement between two or more Bidders with or without the knowledge of the Procuring Entity, including non-disclosure of subsidiary relationships, or schemes designed to establish bid prices at artificial, non-competitive levels and or to wrongfully obtain a contract ,thereby depriving the Procuring Entity of the benefits of free and open competition;

“Corruption” or “corrupt practice” means the offering, giving, receiving, or soliciting anything of value to influence the action of a public official or any person participating in the procurement process or in contract execution;

“Domestic firm/Local Company/Contractor” means a business or professional organization:

- (a) incorporated or otherwise organized in Nigeria; and
- (b) having its principal place of business located in Nigeria; and

- (c) having at least 50% of its equity held by nationals of Nigeria; and
- (d) not having its assets controlled by foreign national(s) or organization incorporated or organized outside Nigeria; and
- (e) With more than 65% of persons who will perform services under the contract whether employed directly or by a subcontractor being nationals of Nigeria.

“*Excessive Price*” means a monetary value proposed by a bidder for any procurement which in the estimation of the procuring entity or the Board is unreasonable and injudicious after consideration of the actual value of the item in question plus all reasonable imputations of cost and profit.

“*Fraudulent practice*” includes deliberate single or combined misrepresentation, omission or exaggeration of facts, misapplication of funds, paid for time, skills or materials that affects the procurement process or contract execution to the detriment of the Procuring Entity, the government or end user of the goods, works or service;

“*Goods*” means objects of every kind and description including raw materials, products and equipment and objects in solid, liquid or gaseous form and electricity as well as services incidental to the supply of the goods;

“*Government*” shall mean Government of Niger State of Nigeria or where applicable a Local Government in Niger State;

“*Interim Performance Certificates*” means evidence that a contract or supplier has performed its obligations under a procurement contract up to a specific level or milestone stipulated by the contract, but not up to completion;

“*Lowest Evaluated Responsive Bid*” means the lowest priced bid or proposal amongst the bids or proposals adjudged through evaluation to answer substantially to all the needs of a procuring entity as stipulated in the bid or proposal solicitation documents;

“*Margin of Preference*” means extra mark up on price allowed any domestic contractor, supplier or service provider bidding, without being otherwise disadvantageous to the bid in terms of price;

“*Direct Labour*” means the procurement of civil works by a procuring entity using its own internal personnel, equipment and resources without engaging any person outside the procuring entity;

“*Minor Value*” means a monetary value which is not in excess of the monetary thresholds set for any approving

authority by the Board ;

“*Negotiation*” means discussions to determine the terms and conditions of a contract or procurement or final specifications in a two stage bidding;

“ *Open Competitive Bidding*” means the process by which a procuring entity based on previously determined and objective conditions for qualification and criteria for selection of a winner effects public procurements by offering to every interested bidder, equal simultaneous information and opportunity to offer the goods, works or services needed; and may be by way of a one stage or two stage tendering.(Section 26)

“*Procurement Proceedings*” in these regulations means all steps from procurement planning, to the process of effecting a procurement up to award of a procurement contract, implementation and conclusion of execution, monitoring and evaluation;

“*Procuring Entity*” means any public body engaged in procurement and includes Niger State Government, a Ministry, Extra-Ministerial Department, Government Agency, Parastatal, Corporation, House of Assembly, Judiciary, State University, College of Education or any other government owned institutions and Local Government Councils in Niger State.

“Resident Due Process Team” means the Team of procuring entity staff established pursuant to S 23 of the NSPPL 2010 in each procuring entity primarily responsible for approval of proceedings and award of contract, as well as supervising other procuring entity procurement functions (Sections 20 & 23).

“Procurement Department or Unit” means a Due Process Office or Desk established pursuant to S 17 of the law in the procuring entity established to provide full administrative support for the Resident Due Process Team in the implementation of the Procuring Entities procurement functions.

“ *Relevant Government Agency*” means the Nigerian Police, Economic and Financial Crimes Commission, Independent Corrupt Practices Commission, Code of Conduct Bureau, State House of Assembly and the Auditor General of the State etc

“ *Responsive Bid or Proposal* ” means the bid or proposal which answers substantially to all the needs of a procuring entity as stipulated in the bid or proposal solicitation documents;

“*Services*” means the rendering by a contractor or supplier of his time and effort and includes any object of procurement other than goods, works or construction;

“*Solicitation Document*” means and includes notices, call for pre-qualification or expression of interest,

advertisements, call for submission of bids, bidding documents, requests for proposals or any other documents for solicitation of offers proposals or quotations;

“*Subcontractor*”, means natural person, a legal person or combination of the above to whom any part of the goods to be supplied or works to be executed is subcontracted by the supplier or contractor,

“*Substantially Responsive Bid*” is a bid or proposal which answers substantially to all the needs of a procuring entity as stipulated in the bid or proposal solicitation documents;

“*Surplus property*” means property which by means of a proper evaluation has been determined no longer useful, needed or usable by a Procuring entity.

“*State Competitive Bidding* ” means the solicitation of bids from domestic contractors and suppliers registered or incorporated to carry on business under Nigerian Law and who qualify under the NSPPL 2010;

“*Threshold*” refers only to monetary value for purpose of approval and not the actual process procurement and award;

“*Validity Period*” means the period during which a bidder agrees not to increase the cost of its bid or to remove any components of the bid;

“*Works*” means all works associated with the construction, reconstruction, demolition, repair or renovation of a building, road, structure or works, such as site preparation, excavation, erection, building, installation of equipment or materials, decoration and finishing, as well as services incidental to construction such as drilling, mapping, satellite photography, seismic investigation and similar services provided pursuant to the procurement contract, where the value of those services does not exceed that of the construction itself.

6. **ABBREVIATIONS/ACRONYMS**

BOQ- Bill of Quantity

EOI - Expression of Interest

F&GPC - Finance and General Purpose Committee of a Local Government Area

ICB- International Competitive Bidding

IT – Information Technology

<p>ITB- Instructions to Bidders</p> <p>LGA - Local Government Area</p> <p>MDA - Ministry, Department, or Agency - any public body, includes a Ministry, Extra-Ministerial Office, or Department, Government Agency, institution, Parastatal, Corporation.</p> <p>NSPPL 2010- Niger State Council on Public Procurement and the Public Procurement Board and other matters connected thereto Law,2010</p> <p>NSPPB- Niger State Public Procurement Board</p> <p>OCB-Open Competitive Bidding</p> <p>RDPT-Resident Due Process Team</p> <p>RFP - Request for Proposals</p> <p>SBD- Standard Bidding Documents</p> <p>SCB - State Competitive Bidding</p> <p>SIB- Special Instructions to Bidders</p> <p>TOR- Terms of Reference</p>	
<p>7. INSTITUTIONAL ARRANGEMENT FOR PUBLIC PROCUREMENT</p> <p>The procurement regulatory and implementation function in Niger State shall be carried out by the following structures:</p> <p>7.1 The State Council on Public Procurement (The Council) established under Section 2 of the Law is the apex policy approval authority.</p> <p>7.2 The Niger State Public Procurement Board (The Board) as established under Section5 of the Law is the regulator of procurement processes and shall carry out all functions provided under the Law and others provided in this regulation in accordance with the Law.</p>	<p>Regulatory and Implementation Structures</p>

7.3 The Board shall establish the following departments to aid in carrying out its functions:

7.3.1 Anti-Corruption Unit

7.3.2 Research, Review and Documentation

7.3.3 Monitoring and Evaluation

7.3.4 Legal Services

7.3.5 Procurement Audit

7.3.6 Information Communication Technology(I.C.T)

7.3.7 Administration

Other departments as the Board may require and the Council shall approve from time to time.

7.4 Procuring and disposing entities (Procuring Entity); herein above defined. The structures for implementing procurement in each procuring entity and Local Government Council shall include;:

7.4.1 The Accounting Officers;

7.4.2 The Resident Due Process Team

7.4.3 Due Process Office herein referred to as Procurement Department/Unit.

7.4.4 Sub Technical Committee of the Resident Due Process Team

7.4.5 The User Department

8. THE OPERATION AND ROLE OF THE STATE COUNCIL ON PUBLIC PROCUREMENT
(Sections 2,4,6,7,8,9,10,11,12,13,14,15 of the NSPPL 2010).

The Council shall:

8.1 Meet not less than two times in a year.

8.2 Consider and approve monetary threshold for implementation of the NSPPL

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| <p>8.3 Consider and approve policies and regulations to guide implementation of public procurement or changes of same proposed by the Board\</p> <p>8.4 Through a competitive process recommend to the Governor a person to be appointed Director-General of the Board and another to be appointed Deputy Director General (DDG) for the Board.</p> <p>8.5 The Director-General of the Board shall serve as Secretary of the Council assisted by the Head of Legal Department of the Board who shall report to him</p> <p>8.6 Consider and if thought fit approve recommended changes in procurement process to adapt the process to modern technology</p> <p>8.7 Ensure procurement processes approved are comparable to international best practices</p> <p>8.8 Consider and approve the annual budget of the Board prior to submission to the Ministry of Finance</p> <p>8.9 Consider and if thought fit approve the Board’s annual report including its audited accounts</p> <p>8.10 Appoint the principal officers of the Board through a competitive process.</p> <p>8.11 When deemed appropriate appoint on transfer or secondment from the public service officers of the Board</p> <p>8.12 Ensure principal officers appointed all have requisite qualifications and experience for effective performance of their respective departments’ functions and that of the Board</p> <p>8.13 Consider and approve and when deemed necessary amend the operational structure of the Board including abolishing or merging existing departments and or creating new ones or changing the nomenclature as it deems appropriate.</p> <p>8.14 Determine the terms and conditions of service of officers and employees of the Board including remuneration.</p> <p>8.15 Approve and issue regulations regarding appointment, promotion and discipline of employees and the rules and structures for appeal by staff against disciplinary decisions.</p> <p>8.16 Make rules specifying the manner in which assets or fund of the Board are to be held and paid</p> | |
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<p>out and requiring proper accounts and records.</p> <p>8.17 Commission and investigate or direct the Board to investigate the effectiveness of any procedure or aspect of the procurement process.</p> <p>8.18 Upon recommendation of the Board require the Civil Service Commission to discipline any staff in the State and or any Local Government service for procurement related infractions.</p> <p>8.19 Upon recommendation of the Board, request the Governor to discipline any political appointee for procurement related infractions</p> <p>8.20 Not intervene in the day to day supervision of procuring entity s procurement processes by the Board’s management staff</p> <p>8.21 The Council here empowers the Board to;</p> <p>8.20.1 Enter into contract subject to appropriate procurement procedure with any person which in its opinion will facilitate discharge of its functions</p> <p>8.20.2 Enter into any partnership with any domestic or or international development agency, organization or body and liaise with relevant domestic and international institutions, bodies and agencies for effective performance of its functions</p> <p>Request from and receive from any procuring entity all such information and documents including but not limited to all documents, records of all kinds, memoranda, reports, generated, used and or relevant to a procurement proceedings or operations of the procuring entity</p>	<p>Board Authorization</p>
<p>9. OBJECTIVES AND FUNCTIONS OF THE BOARD (sections 6and 7 of the Law)</p> <p>9.1 Harmonization of existing government policies and practices on public procurement (Section 6(a))</p> <p>Initiatives to harmonize existing government policies and practices:</p> <p>9.1.1 Any person, procuring entity may on his own or pursuant to a call for initiatives by the</p>	<p>Functions of the Board</p> <p>Harmonization of</p>

<p>Board propose and submit suggested initiatives or changes for improving effectiveness, transparency, accountability and value for money in public procurement in Niger State, to the Board.</p> <p>9.1.2 All such suggestions shall be in electronic and hard copy addressed to the Director-General of the Board</p> <p>9.1.3 There shall be no particular format for submission of initiatives, however submissions shall clearly state; the reasons for the suggested initiative; whether the initiative is intended for revision of the procurement law, regulations, standard documents or practice; the actual rule, provision or practice for which revision is sought; identity and contact information of the proponent of the revision etc.</p> <p>9.1.4 Upon receipt by the registry in the Administrative department, it shall number the initiative for record purposes and shall forward it to the Research, Review and Documentation(RR & D)department of the Board for evaluation and action.</p> <p>9.1.5 The registry shall within 7days of receipt of the proposals send a written acknowledgement of receipt of the proposals to the initiating procuring entity or person.</p> <p>9.1.6 Such initiatives shall be studied and if found useful prepared for recommendation by the (Research Review &Documentation) department for consideration by the Board’s Management within 30 working days of receipt in the Board.</p> <p>9.1.7 The Board’s Management may upon considering such a recommendation do any of the following:</p> <ul style="list-style-type: none"> • Forward the proposal or initiative to the department for further work or assessment as the Board’s Management may require. • Reject the suggested modifications or initiative(s) completely or partially; • Adopt and approve the initiative wholly or in part as it may deem necessary and take steps in accordance with the law to put it into effect, including seeking Council approval where required. • In all appropriate cases and not later than six months from the date of receipt of the proposed initiative, the head of the Research, Review and Documentation Department shall draft and the Director- General shall sign and send to the proponent of the initiative notification in 	<p>Policies and Practices</p>
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writing of its decision and if considered necessary its reasons for the decision.

- Initiatives approved by the Board and requiring Council approval shall be forwarded to the Council for consideration, with full justifications and recommendations for implementation.

9.2 Establishment of standards by which prices can be compared- Section 6(b)

- 9.2.1 The Board shall establish a data base of benchmark prizes for all goods, works and services
- 9.2.2 The Board shall periodically review and revise pricing benchmarks currently printed as Niger State Standard Procurement Price List to ensure that the benchmarks remain current
- 9.2.3 Continually collate, monitor and analyze prices of tendered items and maintain a data base of benchmark prices with respect to all items of goods, works or services that can be benchmarked.
- 9.2.4 This activity should be carried out by Quantity Surveyors and Statisticians in the Research Review and Documentation Department with support from the ICT Specialist in the ICT Department.
- 9.2.5 In establishing benchmark prizes the Board shall examine open market prizes, benchmark price standards at the Federal level and other states where they exist.
- 9.2.6 The Board shall through the format for submission of procurement records and other measures within its power ensure that procuring entities regularly submit to it prizes of all tendered items, goods, works and services linked to specifications for the specific activities.
- 9.2.7 Once approved by the Council, the benchmark pricing standards shall be published and be widely disseminated through the website, Procurement journal and by other means possible.
- 9.2.8 This Benchmark Prize data base shall serve only as a reference guide

Prizing Standards

9.3 Publicize and explain provisions of the law – Section 7(1)(b)

The Media and Information Unit and the ICT Department shall;

- 9.3.1 Annually prepare and implement a communication strategy that ensures improved statewide

<p>understanding of the provisions of the Law and these regulations, using both traditional and other established media and methods for public education and sensitization.</p> <p>9.3.2 Ensure details of public procurement contracts are published and that such details are communicated to direct user communities, stakeholders and the general public in time and in a manner that enables them monitor performance.</p> <p>9.3.3 Ensure that procuring entities inform members of user communities or stakeholders of the relevant details of procurement relating to the user community or groups immediately upon award.</p> <p>9.3.4 The Information and Media officer and the staff of his department shall ensure the publication of paper and electronic copies of the Procurement Journal using the state government printers based on a format approved by the Board’s Management.</p> <p>9.3.5 Establish and implement a modest fee schedule for subscription to the Procurement Journal for contractors, suppliers and other stakeholders.</p> <p>9.3.6 Seek and secure feedback on the implementation of the law, regulations and standard documents.</p> <p>9.3.7 As much as is practicable run radio programs, regular blogs, face book and other social media pages regularly deployed for education of the public on procurement issues and dissemination of procurement news and information</p> <p>9.3.8 Secure partnership of the radio and television stations as well as other media where possible in implementing its public education programs.</p> <p>9.3.9 Ensure that MDAs personnel have needed ICT skills and provide appropriate specification of equipment and software their personnel need to perform their functions.</p> <p>9.4 Supervise implementation of established procurement policies- Section 7(1)(d)</p> <p>9.4.1 The Procurement Audit and Surveillance Department shall monitor and supervise implementation of procurement regulations and policies in the state, as well as carry out periodic procurement research and</p>	<p>Proactive education of the public and dissemination of procurement information</p>
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<p>survey,</p> <p>9.4.2 It shall establish processes, methods and provide tools for monitoring and supervising implementation of procurement regulations and policies in the state and its Local Governments and by all procuring and disposing entities.</p> <p>9.4.3 Procuring entities may seek and obtain advice and support of this department in preparing their procurement plans, specifications, advertisements, bidding documents and Requests for Proposal.</p> <p>9.4.4 Regularly evaluate implementation processes to ensure compliance with the law, rules and standard documents and prepare quarterly implementation reports to Management.</p> <p>9.4.5 Prepare a template for procurement Audit and annually conduct a procurement audit of all procurement carried out by procuring entities within their approval threshold.</p> <p>9.4.6 Approve draft advertisement submitted by procuring entities.</p>	<p>Regulations and Policies Implementation Supervision</p>
<p>9.5 Maintain a state database of the particulars and classification and categorization of contractors and service providers – Section 7(1)(h)</p> <p>9.5.1 The Public Information Unit and ICT Department shall be responsible for maintaining this data base.</p> <p>9.5.2 They shall design and make publicly available a form to serve as template for collation of information about contractors and service providers showing requirements for registration in different categories of the data base.</p> <p>9.5.3 The information sought by the form shall include such as required in this regulation or from time to time by the Board.</p> <p>9.5.4 Registration of contractors and service providers shall include the completion and submission of the fully filled out form, classification by the Board and inclusion in the register and data base</p>	<p>State database, of the particulars and classification and categorization of contractors and service providers</p>

9.5.5 The Board may liaise with the procuring entities for distribution of the forms, but all filled out forms must be returned directly to the Board where a token fee of not more than N50,000. 00(Fifty Thousand Naira) for the highest category of contractors and (Two Thousand Naira only) for the least category of contractors and service providers shall be paid at the Board’s accounting department and receipt obtained.

9.5.6 The data base shall include information on “Non-profit making organizations”, professional bodies, observers and monitors of the procurement process, their addresses and full contact details, provided that no fees shall be charged for collation and maintenance of information on citizens groups who are procurement observers

9.5.7 Information to be collated, managed and disseminated shall include information on contractors debarred from participating in public procurement in the state, the period and reasons for debarment.

9.5.8 The Board shall give free and unlimited access to information in this data base of contractors and service providers to all procuring entities and procurement observers, but business enterprises shall pay a moderate fee determined by the Board from time to time to access this data base which shall be online as soon as practicable.

9.6 Collate and Maintain in an Archival system, all State procurement plans and information (Section 7(1)(i)); introduce, develop, update and maintain related database and technology (section 7(1)(q)); and establish a single internet portal that shall serve as a primary source of all information on government procurement(Section 7(1)(r).

9.6.1 The Board shall issue a procurement planning and reporting template based on which procuring entities will prepare and submit their annual procurement plans to the Board.

9.6.2 The Procurement Audit and Surveillance Department shall review the procurement plans for adequacy and liaise with MDAs to revise them where appropriate.

9.6.3 The Board shall also issue a format for procuring entities to submit records of their procuring

Information from

<p>Government if any, creation of employment, improvements in infrastructure etc</p> <p>9.7.5 Develop and support implementation of performance monitoring benchmarks and reporting system for regular evaluation of MDAs procurement activities, reports of which shall be made public.</p> <p>9.8 Organize Training and Development Programmes for Procurement Professionals/Officers – Section 7(1)(k)</p> <p>9.8.1 The Administrative Department shall co-ordinate all public procurement training and development programs for procurement professionals/officers in the State and Local Government Service working in collaboration with all MDAs.</p> <p>9.8.2 The department shall survey training needs within the State Public Service, Local Governments and all related stakeholders including the public, develop and implement a procurement training strategy plan for the State and Local Government services.</p> <p>9.8.3 It shall develop appropriate curricula and minimum training standards for all training programs for staff and or stakeholders</p> <p>9.8.4 It shall prepare and implement annual training and development plans with the approval of the management committee of the Board.</p> <p>9.8.5 It may with the approval of Board’s Management conduct and charge fees for training of bidders(private persons).</p> <p>9.8.6 It shall keep comprehensive data base of all trainings conducted, objectives and subject matter of each training, who has been trained by who, when, on what and how, including records of evaluation of training and monitoring reports and impact of training on the work of persons trained and make this available to the Board’s Management and MDAs.</p> <p>9.8.7 The department shall develop a mechanism for using regular procuring entity procurement activities to conduct in house training for procuring entity staff, by staff or when</p>	<p>Training and Development Programs</p>
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appropriate consultants.

9.8.8 The Unit/Department shall be responsible for the Boards annual stakeholder retreat with Commissioners and other political appointees to sensitize them on the new procurement processes and structure.

9.8.9 Generally provide capacity improvements and training support to procuring entities and Local Governments.

9.9 Prevent unfair procurement practices, handle complaints and ensure compliance with the Law -Sections 7(1)(n);8(1)(d),(e) and 56(4-7)

9.9.1 The Board shall have a standard complaints resolution panel to hear and determine complaints, the panel membership shall comprise of specific members/staff of the Board members of the Anti- Corruption unit and where deemed necessary an external expert; the Head Legal Services Department shall serve as Chairperson to this panel, and his absence Head of the Anti-Corruption Committee, the panel membership shall be drawn from the Anti-Corruption and legal departments of the Board or such other departments as the Director General may from time to time determine.

9.9.2 The panel shall report to the Director-General of the Board and be under his supervision

9.9.3 The Panel shall determine its proceedings, which must give equal opportunity for the complainant and the procuring entity, or any other parties complained against to present their case and responses before arriving at a decision.

9.9.4 The Panel shall hear and determine complaints and have the Board issue its decision in writing within 21 days of receiving the complaint.

9.9.5 Upon receipt of a complaint, the Panel may by a letter to the appropriate procuring entity suspend any further steps on the specific procurement process complained about pending its decision.

