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Foreword

I write the foreword to this first edition of the Guidelines for Economic and Due Process document for the certification of contracts for the procurement of projects, goods and services in Niger State believing that we need to stamp out corruption, indiscipline and wastages in our body polity and political process.

The setting up of the Niger State Budget Implementation, Monitoring and Price Intelligence Unit (NSBMPIU) or the Due Process Unit is to stem the open abuses to rules, regulations and standards in the award and execution of public contracts in Niger State. The abuses were evident in over-invoicing, inflation of contract costs, proliferation of white-elephant projects and diversion of public funds through all kinds of manipulations of the contract system. I am, however, convinced that the establishment of the Budget Implementation, Monitoring and Price Intelligence Unit in the State will substantially reduce such abuses and result in savings in the cost of capital projects and introduce sanity in the system.

The implication of these lapses in the State's procurement system over the years explains the abandonment of government projects after huge sums of money have been paid out to contractors from public fund. Above all, it brought about large scale corruption, poor service delivery, poverty and outright denial of social amenities to the people. All these combine to erode the confidence of the people in Governments, Governance and Leaders. Leaders should see themselves and serve the people as servants.

The vision of the NSBMPIU is to, among other things; restore transparency, competition, competence, integrity and value for money in the award and execution of public contracts in the

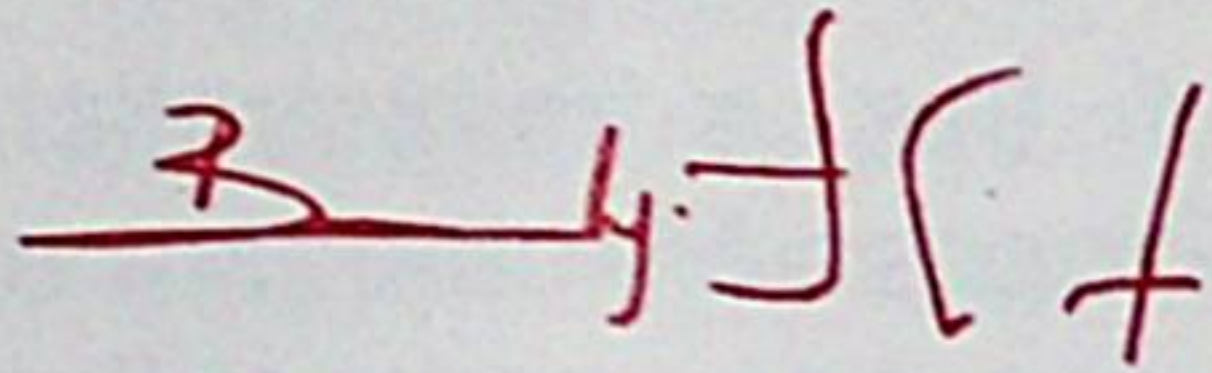
State. The State's Due Process Unit shall implement vigorously a Procurement Reform agenda that will apply the Due Process Mechanism to restore openness, competition, budgetary discipline, optimal costs and efficient projects implementation in well planned and coordinated framework.

One major cardinal programme of this administration, therefore, is the acceptance of Due Process Mechanism as an instrument for embracing transparency, competition, fairness, integrity, openness, and value for money in procurement processes and procedures at all times. In this connection, it is necessary to expose all arms of governance to the Due Process Mechanisms and seek the support of all our people for the implementation of the scheme.