Complaint
Resolution
Mechanism

- 9.9.6 The Panel shall have a secretary from possibly from the Anti-corruption Unit , who shall ensure that a written acknowledgement is sent to every complainant whose complaint is received, records and keeps records of panel meetings, hearings and performs such other functions as may be assigned from time to time.
- 9.9.7 The Legal Department shall compile and annually publish decisions by the Board on complaints coming before it.
- 9.9.8 All complaints to the Board shall be addressed to the Director- General who shall minute on it within 48 hours to the Anti-Corruption Department as Secretariat of all Complaints Panels in the Board.
- 9.9.9 All complaints shall at least contain, the name and contact details of the party complaining including phone number and email, the procuring entity against whom the complaint is made, the particular procurement activity from which the complaint emanated, the complaint/infraction subject matter of the complaint, name of any other bidder who may be concerned where applicable, in the case of an appeal to the Board, grounds on which the appeal is made, which may include decisions of the Accounting Officer complained against, etc and should include copies of all documentary evidence that may be available to the person complaining or appealing as the case may be.
- 9.9.10 Complaints or appeals to the Board once received shall be circulated to members of the panel by its secretary. The secretary shall within three to five working days of receipt of complaints summon a meeting of the panel, present before the panel a list of persons and documents the panel may wish to examine, panel shall approve the list, add or remove from it, and fix a date to hear the parties taking account of the statutory dateline for issuing its decision, consequent upon which the secretary must immediately invite all relevant parties in writing and request all and any information required for panels consideration in writing.
- 9.9.11 In a situation where it is not possible to hold this initial meeting the Legal Department shall

Contents of
Complaints

immediately fix a panel hearing date, invite relevant parties including complainant and procuring entity representatives etc to attend, request production by any and or all parties of specific documents it has identified to be relevant and in their custody not later than 48 hours before the hearing date.

9.9.12 The secretary of the panel shall ensure that documents and information related to the complaints should be available for inspection and study by the members of the panel not later than 1 (one) full working day before the panel's sitting.

9.9.13 The panel may where appropriate decide the complaints based on written documents submitted by the complainant and or procuring entity complained about

9.9.14 At the hearing, the complainant shall if required present his/its case, himself or through a representative, and the other parties shall respond the same day or as soon as is convenient to the panel .Parties if present shall have the right to cross-examine each other before the panel immediately after a party is heard.

9.9.15 Parties other than procuring entities shall produce documents in their care and point out to the panel documents that procuring entity should produce and the panel shall accordingly direct the procuring entity to produce such documents except the procuring entity can show it does not exist.

9.9.16 Where any public official frustrates the work of the panel by refusing to appear or produce relevant documents, the panel shall as part of its decision recommend such a person for prosecution pursuant to S 60(3)(h) of the NSPPL 2010.

9.9.17 Members of the panel shall be under oath not to disclose information and evidence produced before them in a proceeding to any unauthorized persons prior to the decision of the Board.

9.9.18 The secretary shall ensure that detailed records are taken and kept of all the proceedings of the panel.

9.9.19 The panel shall immediately after the hearing, debate the case within itself and arrive at a

decision or immediately agree on a date and time within three working days to debate and take a decision on the complaint.

9.9.20 Decisions shall be by two third majority vote of panel members.

9.9.21 The panel shall always be constituted in odd numbers by the Director-General; for the hearing of a complaint, the panel shall be constituted by three or five members.

9.9.22 The recommendations/decision of the panel shall briefly re-state the complaint, state its findings and decisions including any sanctions recommended in accordance with law.

9.9.23 The Secretary and Chairperson of the panel shall communicate the decision to the Director-General who shall send notice of the decision to all parties concerned in writing not later than the 21st working days after receipt of the complaint.

9.10 Ensure compliance with the provisions of the Law -Section 8(1)(d)

The Board shall have power to:

9.10.1 Act upon complaints in accordance with the provisions in these rules

9.10.2 Call for the production of books of accounts, plans, documents, records of all kinds, and examine persons or parties in connection with any procurement proceedings in issue.

9.10.3 Nullify in the whole or part any procurement proceeding or award made in contravention of these Regulations or the Law and communicate decision to the procuring entity and other parties concerned.

9.10.4 Where there are persistent or serious breaches of the Law or these Regulations by a procuring entity, the Board may recommend to the appropriate authority with approval of the Council any or all of the following steps:

9.10.4.1 The transfer, suspension and or dismissal of the officer(s) concerned with the procurement or disposal proceeding in issue

9.10.4.2 The temporary transfer of the procuring and disposal functions of a procuring and

disposing entity to a third party procuring Entity or consultant.

9.10.4.3 The investigation and prosecution of the persons who have infringed the law and or rules

9.10.4.4 The recommendations of the Board shall not be made without first informing the responsible procuring entity in writing about the infractions and giving them an opportunity to be heard except recommendations are based on complaints already heard and decided by the complaints' panel of the Board.

9.11 Registration of Contractors -Section (8) (1) (f and g)

9.11.1 The Board shall to the exclusion of all procuring entities maintain a register and data base of contractors, suppliers and service providers in accordance with a categorization to be specified from time to time by it, such categorization to include a listing of debarred/blacklisted contractors.

9.11.2 Each Local Government Area shall based on forms issued by the Board collate and prepare for the Board a list of its contractors and service providers in accordance with categorization of contractors issued to it from time to time by the Board and shall before the end of August in each year and February in each succeeding year update the Board with soft and hard copy of information on its contractors list, which shall then form part of the general contractors list maintained by the Board.

9.11.3 Every supplier of goods, works or service provider bidding for a procurement project at the state level in Niger State may be registered with the Board, in accordance with the standard format provided under paragraph 6(5) (a) above; including its registered name, addresses, registration number, Names and primary qualification of key management personnel and directors,.

9.11.4 Other information to be provided shall include; Federal Inland Revenue Tax Identification Number(TIN), Corporate Affairs Commission Registration Number, major objects of the company, , equipment, infrastructure and special skills and expertise if any available to the company, previous contracts awarded and executed with evidence, location of each site or project, description of goods supplied and to who , description of service rendered, including output, projects to be listed by recognizable names, with values, category of registration of service provider or contractor, provided that non registration shall not be a basis for disqualification of an EOI, pre-qualification request, bid or proposal.

State and Local Government Areas Registers. Data Base of particulars and classification of Contractors

<p>9.11.5 Every Procuring Entity shall prior to publication of an advertisement in a newspaper, procurement Journal, website etc send a soft and hard copy of the advertisement to the Board. The Board shall vet and return the draft advertisement to the MDA, with any revisions thought fit, within three working days starting from the day after it was received by the Board.</p> <p>9.11.6 Where the Board has revised the advertisement or suggested revisions, the procuring entity shall only publish the advertisement after the recommended revisions has been made. It shall be gross misconduct for any public officer to authorize and publish an advertisement without revisions sought by the Board.</p> <p>9.11.7 Each Procuring Entity shall upon submission to a publisher of an approved advertisement for publication notify the Board, the Board shall upon receipt of this notice send such advertisements to the e-mail of every contractor in its contractor registration list.</p> <p>9.11.8 Every bidder selected as a winner in a procurement process shall prior to receiving any payment on account of a procurement activity produce evidence of registration as a contractor in the State or one of its Local Governments if it is a local government contract.</p>	<p>Vetting of advertisements by the Board</p>
<p>10 ORGANIZATIONAL STRUCTURE OF THE BOARD</p>	
<p>10.1 The Director General of the Board shall be its Chief Executive Officer and shall subject to the law and provisions hereof exercise powers of a Chief Executive.</p> <p>10.2 The Board shall have a Management Committee made up of the Director General, Deputy Director General and Heads of its departments.</p> <p>10.3 The Management Committee of the Board shall exercise the powers and perform the day-to-day functions of the Board. It shall assign such functions or responsibilities to its various departments, officers or agents as it may from time to time deem necessary.</p> <p>10.4 Departments of the Board may, if and as the need arises, seek and obtain prior approval of the Management to hire external specialists for specific assignments or enter into partnerships for the purpose of achieving the Board's objectives.</p> <p>10.5 External consultants shall be hired subject to compliance with the provisions of these Regulations.</p> <p>10.6 For the purposes of procurement of its own needs, the Board shall be a procuring entity, and as a</p>	<p>NSPPB's Organizational Structure</p>

<p>result, the Board shall have its own Procurement Department and Resident Due Process Team in accordance with the Law and these Regulations and the Board’s Resident Due Process Team shall for all intents and purposes have the powers and approve all the Board’s procurement.</p>	<p>Procurement Department and Resident Due Process Team</p>
<p>10.7 The management committee of the Board shall be headed by the Director General who shall preside It shall meet at least once a week and as often as the need arises.</p>	
<p>10.8 Except otherwise agreed, the Management Committee shall meet every Monday or any other day of the week it may from time to time determine and the secretary shall in every meeting present all issues arising for Management Committee decision on the agenda without exception, and only the Committee can decide to postpone discussion and decision on any issue.</p>	
<p>10.9 The Quorum for the Management Committee’s meeting shall be four directors and the Chairman. In the absence of the Director-General, the Deputy Director General shall Chair the meetings.</p>	
<p>10.10 The management committee may as the need arises co-opt any other staff of the Board, external expert to sit in its meetings. Such co-opted persons shall have no voting rights.</p>	
<p>10.11 The Head of the Legal Services Department shall be secretary of the Management Committee of the Board.</p>	
<p>11. PROCUREMENT PLANNING (Section 20 of the Law)</p>	
<p>11.1 All procurements shall be undertaken within the prior approved budget of the procuring entity and be based on a meticulously prepared prior procurement plan. The Procurement Department of the Procuring Entity shall prepare an Annual Procurement Plan to be approved by the Resident Due Process Team in each procuring entity, i.e. including the Local Government Councils each year before undertaking any procurement.</p>	<p>Stages of procurement planning</p>
<p>11.2 The procurement plan shall identify “in reasonable details” all works, goods and services that the procuring entity intends to procure over the course of the year.</p>	
<p>11.3 The procurement department, user departments and the Resident Due Process Team shall identify precisely the need of the procuring entity. The Procurement Department on behalf of the Resident Due Process Team shall closely co-ordinate with the budget department and user departments of each procuring entity to ensure that the procurement expenditure is provided for in the annual budget based on current market surveys, analysis and resulting estimates.</p>	
<p>11.4 The Accounting Officer in each Procuring entity shall ensure close cooperation with the user</p>	

department, the Procurement department and the Resident Due Process Team. The Budget Department shall request all user(Requesting) departments within the procuring entity to prepare and submit their estimated budget requirements for the coming year not later than end of July each year or such other time stipulated by rules guiding budget preparation.

- 11.5 The Accounting Officer shall ensure that as each procuring entity budget estimates are sent to the appropriate ministry for consideration and inclusion in the state budget, copies are made available to the Procurement Department with a detailed list of procuring entity requirements based on the budget.
- 11.6 The procurement department and or officers responsible for procurement shall based on this list of requirements issue an enquiry note to each department requesting among other things; a needs analysis for each procurement activity, market and cost benefit analysis identifying alternatives and providing justification for these particular goods, works or services where none exists; in the case of goods this should include a request for draft specification for the goods required; in the case of services it should include a request for draft TOR and for works it must include a request for a design, a bill of engineering drawings and or a Bill of Quantities notwithstanding that the budget is yet to be passed.
- 11.7 Regarding procurement above the No Objection threshold hereunder stipulated, the user department shall present a full business case satisfying requirements that shall hereafter be set out by the Board, including need justification, analysis of alternatives, costs benefit analysis etc.
- 11.8 User departments shall on their own or following request of the procurement department, specifically break down into tasks, sub tasks, inputs, milestones and activities in the case of works, technical specifications or descriptions of quality and quantity in case of goods, the problem or a draft TOR in case of services ,including situation necessitating advisory services, objectives, scope of work tasks, subtasks, outputs and outcomes in the case of services.
- 11.9 The procurement departments or personnel in every procuring entity, shall based on submissions of User Departments finalize the draft TOR, technical specifications, the exact and detailed criteria/qualifications (Technical, Financial, Personnel, Equipment and Infrastructure) that a contractor or service provider must possess to qualify to bid for the specific assignment, identify proposed method of procurement, detail indicatively the timelines required to achieve the procurement activity, associated expenditure for carrying out procurement processes, prepare a draft procurement plan etc.
- 11.10 The procurement department or relevant officers shall review, and where necessary revise information provided and based on it finalize appropriate draft procurement plans to be approved

by the Resident Due Process Team on or before 20th (twentieth) December in each year indicating the appropriate procurement methods for each project and ensuring that no contract splitting is carried out.

- 11.11 The procurement plan shall ensure aggregation of needs and grouping of contracts to obtain economies of scale and reduce procurement costs; and
- 11.12 The Procurement Department in consultation with the User Departments shall review and update the Draft Procurement Plan if and when the budget is passed, if concluded before the budget was passed and when adjudged necessary by the Procurement Department during implementation.
- 11.13 All procuring entities shall prior to commencement of procurement activity in any given year, and before expiration of 20 (twenty) working days from the date of budget passage submit its Procurement plan to the Board. A procuring entity which reviews a Procurement Plan already submitted to the Board must within seven days of the review submit the revised plan to the Board.
- 11.14 The Board may upon review of a procuring entities procurement plan require revisions of the plan in writing, the procuring entity except it can within five working days provide explanations satisfactory to the Board shall make such reviews and re-submit the procurement plan to the Board within 14 days of receipt of the Boards comments.
- 11.13 The procuring entity shall ensure that cost of projects are budgeted for and at the time of entering into any contract, that funds are available to meet maturing obligations by seeking budget clearance from the Accounting Officer of the planning Commission, who shall promptly issue budget clearance if funds are available or indicate in writing that funds are not available within seven working days of receipt of request.
- 11.14 The Board shall publish a compendium of each MDA's procurement plans on its portal and through all other mediums possible within 30 (thirty) working days of the expiration of the date of submission by MDAs.

RECORD KEEPING

- 13 Every procuring entity shall maintain comprehensive records of each procurement process from the point of need identification, through solicitation, evaluation , contract signature, implementation, payments, monitoring and evaluation, including units, and breakdown costs of goods, works or services for a minimum of ten (10) years in both soft (CD) and hard copy, properly labeled for ease of identification.

<p>13.1 Required copies of such records shall be submitted to the Board in hard and soft copy (CD) annually in accordance with formats issued by the Board from time to time. The Public Information and ICT Department departments of the board shall catalogue, keep and maintain all such records submitted to the board. The Board may from time to time prescribe new information or formats for submission of records.</p> <p>13.2 The records of procurement proceedings shall be submitted to the Board as much as possible within 3 (three) months of signing of contract and in all cases not later than 3 (three) months after the end of each financial year .The Public Information and ICT Department of the Board shall create a document registry for analysis and cataloging of all procurement records of all procuring entities in an easily retrievable manner.</p> <p>13.3 Every procuring entity may provide the following information to the Board within three months of signing a contract of a value above N1m (one million naira) and below the Board’s prior review threshold:</p> <p>13.3.1 An original or certified copy of the executed contract</p> <p>13.3.2 Approved designs, drawings, bill of quantities or detailed technical specifications prepared by the procuring entity as a benchmark for evaluation of supplier’s bids.</p> <p>13.3.3 All advertisement, notices and calls for pre-qualification, expression of interest, bids or proposals, if any.</p> <p>13.3.4 The bidding documents or request for proposals.</p> <p>13.3.5 Register of bids, and bid bonds where applicable</p> <p>13.3.6 Minutes of bid opening and bid bonds.</p> <p>13.3.7 Reports of the Technical Evaluation Sub-Committee showing recommendations and their justification and Minutes of Resident Due Process Team approving Evaluation Committees report.</p> <p>13.3.8 Notification of selection for award, advance payment and or performance guarantee where applicable.</p> <p>13.3.9 Budget clearance indicating appropriation and or (availability of funds) for the particular procurement from the State Planning Commission or any other MDA that</p>	<p>Information to be transmitted to the Board by Procuring Entities</p>
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may from time to time be designated for that purpose.

13.3.10 Any other document or information the Board may from time to time request.

13.4 All procuring entities shall submit copies of all interim certificates and, final certificate of completion issued by it to the Board not later than three months from the end of the year from whose budget the project was financed. Such certificates shall be referenced and catalogued with related procurement process documents.

13.5 Procuring Entities shall endeavor to keep end user communities informed of details of projects located in their communities, from the needs identification and design stage, to contract award and implementation, including permitting community monitoring of procurement process and implementation of procurement contracts. However no procuring entity shall require mandatory joint ventures, subcontracting or other forms of association or cooperation between firms whether domestic or otherwise

14. PROCUREMENT MANAGEMENT AND ORGANIZATION

14.1 All procurement activities shall be carried out by the procuring entities subject to this Regulation

14.2 All procuring entities shall ensure that procurement activities are carried out by only designated staff, and all procuring entities shall before the end of February of each year submit a list of members of its Resident Due Process Team to the Board.

14.3 Except as otherwise expressly provided in these Regulations, the procurement planning functions of a procuring entity shall be carried out by the procuring entity's Procurement Department established in accordance with S 17 of the NSPPL Law in collaboration with relevant user departments, where appropriate with support of the Research Planning and Statistics Departments. The contract award functions of the procuring entity shall be carried out by the Resident Due Process Team in accordance with the Law and these Regulations.

14.4 Annually between January and March each year, the Public Information and ICT Department of the Board shall call for indications and information from Non-Governmental Organizations (NGOs), Professional bodies and Community based Organizations willing and able to observe procurement processes.

14.5 Such information may include name, addresses, organizational goals/objectives, principal officers and be used to update the data base.

<p>14.6 The Public Information and ICT Department of the Board shall maintain a data bank of such Non State Actors and make it available to Procuring Entities for invitation of observers and procurement monitors.</p> <p>14.7 A Non-Governmental Organization may at any other time in the year apply in writing to update its information in the data bank or to be listed in the data bank for purposes of observing procurement and the Public Information and ICT Department shall so register the organization.</p> <p>14.8 Every Procurement Observer shall submit a copy of its observation reports for every procurement process to the Board, and other of its partner organizations or to any relevant authority it may choose. The Public Information and ICT Department shall receive, and catalogue such reports in a retrievable manner.</p> <p>14.9The Accounting Officer shall be the person responsible for supervision of all procurement activities in the procuring entity being the Permanent Secretary in a Ministry or Director General/ Head in a Parastatal or Agency, or the Director personal management of the Local Government.</p> <p>14.10 The Accounting officer will ensure the constitution of the Procurement Department and Resident Due Process Team, and ensure that it operates without interference or undue influence in the execution of its functions</p> <p>15. The functions of an Accounting Officer shall include:</p> <p>15.1 Ensure that a Due Process Office herein in this regulations referred to as a Procurement Department or Unit is established in his procuring entity.</p> <p>15.2Ensuring procurement needs are integrated in the budget, and that the process of preparation of the Procuring entities budget is coordinated with the procurement planning process of the procuring entity.</p> <p>15.3 Confirming from the Planning Commission and appropriate authorities that a project is appropriated for in the budget in the form of a budget clearance and availability of funds required for procurement to meet maturing obligations prior to the execution of a contract.</p> <p>15.4Ensuring that only procurements provided for in the budget are carried out, and that procurement is carried out in accordance with budget provisions.</p> <p>15.5 Communicating award decisions to the Commissioner and end users.</p>	<p>Functions of Accounting Officers</p>
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| <p>15.6 Signing contracts.</p> <p>15.7 Ensuring that the implementation of the awarded contract is in accordance with the terms and the conditions of award.</p> <p>15.8 Implementing the recommendations of the Procurement Department.</p> <p>15.9 Constitution of the Resident Due Process Team in accordance with the Law and this Regulation.</p> <p>15.10 Ensuring that there is no bid splitting of any kind, and that the MDA complies fully with these Regulations.</p> <p>15.11 Ensuring that the RDPT is given a free hand to function effectively in accordance with this Regulation without undue interference.</p> <p>15.12 Ensuring that user departments respond quickly and in detail to procurement department requests enquiries and adequately support the preparation of procurement plans for the MDA by the procurement department.</p> <p>15.13 Ensuring that certified copies of all certificates for payment or project monitoring and evaluation reports issued on every project are prepared and sent to the Board promptly.</p> <p>15.14 Applying for and liaising with the Board for issuance of Certificate of “No Objection” in all procurement within the Board’s approval threshold.</p> <p>15.15 As Chair of the Resident Due Process Team constituting the Sub-technical evaluation committee of the RDPT..</p> <p>15.16 Ensure that User Departments with co-ordination and guidance of the Procurement Department diligently carry out needs identification, appropriate market surveys, cost benefit analysis, adequately scope projects and prepare detailed technical specifications, designs, BOQs or BEMEs (in the case of works projects) and aggregate procuring entity needs (with or without external skills) if and when required, but always before launch of procurement.</p> <p>15.17 Ensure that costs for such preparation activities are integrated in the budget and made available in good time for these pre-launch activities to be undertaken..</p> <p>15.18 Protecting Procurement officers and personnel from undue influence from any quarters.</p> | |
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<p>15.19 Ensure that all projects within the prior review threshold are prepared and submitted to the Board for No Objection before award.</p> <p>15.20 Ensure that technical personnel of the procuring entity with expertise in the goods or works being procured are appointed into the Technical Evaluation Sub-committee of the Resident Due Process Team for evaluation of bids.</p> <p>15.21 Communicate contract award decisions of the RDPT in writing to the Commissioner of the Ministry, or Chairman of a Board if a state Parastatal, or Local Government Chairman in the case of Local Government within seven working days of award of the contract</p> <p>15.22 Ensure that his procuring entity shall develop a mechanism for using regular procurement activities to conduct in house training for procuring entity staff.</p> <p>15.23 Ensure that details of contracts awarded are immediately communicated to user communities where the works will be carried out or the goods or services will be provided.</p> <p>15.24 Ensure aggregation of Assets for purposes of disposal</p> <p>16 The Ministry or Extra ministerial Resident Due Process Team shall in accordance with Sec.23(2) NSPPL comprise;:</p> <p>16.1 Accounting Officer (Permanent Secretary or Chief Executive Officer) of the Procuring Entity or his representative from the Ministry, who shall be the chairman.</p> <p>16.2 Head of every department in the Procuring Entity or a person not below the rank of Director, to represent him:</p> <p>16.3 Other members may include,</p> <p style="padding-left: 40px;">16.3.1 A representative of the Niger State Public Procurement Board</p> <p style="padding-left: 40px;">16.3.2 Where appropriate and for specific procurement activities an external expert, may be co-opted on grounds of his expertise, such a member shall have no vote.</p>	Resident Due Process Team
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<p>16.4 The Head of the Procurement Department shall be secretary.</p> <p>17 There is hereby established in each Local Government a Resident Due Process Team</p> <p>17.1 The membership of the (LG RDPT) shall comprise:</p> <p>17.1.1 The Director Procurement (Head of Procurement Department or the Head of Department of Research Planning and Statistics where there is no procurement department).</p> <p>17.1.2 One representative of every department in the Local government who shall be the Head of Department or his appointee , except that in the case of the works department, there shall be two representatives</p> <p>17.1.3 Head of the Legal Unit or his appointed representative if there is a legal unit in the Local Government.</p> <p>18 The Chairman of the Local Government Resident Due Process Team shall be the Director for Personnel Management of the Local Government and the secretary shall be Director Procurement (Head of Procurement Department) or officer of co-ordinate responsibility.</p> <p>19 The Procurement Department/Due Process Office or in its absence other department of co-ordinate responsibility shall be secretariat of the Resident Due Process Team, and shall under direction of the Resident Due Process Team, in every procuring entity including the Local Government Council be responsible for securing user department in-puts and co-coordinating User Departments in processing all Procuring Entity’s procurement activities including the following;</p> <p>19.1 Conducting and documenting the Needs Assessment and Evaluation, Identifying the goods, works and services required.</p> <p>19.2 Carrying out appropriate market surveys, costing and on that basis preparing the cost benefit analysis and implication, and ensuring that the pricing of goods, works and services are within the benchmarks provided in the Niger State Standard Procurement Price List and the Board’s Prices databank</p> <p>19.3 Supporting the accounting officer in ensuring integration of procurement needs in the budget, including associated expenditure outlays for pre-launch project preparation activities.</p> <p>19.4 Liaising with the technical and user department to ensure designs are duly made, projects are</p>	<p>Local Government Resident Due Process Team</p>
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sufficiently prepared and detailed specifications are compiled.

- 19.5 Liaising with User Departments to specify technical standards, quantity and quality of goods, works and services to be procured as well as specifying necessary professional and technical qualifications, managerial competence, qualified personnel, bona- fide reputation, experience, financial capability, equipment and other physical facilities (including after sales service, where appropriate). It shall also compile detailed criteria for evaluation and selection of a winning bidder, the contract terms, all solicitation documents in line with the standard bidding documents issued by the Board, for each specific procurement activity.
- 19.6 Submission for approval to the Board of all advertisement for procurement. Determining appropriate procurement method to be used for each procurement activity, setting out, the procurement steps and preparing and securing approval of the Resident Due Process team of the annual Procurement Plan, as well as submitting same within required time to the Board.
- 19.7 Preparation and submission of all data and information required by the Resident Due Process Team, and carrying out instructions of the RDPT.
- 19.8 Acting as secretariat to the Resident Due Process Team.
- 19.9 Any other assignment that may be given to the Procurement Department by the Resident Due Process Team and or Accounting Officer that may be necessary to enhance performance of the procurement function.
- 19.10 The RDPT shall when it deems necessary require the procurement department to submit for vetting and pre-launch approval regarding selected procurement activities, the needs assessment, market surveys, cost benefit analysis, technical specifications, evidence of aggregation of needs, description of scope of work, designs, recommendation of method of procurement, rationale for same, all solicitation documents prepared by the Procurement Department for the particular procurement activity and any other documents it may need to examine..
- 19.11 Prior to appropriation the procurement department under direction of the Resident Due Process Team shall endeavor to prepare the draft procurement plan based on reasonable expectations of budget funding.
- 19.12 Once the budget is passed, the Procurement Department or responsible personnel for each procuring entity shall where necessary revise and finalize the Procurement Plan in line with budget provisions and secure Resident Due Process Team's approval of finalized procurement

<p>plan to be submitted to the Board within time stipulated in this regulation or as may from time to time be stipulated by the Board.</p> <p>19.13 The completion of the Procurement Planning reporting format to be submitted to the Board must be based on and be consistent with the information generated by the pre-launch project preparation activities.</p> <p>19.14 The Procurement Plan should also contain the expected timing, sequenced with projected revenue flow, it should identify when solicitation documents should be issued, when bid submission, opening, examination, evaluation and award should occur and when contract implementation should start for each procurement activity, and consider priority of each procurement relative to others.</p> <p>19.15 The Procurement Department shall keep the Accounting Officer periodically informed of skill gaps and requirements for implementing procuring entity procurement activities and the need and related costs for hiring staff and or consulting services to fill the skill gap if any..</p> <p>19.16 The method recommended for carrying out each procurement activity must take account of the features and special circumstances of each procurement and be intended to achieve economy, efficiency, accountability and value for money. The Procurement Department must provide written justification of the recommended method to be filled and kept.</p> <p>19.17 The solicitation documents should indicate in specific terms the professional, technical/ financial experience, personnel, equipment and infrastructure requirements if needed for a contractor or service provider to execute the particular procurement budgeted for, i.e. specific professional competences for the specific assignment, experiences that directly relate to and assure that any person so qualified and experienced can implement the assignment, financial qualification like other qualifications must relate to the range of financial outlay required in implementing the job, experience should include direct previous experience in similar assignments, personnel must have training and or experience directly relating to the performance of the assignment, couched in a way to completely ensure that only qualified persons, contractors, and service providers are selected to implement the project.</p> <p>19.18 The procurement department or where it is not in place other department of co-ordinate responsibility shall on securing pre-launch approvals issue solicitation documents including advertisements where required, arrange for and receive pre-qualification applications and expressions of interest to provide services in accordance with the regulations, secure and hand over these submissions to the Technical Evaluation Sub-Committee of the Resident Due Process</p>	<p>Contents of a Procurement Plan</p>
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<p>Team for examination and evaluation.</p> <p>19.19 The Procurement or other department of co-ordinate responsibility shall within ten days of publication of an advertisement for any procurement activity in any medium or within ten days of requests of bids in a restricted tendering process, or in other cases issuance of bidding or other solicitation document invite in writing at least a representative each of one civil society organization/ Community Organization and one professional body in the area of the goods, works or services being procured as observers in the procurement process, provided that such representatives shall not in any way interfere with the process, but observe and seek out information for reports to their parent body, relevant authority or other partners and agencies.</p> <p>19.20 The Procurement Department shall upon their invitation provide observers with such relevant information as the advertisement for the project and on demand the full solicitation documents issued to bidders.</p> <p>19.21 The procurement or other department of co-ordinate responsibility shall upon approval of shortlisted consultants or pre-qualified contractors by the Resident Due Process Team issue Bidding Documents and require all pre-qualified bidders for goods, works and services who have been issued Bidding Documents or Request for Proposals to submit their bids for goods and works and proposals for services within time specified for that purpose in the solicitation documents.</p> <p>19.22 Accordingly, the procurement department shall arrange receipt and opening of Bids, secure the received bids and hand over to the Sub-Evaluation Committee of the Resident Due Process Team for examination and evaluation.</p> <p>19.23 Upon submission of its evaluation report to the RDPT, the Technical Sub-evaluation committee shall forward all the bids received, accompanying documents, copy of report of evaluation and related documents to the procurement department for cataloguing to be part of the Procuring Entity's Document Registry.</p> <p>19.24 The report of the Technical Sub Evaluation committee submitted to the RDPT shall be accompanied by copies of the Bids, or Proposals and accompanying documents submitted by the recommended contractor and the two others following it in ranking for each procurement.</p> <p>19.25 Each Procurement Department shall establish a Procurement Document Registry or unit with primary responsibility for collating, keeping, maintaining, cataloging these procurement documents, as well as analyzing and producing summary reports of procurement records of all</p>	<p>Invitation of Citizens groups as observers</p> <p>Procurement Document Registry</p>
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procurement carried out by a procuring entity.

- 19.26 The Accounting Officer shall direct in writing that a true copy of every procurement related document generated in his procuring entity is logged with this Unit within 14 days of creation. Accordingly every head of department in a procuring entity shall ensure that all procurement document generated is lodged at this registry and be personally responsible for a failure to do so.
- 19.27 Heads of User Departments and the Procurement Department shall ensure that each procurement process has young staff attached to under study each project as part of hands on training.
- 19.28 Records of lodgment or failure to lodge procurement document from a department at the procurement department's document registry, and of failure to use of procurement activities for hands on training of younger officers shall be one of the elements to be considered in the advancement, promotion and salary increases for heads of procurement departments in every procuring entity.
- 19.29 For all bids the procurement department shall ensure that all procurement documents are prepared, received, stored, catalogued in both soft and hard copy, and that bidders, procuring entity personnel and all stakeholders submit related documents in both hard and soft copies.
- 19.30 Such procurement records shall be available to any person for inspection and collection after a winning bidder is notified of his success in accordance with law.

20 MINISTERIAL , PARASTATALS OR LOCAL GOVERNMENT RESIDENT DUE PROCESS TEAM

- 20.1 Functions of the Resident Due Process Team; The RDPT shall be responsible for doing the following:
 - 20.1.1 Review and vet pre-launch project preparation outputs and solicitation documents for selected procurement activities it may from time to time indicate.
 - 20.1.2 Consider and approve short list of consultants or pre-qualified contractors submitted to it by the Technical Sub-Evaluation Committee for issuance of bidding documents to supply goods, works and requests for proposals (RFP) to provide services for the procuring entity
 - 20.1.3 Approve the list of short listed or pre-qualified candidates to be issued bidding documents

Resident Due Process Teams

<p>or RFP,</p> <p>20.1.4 Review recommendations of the Technical Evaluation sub-committee for award of contracts and award contract where appropriate cases subject to prior review in cases above the prior review threshold;</p> <p>20.1.5 Ensure that all procurement above the prior review threshold undergo pre-contract certification and receive the Certificate of “No Objection” from the Board prior to execution of contract</p> <p>20.1.6 For the purposes of evaluation of procurement; nominate persons that its chairman shall appoint into the Technical Evaluation Sub-Committee chaired by its secretary, such personnel should be technical experts in the area of goods, works or services being procured from the department in need of the goods, works or services, and any other persons that the Resident Due Process Team may deem necessary to nominate including consultants.</p> <p>20.2 The procuring entity shall publish the names of the pre-qualified applicants in the Procurement Journal and on its website.</p> <p>20.3 Receive and review reports of bid evaluation from the Technical Sub evaluation committee, consider reports and approve award of contracts to a specific winning contractor, and forward concluded contracts within its threshold for execution by the Accounting Officer and the Secretary of the committee.</p> <p>20.4 Ensuring that the Technical Sub-evaluation committee applies only conditions for qualification and criteria set out in the solicitation and bidding documents in its evaluation of expressions of interest, request for pre-qualification and all bids and proposals.</p> <p>20.5 Apply through the Accounting Officer to obtain a Certificate of “No objection” for all award of contracts within the Prior Review threshold.</p> <p>20.6 Announce and publicize details of the contracts awarded through the Procurement department.</p> <p>21 INVITATION FOR PREQUALIFICATION OF BIDDERS</p> <p>21.1 In case of procurement of large and complex works or equipment above a given threshold value, or for the procurement of highly specialized goods, works or services, prequalification of bidders is required in order to obtain a list of technically and financially qualified bidders. Pre-</p>	<p>Pre-qualification</p>
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qualification may also be used in circumstances where it is expected that proceeding directly to bidding may lead to receipt of so many bids which may take undue time and cost to evaluate, or where the actual timing of procurement is somewhat uncertain, but when the time comes for actual procurement, it must be accomplished in as short a time as possible, in all cases of prequalification, only companies/ persons or firms pre-qualified may be invited to bid.

21.2 The Invitation for Prequalification shall contain the following information:

21.2.1 A summary of the purpose and nature of the procurement;

21.2.2 Instructions to prepare and submit prequalification applications

21.2.3 Name, address, telephone/fax number(s) and website address of the Procuring Entity;

21.2.4 A brief description of the works, goods or services for which applicants will be pre-qualified;

21.2.5 Requirement for name and description of applicant and specific information on particular requirements to be met by suppliers, contractors and service providers in accordance with classification of qualifications provided for elsewhere in these Regulations and or in the law;

21.2.6 Specific minimum, technical, equipment, financial and infrastructure qualifications, personnel and experience required to accomplish the objectives of the procurement, and minimum documentation and other evidence of qualification required to satisfy each qualification category.

21.2.7 Requirement for evidence of payment of due taxes and pension contributions

21.2.8 A summary of the prequalification criteria and procedure for evaluation;

21.2.9 Where necessary a statement whether domestic preference, if any, will apply, criteria of application and specific weight to be given to it;

21.2.10 Information on when and where the prequalification documents can be obtained and at what price; and

21.2.11 The place (full and clear address including room number where applicable) and exact

Contents of
Invitation for
prequalification

deadline for the submission(including exact time and date) and giving sufficient time for applicants to prepare and submit applications and the exact time and date for opening of applications for prequalification.

21.2.12 Requirement for disclosure of all directors, key owners, managers and persons with substantial interest in the company and its prequalification proposal.

21.2.13 Also a requirement for a statement disclosing any subsidiary or dominating relationships with any other bidder in the proceedings, and accompanying affidavit disclosing relationship with any former or present staff of procuring entity or bidder and verifying all information and documents provided.

21.2.14 Any other requirements the procuring entity may consider necessary subject for the approval of the Board.

21.3 The Procuring Entity shall submit advertisement for requests for pre-qualification to the Board for vetting prior to its publication in accordance with paragraph 9.11.5-7 in these regulations..

21.4 To be prequalified, a prospective bidder must be considered to have sufficient professional, technical, financial, personnel and experience to carry out the works, and to provide the goods and services required.

21.5 Intending applicants (Bidders) may request clarifications in writing up to 10 days before the submission deadline. A procuring entity shall promptly and not later than four days from date of receipt of request for clarification respond to such requests, and forward copies of its response, without identifying the source, to all other Persons applying to be prequalified or pre-qualified bidders (as the case may be) who have collected the bidding documents. As a result, Procuring Entity may deem it necessary to amend the bidding document and may in that case provide an extension of the deadline for submission as it may deem necessary. Such extension must be simultaneously communicated to every person who has collected the pre-qualification or bidding documents as the case may be.

21.6 Upon approval of the list of pre-qualified contractors by the Resident Due Process Team, a procuring entity through its procurement department or responsible personnel shall within fourteen days notify each contractor who submitted an application to be pre-qualified, whether or not it has been pre-qualified.

21.7 Such notification, may be by written letter or by publication in at least two national newspapers.

Clarifications to prequalification invitation documents

<p>21.8 The Accounting Officer of the Procuring Entity through its procurement department shall make available to any observer or member of the public upon request, the names and qualifications of the pre-qualified contractors and or consultants.</p> <p>21.9 In the case of the pre-qualified contractors, the notification referred to above shall invite them to collect bidding documents, and specify the dates, time in the day exact address, location including room number and amount to be paid for the bidding documents not exceeding N50,0000 (fifty thousand naira)for bulky works or other large bidding documents and N10,000 (ten thousand naira) for all others.</p> <p>21.10 Upon request in writing by an applicant who was not pre-qualified, the Accounting Officer directly or through the Procurement Department/Due Process Office shall within 14 days communicate to the applicant in writing the reasons or grounds for non-qualification and or disqualification.</p>	<p>Debriefing on reasons for non - qualification</p>
<p>22 PROCUREMENT METHOD (Open Competitive Bid)</p>	
<p>22.1 Except as otherwise provided in this Regulation, Open Competitive Bidding shall be the primary method for procurement of goods, works and services pursuant to these regulations.</p>	<p>Open Competitive Bidding</p>
<p>22.2 Open Competitive Bidding may be launched directly or by an invitation for pre-qualification requiring the bidders to provide information requested in accordance with these rules. It may be by one stage or two-stage tendering, and in the case of services may be by expression of interest and proposals to provide services in accordance with a full or abridged request for proposals.</p>	
<p>22.3 Where Open Competitive Bidding, subject to established thresholds, is launched directly without pre-qualification or expression of interest, the procuring entity shall verify qualification of a winning bidder after selection of a winning bid, and if he/ does not qualify, select the next best bid or proposal according to the evaluation report and continue in that order until it secures a qualified winner or decides to cancel the procurement proceeding.</p>	
<p>22.4 The use of any bid methods other than Open Competitive Bidding shall be subject to the conditions laid out in the Law and this Regulations and shall be subject to monetary thresholds set by the Board in this regulation as amended from time to time, the Board may issue separate thresholds for the Local Governments. Except as otherwise provided by the Law and these regulations, all procurement of goods and works by all procuring entities shall be conducted by open competitive bidding.</p>	<p>Restricted Methods</p>

<p>22.5 The following restricted procurement methods may be used in exceptional circumstances by procuring entities, subject to conditions provided in the law and in these rules present, and in the case of Selective Tendering with prior approval of the Board:</p> <p>22.5.1 Selective (Restricted) Tendering.</p> <p>22.5.2 Two-Stage Tendering</p> <p>22.5.3 Request for Quotations (Proprietary item tendering) ,where value of procurement does not exceed a value stipulated in this regulation or as from time to time issued by the Board</p> <p>22.5.4 Direct Procurement (or Single Source Procurement) applied only in exceptional circumstances and always subject to the provision of this Regulations</p> <p>22.5.5 Emergency Procurement (This relates to the use of Direct Procurement Method in cases of established emergency.)</p> <p>22.6 When a Procuring Entity intends to use Selective Tendering methods of procurement, the Procuring Entity must seek approval of the Board by an application which must explain the purpose, circumstances and reasons justifying the request to use Selective Tendering method and where possible, provide documented proof of the circumstances necessitating the use of the Selective Tendering method</p> <p>22.7 Such application must indicate measures to be undertaken by the Procuring Entity to ensure that it seeks and obtains as much competition as possible even while using the Selective Tendering method</p> <p>22.8 The Monitoring and Evaluation department shall within four working days of an application being sent to it, verify the facts and put a report for or against approval for the request before the Director General and Management Committee of the Board</p> <p>22.9 To receive approval, the circumstances cited must accord with conditions for use of the particular restricted method as provided for in the law and in these Regulations, and all approvals given shall be published in the Journal and on the websites of the Board and the procuring entity. Value for money obtained through efficiency, competitiveness, fair access to bids/proposals and transparency, shall remain the main objective of all procuring entities and public bodies, Committees, Boards, or Officers in the state and selective tendering processes shall be made as competitive as possible.</p>	<p>Selective (Restricted) Tendering</p>
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22.10 Contracts shall not be split into smaller units in order to avoid competitive bidding or be distributed among various lots to different bidders to enlarge bidder participation at the cost of lesser economy and efficiency.

22.11 The methods, procedures and contract award for public procurement of goods, works and services shall be subject to the thresholds set by this regulation.

24. CLASSIFICATION OF PROCUREMENT Sec.27 of the Law

24.1 Procurement shall be either by International Competitive Bidding or State Competitive Bidding; except where otherwise required by a method of procurement adopted in accordance with the law or these Regulations.

24.1.1 Under *International Competitive Bidding*, Bids are sought from both domestic and international contractors, suppliers and service providers, where it is uncertain that local contractors or service providers may be found that can adequately deliver the goods, works or service sought.

24.1.2 Invitation to bid under International Competitive bidding shall be advertised in at least two National Newspapers, One International Newspaper or Magazine, the Federal and or State Procurement Journals, as well as the official website of the procuring entity and the Board

24.1.3 Dateline for submission of expression of interest in International competitive bids should be at least four weeks.

24.1.4 The deadline for submission of bids under International Competitive Bidding shall be at least Six weeks

24.2 For State Competitive Bidding; Advertisement shall be in at least two National Newspapers which must be circulating effectively in Niger State, the Niger State Public Procurement Journal, Procuring Entity's Notice board, website of the Procuring Entity (if any) and that of the Board

24.2.1 Deadline for submission of pre-qualification documents or Expression of Interest shall be at least a minimum period of two weeks.

24.2.2 Deadline for submission of bids shall be at least six weeks

International
Competitive
Bidding

State Competitive
Bidding

<p>24.3 There shall be Local Competitive Bidding provided always that where a Local government procurement falls within the threshold and circumstances required for International and or State competitive bidding those classifications shall apply.:</p> <p>24.3.1 For Local competitive bidding, advertisement shall be at least in a local newspaper circulating in the state, Procurement journal and in addition on Local Government or State website and notice board.</p> <p>24.3.2 Deadline for pre-qualification or expression of interest shall be at least two weeks,</p> <p>24.3.3 Deadline for submission of bids shall be a minimum of four weeks.</p>	<p>Local Competitive Bidding</p>
<p>25. BID SOLICITATION</p> <p>25.1 The advertisements for a bid solicitation shall include the following information:</p> <p>25.1.1 Name, address, telephone/fax number(s) email, and website address of the Procuring Entity</p> <p>25.1.2 Purpose of the procurement, place of delivery or location where the works or service are to be carried out or goods delivered ; brief description of the item to be procured including quantity, quality and purpose for acquiring them</p> <p>25.1.3 A statement whether domestic preference, if any, will apply in favor of National Companies and against international businesses in the case of (ICB)</p> <p>25.1.4 information on all particular requirements to be met by suppliers and contractors including evidence of qualification required ; including qualifications in each category and criteria for selection of a winner</p> <p>25.1.5 Information where the bid documents can be obtained and at what price</p> <p>25.1.6 The place and deadline for the submission and opening of bids expressed in exact date and time, detailed address including room number if any.</p> <p>25.1.7 An invitation to the bidders or their representatives to attend the bid opening on a stated date, time and specific location usually immediately upon close of Bid Submission; and</p> <p>25.1.8 Any other information the Procuring Entity may deem necessary to give subject to provisions</p>	<p>Contents of advertisements for a bid solicitation</p>

of this Regulation.