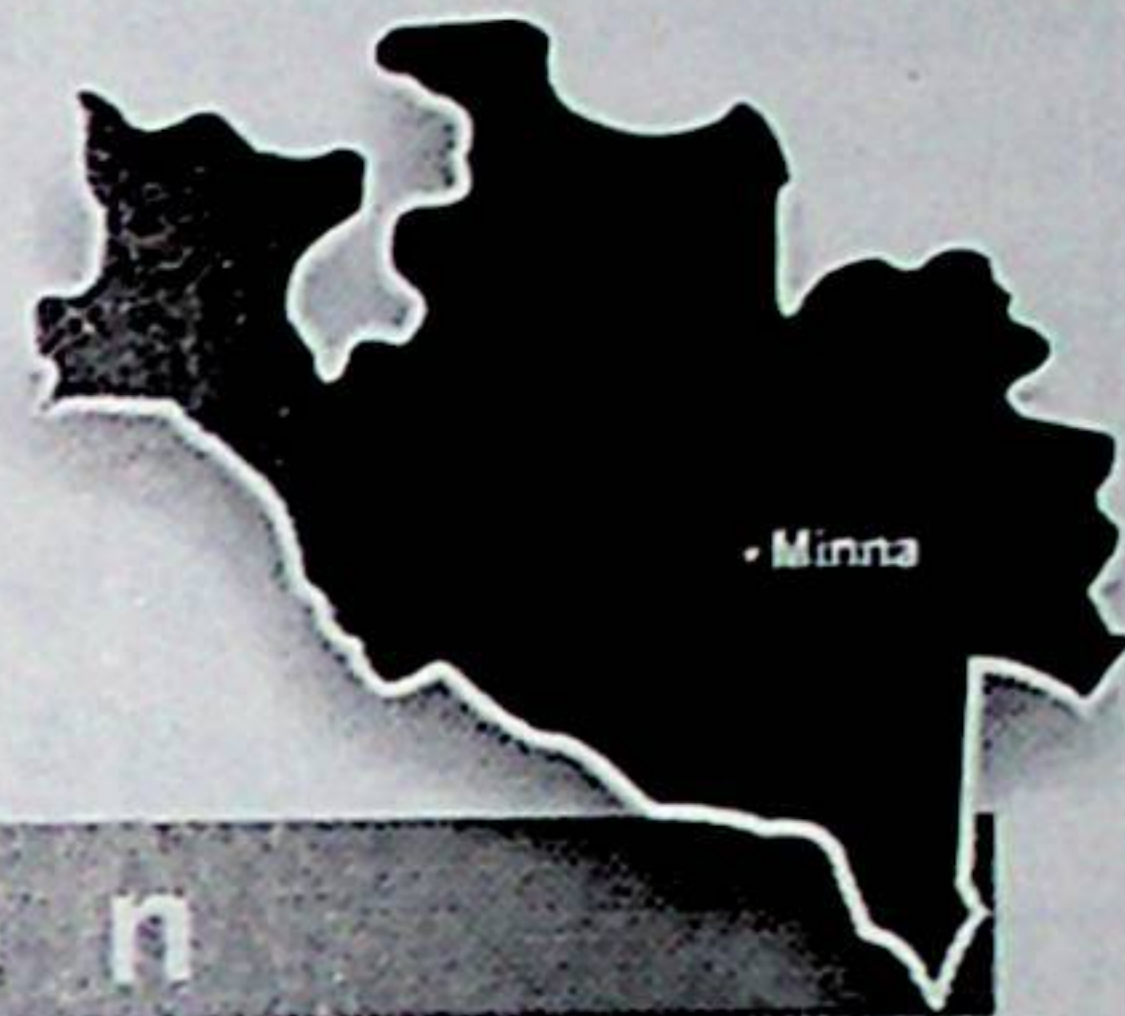
The Niger State Budget Implementation, Monitoring and Price Reference Unit (NSBMPIU) has a responsibility to enlighten, educate and provide adequate information to all categories of people; especially people who were beneficiaries of the old order, who clearly understand the multiple benefits of the Public Procurement Reform Policy but may choose to misinform, misrepresent or outrightly condemn genuine intentions of government in order to frustrate the idea. Nigerlites have a right to demand for quality service to be offered to them respectfully and with dignity.

May I use this opportunity to appeal to all Nigerlites and those who intend to offer procurement services to the State Government to avail themselves of the contents, structure, methods and procedures of the Due Process Policy as contained in the Guidelines. I have instructed the Due Process Office to ensure the widest circulation of the Guidelines and mount regular sensitization programmes for our people on the policy through workshops, seminars and conferences.

Finally, I recommend the Guidelines for easy understanding of the methods, cardinal principles and benefits of the on-going Public Procurement Reforms in Nigeria. It is my hope that our people will find the publication a reliable and useful companion.

A handwritten signature in red ink, appearing to be 'M. Babangida', written over a horizontal line.

Dr. Muazu Babangida Aliyu, OON
Chief Servant/Executive Governor of Niger State
September 2007



V i s i o n

To establish procurement systems driven by fiscal discipline and governed by a culture of accountability that proactively gives value for money in Niger State.

M i s s i o n

To restore and sustain procedures, systems and practices anchored on transparency, integrity and competition in the procurement system of Niger State, in order to achieve value for money for the benefit of Nigerlites.