25.1.9 Procuring entities shall submit advertisements for vetting by the Board prior to publication.

25.2 Bidders may request clarifications in writing up to 10 days before the submission deadline. A procuring entity shall promptly respond to such requests, and forward copies of its response, without identifying the source, to all bidders who have collected the bidding documents within four days of receipt of request. As a result, a Procuring Entity may deem it necessary to amend the bidding document and may in that case provide an extension of the dateline for submission as it may deem necessary

25.3 The procuring entity may subject to the nature of a specific procurement exercise require the following kinds of evidence of qualification depending on the specific circumstances and needs of procurement activity as prescribed by the Procurement planning Committee:

25.3.1 Professional qualification may include but not be limited to academic qualifications and professional certification required by law or prescribed by the procuring entity evidenced by , certificates of graduation, evidence of professional licensing/certifications and practice renewals etc, ;

25.3.2 Technical Qualifications; may include and not be limited to specific previous professional experience in similar jobs, the number of such experiences required, evidence required may ;include letter of award of previous jobs or engagement, signed contract award agreements, certificate of completion, letters of commendation etc

25.3.3 Adequate personnel; The names of professionals with adequate qualification and experience who will be deployed by the bidder to implement the contract if they win, often supported by way of employment letters, contract of engagement or association, detailed curriculum Vitae , signed availability statements relating to the particular assignment and certificates etc;

25.3.4 Financial capability, may include and not be limited to previous turnover, size of previous assignments successfully managed, evidenced by audited financial statements, bank account statements, and in addition letter of financial capability from a reputable bank etc

25.3.5 Equipment and other relevant infrastructure; Minimum equipment list, evidence of understanding of use of equipment needed, in some circumstances ownership of relevant equipment and infrastructure, evidence of previous hiring, leasing and use of equipment and infrastructure required.

Clarifications

- 25.3.6 Evidence of payment of taxes, tax clearance certificates, Tax payment receipts;
- 25.3.7 Evidence of payment of pension contribution, letter/certificate of confirmation of pension contribution from Pension Funds Administrator or statement of account of staff pension savings account.
- 25.3.8 Also a requirement for a statement disclosing if there is any subsidiary or dominating relationships with any other bidder in the proceedings, and accompanying affidavit disclosing relationship with any former or present staff of procuring entity or bidder and verifying all information and documents provided to the procuring entity.
- 25.3.9 All other information required in the Standard Bidding Document or that the MDA may deem necessary.

26. IMPLEMENTING PUBLIC PROCUREMENT

Procedures for Bid Preparation, Submission and Opening- sections 28 to 32

- 26.1 After advertisement of a bid, bid documentation shall be made available to all prospective bidders simultaneously and at reasonable prices not exceeding the cost of printing, delivery and administration, in any case not exceeding N50,000 for bulky works contracts and not exceeding N10,000 for others. Except otherwise provided, in the event of pre-qualifications, or Expression of Interest, Bid documents or Request for Proposals may only be issued to pre-qualified or short listed bidders. Standard Bidding Documents issued by the Board shall be the basis for preparation of all bidding documents and RFP used by procuring entities. The General Conditions of Contract in these agreements shall not be varied. Bidding documents issued shall be in English language and should require submissions by bidders to be in English language and in both soft (e.g. CDs) and hard copies
- 26.2 Procuring entities may require bidders to provide bid security to secure the validity of the bid within the period specified in the bid documents, which shall not be more than 180 days. The bid security shall be in the amount indicated in the bid documents, subject to limits provided for in these regulations.
- 26.3 The format of the bid security shall be in accordance with the form included in the standard bidding documents and bidders may enquire from the Procuring Entity in advance if a particular issuing entity of a security is acceptable

Issuance of Bid Documents

Bid Security

<p>26.4 To ensure confidentiality of the bid price, bid securities should be set in amounts for all Bidders, in relation to the size of the contract. provided the amount is no more than 2% of the bid price</p> <p>26.5 The bid security shall remain valid for a minimum period of at least four weeks beyond the validity period of the bids, in order to provide reasonable time for the procuring entity to act if the security is to be called or till the performance security of the successful bidder is obtained at contract award. The procuring entity shall return the bid securities to the unsuccessful bidders once it has signed the contract with the successful bidder and obtained its performance security</p> <p>26.6 The procuring entity will call the bid security:</p> <p>26.6.1 If a bidder withdraws or modifies its bid after bid submission closes;</p> <p>26.6.2 if a bidder fails to sign the contract or comply with any other condition of contract signature,</p> <p>26.6.3 if a bidder fails to produce a valid performance guarantee where required after acceptance of the bid award, and</p> <p>26.6.4 if a bidder ,refuses to accept a correction of an error appearing on the face of the bid</p> <p>26.7 After the advertisement/commencement of a bid proceeding, the procuring entity may not communicate with prospective bidders in any manner other than as provided for under the Law or this Regulation</p> <p>26.8 For complex works or supply contracts, a pre-bid meeting may be arranged where all potential bidders will meet with the representatives of the procuring entity to seek clarifications. Minutes of the meeting shall be duly recorded by the procuring entity and provided to all prospective bidders.</p> <p>26.8 Any additional information, clarification, correction of errors or modifications of the bid document provided to any prospective bidder shall be simultaneously sent to each purchaser of the original bid document. Such information, clarification, correction of errors or modifications shall be provided or made in time sufficient before the bid submission deadline to enable bidders to take appropriate action</p> <p>26.9 If necessary, the procuring entity may extend the submission deadline notifying all concerned. procuring entities and shall provide reasonable access to project sites for visits by prospective bidders, where necessary or requested</p> <p>26.10 The date, hour and place (as in room) for the receipt of bids and for the bid opening shall be</p>	<p>Pre-Bid Meeting</p>
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<p>announced in the invitation to tender. Bid opening should terminate not later than 12.30 pm on a working day to allow bid opening to occur immediately after closure of bid submission.</p>	
<p>26.11 Starting from the commencement date and time for bid opening, until the expiration of time given for Bid opening. Procuring entities shall keep a register of bids in the room designated for bid submission, where representatives of bidders directly submitting their bids shall enter their names, bid and lot number, date and time of submission or any other information required one after another on a first come first served basis before dropping their bids into a secure tamper proof box prepared for that purpose by the procuring entity. Procuring entity staff managing bid submission shall at the point of bid submission issue a receipt to each person submitting a bid indicating; name of bidder, bidder representative submitting the bid, time and date of submission and title or no of bid where applicable, and keep duplicate copy of receipts issued.</p>	<p>Bid Submission Register</p>
<p>26.12 Pre-qualification and bidding documents may contain provisions permitting submission of bids by mail or courier at bidders' option, provided that a bidder choosing to submit by mail or courier pays for a return mail for his receipt and undertakes to ensure that the procuring entity receives the bid at the proper address in good time before expiration of the timeline and deadline for submission of bids</p>	<p>Bid Submission by mail</p>
<p>26.13 A representative of the Procurement Department of the Procuring Entity receiving such a mailed bid shall enter the name of the bidder, the date, time and any other information required into the bid submission register, drop the bid into the tamper proof box, issue its receipt and send same back to the bidder by return mail paid for by the bidder, or where the bidder has not paid for a return mail keep the receipt issued until the bidder appears to collect same.</p>	
<p>26.14 In the same breath, the Procuring Entity representative shall register all other bids received, issue a receipt for them, and allow the bidder's representative who has come to submit the bid to place the received bid into a tamper-proof box located in the same room in the presence of the procuring entity representative.</p>	
<p>26.15 At the stroke of the clock on the time and date identified as dateline, the relevant officer receiving bids shall rule off the bid submission register immediately below the entry of the particulars of the last person to submit and sign on it stating date and time.</p>	<p>Ending bid Opening</p>
<p>26.16 A bidder may modify or withdraw his/its bid prior to the submission deadline in accordance with the provisions in the bid solicitation documents. Such withdrawal or modification shall be in writing and submitted like a bid on or before the date and timeline for bid submission.</p>	<p>Modification/ Withdrawal of Bids</p>
<p>26.17 Bids shall remain valid for the period specified in the bid solicitation. Such period must be sufficient to enable a procuring entity complete the evaluation and comparison of bids and to obtain all</p>	<p>Validity of Bids.</p>

<p>necessary approvals, such that a contract award may be made within the validity period</p> <p>26.18 If an extension of bid validity becomes necessary due to unforeseen difficulties in the bid evaluation and award process, the procuring entity may request the bidder to extend the validity of its bid for such period as would be the minimum required to complete the evaluation, obtain the necessary approvals and award the contract.</p> <p>26.19 In the case of fixed price contracts, requests for second and subsequent extensions will be permissible only if the request for extension provides for an appropriate adjustment mechanism of the quoted price to reflect changes in the cost of inputs for the contract over the period of the extension</p> <p>26.20 Whenever an extension of the bid validity period is requested, a bidder shall not be asked or be permitted to change the quoted (base) price or other conditions of its bid. A bidder has the right to refuse to grant such an extension without forfeiting its bid security, but a bidder willing to extend the validity of its bid shall be required to provide a suitable extension of its bid security. A bid whose validity is not extended by the bidder, terminates upon expiration of the un-extended period of validity.</p> <p>26.21 Bid opening shall take place immediately after expiration of datelines for submission of bids, this should be indicated in the solicitation documents. In exceptional circumstances and if due to un-anticipated situations or emergencies occurring after issuance of bidding documents need arises to postpone bid opening, then an extension to the next working day possible may occur, provided that full notice of any changes made in time, location etc shall be given to all persons present at the previously designated location and time for bid opening, and placed conspicuously at all notice boards in the procuring entity.</p> <p>26.22 Any bid received after the deadline (exact time in the day specified in the bidding documents) for submission of bids shall not be opened and must be returned to the supplier or contractor which submitted it.</p> <p>26.23 Bids shall be opened in public, the date for opening of bids shall correspond to the deadline for submission of bids or follow immediately after preferably in the same venue.</p> <p>26.24 Bids shall be;</p> <p>26.24.1 properly identified by the bidders (specifying bid and lot numbers, names etc on the envelope as prescribed by the bidding document) in order not to be mistaken with other bids;</p>	<p>Extension of bid validity</p> <p>Bid Opening</p> <p>Bids received after submission deadline</p>
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- 26.24.2 signed by a legal person who is authorized to bind the bidder, and delivered in sealed envelopes at the location indicated in the bid document and no later than at the stipulated time
- 26.24.3 It is ideal, but not always possible to have bid opening in the same room where bid submissions have just ended, in such exceptional cases where this is not possible relevant officers shall make necessary arrangements for transfer of the tamper proof box to a more appropriate venue for Bid opening..
- 26.24.4. Bids received after the deadline shall be returned to the bidders unopened. Every procuring entity shall for this purpose provide a tamper proof bid box
- 26.24.5 Bidders, their representatives and interested members of the public shall be allowed to be present at bid opening and to verify that the bids have not been tampered with.
- 26.24.6 The names of the Bidders and total amount of each bid, any discounts and any alternative bids if they have been requested or permitted, presence and or absence of bid security if required shall be read aloud and recorded in the minutes of Bid Opening before all present. All Bidders or their representatives present shall sign the Bid Opening Register providing their names, address, bidder represented, phone number and any other similar information required.
- 26.24.7 A copy of the Minutes signed by the Head Procurement Department shall promptly be sent to all Bidders who submitted bids in time. After the closure of the bid opening session, the procurement department or officers of co-ordinate responsibility in the procuring entity shall ensure the safe-keeping of the bid documents and hand same over to the evaluation committee not later than three working days from date of bid opening.
- 26.24.8 The Chairperson of the Resident Due Process Team of the Procuring Entity (RDPT) shall endeavor to constitute the Evaluation Committee which shall be chaired by the Secretary of the Resident Due Process Team prior to the date of bid opening or in any event not later than 48 hours after the time of bid opening.
- 26.24.9 After the opening of bids, no information relating to the examination, clarification and evaluation of bids and recommendations concerning awards shall be disclosed either to any Bidder or to other persons not officially concerned with the Bid evaluation, until the award of contract is notified to the successful bidder

27 EXAMINATION AND COMPARISON OF BIDS – SECTIONS 33-36 OF THE LAW

27.1 No information relating to the examination, clarification and evaluation of bids and recommendations concerning awards shall be communicated to any person not officially concerned with the evaluation procedures until the bid winner is notified that he has won the bid.

27.2 The Procuring Entity shall use, or ensure the use of the Board’s issued Standard Bid Evaluation Report format for the Evaluation of bids for Goods, Works and Services. In each case a bid evaluation report shall indicate the specific reasons on which the determination for the recommendation for the award of contract is made.

Standard Bid Evaluation Report

27.3 The winning bid in the case of goods and works shall be the lowest evaluated responsive bid amongst the bids that have been responsive to the bid solicitation

Selection Criteria (goods and works)

27.4 The report of the Technical Evaluation Committee to the Resident Due Process Team on the evaluation and comparison of bids shall in the case of goods and works be accompanied by the three lowest evaluated responsive bids, and identify and recommend the lowest evaluated responsive bid as winner

27.5 In the case of consultancy services the report of the Technical Evaluation Committee of the Resident Due Process Team will be accompanied by the three lowest evaluated responsive proposals, in the case of least cost selection, or the three highest ranking proposals in the case of quality selection or the three proposals with the highest weighted average scores in the case of quality and cost based selection QCBS and shall in each case identify and recommend the winning proposal.

Selection Procedure (consultancy services)

27.6 The Technical Evaluation Committees shall carry out the bid evaluation in two phases:

27.6.1 A Preliminary examination and

Stages of Bid Evaluation

27.6.2 Detailed Evaluation and Comparison of Bids, in accordance with the evaluation criteria stipulated in the bid document

27.7 The Technical Evaluation Committee shall carry out the preliminary examination to verify if the bids are substantially responsive to the bid document, that is, whether the bid (a) has been properly signed and changes initialed, (b) is accompanied by a valid bid security, if required, (c) meets the laid down eligibility requirements as in the bidding document (d) is complete, (e) quote prices for all items in

Preliminary Evaluation (examination of bids)

<p>the lot or package as stipulated in the bid document, (f) contains computational errors, and (g) is generally in order or meets the test of completeness.</p> <p>27.8 If a bid does not substantially conform to the specifications, or contains inadmissible reservations or is not otherwise substantially responsive to the bid document, it shall not be considered further and shall be mentioned as “rejected” in the Evaluation Report and recommendations to the Resident Due Process Team. However, a bid should not be rejected on minor procedural grounds, which can be rectified through the clarification process.</p> <p>27.9 In the course of determination of a bid winner, the Evaluation committee shall in addition to any other provisions of this regulation undertake the following processes:</p> <p>27.9.1 Seek clarifications of bids where necessary;</p> <p>27.9.2 Check deviations;</p> <p>27.9.3 Qualifications in monetary terms of such questionable deviations;</p> <p>27.9.4 Application of discounts where applicable;</p> <p>27.9.5 Conversion to Nigerian currency of foreign currency quotations;</p> <p>27.9.6 Calculation and tabulation of bid amount with domestic preference where applicable;</p> <p>27.9.7 Determination of the highest ranking technical proposal;</p> <p>27.9.8 Determination of the lowest calculated prices in order of rank;</p> <p>27.9.9 Post qualification of bids and bidders, where applicable;</p> <p>27.9.10 Recommendation for award; and</p> <p>27.9.11 Writing of bid evaluation report.</p> <p>27.10 If a procuring entity deems it necessary to seek clarifications from a bidder after bid opening, the bidder shall not be permitted or requested to alter his/its bid, or to change the substance (to make an unresponsive bid responsive) or change price of the bids</p> <p>27.11 The bid price read out at bid opening shall be adjusted for any arithmetical errors, and adjustments shall be made for any quantifiable non material deviations or reservations. Price adjustment</p>	<p>Steps to be undertaken in Bid Evaluation</p>
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<p>provisions applying to the period of implementation of the contract shall not be taken into account in the evaluation. The procuring entity shall notify the bidders of arithmetical errors made. If the bidder does not agree with this notification, its bid shall be rejected.</p>	
<p>27.12 When bid prices are expressed in foreign currency or several currencies, the price of the bids shall be converted into Naira at the medium exchange rate of the Central Bank of Nigeria prevailing at the date stated in the bid document</p>	
<p>27.13 For the supply of imported goods, the evaluation and comparison of bids shall be on the basis of CIP or CIF price. For goods manufactured in Nigeria, Ex Works prices are evaluated and compared. If bids are on the basis of CIP (Place of Destination), the cost of inland transportation and insurance to the place of destination shall be added to the price of domestically produced goods</p>	<p>Evaluation of imported and locally manufactured goods</p>
<p>27.14 Under works and turnkey contracts, contractors shall be responsible for all duties, taxes and other levies. Solicitation documents shall stipulate this and Bidders shall take these factors into account in preparing their bids. The evaluation and comparison of such bids shall be on this basis. Bid evaluation for works shall be strictly in monetary terms. If time is a critical factor, the value of early completion to the procuring entity may be taken into account according to criteria presented in the bid document, and prices accordingly adjusted, but only if the conditions of contract also provide for commensurate penalties for noncompliance</p>	<p>Evaluation of bids for works and turnkey projects</p>
<p>27.15 The procuring entity shall notify bidders of major deviations and the resulting rejection of their bids. Minor Deviations may be clarified by bidders but not withdrawn</p>	<p>Deviations</p>
<p>27.16 Major deviations for goods are:</p> <p>27.16.1 Incompatibility with the technical specifications;</p> <p>27.16.2 Unacceptable commercial terms;</p> <p>27.16.3 Proposed performance criteria, which do not meet those specified in the bid solicitation documents; and</p> <p>27.16.4 Unacceptable price adjustments</p>	<p>Major deviations for goods</p>
<p>27.17 Major deviations for works are:</p> <p>27.17.1 Unacceptable subcontracting contrary to the terms in the bid document;</p>	<p>Major deviations for works</p>

<p>27.17.2 Unacceptable time-phasing in construction;</p> <p>27.17.3 Unacceptable alternative design if alternative design is permitted or proposing an alternative design when none is permitted and the bid does not respond to the requested design;</p> <p>27.17.4 Proposing a bid subject to price adjustment when the bid solicitation documents call for fixed price;</p> <p>27.17.5 In the case of prequalification, a bid from a bidder who was not prequalified; and</p> <p>27.17.6 Ineligibility of a bidder or bid</p> <p>27.18 Minor Deviations for works and goods include:</p> <p>27.18.1 Slightly different delivery times;</p> <p>27.18.2 Slightly different payment terms;</p> <p>27.18.3 Minor attachments on equipment ;</p> <p>27.18.4 Minor differences in the performance criteria, but not affecting the efficiency of an equipment or utility.</p> <p>27.18.5 Any deviation that does not have impact on the cost of the bid</p> <p>27.19 Where there exists a doubt as to whether a particular condition in a bid is a major or a minor deviation, the following rules shall apply:</p> <p>27.19.1 Where impact on the costs is major, it shall be regarded as a major deviation ; and</p> <p>27.19.2 Where the impact on costs is minor, is shall be regarded as a minor deviation.</p> <p>27.20 In all cases of minor deviations written clarification should be sought and obtained, and where applicable an offer made for correction of minor deviation, where a contractor or service provider does not accept correction of the minor deviation his bid shall be rejected.</p> <p>27.21 All minor deviations are quantified in monetary terms at the stage of bid evaluation. All major deviations lead to rejection of the bid and bid rejection shall be notified to the bidder in writing.</p>	<p>Minor deviations for goods and works</p> <p>Resolution of issues as to major or minor deviations</p>
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<p>27.22 All procuring entities shall on request inform a bidder in writing the reasons for which its bid or application for pre-qualification, expression of interest or proposal was unsuccessful or was rejected</p>	
<p>27.23 If the bid document asks for alternative bids or designs, the bidders shall first quote the price for the base method and specifications indicated in the bid document and secondly indicate the price for the deviation or alternative solution. Only the alternative bid of the substantially responsive lowest evaluated bid shall be considered for contract award</p>	
<p>27.24 When comparing bids from foreign contractors or suppliers with national bidders, procuring entities may grant a margin of preference to domestic contractors, and suppliers for goods manufactured in Nigeria. Also a domestic preference may be applied when comparing goods manufactured and supplied by contractors within the state and suppliers with goods manufactured outside the state. The Board shall from time to time set the margins of preference to be granted. Bid documents may provide a domestic preference on the delivery price for goods and for works. The procedure for evaluating margins of preference and the exact margins to be applied is explained in Schedule 2. Domestic preference is only applicable if provided for in the bid document.</p>	<p>Margin of preference</p>
<p>27.25 At any time before award of contract the Procuring Entity may require a contractor or service provider pre-qualified and or shortlisted in writing to re-demonstrate its qualifications again in accordance with the criteria originally used to pre-qualify contractors or shortlist consultants. Though the criteria shall not change the procuring entity may specifically ask for further evidence of the claimed qualification.</p>	<p>Post Qualification/ Due diligence</p>
<p>27.26 Upon receipt of bidder's response to a request for re-demonstration of capability, the Accounting Officer through the Procurement Department must verify the information received and inform the contractor and or service provider within 14 days whether or not it has done so satisfactorily.</p>	
<p>27.27 The procuring entity shall disqualify any supplier, contractor or service provider who fails to demonstrate its qualification again if requested to do so.</p>	
<p>27.28 At the time of contract award, the procuring entity shall independently verify that the information provided in the prequalification application of the selected bidders is still valid. Similarly, such post qualification will be applied with reference to the information provided by a selected bidder in a bid procedure without prequalification, or the second or third or other bidders in line if the situation arises. In both cases, the procuring entity may deny the award to a bidder who is considered to no longer have the capability or resources to perform the contract successfully and award the contract to the next lowest evaluated responsive bidder.</p>	

28 REJECTION OF ALL BIDS- SECTION 30 OF THE LAW;

- 28.1 The procuring entity may at any time prior to acceptance of a bid, reject all bids, or cancel the public procurement proceedings without incurring any liability where:
- 28.1.1 All bids are non-responsive;
 - 28.1.2 It is established that there has been an error in the specification and or bidding documents or procedure which may produce an unintended result.
 - 28.1.3 The lowest evaluated bid is substantially above applicable updated cost estimate;
 - 28.1.4 The goods, works or service are no longer required ;or
 - 28.1.5 It has been established that there has been collusion among the bidders in which case an investigation and appropriate sanctions should follow
- 28.2 Written notice of the rejection of all bids, or cancellation of the public procurement proceedings, shall be given to all bidders that submitted bids, there shall be no invitation to pre- qualified bidders to re-bid for the procurement on the same specifications and contract conditions unless the rejection of all bids was on grounds that the lowest responsive bid was substantially above applicable updated cost estimate
- 28.3 In case of re-bidding for such projects where there has been cancellation, a procuring entity shall examine the previous proceedings, technical specifications and contract conditions and may choose to modify them.
- 28.4 Alternatively, where cancellation results because the lowest responsive bid was substantially above applicable updated cost estimate the Resident Due Process Team may consider a reduction in the scope and size of the contract, which may reduce the contract price. Also following approval from the Board, the Resident Due Process Team may set up a committee to negotiate with the lowest cost evaluated bidders in order to obtain a satisfactory contract on the basis of the revised terms and conditions
- 28.5 The procuring entity need not give reasons for cancellation and rejection of all bids and shall incur no liability for such cancellation.

Rejection of Bids

29 ACCEPTANCE OF BIDS AND AWARD OF CONTRACT

- 29.1 The procuring entity shall proceed with the award of contract within the period of the bid validity to the winning bidder who meets the appropriate standards and requirements stipulated in the bidding documents. Provided that regarding proceedings above the prior review threshold, a” No Objection” shall first be sought and obtained from the Board. Such bidders shall not be required, as a condition of award, to undertake responsibilities or work not stipulated in the specifications or to modify its bid as originally submitted.
- 29.2 If following competitive bidding, only one bid has been received and the bid is of good quality, meets the requirements of the bid document, is technically and financially responsive compared to market prices, within budget and otherwise in order, the bid can be accepted and, following evaluation, the contract awarded to the sole bidder
- 29.3 Where the contract is below the prior review threshold for “No Objection” the Resident Due Process Team shall promptly notify the successful bidder that it has been awarded the contract and invite it to execute the contract agreement subject to verification of qualifications within the time period of the validity of the bids. A similar notice shall also in all cases be sent to all bidders informing them of the name and address of the successful bidder. The terms and conditions of the contract shall not materially differ from those which were included in the bid document and on the basis of which the bids were invited.
- 29.4 In the absence of a formal challenge filed within 15 days of notification of selection of a winning bidder, the procuring entity shall execute the contract with the successful bidder.
- 29.5 Procuring entity’s accounting officers shall ensure that except in special circumstances all contracts shall be naira denominated. He shall publicize details of all executed contracts in the state procurement journal, procuring entity, Board and State websites and other media circulating within and outside the state within one month of execution of the contract, in addition to publicly and in writing notifying any communities in which the projects shall be located of the award and details of the contract immediately upon award. The publication and notification shall include the names of the contractor, details of goods, works or services to be supplied, location, performance targets/deliverables, standards of delivery required, costs and timelines for performance

Sole Bidder

Acceptance of bid and
Notification of
successful bidder

30 APPLICATION FOR CERTIFICATE OF NO OBJECTION/PRIOR REVIEW

30.1 Subject to the prior review threshold as may be amended from time to time, the Board shall review all state procurements prior to contract award, to ensure that the procurement process is carried out in accordance with the approved procedures, and upon the review issue or refuse to issue a "Certificate of No Objection"

Prior Review

30.2 No procurement with a value above the prior review threshold shall proceed to award of contract, without a "certificate of no objection" issued by the board. The Board shall also carry out periodic post review and audit of contracts below the prior review thresholds.

30.3 For the purpose of issuance of a "certificate of no objection" to a particular procurement activity the procuring entity shall provide the following documents to the Board;

30.3.1 Procurement Plan, indicating the particular project, including market surveys, cost benefit analysis.

30.3.2 Technical designs, and other drawings where applicable.

30.3.3 Detailed technical specifications where applicable

30.3.4 Terms of reference setting out background, clear objectives, tasks, outputs and expected outcome of in the case of a consultancy service.

30.3.5 Procuring entity's own bill of quantities, Bill of Engineering Measurements (if applicable).

30.3.6 Solicitation Notice for pre-qualification, expression of interest i.e. procurement advertisement in appropriate media with Boards prior approval.

30.3.7 Report on pre-qualification or short-listing after EOI (where applicable), with list of pre-qualified or shortlisted contractors and suppliers and a score sheet indicating conditions they met, bid submission register and minutes of bid opening.

30.3.8 Completed bid documents or completed proposal from three most qualified highest ranking) suppliers selected by evaluation, based on requirements stated in the bidding documents.

<p>30.3.9 Detailed Report of the Sub- Technical evaluation committee of the RDPT recommending a winner, with the bid analysis sheet indicating all parameters set out in the criteria and committees evaluation of them.</p> <p>30.3.10 Report of the RDPT of the procuring entity approving one supplier as bid winner and minutes of meeting of RDPT in that regard.</p> <p>30.3.11 Evidence of payment of tax and pension contributions by the three most qualified suppliers selected by the evaluation committee including the bid winner.</p> <p>30.3.12 Bid Bond, Performance Guarantee and Post Qualification report where applicable</p> <p>30.3.13 Any other documents the Bidding documents had required contractors to submit or that the Board may from time to time require the procuring entity to submit</p> <p>30.4 In the course of a prior review exercise, the Board may direct a reduction in quoted prices of goods, works or services, if it determines that the price is excessive. Where the selected bidder refuses the price approved by the Board, the procuring entity may negotiate with the bidder next in line, in that order until it obtains a contract or cancels the procurement and conducts a re-bid.</p> <p>30.5 Upon receipt of a request for No Objection, an appropriate staff in the Office of the Director General assigned to do so, shall review the submission for completeness regarding all documentary requirements set out in paragraph 30.3 above</p> <p>30.6 Should the assigned officer discover that any document is absent or inadequate, he shall immediately and not later than 48 hours from time of receipt of the request issue a notice in a standard format to be prepared by the Board indicating further information or documents that the procuring entity ought to submit.</p> <p>30.7 Also the Board may on further examination of the request issue further notice of incompleteness of documents or information where necessary to the procuring entity, which shall indicate further information or documents required.</p> <p>30.8 Once a request is certified to be complete in terms of documents and information provided, the appropriate officer in the Office of the Director General, shall within 24 hours of ascertaining completeness forward the request to the Director General for assignment to the appropriate team, provided that nothing in this Regulation shall nullify anything done on account of the fact that the officer forwarded an incomplete application to the Director General or preclude the Director General</p>	<p>Request for No Objection Certificate</p>
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<p>from acting on an incomplete request pending satisfaction of all requirements by the procuring entity.</p> <p>30.9 The appropriate Officer in the Office of the Director General assigned to receive requests for No Objection shall submit daily reports of submission or attempted submission of requests for No Objection to the Director General.</p> <p>30.10 The Director General shall upon review of a request, constitute and assign it to a review team which must include personnel with relevant and appropriate qualification and experience in the area of the goods, works or service being procured</p> <p>30.11 A file shall be opened for every request for No Objection once received at the board</p> <p>30.12 A review team shall within 4 days of being assigned a file send further notice of incompleteness of documents to the requesting procuring entity if the need exists.</p> <p>30.13 The team shall not later than 10 working days from the date of receipt of a complete request for No Objection send its recommendation on grant or refusal of a request for No Objection to the Director General and Management for communication to the procuring entity, the Director General and Management shall act on the recommendation not later than four working days from date of the review teams submission of its report. A request for No Objection is complete only when the procuring entity has supplied all information, documents or such other reasonable and relevant materials required by the Board.</p> <p>30.14 The Board may refuse to issue a certificate of No Objection on grounds that the prize of the winning bid or proposal is excessive. The Board may accordingly require a reduction in prizes to a specific sum or a re-bidding.</p> <p>30.15 The procuring entity shall furnish the Board immediately on award of contract and in any case not later than one month from the date of award of contract - a copy of the signed contract, and in all cases below, the pre-review threshold detailed records of the procurement proceedings including; certified copies of all solicitation documents, pre-qualification criteria and documents, register of bid submission, minutes of bid opening, report and minutes of technical evaluation committee meetings, minutes and extract of tenders board meetings, notification of award, bid security, evidence of tax payment and pension contributions and any other documents the Board may at any time specify. Such submissions shall be with a forwarding letter and the procuring entity shall endeavor to get acknowledgement of a duplicate copy of the forwarding letter, whilst the Board shall ensure that all documents listed are in fact attached, If any document is found not attached, the Board shall request submission of that document found not to be attached.</p>	<p>Time for grant or Refusal to grant a “ Certificate of No Objection</p> <p>Excessive Prices</p>
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30.16 If the Board declines to issue a “Certificate of No Objection”, it shall promptly notify the procuring entity in writing within seven days of arriving at that decision, stating reasons for its decision and any directives it may give for review of any steps taken, further action or cancellation of the procurement process

31. PERFORMANCE GUARANTEE- SECTION 38 OF THE LAW

31.1 Security for the guarantee of performance by the bidders shall be provided by the selected bidders within time stipulated in the bidding document and prior to signing of contract. The value of the security will not be less than 10% of the contract sum. However, the bid and contract documents shall require that if through change or variation or for other reasons the value of the contract price exceeds the amount of the original contract price by more than 5%, the security will be increased by a proportional amount. The performance security shall be discharged after completion of the contract and expiration of the warranty period, if there is no default

31.2 Where the selected bidder fails to sign a contract, if required to do so, or fails to provide any required security for performance of the contract within the prescribed time limit, the procuring entity shall select the next in line from amongst the responsive bidders, promptly notify it of its selection, and such notice shall be sent to other bidders.

31.3 A Procuring Entity may in addition to contracts where mobilization will be paid as provided for in Section 38 of the NSPPL 2010 require performance guarantee for execution of any contract which it considers strategic to the achievement of important government objectives, provided that such requirement is contained in the bidding documents.

31.4 A procuring entity after selection of a winner in a procurement process or termination of a procurement process before selection of a winner, shall subject to payment of cost of photocopy /reproduction not in any circumstance exceeding N10 per page of document and a token administrative fee of not more than N1000 (One Thousand Naira only) per request notwithstanding the number of documents requested, make available to a requester any or all of the documents generated in a procurement process, whether in respect of procurement below or above the pre-review threshold.

31.5 Notwithstanding Paragraph 31.4 above, a Procuring Entity shall grant access to requesters of copies of all procurement solicitation documents advertised or issued to bidders prior to selection of a winner or termination of a proceeding without a contract, provided that no information or documents submitted by a bidder in a bid shall be disclosed to any person not involved in managing the procurement evaluation process within the procuring entity until a winner has been selected or a

Performance
Guarantee

Access to
procurement
documentation

proceeding terminated before selection of a winner.

31 IMPLEMENTING OTHER METHODS OF PROCUREMENT

Two stage tendering Section 41 of the Law

31.1 Two Stage Bidding may be used where:

31.1.1 It is not feasible to fully define the technical specifications, scope and or nature of contractual aspects of the procurement to elicit competitive bids;

31.1.2 Because of the complex nature of the goods, other services or works to be procured, the Procuring Entity wishes to consider various technical or contractual solutions, and to discuss with bidders the relative merits of those variants before deciding on the final technical specifications and contractual conditions

31.1.3 Where it seeks to fully understand and requires bids, proposals or offers on various means of meeting its needs, in order to obtain the most satisfactory resolution to its procurement needs;

31.1.4 Where the character of the goods, or works are subject to rapid technological advancement

31.1.5 Where the procuring entity seeks to enter into a contract for research experiment, study or development, except where the contract includes the production of goods in sufficient quantities to establish their commercial viability or to recover research and development costs;

31.2 The provisions of this law regarding open competitive bidding shall apply to two stage tendering

31.3 In the first stage the invitation to bid shall outline:

31.3.1 The background to the problem, the problem requiring solution and or the purpose of the procurement

31.3.2 Expected performance targets and outcomes required

31.3.3 Detailed circumstances or challenges sought to be met;

31.3.4 Broad specification of equipment or works or service to be procured;

Two Stage
Tendering

Conditions for
Application

First Stage of two stage
tendering

<p>31.3.5 Minimum qualifications required to perform the contract</p> <p>31.3.6 Call on bidders to submit technical bids without a bid price and their comments on the proposed system, technical specifications and proposed contract and conditions</p> <p>31.3.7 A clause indicating that the procuring entity may adopt appropriate solutions put forward by bidders in their technical bids</p> <p>31.4 The Procuring Entity shall simultaneously provide the same information in the same format to every bidder requested to submit a bid; and</p> <p>31.5 In a two stage tendering process the Procuring Entity shall give at least 5 weeks’ notice for the first stage bidding and a Minimum of four weeks for the 2nd stage bidding</p> <p>31.6 Following submission and evaluation, the Procuring Entity may</p> <p>31.6.1 Enter into open or confidential discussions with responsive bidders, and ask for technical clarifications with a view to understanding their technical bid or to indicating changes required to achieve the Procuring Entity’s objectives, or to seek the bidders views on available options, with a view to achieving better understanding of proffered solutions to procuring entities challenges;</p> <p>31.6.2 Modify the technical specifications, characteristics or quality standards, expected inputs ,evaluation criteria, and contract conditions in order to achieve the objective of the procurement exercise; such modifications may adopt some of the solutions offered by the first stage submissions</p> <p>31.7 In the second stage, the procuring entity shall invite price bids on the old or modified technical specifications of the project as it may choose, from bidders whose initial bid/proposal was responsive and who demonstrated sufficient technical experience and competence.</p> <p>31.8 The final bids shall be compared and evaluated to determine the lowest evaluated responsive bid based on the unified specifications on which prize bids have been sought.</p> <p>31.9 The initial bidding document shall have a provision for every bidder to permit the procuring entity to adopt the solution it offers in its bid, in the modification of technical specifications of the project, if it so desires.</p>	<p>Open and confidential discussion with bidders</p> <p>Second Stage of two stage tendering</p>
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31.10 The procuring entity shall permit any supplier or contractor invited to participate in the second stage, who does not wish to submit a final tender to withdraw from the proceedings, without prejudice to its right to adopt as a whole or in part solutions it has offered.

32 RESTRICTED TENDERING(SELECTIVE TENDERING) -SECTION 42 OF THE LAW

32.1 A procuring entity may, subject to the **prior approval** of the Board, utilize the Selective Tender Method where it confirms that goods, works or services are only available from a limited number of sources, in which case the Procuring Entity must list and invite all known suppliers or providers of such goods, works or services to tender; and any known supplier or service provider not included in this list can on its own submit a bid or proposal to provide the required service, works or goods, notwithstanding any provisions to the contrary such a bid or proposal shall be considered like those of other listed suppliers provided it meets minimum eligibility conditions. Or

Conditions for Application of Restricted

32.2 Where the sum involved is so low that time and cost required to evaluate large number of tenders is disproportionate to the value of goods, works or services to be procured, in which case it must select the invited bidders in a non-discriminatory manner that ensures competition.

32.3 Where the reason is that the goods, works or service can only be obtained from a few suppliers. A procuring entity, in using Restricted Tender method, shall prepare in a non-discriminatory manner and submit to the Board as part of the application for approval, a list of eligible national or international potential suppliers, service providers or contractors as the case may be.

32.4 The Board may require that the list be expanded to include other qualified suppliers or contractors but not to remove an already selected supplier.

32.5 The invitation to bid or to submit proposals to provide services needed, will be issued by the Procuring Entity to all suppliers, contractors or service providers in the approved list, only upon receipt of the Board's prior approval and issuance of public notice of the approval to use Restricted Tender Method

32.6 The Restricted Tender procedure upon approval by the Board is to be published in the procurement journal and on the Board's and Procuring Entity's website and notice board. In all other aspects the procedures applicable to State Competitive Bidding shall apply also to Restricted Tendering.

Publication in restricted tenders

32.7 The rules of open competitive bidding shall be observed amongst the limited number of bidders, with the same criteria, time lines set out in the solicitation documents applying to all bidders

throughout the process.

- 32.8 The bids when received shall be compared and evaluated in accordance with criteria contained in the solicitation documents as is the case in an open competitive bidding process.
- 32.9 An application for Board's approval for a procuring entity to utilize Restricted Tendering Method must provide sufficient justification based on verifiable facts in accordance with the law to attract the Board's approval.
- 32.10 It shall be gross misconduct in addition to any other infractions stipulated by the law for an Accounting Officer and Head of procurement department of any Procuring Entity to undertake Restricted Tendering without prior approval of the Board. The Council hereby authorizes the Board on its behalf and within 14 days of becoming aware of such an abuse to forward a request for disciplinary action against named responsible officials to the Civil Service Commission in the case of civil servants and to the Governor in the case of a political appointee.

33 REQUEST FOR SEALED QUOTATION -SECTION 43 OF THE LAW

- 33.1 Request for sealed quotation is applicable where;
 - 34.1.1 The goods or works sought are readily available commercially, standard goods or small works not specifically manufactured or designed to specification for the Procuring Entity.
 - 34.1.2 The value of goods, works or services does not exceed N2,000,000 (Two Million Naira)
- 34.2 MDAs Sealed Proposals shall be requested in writing from not less than seven qualified un-related contractors from the Boards contractor registration list and other sources available to it, who can supply the goods, or works required, without requesting any fees or charges
- 34.3 The request shall inform the bidders whether other charges such as applicable transport, freight, insurance custom duty or taxes like VAT are to be included.
- 34.4 The request shall contain a clear statement of the Procuring Entity as to quantity, technical specifications, scope, estimated time and terms and other special requirements, together with such other information as may be prescribed, invitations for quotations for small works shall include necessary drawings, estimated quantities of materials and completion time.

Request for Sealed Quotation

Conditions for Application

<p>34.5 The request shall inform bidders whether such other factors other than prize of goods or works like applicable transportation, insurance, customs duties and taxes are to be included in the prize.</p> <p>34.6 Each bidder may submit one sealed quotation, which may not be altered or negotiated</p> <p>34.7 All quotations shall be opened at the same time and read out in public before the solicited suppliers or contractors or their representatives, if present.</p> <p>34.8 The quotations shall be evaluated and compared at the same time.</p> <p>34.9 The contract shall be awarded to the lowest evaluated responsive bidder.</p> <p>34.10 No negotiation shall take place between the procuring entity and the bidder regarding prize</p> <p>34.11 Where a procuring agency intends to use Request for Quotation method for a procurement valued more than the threshold value stipulated herein. It shall apply and obtain prior approval of the Board.</p> <p>34.12 A request for sealed quotation may be used in a case where value of the goods or works does not exceed N4,999.000(Four Million Nine Hundred and Ninety Nine Naira only) provided that an advertisement for it is issued in the State Procurement Journal, a newspaper circulating in the state, the Bureau and State government Websites, in which case the advertisement may contain name, address and description of the procuring entity, description of the goods or works required, datelines for submission of sealed quotation and specific address including floor and room number , name and phone number of contact person, time of the day and fee if any not exceeding N10,000 with which a detailed invitation for a sealed proposal can be obtained from the procuring entity.</p>	<p>Request for Sealed Quotations for Goods and works valued above N2,000,000 million and below N5,000,000</p>
<p>35 DIRECT PROCUREMENT- SECTION 44 OF THE LAW</p>	<p>Direct Procurement</p>
<p>35.1 A procuring entity may be allowed to proceed to direct contracting of a particular supplier, contractor or service provider without competition, in the following circumstances:</p>	<p>Conditions for Application</p>
<p>35.1.1 When services, goods or equipment is proprietary in character and is obtainable only from one person or company and no reasonable alternative exists.</p>	
<p>35.1.2 When there is urgent need for small or off-the-shelf items, or small works or service of small value not exceeding N500,000 required urgently</p>	
<p>35.1.3 When a procuring entity determines that;</p>	

<ul style="list-style-type: none"> • standardization or compatibility is important in procuring additional supplies • equipment, spare parts and technology required for expansion or repair of existing equipment must be procured from the original supplier or from a supplier of identical goods, in either case • limited size of the proposed procurement(i.e. being less than 25% of original order) in relation to the original procurement provides justification, • reasonableness of the price and unsuitability of alternatives support such a decision ; <p>35.2 When there is an urgent need for the goods, works or services of known specification and engaging in tender proceedings or using any other method of procurement will not be practicable due to unforeseeable circumstances which are not the result of dilatory conduct on the part of the procurement entity.</p> <p>35.3 Where a procuring entity seeks a contract for research, experimental study or development, which does not include production of goods in commercial quantity that can recover research and development costs.</p> <p>35.4 In any of these circumstances, the procuring entity may procure the goods, works or services by inviting a proposal or price quotation from a single supplier or contractor, but must in all such cases include in the record of procurement proceedings, grounds for its decision and circumstances that warrant single source procurement</p>	
<p>36 EMERGENCY PROCUREMENT(RAPID RESPONSE SERVICES)- SECTION 45OF THE LAW</p> <p>36.1 A procuring entity may carry out Emergency Procurement by direct sourcing where:</p> <p>36.1.1 Following serious threats of or occurrence of natural disasters in the country such as droughts, floods, pandemics, civil disturbances, insurrections, war or such times that government declares that an emergency situation has arisen.</p> <p>36.1.2 The condition or quality of goods, equipment, building or publicly owned capital goods may seriously deteriorate unless action is urgently and necessarily taken to maintain them in actual value or usefulness.</p>	<p>.Emergency Procurement (Rapid Response Services)</p> <p>Conditions for Application</p>