Acronyms

- **LOR** Letter of Request
- **MDA** Ministries, Departments and Agencies
- **NSBMPIU** Niger State Budget Monitoring and Price Intelligence Unit
- **PDPRR** Preliminary Due Process Review Report
- **RDPT** Resident Due Process Team
- **SEC** State Executive Council
- **TEC** Tender Evaluation Committee

Chapter One

1.0 INTRODUCTION

- 1.1 In its determined effort to harness maximise and utilize the resources of the state for the improvement of the quality of life of its citizens, the current administration of Niger State as a responsive government decided to institute a robust public procurement reform programme for the execution of all projects provided for in the annual budgets of the State.
- 1.2 The implementing agency of this reform programme is the Niger State Budget Monitoring and Price Intelligence Unit (NSBMPIU) otherwise called "Due Process". The setting up of this body has become necessary in order to arrest the growing neglect and abandonment of established systems, processes, standards and procedures, which brought about the following:
- (a) Abandonment of Government projects after large sums of money have been paid out to contractors from public funds;
 - (b) Siphoning of public funds through dubious white elephant projects;
 - (c) Uncoordinated awards of contracts to all and sundry;
 - (d) Highly inflated/over-priced contracts;
 - (e) Zero-competition before award of contracts;

(f) Fraudulent variations and fluctuations and

(g) Award of contracts for selfish motives.

1.3 Consequently, the foregoing malpractices have entrenched endemic corruption, favouritism, poor service delivery, high poverty and denial of social amenities to the people.

1.4 Since it has been empirically established that openness, transparency, competition, clear rules, regulations and sanctions, if strictly enforced are antidotes to corruption, any practice that thrives in secrecy, unclear rules and unequal access to information by parties to any transaction must be avoided.

1.5 The present administration's drive to extend "Due Process" will sooner than later usher in good governance and economic prosperity for the people, restore hope, confidence and trust of the citizens in government and also create the right framework for openness in governance and the citizens' participation as bonafide stakeholders.

2.0 VISION

2.1 To establish procurement systems driven by fiscal discipline and governed by a culture of accountability that proactively gives value for money in Niger State.

3.0 MISSION

3.1 To restore and sustain, a workable system, practice and procedure anchored on transparency, integrity and competition in the procurement system of Niger State, in order to achieve value for money for the benefit of Nigerlites.

4.0 FUNCTIONS AND DUTIES OF NSBMPIU

The Functions and duties are to:

- (a) Integrate all activities of the Niger State Tenders Board into NSBMPIU and create Units in MDAs.
- (b) Regulate and set standards, including the enforcement of harmonized Bidding and Tender procurement processes.
- (c) Formulate the general policies and guidelines related to public procurement.
- (d) Develop, update and maintain a related system-wide database and technology.
- (e) Undertake procurement research and survey in order to determine information needs and project costings.
- (f) Recommend sanctions against erring officers and professionals.
- (g) Ensure that Due Process is strictly adhered to in the procurement of services and award of contracts.
- (h) Inculcate the spirit of diligence, transparency and accountability in the procurement process.
- (i) Establish and update pricing standards and benchmarks for all supplies to the State Government and prepare a price list for various items and submit quarterly to the Ministries, Departments and Agencies (MDAs.)

- (j) Monitor the implementation of projects with a view to providing information on performance level output and compliance with specifications and completion date.
- (k) Ensure that only projects that have been budgeted for are embarked upon.
- (l) Perform procurement audits.
- (m) Coordinate relevant training to enhance capacity-building on Public Procurement.
- (n) Sensitize, promote and educate the public on Public Procurement Ethics and
- (o) Advise the Chief Servant on Budgetary Processes, Projects Certification and implementation status.

5.0 TYPES OF TENDERING

There are four types of tendering:.

(a) OPEN TENDERING

This type of Tendering requires advertisement for Pre- qualification on the Notice Boards of MDAs and National Dailies in order to provide bidders equal opportunity and access to information.

(b) SELECTIVE TENDERING

In this type of Tendering, at least three (3) reputable contractors in specific areas of specialization are selected and invited to Bid.

(c) PROPRIETARY ITEMS TENDERING

This is applicable only where the items to be procured are of the types that are marketed by Sole Producers/Agents or Distributors e.g Gift items or Stationeries. Their prices can be assessed/benchmarked by considering prevailing prices of items that are of comparable quality and make. A resort to Internet where applicable can help ascertain the prices.

However, the prices of such Sole Producers/Agents are renegotiated and agreed upon.

The RDPT will then cross-check and recommend for approval.

RAPID RESPONSE SERVICES

In the case of a disaster such as flood, outbreak of fire and/or epidemic occurring in an area where quickly coordinated services are required, the MDAs concerned can provide such emergency services under the scrutiny and close supervision of the Resident Due Process Team (RDPT) of the MDAs.

6.0 OBJECTIVES OF THE NSBMPIU

The objectives of NSBMPIU are:

- (a) Harmonize and update all Niger State Government Policies and Practices on Public Procurement.