<p>36.1.3 A public project may be seriously delayed for want of an item of a minor value.</p> <p>36.2 In such circumstance, every procuring entity shall apply principles of sound procurement, economy, efficiency, transparency and accountability in procuring the needed goods or works from a single supplier, with due consideration given to the gravity of each emergency and also standard market conditions and prizes.</p> <p>36.3 Immediately at the end of the emergency situation and not later than (7) seven working days thereof, a Procuring Entity that has applied Emergency Procurements shall prepare and file a detailed report for the approval of the Board on the procurements so carried out, and this method shall not be adopted for any other procurement after the end of the emergency situation.</p> <p>36.4 The Board shall investigate and verify the contents of the report and if found appropriate issue a Certificate of No Objection within 15 working days. If found inappropriate, the Board shall refer the matter for criminal investigation and prosecution as well as recommend appropriate officers for disciplinary action in accordance with the law.</p> <p>36.5 Both the report of the procuring entity and the Certificate of No Objection shall be published in the procurement journal, website of the State, Board, MDAs and other available media.</p> <p>The use of Direct Sourcing or Request for Sealed Quotations by any procuring entity in circumstances not borne out or justified by verifiable facts in accordance with these rules and the law shall in addition to other infractions provided by the law amount to gross Misconduct and the Council hereby authorizes the Board on its behalf and within 14 days of becoming aware of such an abuse to forward a request for disciplinary action against named responsible officials to the Civil Service Commission in the case of civil servants and to the Governor in the case of a political appointee.</p>	<p>Applicable Principles</p> <p>Board's Prior Approval</p>
<p>37 PROCURING ENTITY EXECUTION (DIRECT LABOUR)</p> <p>37.1 Direct Labour Execution” means the procurement of civil works by a procuring entity using its own personnel, equipment and resources under its control for the execution of the works in question. This method may be employed in circumstances approved by the Board where any or some of the following conditions are met:</p> <p>37.1.1 When the small size, nature and location of the works are such that qualified contractors are unlikely to bid or</p> <p>37.1.2 When the quantities of work cannot be fully defined in advance</p>	<p>Direct Labour</p> <p>Conditions for Application of Direct Labour</p>

<p>37.1.3 When the ongoing works are interrupted due to breach of contract or contractor failure, community crises, threats or injury to the contractor and need to be continued to avoid serious damage or</p> <p>37.1.4 When there are emergencies requiring immediate attention or</p> <p>37.1.5 Where the procuring entity’s staff are already engaged in similar work in the same location, which provides opportunities for synergy; or</p> <p>37.1.6 In circumstances of emergency or natural disaster which calls for immediate action</p> <p>37.2 In all cases of works to be carried out by Direct Labour, the procuring entity involved shall ensure to the satisfaction of the Board that:</p> <p>37.3 Personnel to be deployed to execute such civil works possess the requisite technical certification, professional experience/skill, and managerial ability</p> <p>37.4 The equipment and resources available to the procuring entity to be deployed towards the execution of the procurement are such as are technically appropriate, numerically sufficient to assure the proper execution of the project or programme</p> <p>37.5 The combination of(3.71) and (3.72) above shall in every case assure that the procurement is executed expeditiously, efficiently, and at reasonable costs.</p> <p>37.6 That the execution of the assignment is used to build capacity of younger officers in the service</p> <p>37.7 Under no condition shall the procuring entity be said to implement Direct Labour by hiring external labour or use of contractors.</p>	<p>Board’s Requirements for the adoption of direct labour</p>
<p>38 PROCUREMENT OF CONSULTANCY SERVICES,Sections.46-54 of the Law</p>	<p>Consultancy Services</p>
<p>38.1 Except as may be otherwise provided in these Regulations, the primary method for procurement of services shall be Open Competitive Bidding, which subject to thresholds provided shall be by Expression of Interest (EoI) and Request For Proposals (RFP) as provided for below, and may in accordance with provisions below be by one stage or two-stage tendering.</p>	
<p>38.2 Where a procuring entity wishes to procure services for its needs which are precise and ascertainable, with a value above N5million, it shall solicit for expressions of interest to provide the services by publishing a notice in at least two National Newspapers and the procurement journal, State, procuring</p>	<p>EoI for precise and ascertainable services with value above N5 Million</p>

<p>entity and Board’s websites and other medium possible requiring consultants to provide in addition to any other information or documents that the procuring entity may require the following:</p> <p>38.2.1 Evidence of business name or company registration where necessary;</p> <p>38.2.2 Evidence of professional qualification;</p> <p>38.2.3 Evidence of relevant past experience;</p> <p>38.2.4 Qualification and experience of each key staff and personnel;</p> <p>38.2.5 Evidence of payment of taxes and pension contributions;</p> <p>38.2.6 Any other information the procuring entity may require in accordance with the Law and these Regulations.</p> <p>38.3 Where the estimated monetary value of the contract is less than N5 million, but not below N1million the procuring entity shall publish a call for EOI or to submit a proposal in the state procurement journal, local circulating newspaper, website of the State, the Board and send the call to all consultants on its contractors registration list, the call shall require them to submit proposals based on an abridged Request for Proposal containing ;</p> <p>38.3.1 Terms of Reference (ToR), with background, detailed tasks and objectives, qualifications and criteria for selection with ascribed scores, manner in which fees/costs will be stated, time, manner and date for submission of proposals, etc,</p> <p>38.3.2 offering to provide the required service in a format to be indicated by the procuring entity which format shall include; evidence of payment of taxes and pension contributions, other statutory conditions for qualification of a contractor; a statement of understanding of the Procuring Entity’s needs, a statement and evidence of qualifications and experience of the consultant/firm to provide the particular services; a statement of the consultants proposed methodology for providing the service; the time frame for providing the service; the fee or cost and other related costs for providing the service or any other information the procuring entity may request.</p> <p>38.4 Where the estimated monetary value of the contract is less than N1 million, the procuring entity need not publish a call or notice but shall draw up a shortlist of not less than 3 and not more than 10 different firms or individual consultants based on the Boards contractor registration list and information available to it, and issue a call requiring them to submit proposals based on an abridged</p>	<p>EoI /RFP for services with value below N5 Million but not below N1Million</p> <p>RFP for services with value below N1 Million</p>
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<p>Request for Proposal containing same requirements as in paragraph 38.3.2 above ;</p> <p>38.5 When received the proposals shall be evaluated and compared based on scores allotted to the criteria for selection on the TOR.</p> <p>38.6 Where Expression of Interest has been used, and select consultants have been shortlisted, the Procuring Entity shall issue a Request for Proposals to short-listed consultants based on standard RFP issued by the Board requiring them to submit a Technical and Financial proposal ;responsive to the needs of the Procuring Entity which shall include:</p> <p>38.6.1 Name and address of the procuring entity;</p> <p>38.6.2 The manner, place and deadline for submission of proposals;</p> <p>38.6.3 A statement to the effect that a Procuring entity reserves the right to reject proposals;</p> <p>38.6.4 A requirement that proposals be prepared in English Language;</p> <p>38.6.5 A statement on requirements of all documents or information the consultants needs to submit to demonstrate their qualifications, including relevant experience, professional and technical, experience of key personnel, equipment and infrastructure , such documentation may include but not be limited to; certificates of qualification, previous consulting contracts on the same or similar assignments, completion certificates in previous assignments or any evidence of completion including payment;</p> <p>38.6.6 A terms of reference detailing the nature and characteristics of the services required to be provided, location of where the services are to be provided, including objectives of the assignment, proposed key tasks, sub- tasks where applicable, outputs and expected outcomes;</p> <p>38.6.7 A statement clarifying whether the Procuring Entity is seeking various ways of meeting its needs;</p> <p>38.6.8 A requirement that in the case of State Competitive bidding, the proposal price shall be stated in Naira;</p> <p>38.6.9 The manner in which the proposal price is to be stated as well as whether the price will include elements apart from costs of services, such as cost of transport, lodging, insurance, use of equipment, taxes or duties etc</p>	<p>Contents of a Full Request for Proposal</p>
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<p>38.6.10 The criteria and detailed procedure for evaluation of qualification of consultants and the substance of their proposals;</p> <p>38.6.11 Whether the procedure to ascertain the selected consultant shall be based on the lowest cost amongst responsive proposals, or the quality and cost or a combination of the lowest cost, quality or other criteria stated in the Request for Proposal from amongst proposals responsive to the solicitation;</p> <p>38.6.12 A statement requiring them to state, describe and justify their proposed methodology;</p> <p>38.6.13 A statement requiring them to restate their personnel who will carry out the assignment if they win, and their relevant qualification;</p> <p>38.6.14 A requirement that the bidders shall state the time frame they require to carry out the assignment;</p> <p>38.6.15 A requirement that they accompany the proposal with an affidavit verifying all information given and all documents submitted, as well as a statement of dominating or subsidiary relationship with any other bidder(s) in the process.</p> <p>38.6.16 A statement allowing bidders to request clarification not later than 10 days to the dateline stipulated.</p> <p>38.7 A procuring entity shall answer requests for clarification not later than 5 days before the dateline for submission of proposals.</p> <p>38.8 The procuring entity may whether on its initiative or as a result of a request for clarification by a consultant modify the request for proposals by issuing an addendum at any time before the deadline for submissions of proposals, such an addendum shall be simultaneously and immediately communicated to all consultants to whom the procuring entity has provided a request for proposals and be binding on them.</p> <p>38.9 The procuring entity may as a result of such an addendum extend the time for submission of proposals and communicate same to all consultants to whom it had given requests for proposals, any consultants who have already submitted a proposal before communication of an addendum may choose to submit an amended proposal within the extended dateline</p> <p>38.10 Where a procuring entity calls a meeting of all consultants issued a request for proposal, it shall prepare minutes of the meeting reflecting all issues raised for clarification and its responses to such</p>	<p>Clarifications</p> <p>Modification of RFP</p>
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<p>issues without identifying the source and circulate such minutes to all consultants issued the request for proposals before the deadline for submission of proposals.</p>	
<p>38.11 The technical proposal shall be accompanied in a separate envelope by a financial proposal detailing the proposed fees, and costs of carrying out the assignment, and in all cases the criteria for short listing of consultants and selection of a winner shall be that contained in the solicitation documents and shall not change from the beginning to the end of the process.</p>	
<p>38.12 A proposal received after the deadline for submission shall be returned to the sender un-opened.</p>	<p>Proposal received after submission deadline</p>
<p>38.13 Except there are unforeseen or extra ordinary circumstances arising, the technical proposals should be opened within an hour and not later than 24 hours from the deadline for submission. The technical proposals shall be evaluated and scored according to weights pre-attached to each criteria in the request for proposals, whilst the financial proposals shall remain sealed and kept away un-opened in a secure bid box, and the technical evaluation committee shall not have access to the financial proposals until the technical evaluation including the Resident Due Process Team review and approval of it has been concluded.</p>	<p>Technical Bid Opening and evaluation of Technical Bids</p>
<p>38.14 Upon approval of the technical evaluation the procuring entity shall within 14 days notify consultants whose technical score did not meet the benchmark score, and fix a date for opening of the financial proposals, invite bidders and open same in the presence of the bidders.</p>	<p>Financial Bid Opening</p>
<p>38.15 At the opening, the procuring entity shall keep a bid opening register, open the tamper proof bid box containing the financial proposals, allow bidders representatives present to examine, and confirm they have not been tampered with , open and announce the financial bid price and technical score of each bidder who has scored above the prior determined technical score benchmark, financial bids of bidders who scored below the benchmark technical score shall not be opened.</p>	
<p>38.16 The procuring entity shall prepare the minutes of the financial bid opening, which shall be part of the evaluation report.</p>	
<p>38.17 The procuring entity shall provide the same information in the same format to every consultant requested to submit a proposal.</p>	
<p>38.18 The selection of the successful proposal may be based on any one of the following three selection methods to be identified in the request for proposal:</p>	<p>Criteria for selection of successful proposal</p>
<p>38.18.1 The proposals with the best combined evaluation in terms of criteria established and communicated in the request for proposals in case of Quality and Cost Based Selection</p>	

<p>(QCBS) .; or</p> <p>38.18.2 The lowest evaluated responsive proposal in the case of Least Cost Selection ; or</p> <p>38.18.3 The highest ranked responsive technical proposal within the budget in case of Quality Based Selection. Or (The highest ranked technical proposal)</p> <p>38.18.4Where price is a factor the selection method to be used shall be Quality and Cost Based Selection or Least Cost Selection. Where however prize is not a factor, the selection method should either be the Highest Ranked Technical proposal within the budget or simply the Highest Ranked Technical proposal</p> <p>38.18.5 To implement the selection methods above the procuring entity shall establish criteria to evaluate proposals and attach relative weight to be accorded to each criterion depending on the selection method in use.</p> <p>38.18.6 The criteria for selection will generally relate to the qualification, experience , reliability ,professional and managerial competence of the consultant or service provider and of its personnel to be involved in providing the service, the effectiveness of the proposals or methods proposed by the consultant to meet the procuring entity needs, the proposed prize including any ancillary or related cost, the extent of participation of local personnel, the economic development potential offered by the proposal including domestic investment and other businesses, encouragement of employment, development of managerial, scientific and operational skills and in international competitive bids, the counter trade arrangements offered by the consultant and the balance of payment position and foreign reserves of the government.</p> <p>38.18.7 A procuring entity may accord a margin of preference for domestic consultants or service providers which shall be calculated in accordance with stipulations in the solicitation documents.</p> <p>38.19 Following the evaluation of the technical proposals, and opening of the financial proposals, and where the Quality and Cost Based Selection is the chosen selection method, the financial proposals of the bidders who have secured the given minimum score as in the RFP shall then be compared and evaluated after announcement of the results of the technical evaluation, in this case a combined score secured on the basis of both the technical and financial proposals shall be the basis of selection, in case of least cost selection, the proposal amongst the evaluated responsive proposals with the least cost shall be the winner.</p> <p>38.20 Where the choice is made in relation to quality alone, only the financial proposal of the consultant</p>	<p>Margin of preference</p>
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<p>whose technical proposal achieved the highest ranking shall be evaluated to determine if its cost is within budget.</p>	
<p>38.21 The procuring entity shall notify the successful consultant of his selection for award and also simultaneously notify all other short listed consultants of the decision; where the value of the contract is within its threshold to award, where however the procurement is subject to prior contract review and or approval, such notification, if given shall indicate that the selection is subject to prior contract review, and issuance of certificate of “No objection” and or approval.</p>	<p>Acceptance and notification of successful consultant</p>
<p>38.22 The winning consultant may be invited for negotiations on its technical proposals if there is need, the proposed unit rates for staff months, remuneration and reimbursable shall not be negotiated except in exceptional circumstances.</p>	<p>Negotiation with successful Consultant</p>
<p>38.23 Where the procuring entity has elected in its request for proposals to select based on quality, it may invite the consultant with the highest technical score for negotiations based on its price, inform all consultants that have attained a score above the benchmark score that they may be considered for negotiations if negotiations with the consultant with the highest score does not result in a contract.</p>	
<p>38.24 Inform consultant with the best score that it is terminating negotiations, if it becomes clear following negotiation meetings that negotiations with this consultant with the highest score will not result in a contract, and invite the consultant with the next ranked highest score for negotiations and if this fails in that manner invite the other consultants following the sequence of their scores until it secures a contract or rejects the remaining proposals.</p>	<p>Termination of negotiation meetings</p>
<p>38.25 The procuring entity shall treat proposals and these negotiations as confidential and avoid disclosure of their contents to competing consultants or any persons not involved in the negotiations until a contract is secured or all other proposals and consultants are rejected.</p>	<p>Confidentiality of Negotiations</p>
<p>38.26 In the absence of a complaint by any other consultant filed within 15 days of the notification of the winning bid or date of occurrence of the facts subject matter of the complaint, the contract shall be awarded to the successful consultant.</p>	
<p>38.27 The procuring entity may adopt the two-stage tendering process where –</p> <p>38.27.1 It is not feasible to fully define the technical scope and or nature of contractual aspects of the procurement of a service;</p> <p>38.27.2 Because of the complex nature of the service required to be procured, the procuring entity wishes to consider various technical or contractual solutions, and to discuss with bidders the</p>	<p>Two Stage Tendering</p>

<p>relative merits of those variants before deciding on the final technical specifications and contractual conditions.</p> <p>38.27.3 It seeks to fully understand its needs and requires bids, proposals or offers on various means of meeting its needs, in order to obtain the most satisfactory resolution to its procurement needs;</p> <p>38.27.4 The character of the services required is subject to rapid technological advancements.</p> <p>38.28 The provisions of the Law regarding open competitive bidding shall apply to two stage tendering</p> <p>38.29 In the first stage of the two-stage tendering process, the solicitation documents shall outline –</p> <p>38.29.1 A background to the problem, the problem requiring solution or the purpose of the procurement;</p> <p>38.29.2 Objectives of the assignment, tasks and sub-tasks, expected performance targets and outcomes required to be delivered by proposed solutions or systems;</p> <p>38.29.3 Detailed circumstances or challenges sought to be met;</p> <p>38.29.4 Broad specification of the need for which the service is required;</p> <p>38.29.5 Minimum qualifications required to perform the contract</p> <p>38.29.6 Call on bidders to submit technical proposals without price and their comments on the proposed system, technical specifications and contract conditions</p> <p>38.29.7 Statement requiring bidders to propose alternative systems, processes and ideas that can better meet Procuring Entity’s needs; and</p> <p>38.29.8 Indicate to bidders that procuring entities may adopt appropriate solutions put forward in their technical proposals as part of the technical proposal for the 2nd stage tendering</p> <p>38.30 Following evaluation of the technical proposal, the procuring entity may –</p> <p>38.30.1 Enter into confidential discussions with consultants with responsive proposals, ask for technical clarifications with a view to understanding their technical proposals or any indicative changes required to achieve the procuring entity’s objectives;</p> <p>38.30.2 The procuring entity shall in all cases ensure the confidentiality of the earlier technical</p>	<p>First Stage</p> <p>Confidential discussions with Consultants</p>
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<p>proposals;</p> <p>38.30.3 Modify the technical specifications ,evaluation criteria, and contract conditions in order to achieve the objective of the procurement exercise, such modifications may adopt some or all of the solutions offered by the first stage submissions;</p> <p>38.31 In the second stage, the procuring entity shall invite full proposals with prices on the old and or modified technical specifications of the project, as it may choose, from consultants whose initial bids were responsive to the solicitation, provided that no consultant who did not submit a bid in the first stage shall be allowed to go into the second Stage.</p> <p>38.32 The final bids once received shall be evaluated and compared in accordance with rules applying to procurement of services under Open Competitive bidding. .</p> <p>38.33 A procuring Entity may make request to a limited number of consultants requesting proposals for provision of services if ;</p> <p>38.33.1 the services are available only from no more than three –five consultants or</p> <p>38.33.2 the time and cost required to examine and evaluate large numbers of proposals would be disproportionate to the value of services to be performed , provided that in this case it invites sufficient number of consultants to ensure transparent competition or</p> <p>38.33.3 in exceptional cases where it is in the interest of State security or similar reasons of confidentiality strictly defined.</p>	<p>Modifications</p> <p>Second stage of Bidding</p> <p>Evaluation and Comparism of Bids</p> <p>Invitation of limited number of consultants</p>
<p>39 PROCUREMENT REVIEW –SECTION 55 OF THE LAW</p> <p>39.1 The Board may review and recommend for criminal investigation by a Relevant Authority the conduct of any persons or any procurement proceedings by any procuring entity, if it considers that criminal investigation is necessary or desirable to prevent and or detect a contravention of the law.</p> <p>39.2 The Relevant Authority shall if an offence is disclosed take necessary steps to commence investigation and prosecution of persons who are culpable and inform both the Board and Procuring entity accordingly.</p> <p>39.3 The Relevant Authority shall upon conclusion of its investigation issue a report of investigation advising the Board of the outcome of its investigation, and where no contraventions have been disclosed, the Board may after due consideration ratify anything done in relation to the proceedings or</p>	<p>Procurement Review</p>

issue any declarations consistent with any relevant provisions of this law.

39.4 Where the investigation reveals that there has been a contravention of the law, or regulations the Board shall after due consideration do any of the following:

39.4.1 Nullify the procurement proceedings ; or

39.4.2 Cancel the procurement contract where one has been entered.

39.4.3 Debar any contractors found to have contravened the law.

39.4.4 On behalf of the council with approval hereby given, recommend disciplinary measures against any public office holder found culpable of wrong doing by the investigation to any of the relevant agencies if it is thought that a crime may have been committed or in the case of misconduct to the civil service commission if he is a civil servant and to the Governor if he is a political appointee, the Council hereby .

39.5 Where there are persistent or serious breaches of these Regulations or the Law by a Procuring Entity, the Board may:

39.5.1 Nullify the whole or part of any procurement proceeding or award made in contravention of these Regulations or the Law and communicate decision to the procuring entity and other parties concerned.

39.5.2 Make recommendations to the appropriate authority for;

- The transfer, suspension and or dismissal of the officer(s) concerned with the procurement or disposal proceedings in issue
- The temporary transfer of the procuring and disposal functions of a procuring and disposing entity to a third party Procuring Agency or Consultant.

39.6 The recommendations of the Board shall not be made without first informing the officers or Procuring Entity in writing about the infractions and giving them an opportunity to be heard except recommendations are based on complaints already heard and decided by the complaints Panel of the Board.