- (b) Ensure that project concept and packaging meet Niger State priorities and targets.
- (c) Strictly enforce Due Process principles in the procurement of goods and services through contract systems.
- (d) Monitor the implementation of all Niger State Government Projects in line with Due Process principles.
- (e) Promote transparency, accountability, and value-for-money in all Public Procurement transactions.
- (f) Ensure that only projects that are budgeted for are allowed for implementation.
- (g) Enforce authentic, reasonable and fair costing.

Chapter Two

1.0 NSBMPIU APPROVAL THRESHOLDS

The NSBMPIU will regulate and certify Niger State Government Contracts according to the following thresholds:

2.0 CONTRACTS OF UP TO ₦1 MILLION

Permanent Secretaries/Chief Executives of Ministries, Departments and Agencies can approve contracts up to ₦1 Million, provided that Due Process is strictly observed by advertising on the MDA's Notice Boards. However this is subject to ratification by the supervisory Unit Heads

3.0 CONTRACTS ABOVE ₦1 MILLION AND UP TO ₦5 MILLION

3.1 A "Resident Due Process Team" (RDPT) established by the Ministry, Department or Agency (MDA) handles the Due Process Review of all such contracts and approves the awards. The members shall include:

- (a) The Permanent Secretary/DG - Chairman
- (b) Director of Finance and Accounts - Member
- (c) Director of Planning and Statistics - Member
- (d) Director of Personnel Management - Member
- (e) Director of Engineering
(where applicable) - Member
- (f) A representative from the NSBMPIU
(Gov's Office) - Member

- 3.2 The role of the NSBMPIU representative at the meetings of the RDPT is to ensure compliance in order to facilitate the Unit's endorsement of the Ministry/Department and Agency's internally generated certificate to which all the members of the RDPT are signatories.

Splitting of Contracts

Under no circumstance should contracts be split.

4.0 CONTRACTS ABOVE ₦5 MILLION

Each Ministry, Department and Agency is to forward the contract proposal to the State Executive Council after NSBMPIU's due diligence and certification process. This is to be accompanied with all relevant supporting documents.

5.0 PROCUREMENT PROCEDURES

- 5.1 Procurement Procedures for the award of contracts in Niger State are as follows:

- (a) Advertisement
- (b) Pre-qualification
- (c) Invitation to Tender:
The Technical and the Financial/Commercial Bid Process
- (d) Opening of Tender
- (e) The Bid Evaluation Process
- (f) Determination of Winning Bid

6.0 ADVERTISEMENT REQUIREMENT

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

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

6.3 A Procuring Entity shall be responsible for advertising publicly, all invitations for pre-qualification or invitations to tender for goods, works and services.

6.4A Advert Guideline for all Contracts up to ₦1 million

The advertisement of such contracts shall be placed on the Notice Boards of Ministries, Departments and Agencies.

6.4B Advert Guideline for all Contracts Above ₦1 million and up to ₦5 million

This requires an advertisement calling for pre-qualification of contracts or invitation to bid and shall be placed in the State Tenders Journals and by the Niger State Media Corporation.

6.4C Advert Guideline for all Contracts Above N 5 million

This requires an Advertisement calling for Pre-qualification of Contracts or Invitation to Bid and shall be placed in at least two National Newspapers and the Government Gazette.

6.4D Website: In all cases, adverts shall be placed on the website.

6.4E The Standard Format for Advertisement.

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

- (i) The name and address of the Procuring Entity;
- (ii) Introduction: a brief description of the object of the procurement, including desired time for delivery or completion.
- (iii) Scope of Work;
- (iv) A summary of the required qualification criteria;
- (v) The place and deadline for submission of the applications for pre-qualification;
- (vi) The place and date of collection of the pre-qualification documents;
- (vii) The fee payable shall be stated;
- (viii) Not less than 3 weeks to be allowed for public responses to the advert;
- (ix) Opening of bids shall take place immediately after the closing of tender; Bidders and/or their Representatives and members of Civil Society are expected to witness the tender opening.

7.0 PRE-QUALIFICATION REQUIREMENT

- 7.1 Upon the collation of the submissions of all Respondents to an advertisement for pre-qualification, the Ministries, Departments and Agencies' Resident Due Process Teams (RDPT) shall analyze all the submissions made by the Respondents to the advert.
- 7.2 The analysis shall be based on an objective set of technical and commercial/financial capacity criteria. The aim is to short-list and select competent Respondents to the advert. It is also an opportunity to weed out those who do not qualify to be adjudged competent to participate in the commercial/financial bid.
- 7.3 **The Criteria Comprise Scores Totalling 100% as Follows:**
- a) Evidence of Incorporation or Registration of Business Name: 0% (Basic);
 - (b) Registration with State Ministry of Works in Relevant Category: 0% (Basic);
 - (c) Company Audited Accounts for Three Years: 0% (Basic);
 - (d) Evidence of Financial Capability and Banking Support: 15%;
 - (e) Experience/Technical Qualification & Experience of Key Personnel: 25%;
 - (f) Similar Projects Executed & Evidence of Knowledge of the Industry: 20%;
 - (g) Equipment and Technology Capacity: 20%;
 - (h) Annual Turnover: 5%;

- (i) VAT Registration and Evidence of Past VAT Remittances: 5%;
- (j) Office Residency: 10%.

7.4 Notes:

All parameters with the zero score are considered RESPONSIVE. The absence of any one will automatically disqualify an applicant for pre-qualification, except the requirement of Audited Accounts for new companies.

Best Practice in contracting establishes that the pre-qualification benchmark score with and above which Respondents can be considered to be competent is a score of 70% and above.

The next stage is to draw up a list of all the Respondents above the 70% acceptable pre-qualification score, to be known as the "List of Pre-qualified Bidders" or "Competent Bidders", all of whom had been issued an Invitation to Tender or Bid.

8.0 INVITATION TO TENDER/BID

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

9.0 OPENING OF TENDER

- 9.1 Opening of bid/tender must take place immediately after the closing of the bidding/tendering period. Bidders or their representatives and members of civil society are expected to witness the tender opening.
- 9.2 The Technical Bids are to be opened and conclusively evaluated before the Commercial/Financial Bids can be opened.

10.0 EVALUATION OF TENDER

- 10.1 The Tender submission by the pre-qualified bidders having been made in two parts, the technical and the commercial/financial bids shall be evaluated by the Tender Evaluation Committee (TEC) appointed from amongst members of the Resident Due Process Team (RDPT) of the Procuring Entity which shall consist of five members with at least three experienced in procurement. The Committee is to analyse, evaluate, prepare and submit its report.

(a) The Technical Bid

During the evaluation of the Technical Bid, a pre-qualified firm may be dropped for showing less than desirable technical competency and capability to deliver on contract.

(b) The Commercial/Financial Bid

The evaluation of Commercial/Financial Bids by all firms that scaled through the Technical Bid is the final stage in a public procurement competition. This is the stage where the pre-qualified bidders that are found competent in all areas now make submissions on the price at which they are ready to undertake the job.

11. DETERMINATION OF A WINNER

Accordingly, the right winner is the Bidder with the least evaluated tender price. It is also usually referred to as the best responsive Bidder.

Chapter Three

1.0 DUE PROCESS REVIEW AND CERTIFICATION

1.1 Having followed the guidelines elaborated under Chapter Two, the officer in charge of procurement in the Ministry, Department or Agency (MDA) shall document the details of their procurement processes, the conclusions and recommendations.

1.2 The MDA is now required to subject its handling of the procurement process to a Review by the NSBMPIU. This is in order to secure the validating certificate upon which the approving authority may give a final approval for the award of the contract.

1.3 Documents Required for the NSBMPIU Review and Certification

The following documents shall be forwarded by the Procuring Entity to the NSBMPIU, along with the Letter of Request (LOR) for Due Process Compliance Review, and Certificate for Award of Contract, or for Payment for On-going Contract:

Project Policy File

a. The Background Documents that Include Technical and Commercial/Financial Preparations of the Contract by the Spending Unit and which Includes but not Limited to:

- (i) Bills of Quantities (if any).
- (ii) Contract Drawings and Engineering Designs.

- (iii) Other Related Technical Documents.
- (iv) Final Summary and Statements.
- (v) Project Reports.
- (vi) Internal Cost Estimates.
- (vii) Variation in Scope Request and Variation Orders Arising.
- (viii) Evidence of Advertisement as appropriate.
- (ix) Pre-qualification Exercise (the objective criteria for short listing the pre-qualified Bidders).
- (x) Pre-qualification Evaluation Report.
- (xi) Evidence of Invitation to Tender sent to all Pre-qualified Bidders.
- (xii) Tender Returns.
- (xiii) The Tender Evaluation Report and Analysis of the Financial Bids Submitted by the Pre-qualified Bidders.
- (xiv) Tender Evaluation Reports showing Due Process Compliance.
- (xv) Interim Valuation and Certificates (for payment).
- (xvi) Consultant's Work Progress Report (for payment).

2.0 THE REVIEW PROCESS IN NSBMPIU

- 2.1 The Compliance, Review and Certification processes must be rigorously and professionally performed by the NSBMPIU (Due Process Unit) following a work flow system that places premium on Team Consensus.
- 2.2 The areas of expertise should cut across all professional fields.