40 ADMINISTRATIVE REVIEW -SECTION 56 OF THE LAW

Administrative Review

40.1 A bidder may seek administrative review for any omission or breach or contravention of the law or regulations or prescriptions in the bidding document by a procuring entity or any persons involved in procurement proceedings. Such a complaint shall first be addressed to the Accounting Officer of the procuring entity conducting the proceedings within 15 working days from the date the bidder first became aware of the circumstances giving rise to the complaint or should have become aware of the circumstances whichever is earlier. .

40.2 The Accounting Officer may on receipt of such complaint call for representations from parties involved and afford the complainant and other parties concerned, an opportunity to be heard, and or review all available documentation and issue a decision of the complaint in writing, addressed to and delivered to the complainant and all other parties within 15 working days of receipt of the complaint.

40.3 The Accounting Officer may set up an administrative committee within the procuring entity to hear, investigate and recommend to it decisions on complaints, to ensure speedy determination of complaints.

40.4 The Accounting officer’s decision may include measures to be taken to correct any anomalies found, including. nullification of the proceedings in part or whole or a directive requiring appropriate officers, committees or departments to obey and comply with laid down procurement rules in relation to the complaint, or dismissal of the complaint if found baseless. The Accounting Officer may refer the complaint to the Board for decision.

40.5 Accounting Officers shall provide quarterly reports of all complaints submitted to them and their decisions to the Board, such reports to be submitted not later than 7 working days from the end of the last month in the quarter.

40.6 Where a complainant is not satisfied by the decision of the Accounting Officer or the Accounting Officer fails to make a decision on the complaint within the time stipulated, the complainant may further appeal to the Board, within a further 10 days period commencing from the day after the expiration of the time given for the accounting officer’s decision.

Appeals to the Board

40.7 The Board shall on receipt of such an appeal

40.5.1 Give notice of the complaint to the procuring or disposing entity and

<p>40.5.2 Suspend any further action by the procuring or disposing entity until it determines the complaint.</p> <p>40.5.3 Cause the procuring entity to submit record of all procurement proceedings relating to that complaint, if it does not have them yet.</p> <p>40.5.4 Hear the complainant and all parties concerned including the Procuring Entity review the proceedings and all documents and based on the hearing and review issue a decision.</p> <p>40.8 The Board shall issue its decision in writing not later than 21 working days commencing from the day after the complaint or appeal was received at the Board.</p> <p>40.9 A complainant in a procurement proceeding may submit a copy of his complaint directly to the Board, if the complaint arises immediately before or during pendency of prior contract review of the particular procurement proceedings by the Board</p> <p>40.10 An Accounting officer who receives a complaint against a procurement proceeding undergoing prior review has a duty to promptly inform the Board of the complaint within three working days of receipt, and shall include any and all accompanying documents in its communication to the Board in this respect. It shall also send to the Board, any decisions he or she reaches on the complaint, and inform it of his or her failure to decide the complaint and reasons if any</p> <p>40.11 Except as provided for in this Regulation, the procurement in respect of which an appeal has been filed to the Board shall be suspended until the appeal is heard and determined by the Board. Records of complaints in respect of any procurement proceedings shall form part of the records of proceedings required to be kept for at least ten years and also submitted to the Board.</p> <p>40.12 Except otherwise provided, the Board shall within 21 days from the date of submission of an appeal/complaint decide the appeal. However, not without affording the appellant/complainant and or other persons concerned including the Procuring Entity opportunity of being heard, it shall review all the records and its decision may be a confirmation or nullification of the decision of Accounting Officer, it may substitute such a decision with its own decision, and its decision may include a nullification in part or whole of the proceedings, a directive for re-evaluation of the pre-qualification, expression of interest, bids or proposals and a directive to the relevant Procuring Entity, Committee or Board to do any particular thing or comply with laid down rules for procurement, an order debaring a company and or recommending staff of a Procuring Entity for disciplinary action stating reasons.</p> <p>40.13 The Board shall in cases where it determines that there has been repeated infractions of the rules by a</p>	<p>Timeline for Board Decision</p>
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<p>procuring entity or its officers, recommend specific officers concerned for disciplinary action, and or investigation to relevant authorities .In the case of procuring entities, it may transfer the procuring function of that entity to another entity and or direct the engagement of external consultants to manage that Procuring Entity’s procurement function.</p>	
<p>40.14 The relevant authority or civil service commission shall within 14 working days of receipt of such recommendation, cause appropriate disciplinary proceedings or criminal investigations to commenced against the officers, and cause them to face appropriate sanctions if found liable.</p>	
<p>40.15 If the bidder is dissatisfied with the decision of the Board, he may apply to the State High Court by way of judicial review or seek any other appropriate remedy.</p>	<p>Appeals to State High Court</p>
<p>41 DISPOSAL OF PUBLIC PROPERTY -SECTION 57 OF THE LAW</p>	
<p>41.1 Open competitive bidding shall be the primary source of receiving offers for the purchase of any public property offered for sale.</p>	<p>Methods of disposal</p>
<p>41.2 Procuring Entities shall maintain a comprehensive asset register listing all physical and non-physical assets owned by them at any point in time, describing their state and value, this register shall be updated not later than the 31st of December every year by the Accounting Officer or any person he so assigns the task.</p>	
<p>41.3 Before slating any public property purchased for a value of N3million and above for disposal, the accounting officer (whether acting in his own authority or at the direction of any superior or other authority) in charge of any public property set for disposal shall authorize the preparation of a valuation report for such property by an Independent Evaluator or such certified professional with appropriate competence and professional standing to carry out the valuation, such a valuer may be a staff of the state government from another MDA or in appropriate cases where high expertise and experience required is not available in the service a consultant.</p>	
<p>41.4 In the case of property purchased for a value of N3million naira and below the valuation may be carried out by personnel of the disposing entity, or in appropriate cases they may be sold at open market value based on offers received.</p>	
<p>41.5 In addition to any other infractions provided for by law, it shall be gross misconduct for any person charged with valuing any public property slated for sale to overstate or under state its valuer or to directly or indirectly benefit from the sale of the property or asset or inappropriately demand or</p>	

<p>accept a benefit for the purpose of over stating or understating the value of the asset.</p> <p>41.6 The Accounting Officer of the procuring entity and or the Board may on discovering such an abuse forward a complaint against the valuer for gross misconduct to the civil service commission if a civil servant and also to the relevant professional bodies if as is required he is a certified professional.</p> <p>41.7 The Accounting Officer of a procuring entity shall ensure that a notice of intention to dispose any asset purchased above N3million is sent to the Board with the valuation report attached seven working days before launch of disposal of the asset.</p> <p>41.8 Disposal of assets whether or not listed in the Assets Register of a Procuring Entity shall be planned and integrated into the income and expenditure (budget) projection of the Procuring Entity</p> <p>41.9 Disposal of assets shall be timed to take place when the most advantageous returns can be obtained for the asset in order to maximize revenue accruing to the Procuring Entity.</p> <p>41.10 The Procurement Department on behalf of the Resident Due Process Team of a Procuring Entity shall be responsible for planning a disposal of property and integrating expected revenue into the budget of the procuring entity. The Procurement Department shall also be responsible for issuing Requests for Offers and selecting a winner for purchase of the asset.</p> <p>41.11 Every department in an MDA shall on or before October in each year submit to the Accounting Officer through the procurement department a list of all its surplus assets (assets which are no longer of any use to it and which may be disposed to avoid deterioration in value), each head of department in a disposing entity shall sign off on such a list and be held responsible for misconduct in the event that any asset said to be of no use is later found to be useful. Such a finding by the Board or any other relevant authority shall be a basis for demotion and other appropriate disciplinary action including dismissal by any authority so responsible upon a written report by the Board.</p> <p>41.12 The Procurement Department shall with the approval of the Accounting Officer secure a professional evaluation of any such assets purchased for N3million and above, and based on the professional evaluation report, aggregate similar assets and prepare a disposal plan which shall indicate time and preferred method for disposal of individual and or aggregated assets in order to maximize revenue for government. Each procuring entity shall submit its disposal plan to the Board and the Board may upon perusing the disposal plans direct aggregation of items for sale by different procuring entities.</p> <p>41.13 Procuring entity's property, which is no longer needed, shall be aggregated and disposed of by Open Competitive Sealed Bid Method, and in exceptional cases by other secondary methods provided</p>	<p>Notice of disposal to the Board</p>
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below:

41.14 The Accounting Officer shall as much as is possible ensure aggregation of assets for sale in a way to enhance sale value.

41.15 **Competitive Sealed Bid;**

Competitive Bid

41.15.1 Single or aggregated number of assets with professionally estimated sales value of at least N10, 000,000 (Ten Million Naira) and above notwithstanding their number shall be advertised in at least one national newspaper, procurement journal, websites of the state, the Board and MDA if any.

41.15.2 All Assets below Ten Million assessed sale valued but above Five Hundred Thousand Naira shall prior to sale be advertised in a local newspaper circulating in Niger state, the State Procurement Journal, Radio and on the website of the Board and Disposing Entity. Assets below Five Hundred Thousand Naira value shall be advertised in the journal, and Notice Board of the Procuring entity.

41.15.3 The advertisements shall describe the assets for sale, give its location and require the bidder to physically inspect the assets for himself at specified time on named working days.

41.15.4 The procuring entity shall ensure that assets advertised for sale are available at a named location and on named dates and time for inspection of any one so wishing to inspect them.

41.15.5 Disposing entities shall subject to the value threshold here provided, advertise the appropriate mediums for bids to purchase the assets, the advertisement shall provide a description of the asset, and may in some cases indicate minimum value of bid acceptable.

41.15.6 Bid shall be received in the same manner as bids for procurement contracts

41.15.7 On the appointed date and time and within one hour of closure of receipt of bids, all bids shall be opened and the winning bid shall be the highest valued bid that meets all stated requirements.

41.15.8 The disposing entity shall, where the offers received are all below a valuation benchmark, stipulated in the valuation report, seek negotiations with the bidders offering the best offers, starting from the highest and proceeding to others with a view to obtaining the best offer possible above the highest offer secured from the sealed bid and nearest to the stated

<p>benchmark prize as in the valuation report.</p> <p>41.15.9 In disposal of assets valued N5million and above, the notice of disposal shall require that each bidder accompany the bid with a bid security in the form of a bank draft made out in favour of the disposing entity for a value not less than 2% of its bid prize.</p> <p>41.15.10 For the winning bidder its bid security in bank draft shall be considered a part payment of the winning prize and it shall be required to pay the balance within the stipulated time, failing which it shall forfeit the value in the bank draft and the procuring entity shall call upon the bidder with the next ranked bid to pay, and the entire process will be repeated in that manner until a buyer is found that pays or the procuring entity cancels the disposal activity.</p> <p>41.16 Trade In</p> <p>41.16.1 Property may be traded in for other property or equipment. Where however the trade- in is to occur between a government department and another, the benefit of the property or equipment to the government department shall be considered over and above the value of exchange. However in a trade- in involving a private party the procuring entity must ensure without doubt that property received is of equal or more value than the one given away.</p> <p>41.16.2 A Trade in between two government departments need not be advertised, but an offer of a Trade- in with a private party must be advertised in the procurement journal, website of the procuring entity, board and other available media based on ascertained value threshold.</p> <p>41.17 Sales to other Government Agencies: Direct sales of surplus property may be made to other government Agencies at a fair market price, without advertisement or valuation.</p> <p>41.18 Public Auction A public auction may be held to dispose of such property, provided that prior to the auction, notices with dates of auction, and a description of all items for auction shall be placed in the procurement journal, one newspaper, notice boards and websites of Disposing Entities, Board or State based on approved thresholds by the Board .</p> <p>41.19 Negotiated Sale</p> <p>Where competitive methods (public auctions or sealed bids) have been attempted without success, it may be sold at a negotiated price to any willing bidder not offering below the prize obtained by the</p>	<p>Trade Inn</p> <p>Sale to government agency</p> <p>Public Auction</p> <p>Negotiated Sale</p>
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other failed process. The offered prize shall be published on the notice Board and website for public notice and if after 14 days no better offer is obtained, the sale shall be deemed concluded and the bidder shall pay and take delivery of the asset.

41.20 Set Price

If other methods are not practicable, or where estimated value is below N500,000 or below surplus property may be priced at a fair market value and offered for sale to the public on a first-come, first-served basis. The time and place of these sales should be advertised in the procurement journal, notice boards and websites of the Board and Disposing Entity so that the public is aware of the sale, the set price and opportunity exists for better offers to be obtained.

41.21 Surplus property which is unusable and determined to have no commercial value, or where it is determined that the cost of sale would exceed the expected returns, may on the recommendation of the Procurement Department and approval of the Accounting Officer be destroyed or abandoned. Such destruction or abandonment decision must be based on a documented confirmation of its lack of value, and be approved by the Resident Due Process Team if the original purchase cost of the Item was above N1million naira.

41.22 The destruction of such assets must be documented; information to be so documented should include and not be limited to who identified them as surplus property, who destroyed them and evidence of approvals for the destruction to take, place and method of destruction, evidence of destruction.

41.23 The Accounting Officer must ensure that the procuring entity asset register is updated to reflect the sale, trade in or destruction or abandonment of an item.

42 ROUTINE REPORTING OF PROCUREMENT ACTIVITY

42.1 The routine reporting of procurement activity is essential for procurement planning and budgeting, and for the monitoring and tracking of performance. Pending the introduction and full operation of a Management Information System in each of the Procuring Entities, regular monthly reporting of procurement to the Chief Executives/Permanent Secretaries is required.

42.2 Monthly Report of Procurement shall be submitted by each Procurement Department in a Procuring Entity highlighting; procurements at different stages of preparation , solicitation , award and or implementation, reports shall include all new contracts signed during the month together with any procurements which have been cancelled/ terminated after receiving an initial procurement approval by the relevant authority, and similar reports on contract undergoing implementation or completed, that

Set Price

Destruction and abandonment

Reporting Obligations

is, contracts completed during the month following performance by the supplier, contractor, service provider or consultant shall be submitted to the Accounting Officer Monthly.

42.3 All departments of the procuring entity which have a procurement activity which has been contracted out shall forward monthly implementation reports to the procurement department not later than seven days after the end of each month.

43 MAIN ASPECTS OF THE STANDARD BIDDING DOCUMENTS(SBD)

- 43.1 Procuring entities shall use the appropriate Standard Bidding Documents issued by the Board. Changes to address project specific issues shall be introduced only through the Special Instructions in the bid solicitation documents, or through Special Conditions of contract, but not by introducing changes in the Instruction to Bidders or the General Conditions of Contract or the Standard Bidding Documents.
- 43.2 The Standard Bidding Documents shall furnish all the information necessary for a bidder to prepare a bid for the goods, works and provision of related services
- 43.3 All bid documents shall include the following as a minimum information:
 - 43.3.1 The invitation to bid;
 - 43.3.2 Instructions to Bidders (ITB);
 - 43.3.3 Special Instructions to Bidders (SIB);
 - 43.3.4 Form of Bid;
 - 43.3.5 Form of Contract;
 - 43.3.6 Conditions of contract, both general and special;
 - 43.3.7 Technical specifications;
 - 43.3.8 Bills of Quantities and Drawings;
 - 43.3.8 Schedule of prices;
 - 43.3.9 Delivery time or schedule of completion;
 - 43.3.10 Necessary appendices, including forms for proforma bid bonds, performance guarantee and advance payment guarantee

Contents of SBDs

<p>43.3.11 Criteria for domestic preference (where applicable);</p> <p>43.3.12 Arrangements for community or end user support and participation (if any).</p>	<p>Purchase of SBDs</p>
<p>43.4 If a fee is charged for the bid documents, it shall be minimal and reflect only the cost of their printing or production and delivery to prospective bidders within limits stipulated in accordance with these rules.</p>	
<p>43.5 Bid documents shall be prepared only in English Language, submitted in hard and soft copies (e.g. CDs or any other form required).</p>	<p>Clarity of Bidding Documents</p>
<p>43.6 Bid documents and specifications shall be worded in such a manner so as to permit and encourage competitive bids, and shall set forth, as clearly and precisely as possible, the work to be accomplished, the goods, works and related services to be provided, technical standards, the place of delivery or installation, warranty and maintenance requirements, and any other pertinent terms and conditions such as the provision of domestic preference, if any.</p>	<p>Essential Information</p>
<p>43.7 The bid documents, where appropriate, shall define the test, standards and methods that will be utilized determining conformity with the original equipment specifications, qualification and experience of personnel, quality of works and delivery time. Drawings shall be consistent with the text of the technical specifications and, where appropriate, an order of preference between the two shall be specified</p>	
<p>43.8 All prospective bidders shall be provided the same information, and shall be assured of equal opportunities to obtain additional information on a timely basis. The documents shall clearly spell out:</p>	
<p>43.8.1 All factors, including price, which will be taken into account in evaluating and comparing bids;</p>	
<p>43.8.2 How the evaluation criteria will be quantified or otherwise evaluated (methods, terms and conditions of bid evaluation); and</p>	
<p>43.8.3 If alternative bids, based on alternative designs, materials, completion schedules, payment terms, are permitted. In this case, the bid documents shall clearly state the conditions for their acceptability and the method of their evaluation, and require that goods, equipment and works meeting generally accepted business standards shall be of equal or higher equivalence.</p>	<p>Specifications</p>
<p>43.9 Technical specifications and standards quoted in bid documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the goods, works and related services under procurement. As far as possible, the procuring entity shall specify generally</p>	

<p>accepted standards such as those issued by National and International Standards Organizations with which the equipment or materials or workmanship shall comply.</p>	
<p>43.10 Specifications shall be based on relevant characteristics, performance, capability, and quality, and shall not prescribe brand names, catalogue numbers, or products of a specific manufacturer. If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words “or its equivalent” shall be added after such reference, except in very special cases when specific spare parts are required where a degree of standardization is necessary to maintain certain essential features. In such cases, and where appropriate, the specifications shall permit acceptance of alternative goods which have similar characteristics and provide performance and quality at least equal to those specified. In all cases where brand names are deemed justified to be procured, prior approval of the Board must be obtained.</p>	
<p>43.11 Bidders shall be required to submit bids valid for the period specified in the bid documents. Such period must be sufficient to enable a procuring entity complete the evaluation and comparison of bids, obtain all necessary approvals including the no-objection of the Board and contract signature</p>	
<p>43.12 In any case, bid validity should not be for less than 60(sixty) days or more than 180 (One Hundred and Eighty) days in the first instance.</p>	
<p>43.13 Prices for bids shall be quoted in Naira, and where quoted in another currency shall be converted to Naira at the prevailing Central Bank rate as at the date of the bid opening</p>	<p>Conversion of foreign currency bids</p>
<p>43.14 For goods, the procuring entity shall invite bids on the basis of CIF (port of destination) or CIP (place of destination) for all goods offered from and manufactured abroad, including those previously imported, and Ex Works, Ex-factory or off-the-shelf for goods manufactured in Nigeria. Bidders may arrange for ocean and other transportation and related insurance from any eligible source in accordance with national eligibility requirements. Where installation, commissioning or other similar services are required to be performed by the bidders, as in the case of “supply and installation” contracts, the Bidders shall be required to quote additionally for these services.</p>	<p>Pricing for goods</p>
<p>43.15 For works, contracts shall be priced to include all duties, taxes and other levies.</p>	<p>Pricing for works</p>
<p>43.16 Bidders for civil works contracts shall be required to quote unit prices or lump sum prices for the performance of the works, and such prices shall include all duties, taxes, and other levies for all procurement methods</p>	
<p>43.16.1 In the case of Turnkey Contracts, the bidders shall be required to quote the price of the installed plant at site, including all costs for supply of equipment, marine and local</p>	<p>Pricing for Turnkey projects</p>

<p>transportation and insurance, installation, and commissioning, as well as associated works and all other services included in the scope of contract such as design, maintenance and operation. Unless otherwise specified in the bid documents, the turnkey price shall include all duties, taxes, and other levies</p> <p>43.16.2 Bid documents shall state either that (i) bid prices will be fixed or (ii) that price adjustments will be made to reflect any changes in major cost components of the contract, such as labor, equipment, materials, or fuel, as may be stated</p> <p>43.16.3 The bid documents shall state precisely the types and terms of insurance to be provided by the bidders and shall indicate the kinds of risks to be insured against, the liabilities to be covered, and the duration of the insurance</p> <p>43.16.4 For goods, the indemnity payable under transportation insurance shall be at least 110 % of the contract amount in the currency of the contract, to enable prompt replacement of lost or damaged goods.</p> <p>43.16.5 For works, a Contractor's All Risk form of policy shall be specified. The Contract should provide for the type and extent of insurance policy to be taken out</p> <p>43.16.6 If alternative bids are allowed, the Bid Documents shall state clearly how such bids shall be submitted, prices offered and how they shall be evaluated.</p>	<p>Price adjustment</p> <p>Insurance</p>
<p>44 MAIN ASPECTS OF THE CONTRACT DOCUMENT</p> <p>The contract documents shall contain the names, addresses, telephone numbers, fax numbers (if any) and contact persons of the parties to the contract. It shall clearly define the scope of work to be performed, the goods to be supplied, the rights and obligations of the Procuring Entity, the Supplier or the Contractor, and the functions and authority of the engineer, architect or construction manager, if one is employed by the Procuring Entity in the supervision and administration of the contract, including payments and advances to be made, if any. In addition to the general conditions of contract, the special conditions shall specify the types of goods and works to be procured and the location of the project site where they should be delivered. The contract price or its mode of determination, conditions of acceptance, condition and mode of payment, the modalities of force majeure, modalities for price adjustments if any, milestones for billing and payment, rate of interest for delayed payment, arrangements for end user or community participation where applicable, liquidated damages for non-performance, provisions for alternative dispute resolution, termination. The conditions of contract shall provide a balanced allocation of risks and</p>	