3.0 PRELIMINARY DUE PROCESS REVIEW REPORT (PDPRR)

3.1 The Compliance Review Process for every Niger State Government's contract above ₦5m shall require a Preliminary Due Process Review Report (PDPRR).

3.2 If the review is negative or conditional, then, the attention of the Procuring Entity is immediately drawn to the findings and recommendations contained in the draft Due Process Report.

3.3 The Report will not be unilaterally concluded by the NSBMPIU into a final Due Process Review Report (the Final Document) without offering the Procuring Entity the opportunity for a Right of Reply Meeting.

3.4 Right of Reply Meeting.

(a) Where a Due Process Certificate is denied in accordance with the findings and conclusion drawn from a Compliance Review of a contract, a Right of Reply Meeting will be convened.

(b) This is to create a forum for the NSBMPIU and the Ministry/Department/Agency (MDA) concerned to discuss, clarify, jointly resolve and conclude on all contentious issues.

(c) The Right of Reply meeting represents a transparent and feed-back platform of the Procurement Process.

4.0 DUE PROCESS REVIEW REPORT

4.1 At the Right of Reply Meeting, if the additional information provided is supported with superior

arguments and documentations that can make the NSBMPIU change position on its earlier conclusion, then the NSBMPIU will immediately certify the documents and issue a Due Process Certificate of "NO OBJECTION" for the consideration of the Approving Authority in favour of the Procuring Entity.

4.2 Contents of the Due Process Review Report:

Contents of the Due Process Review Report should include:

- (a) Introduction
- (b) Background
- (c) Project Description
- (d) Project Benefits
- (e) Review of Project Planning Process
- (f) Project Preparation
- (g) Project Work Schedules/Programmes
- (h) Review of Project Procurement Process
- (i) Procurement Background
- (j) Tender Advertisement
- (k) Tender Returns
- (l) Bids Evaluation
- (m) Technical Proposal
- (n) Commercial/Financial Proposal
- (o) Findings
- (p) Due Process Compliance Test and
- (q) Conclusion

N.B. The Documents for Review Report are contained in Schedule 1

Chapter Four

1.0 DUE PROCESS CERTIFICATION FOR AWARD

1.1 Result A (Positive)

Due Process Certificate of "NO OBJECTION"

If at the end of the Compliance Review exercise, the findings show that all the right contract award processes were duly complied with by the Procuring Entity, the NSBMPIU will issue a Due Process Certificate of "NO OBJECTION".

1.2 Result B (Negative)

Due Process Certificate of "OBJECTION"

(i) If the contract process does not conform with the standard definition of a right contract award process, the NSBMPIU will issue a Due Process Certificate of "OBJECTION".

(ii) The NSBMPIU Unit will advise the Spending Entity to re-process. This is because "The Process is fundamental in the public procurement system, in determining the right price and the right winner".

1.3 Result C (Conditional)

Due Process Certificate to be Granted conditional:

(i) This is where the price posted by an emerging winner in a right contract process is higher than the benchmark price.

- (ii) The issuance of a Due Process Certificate is made conditional until an acceptable price is determined.
- (iii) In such an instance the winner will be advised through the Procuring Entity to adjust its price to conform with the benchmark price.

However, if such a winner declines, the offer will be made to the second lowest Bidder. If the established right price is rejected by all, the NSBMPIU may advise the MDA to cancel the entire exercise and re-advertise.

Chapter Five

1.0 DUE PROCESS CERTIFICATION FOR PAYMENTS

- 1.1 Due Process Certificate of No Objection for payment is issued to the Procuring Entity for complying with the rules.
- 1.2 Please note that no Ministry, Department or Agency shall be allowed to pay for any capital project without a Due Process Certificate issued.
- 1.3 The Office of the Accountant-General of the State and the Ministry of Finance shall not honour any request for release of funds for any capital project except such requests backed with a Due Process Certificate.
- 1.4 For contracts above the ₦5 Million threshold, the Due Process Review Report prepared by the NSBMPIU will be passed on to the State Executive Council (SEC) for approval.
- 1.5 Upon the approval by the State Executive Council (SEC), the Due Process Certificate shall be backed by the submission of a Bank Guarantee issued by a Bank acceptable to government. The NSBMPIU will issue a Due Process Certificate of no objection for mobilization fee payment not exceeding 25% of the contract sum.
- 1.6 Based on Positive Evaluation by Spending Units, a Due Process Certificate for subsequent payment will be issued.

Notwithstanding the foregoing, the Niger State Budget Monitoring and Price Intelligence Unit (NSBMPIU) will, in addition to documentary evidence, constantly carry out project site visits jointly with MDA officials and their contractors in order to monitor and ascertain performance.

Schedule (i)

CHECK-LIST OF NSBMPIU

EXPLANATORY NOTES ON THE NSBMPIU (DUE PROCESS) CHECK-LIST

- A: CERTIFICATION OF PROJECT READINESS FOR IMPLEMENTATION**
- A1. ALIGNMENT OF PROJECT WITH NIGER STATE STRATEGIC AND SECTORAL PRIORITIES** (Indicate a relevant laws, regulations and guidelines and state whether the proposed project is in compliance. Indicate political zonal spread and position in ministerial priorities. The presence of a project in the Appropriation Law is evidence of compliance with this criterion).
- A2. TECHNICAL AND ECONOMIC APPRAISAL OF THE PROJECT** (Indicate whether a feasibility study has been undertaken or whether one is planned. Include the final report and/or Terms of Reference for the planned work. Indicate whether a financial/economic analysis has or will be conducted. Include the final report and/or Terms of Reference for the work. If any of these studies is considered not necessary, provide an explanation).
- A3. PROJECT AND CONSULTANT/ENGINEER'S ESTIMATES** (Indicate whether cost is in line with the consultant/engineer's estimate provide documentation).

A4. PROJECT DESIGNS (Include project designs and drawings. Consultant's preliminary and tender drawings should be provided where necessary this is especially important for building and engineering projects).

A5. FINANCING, PROCUREMENT AND IMPLEMENTATION PLANS (State the financing option considered, including the procurement and implementation plans. A project procurement timetable should be included).

A6. ENVIRONMENTAL IMPACT ASSESSMENT REPORT (Describe in quantitative terms the expected positive or negative environmental impacts of the project. For negative impacts, make preliminary proposals to mitigate measures. Provide information on any applicable environmental or social regulations laws or guidelines. Indicate whether an environmental and social assessment has or will be undertaken. Include final report and/or Terms of Reference for the work. If such a study is considered not necessary, provide an explanation).

A7. OPERATIONS AND MAINTENANCE MANUAL (Operations and maintenance manual should be provided where required, particularly for plants and machinery procurements).

A8. EVIDENCE OF APPROPRIATE PACKAGING

B: CERTIFICATE OF PROCUREMENT

B1. EVIDENCE OF ADVERTISEMENT FOR PRE-QUALIFICATION (Indicate whether there was advertisement for contractors' pre-qualification and provide evidence).

- B2. PRE-QUALIFICATION DOCUMENTS** (Indicate whether pre-qualification was conducted, and if not, whether post-qualification was provided for in the bidding documents. Include copies of pre-qualification documents).
- B3. LETTER OF INVITATION TO BID** (Provide copies of letters of invitation to bid for pre-qualified contractors).
- B4. BID DOCUMENTS** (Provide evidence that tender documents have been prepared in line with Niger State guidelines/standards. Also provide a copy of public advertisement. Provide evidence that adequate time was provided to obtain and prepare bids. Provide evidence that a public bid opening was conducted. If so, how long after the deadline for bid submissions, and who were invited? Indicate whether bid opening procedures followed those specified in the Niger State procurement guidelines. What information was read out at the opening ceremony? Provide copies of the minutes. Provide accurate records of all communications with bidders, before and after the deadline for submissions).
- B5. PROJECT DESIGNS AND DRAWINGS** (Indicate whether project designs and drawings have been prepared. If so, provide copies this is especially important for building and engineering projects).
- B6. BIDS RETURN SHEET** (Provide copies of Bids Returns Sheet dully signed by representatives of NSBMPIU, the Executing Agencies and all bidders present).
- B7. BID EVALUATION REPORT** (Provide details of members of the Bid Evaluation Committee, indicating

qualifications and designations, how the evaluation criteria were applied, and how successful bidder's qualifications were verified. Provide copies of evaluation criteria and evaluation report. Provide evidence that a market survey was conducted to update knowledge of prevailing prices that are relevant to the project. Indicate whether the contract process is comparable with international experience and with the experience in the private sector (provide documentation).

B8. EVIDENCE OF APPROVAL OF SELECTION BY THE APPROVING AUTHORITY (Indicate whether selection was approved by the Approving Authority and what changes were made by the Approving Authority).

C1. The Review and Issuance of Certificates

(a) The Due Process Compliance Review is a three-pronged transparent exercise. This involves the NSBMPIU Team establishing from the submissions of the Procuring Entity, the following:

(b) That from the way the procuring Entity carried out the contracting responsibility:

- The process was right
- The winner was right
- The contract price was right.

C2. The right contract award process.

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

For the purpose of Procurement Reforms in Niger State, this shall be evident in the documentation of the full range of contracting procedures done by the Spending Units and submitted to the NSBMPIU for compliance review and other necessary actions.