<p>liabilities, and that Nigerian law shall regulate the contract and be applicable in any dispute arising from the contract.</p>	<p>Tenure of performance security</p>
<p>45 PERFORMANCE SECURITY</p>	
<p>45.1 Bid documents for goods and works requiring advance payments, and other contracts determined to relate to the achievement of the strategic objectives of the government of the state shall require a performance security in the form of a guarantee from a bank or a performance bond from an insurance company acceptable to the procuring entity, in accordance with the form included in the bid documents, and in an amount sufficient to protect the procuring entity against unsatisfactory quality of the goods, non-performance of the goods contract or the equipment installed, or non-completion of the works.</p>	
<p>45.2 In the case of a contract where mobilization is paid, the value of the performance guarantee shall not be less than the amount paid as mobilization and in other cases it shall not be less than 10% of the value of the contract.</p>	
<p>45.3 For Works, a portion of the security shall extend beyond the date of completion to cover the defects liability or maintenance period up to final acceptance by the procuring entity.</p>	
<p>45.4 In contracts for Goods, guarantees to protect the procuring entity against non-performance of the contract are required only when this is normal commercial practice under the market conditions for the goods in question.</p>	
<p>45.5 In supply and installation contracts, the performance security extends until after full testing of plant for a given period and acceptance of installed plant and is usually replaced by a warranty for the warranty period.</p>	
<p>45.6 Payment terms shall be in accordance with the State law and the commercial practices applicable to the specific goods and works to be supplied, and as agreed in the contract. Payments under the contract shall be made in the currency stipulated in the contract.</p>	
<p>45.7 Subject to provisions of the NSPPL 2010 on advance payments. Payments for Works are made on the basis of progress made or milestone achieved and certified.</p>	
<p>45.8 Subject to provisions of the NSPPL 2010 on advance payments, contracts for the supply of Goods shall provide for the payment on the delivery and inspection of the contracted goods (if so required) except for contracts involving installation and commissioning, in which case a portion of the payment may be made after the supplier has delivered the physical goods that are ascertained to</p>	<p>Advance Payment</p>

<p>contract sum.</p> <p>45.13 Procuring entities should endeavor to make payments promptly and in accordance with the terms and conditions of the contract. Any payment for work done, due for more than 60 (sixty) days following submission and verification or certification of an invoice by the procuring entity and or Project Monitoring Committee of the procuring entity shall be deemed a delayed payment. The contract document shall state the period of sixty days for delayed payments and specify the rate at which interest shall be paid, provided always that such rates shall not be higher than 2% above the prevailing Central Bank of Nigeria minimum rediscount rates at the time of entering into the contract.</p> <p>45.14 Contracts shall clearly state that the proceeds of any claim arising from performance guarantees, advance payment guarantees and any insurance policies entered into by the contractor under the terms of the contract, shall be payable to the Procuring Entity.</p> <p>45.15 Contracts shall provide for liquidated damages or similar clauses in an appropriate amount to cover the cost of delays in the delivery of goods or failure to meet performance requirements, or non-completion of the works, which result in loss of revenues or other benefits to the Procuring Entity.</p> <p>45.16 The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered a default if such failure is due to <i>force majeure</i> as defined in the contract.</p>	<p>Liquidated damages</p>

SCHEDULE 1: REVIEW OF PROCUREMENT DECISIONS

	<p>Review of Procurement Documents before launch</p> <p>1) The procurement department otherwise called Due Process Office shall prepare all proposed solicitation documentation prior to launch of solicitation. The Resident Due Process Team may at its discretion and where necessary request for and review the procurement arrangements and documents proposed to be used by the procurement department, including contract packaging, applicable procedures, for its conformity with this Regulation.</p>	
	<p>Internal Procurement Review and Thresholds at the Procuring Entity.</p> <p>2) The Accounting Officer at state level shall on behalf of the RDPT have an approval authority for contracts below N1, 000,000, and all other items contracts, or supplies above N1,000,000 shall be approved directly by the Resident Due Process Team.</p> <p>3) The Accounting Officer at the Local Government level shall on behalf of the RDPT have approval authority for contracts below N1,000,000 and other items contracts or supplies above N1,000,000 shall be approved directly by the Local Government RDPT .</p> <p>4) The Accounting Officer shall in each case prepare and lay before the RDPT monthly a report on every contract within its threshold that is approved.</p> <p>5) All contracts above N5m shall require mandatory pre –contract review and issuance of a No Objection by the Board prior to award.</p> <p>6) No public servant shall pay for any goods, works or services valued above N5million except the request for payment has a No Objection Certificate issued by the Board, in addition to all other infractions provided by law it shall be gross misconduct for any person to participate in making such payment and the Board shall within 14 days of becoming aware refer the matter to relevant authorities for criminal investigation in addition to forwarding a request for disciplinary measures to be taken against such persons to the civil service commission, if they are civil servants and to the Governor if any involved is a political appointee.</p> <p>Preview of Commencement of procurement process to award</p> <p>7) User departments prepare needs analysis, market surveys giving indication of costs, technical quality of goods, & services available in the market place, a cost benefit analysis, draft technical specifications, BOQ, BEME etc which are submitted for revision and vetting by procurement department (Due Process Office) or responsible officers of co-ordinate responsibility in the Research</p>	<p>Approval threshold of Accounting Officer and Resident Due Process Team</p>

	<p>Planning and Statistics Department where the office does not yet exist.</p> <p>8) The Procurement Department or officers of co-ordinate responsibility recommends method of procurement, prepares all procurement documents, including procurement plans, advertisements, secures Board vetting of advertisements, finalization of TOR, specifications, pre-qualification and bidding documents, request for proposals, standard contracts in collaboration with the technical, legal and project units. The Procurement Department, serve as secretariat to the Resident Due Process Team and may carry out such other activities as the Accounting Officer, or Resident Due Process Team may assign to it.</p> <p>9) The Accounting Officer seeks and obtains initial budget clearance evidencing that project is budgeted for and prior to award of contract to ensure funds are available to meet maturing obligations</p>	
	<p>10) In cases above the N1 Million value threshold, whether or not pre-qualification or Expression of Interests is used, the procuring entity may, before prequalification or Expression of Interest submissions are invited, or bidding is commenced have its Resident Due Process Team approve the launch of procurement. In doing so the Resident Due Process Team may choose to review the draft documents to be used, including the text of the invitation to pre-qualify, the prequalification questionnaire, call for expression of interest, bids, proposals, draft contracts, criteria for selection and the evaluation methodology, together with a description of the advertising procedures to be followed, bidding documents and shall by resolution introduce such modifications in said procedure and documents, as it shall consider to be in accordance with these Regulations before approving launch of solicitation .</p> <p>11) The procurement department or Due Process Office shall manage the launch of procurement from advertisements until it submits received bids to the Technical Evaluation Sub- Committee of the Resident Due Process Team.</p>	
	<p>12) Subsequently, the Technical Evaluation Committee appointed by the Chairman of the Resident Due Process Team, and chaired by the Secretary of the Resident Due Process Team shall evaluate the submissions of the applicants and bidders in accordance with the standard evaluation form for prequalification and evaluation, recommend list of pre-qualified bidders or shortlisted consultants, together with a statement of their qualifications and of the reasons for exclusion of any applicant for prequalification or EOI, which shall in all cases be approved by the Resident Due Process Team</p> <p>13) Upon evaluation the Technical Sub-Evaluation Committee of the RDPT shall furnish its report in the format provided by the Board with comments evaluating and comparing the applications and or bids received, the three best bids/proposals received and a recommended winner will also be</p>	

	<p>recommended, to the Resident Due Process Team.</p> <p>14) The Technical Sub-Evaluation Committee of the RDPT shall where a contract falls within the N1million naira approval threshold of the Accounting Officer send it to him for approval and award, in all other cases they shall send the bid evaluation report of the Technical Evaluation Committee to the RDPT for approval, award. Upon award decision of the RDPT the winner shall be notified with an indication that notification is subject to No Objection if above N5million Naira. In that case also the Accounting Officer with support of the Procurement Department and RDPT shall make a request for No Objection to the Board in accordance with these rules. Upon receiving the Boards No Objection the Accounting Officer shall seek Budget Clearance (to ascertain availability of funds to meet maturing obligations) from the Permanent Secretary State Planning Commission or such other officers as may be subsequently designated by the State Executive Council, Upon which receipt the Accounting Officer and the Secretary of the RDPT shall execute the contract with the contractor if below N20,000,000.00.</p> <p>15) The Council here approves that contracts above N20,000,000.00 million naira shall be sent for the Governors Approval and contracts above N50,000,000.00 shall be sent for Executive Council approval , in each of such cases the approval report of the Resident Due Process Team selecting the winning bid and the Boards No Objection Certificate shall be sent to the Governor or State Executive Council for approval after notification of the bid winner, provided always that the notification shall indicate that it is made subject to Prior Review, the approval of the State Executive Council and or the Governor as the case may be.</p> <p>16) Every contract approval by the RDPT shall be communicated to the Commissioner by the Accounting Officer.</p>	
	<p>17) For the evaluation of bids, the Procuring Entity shall use Standard Bid Evaluation Report issued by the Board, with any revisions that it may consider useful.</p>	
	<p>18) If the Procuring Entity requires an extension of bid validity to complete the process of evaluation, , it shall notify the Board as it requests for extension bid validity period from bidders.</p> <p>19) If the Procuring Entity receives protests or complaints from bidders about the evaluation, the Procuring Entity shall always send the complaint and a copy of its decision to Board for information.</p> <p>20) The terms and conditions of a contract shall not, without the Board’s prior approval, materially differ from those on which bids were issued or prequalification of contractors was carried out.</p> <p>21) One certified copy of the contract shall be furnished to the Board promptly after its signing, and all</p>	

	other related documents and reports not later than three months after contract signing.	
	22) The description and amount of the contract, together with the name and address of the successful bidder or service provider, and reasonable details of works, service or goods to be supplied, and at what costs shall be publicly disclosed in the print and electronic media by the Procuring Entity in addition to sensitization of end user and host communities, once the contract is signed.	
	23) Post Procurement Review/Audit. The Board shall order a bi-annual post review/audit by its staff and or independent consultants of at least 20% or more of all the contracts in a Procuring Entity being a representative sample of small medium and large contracts emanating from that Procuring Entity, to verify if procurement procedures were carried out in accordance with these Regulations. The results of the Independent Procurement Audits and its evaluation of all other procurement subject to No Objection Certification by the Board shall be submitted to the State House of Assembly and made public. 24) The Board shall issue a standard guide for conduct of procurement audits/review in procuring entities. 25) The procurement activities that make up the 20 or more percent of the audit sample size for each audit exercise shall be selected by the Board and or its auditors and not the procuring entity personnel. 26) In addition to any penalties provided by the law, it shall be gross misconduct for any staff or officer of the procuring entity to fail to produce procurement and related documentation and information demanded at any time in writing by the Board or through its agents in the course of its regular supervisory processes or during procurement audit.	Post Procurement Review

SCHEDULE II: DOMESTIC PREFERENCE- SECTION 36 OF THE LAW

Comments	Domestic Preferences Applicable to International Competitive Bidding Only	
	<ol style="list-style-type: none"> 1. The main purpose for applying margin of preference is to enable and assist the local business community to become competitive and efficient supplier/contractors to the public sector. 2. The eligibility for preference for goods is determined by the sources of the domestic goods and not the nationality of the bidder. The preference is given to the goods not the bidder thus the bidder’s nationality or State of origin is not relevant. 3. A Procuring Entity may, and subject to the conditions below, grant a margin of preference in the evaluation of bids for goods and works. Such preferences may be 	Principles and procedure for applying Domestic Preference

	<p>granted:</p> <ul style="list-style-type: none"> a) Up to but not above 15% for bids from domestic suppliers for goods of equivalent quality domestically produced; b) Up to 7.5% for bids for works by domestic contractors; <p>4. In such cases, advertising and the bid documents shall clearly indicate the level of the preference to be granted, the information required to establish the eligibility of a bid for such preference. The bid document shall describe the evaluation procedure described below.</p>	
	<p>Preference for Goods</p> <ul style="list-style-type: none"> a. Where a margin of preference is granted for equivalent goods manufactured in Nigeria, responsive bids shall be classified in one of the following three groups, with only groups A & B receiving a preference: <ul style="list-style-type: none"> Group A: bids from eligible domestic suppliers offering goods manufactured in Nigeria, if the eligible bidder establishes to the satisfaction of the procuring entity and Board that – <ul style="list-style-type: none"> (a) Labor, raw material and components from within the country will account for not less than 50 percent or more of the EXW (ex factory or off-the-shelf) price of the product offered, and (b) The production facility, in which those goods will be manufactured or assembled is in Nigeria and has been engaged in manufacturing/assembling such goods within Nigeria at least one year before the time of bid submission. Group B: Bids from eligible domestic suppliers offering goods manufactured in Nigeria, if the eligible bidder establishes to the satisfaction of the procuring entity and Board that – <ul style="list-style-type: none"> (a) Labor, raw material and components from within the country will account for not less than 30 percent or more of the EXW (ex-factory or off-the-shelf) price of the product offered, and 	

(b) The production facility, in which those goods will be manufactured or assembled is in Nigeria and has been engaged in manufacturing/assembling such goods within Nigeria at least since the time of bid submission

Group C: Bids offering goods manufactured outside Nigeria that have already been or will be directly imported.

- a. The procuring entity will first review the bids to confirm the appropriateness of, and to modify as necessary, the bid group classification to which bidders assigned their bids in preparing their Bid Forms and Price Schedules.
- b. The prices quoted for goods in Group ‘A’ and ‘B’ shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported, but shall exclude the sales and similar taxes on the finished product.
- c. The prices quoted for goods in Group ‘C’ shall be on CIP basis (place of destination which is plus cost of inland transportation and insurance to the place of destination, but also exclusive of customs duties and other import taxes already paid or to be paid.)
- d. The evaluation of bids is carried out in the following steps -
 - (a) In the first step, all bids in each group are compared to determine the lowest responsive bid in each group. Such lowest evaluated bids are then compared with each other, and if, as a result of this comparison, a bid from Group ‘A’ or ‘B’ is the lowest, it will be selected for award (i.e. no preference is needed.)
 - (b) If as a result of the comparison under (a), the lowest evaluated bid is a bid from Group ‘C’, then for the purpose of further evaluation, and comparison of bids only, the bids from group “C” shall be increased by the percentage(s) of preference allocated to those in Group “A or B” to determine the lowest evaluated bid after application of Margin of preference. If the C bid remains Lowest evaluated bid it wins

	<p>c) If after this the Bid from B becomes the lowest evaluated bid, then 2% of the cost shall be added to it and compared with the bid from A to determine the Lowest evaluated bid and winner .</p> <p>d)For purposes of comparing of bids for goods, from groups A&B and those from group C the maximum percentage to be allocated to companies in group A is 15 % and for Group B is 12%</p>	
	<p style="text-align: center;">Preference for Domestic Contractors on works</p> <ol style="list-style-type: none"> 1. For the purpose of the application of preference for domestic contractors in bids for works, such contractors must first provide the evidence that the contractor, either as an individual or as a group, qualifies with the following provisions: <ul style="list-style-type: none"> (a) It is incorporated or otherwise organized in Nigeria; its principal place of business is located in Nigeria; at least 50% of its equity is held by nationals of Nigeria.; and (b) At least 70% of the persons, who will perform services under the contract, whether employed directly or by a subcontractor, are nationals of Nigeria. 2. Where a preference is granted for domestic contractors for works and services to be awarded , responsive bids shall be classified in one of the following two groups: <p style="margin-left: 40px;">Group A: bids from eligible domestic contractors, which have established to the satisfaction of the procuring entity to be eligible for domestic preference.</p> <p style="margin-left: 40px;">Group B: Bids from other (foreign) contractors or suppliers not eligible for domestic preference.</p> 3. For the purpose of evaluation and comparison of bids, after having compared and adjusted all bids where necessary, an amount equal to 7.5 % of the bid amount of the lowest evaluated bid of group ‘B’ will be added to that bid. If the bid from Group 	

	<p>'B' is still the lowest evaluated responsive bid after this addition, this bid from Group 'B' will be selected for award. If as a result of adding the 7.5 % of the bid price of the lowest evaluated responsive bid in Group 'B' to that bid, the lowest evaluated responsive bid of Group 'A' becomes the lowest, that bid from Group 'A' will be selected for award.</p>	
	<p>4. In the case of turnkey contracts for the supply of a number of distinct items of equipment as well as major installation and/or construction services, no margin of preference shall apply, except in exceptional cases.</p> <p>5. Note that for application of margin of preferences not to result in the hiring of an incompetent contractor proper and detailed pre-qualification based on well distilled conditions for qualification need to have been carried out.</p>	

SCHEDULE III: PROCUREMENT RECORD KEEPING -SECTION 40 OF THE LAW

1. The Law requires Procuring Entities to maintain both file and electronic copy of records of all procurement proceedings generated each financial year for at least 10 years from the date of award of contract. In the case of proceedings terminated without award the records shall be kept for ten years from the date of termination of the proceedings. This requires that records be properly catalogued and maintained with care and diligence. Every procuring entity is required by this Regulation to procure appropriate and adequate back-up for its computer systems and computer crashes shall not be an excuse for not maintaining records required under the law and these Regulations. Documents saved in back-up systems shall be properly catalogued by name, date, classification of procurement, procuring entity identity and consecutive numbers to allow for easy identification.
2. The experience is that lack of an efficient filing system causes long and costly delays in the search for documents at critical moments when procurement issues arise or when procurement post reviews need to be done, complaints arise, Independent Post Reviews, or procurement audits are required by the Board. The Board shall issue fuller guidelines separately on maintaining an adequate procurement filing system in Procuring Entities, below however are some main elements of records of procurement proceedings, and some of the documents that must be kept in hard and soft copies.

- 2.1 Description and detailed specifications of the goods, works or consulting services requested, usually in the invitation to bid (for goods and works) or the request for proposals for consulting services) and all solicitation documents (BOQ and BEME for works and detailed TOR for services)
- 2.2 Document prescribing the selection of the bid method or consultant selection method and the reason for choosing the method (Procurement Plan).
- 2.3 Lists of bidders who submitted EOI or pre-qualification documents, bids or proposals, with names and addresses, usually obtained from the register of bid submissions and minutes of opening of bids and proposals (register of bid/proposal submissions, minutes of bid opening etc).
- 2.4 Minutes of bid and proposal opening, with recording of prices and attached relevant documents where a bid requires it.
- 2.5 Bids and Proposals Submitted with all attachments**
- 2.6 Technical Sub Evaluation Committee Bid and proposal evaluation reports and minutes of Resident Due Process Team meetings approving award
- 2.7 List and summary of clarifications asked (sought) during prequalification, bid/proposal submission and evaluation (per bid and per proposal).
- 2.8 Records of formal rejection of bids or proposals and the grounds thereof.
- 2.9 Records of all complaints, and decisions if any resulting
- 2.10 Records of procurement proceedings other than open competitive bidding, which did not result in a procurement contract and a statement on the likely reasons.
- 2.11 Document by which it was decided to proceed with direct contracting and the reason for this.
- 2.12 Document whereby it was decided to proceed to restricted bidding
- 2.13 Records by which it was decided to grant a margin of preference and the grounds for this.
- 2.14 Record of any complaints received from Bidders, decision and the responses sent.
- 2.15 Reports of post qualification if any

- 2.16 Performance reports/interim certificates and records of payment.
- 2.17 Completion Report.
- 2.18 Records of termination (where applicable).
- 2.19 Every procuring entity shall have a procurement record registry which shall maintain a well-kept, and properly catalogued filing room, and have an officer responsible for keeping the room and its contents in a good state.
- 2.20 The accounting officer shall oversee the record keeping processes of the procuring entity and cause a periodic review to ensure continuous improvements.

SCHEDULE IV

TABLE A
THRESHOLD FOR CLASSIFICATION OF PROCUREMENT METHODS AND APPROVAL OF AWARDS

Classifications	Goods	Works	Non Consulting Services	Consulting Services
International Competitive Bidding	N50,000,000m and above or where goods are not available locally	N100,000,000m and above or where contractors with required skills may not be available locally	N50,000,000m or where firms with required skills may not be available locally	N50,000,000m or where consulting firms with required skills may not be available locally
State Competitive Bidding	N5m and above	N10m Naira and above	N5m and above	N5m and above
No Objection	N5million and above	N5million and above	N5million and above	N5million and above

TABLE B

Threshold and Medium for Advertisement of Bids and Proposals					
Value of Contract	Mediums of Advertisement				
Monetary Threshold	Notice Board	Procurement Journal / State & PP Board Website	Local Newspaper (circulating in Niger State)	National Newspaper	International Publication
N0-500,000& below	Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable
N0-500,000-N999,000	Applicable	Applicable	Not Applicable	Not Applicable	Not Applicable
N1-N4.99m	Applicable	Applicable	Applicable	Not Applicable	Not Applicable
N5m-N9.99 LCB	Applicable	Applicable	Applicable	Not Applicable	Not Applicable
N10m-above SCB	Applicable	Applicable	Applicable	Applicable	Not Applicable
N50m- above	Applicable	Applicable	Applicable	Applicable	Only Applicable if ICB

TABLE C

AWARD AND APPROVING AUTHOURITIES		
N1-N1,000,000	Accounting Officer	
N1,000,000-N5,000,000	Resident Due Process Team	
N5,000,000 above	Board No Objection	
N20,000,000 –N50,000,000	Governors Approval	
N50,000,000 and above	Executive Council Approval	

TABLE D

THRESHOLDS FOR DISPOSAL OF ASSETS					
Threshold for Professional Valuation	Every asset with purchase price of N3,000,000 and above				
ASSESSED VALUE THRESHOLDS FOR ADVERTISEMENT FOR SAL EOF ASSETS					
Assessed value of single and or aggregated assets	Notice Board	Procurement Journal / State & PP Board Website	Local Newspaper (circulating in Niger State)	1 National Newspaper	International Publication
N0-500,000 – N9,999.000 below	Applicable	Applicable	Applicable	Not Applicable	Not Applicable
N0- 10,000,000 and above	Applicable	Applicable	Not Applicable	Applicable	Not Applicable