C3. The right winner

Accordingly, the right winner is the bidder with the Least Evaluated Tender Price. It is also usually referred to as the Best Responsive Bidder.

Simply put, a Right Winner is a competent bidder; a pre-qualified and technically evaluated bidder that survives through the commercial/financial competition and ultimately offers the lowest contract price.

C4. The right contract price.

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

Right Price is also one that is comparable to an independently ascertained cost estimate following national, regional and international price benchmarks.

However, for Contracts of Works and Services, Right Price can easily be determined by applying basic rules of engineering and quantities costing based on prevalent market rates, to the scope of works.

Schedule (ii)

DUE PROCESS FLOW CHART

STAGE 1

- MDAs initiate process:

ACTIVITIES

- For Thresholds 2 & 3, place Advert for pre-qualification
- Qualify Contractors
- Select contractors most suitable and forward document to NSBMPIU.

STAGE 2

- NSBMPIU:

ACTIVITIES

- Examine contractor's documents.
- Ensure contract to be awarded has budgetary allocation.
- Scrutinize documents to ensure current market prices are applied in Bids
- Issue certificate of No Objection to MDAs

STAGE 3

- MDAs

ACTIVITIES

- Award contract to contractors

- Write a memo to NSBMPIU for the issuance of a Certificate of No-Objection for payment of mobilization fee.

STAGE 4

- NSBMPIU:

ACTIVITIES

- Ensure contract is awarded accordingly to contractor recommended ab-initio.
- Issue Certificate of No-Objection for mobilization fee payment of not more than 25% of the contract value in contractor's name with copies to the Accountant-General, etc.

STAGE 5

- MDAs

ACTIVITIES

- Write a Memo to Accountant-General's Office to credit the Procuring Entity in the MDAs with the percentage payment made to the Procuring Entity's name as mobilization fee (not exceeding 25%).

STAGE 6

- Accountant-General's Office:

ACTIVITIES

- Receive memo from MDAs.
- Credit MDAs Account with contract mobilization fee in Contractor's name.

STAGE 7

- Procuring Entity

ACTIVITIES

- Issue Contractor with cheque.

STAGE 8

- Procuring Entity/MDAs

ACTIVITIES

- Project Inspection, Monitoring and Evaluation

STAGE 9

- NSBMPIU Office (Subsequent payments)

ACTIVITIES

- NSBMPIU to issue subsequent certificate based on reports/CV from Contractors and procuring Agencies. However, once payment reaches 50% of the contract sum, a joint inspection should be conducted with NSBMPIU/Spending Unit/Contractors to ensure compliance before issuing No Objection Certificate for payment

STAGE 10

- NSBMPIU Office (Final Payment):

ACTIVITIES

- NSBMPIU to inspect and evaluate project to ensure previous payment was adequately utilized by Contractor. If satisfied,
- Stage 5 - 8 is repeated for the final certificate of no objection

Schedule (iii)

CONDITIONAL CERTIFICATION IN RESPECT OF CONTRACT FOR THE.....

This is to certify that the Compliance Review Exercise carried out by the NSBMPIU in respect of the above mentioned contract proposed for award to

.....
.....

Revealed That The Rules Of Public Contracting Were Duly Complied With, But That The Price Posted By The Contractor Is Higher Than The Benchmarked Price.

Dated this day2007

SIGNED.....
HEAD OF DUE PROCESS UNIT

CERTIFICATE OF PAYMENT IN RESPECT OF CONTRACT FOR THE.....

This is to certify that the post contract award Compliance Review Exercise carried out by the NSBMPIU in respect of the above mentioned contract awarded to.....

.....
revealed that the rules of NSBMPIU were duly complied with. The NSBMPIU hereby issues certificate of NO OBJECTION for payment

Dated this day2007

SIGNED.....
HEAD OF DUE PROCESS UNIT

CERTIFICATE OF "NO OBJECTION" IN RESPECT OF CONTRACT FOR THE.....

This is to certify that the Compliance Review Exercise carried out by the NSBMPIU in respect of the above mentioned contract proposed for award to

..... revealed that the rules of Public Contracting were duly complied with.

Dated thisday2007

SIGNED.....
HEAD OF DUE PROCESS UNIT

CERTIFICATE OF OBJECTION IN RESPECT OF CONTRACT FOR THE.....

This is to certify that the Compliance Review Exercise carried out by the NSBMPIU in respect of the above mentioned contract proposed for award to

..... revealed that the rules of Public Contracting were NOT duly complied with.

Dated thisday2007

SIGNED.....
HEAD OF DUE PROCESS UNIT

